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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

GEORGIA

DRAFT ORGANIC LAW ON THE PROSECUTOR'S OFFICE

AND

EXPLANATORY NOTE

Draft**Organic Law of Georgia
on the Prosecutor's Office****Section I. Authority, legislation, principles and tasks****Chapter I.
General provisions****Article 1. Aim of the Law**

1. In accordance with the Constitution of Georgia, this Law sets forth the status and guarantees of independence of the Prosecutor's Office of Georgia.
2. The authority, structure and rules of operation of the Prosecutor's Office of Georgia shall be determined by this Law.

Article 2. Definition of basic terms

1. prosecutor – the Prosecutor General of Georgia ('the Prosecutor General'), the First Deputy Prosecutor General and Deputies Prosecutor General, the Prosecutors of the Autonomous Republics of Abkhazia and Adjara, the Prosecutor of the City of Tbilisi, a district prosecutor, a regional prosecutor and their deputies, a prosecutor of a Specialized Prosecutor's Office, a senior prosecutor, a prosecutor, a prosecutor intern, as well as the heads and deputy heads of the Prosecutor's Office departments, divisions and structural units equated to them, who directly discharge the functions provided for by the criminal procedure legislation of Georgia, also, in individual cases, an officer of the Prosecutor's Office who does not directly discharge the functions provided for by the criminal procedure legislation of Georgia but has been granted the powers of a prosecutor by the decision of the Prosecutor General;
2. investigator of the Prosecutor's Office – a senior investigator for extraordinary matters, an investigator for matters of extraordinary significance, a senior investigator, an investigator, and an investigator intern;
3. employee of the Prosecutor's Office – a prosecutor, an investigator of the Prosecutor's Office, a professional public servant of the Prosecutor's Office, an intern of the Prosecutor's Office, and person employed by the Prosecutor's Office under a labor contract;
4. intern at the Prosecutor's Office – a person with higher education in law who has passed a qualification exam, and who has been appointed to the position of an intern at the General Prosecutor's Office of Georgia, the Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara, the Prosecutor's Office of the City of Tbilisi, Regional, District and Specialized Prosecutors' Offices or who under the established procedure, has been appointed by the Prosecutor General as an intern to the vacant position of a prosecutor, an investigator of a structural unit. Also a person taken as an intern in accordance with the Law of Georgia "On Public Service".
5. trainee at the Prosecutor's Office - a person with higher education in law or a law student who meets the requirements provided for by this Law and who under the established procedure has been taken as an intern by the Prosecutor General at the General Prosecutor's Office, the

Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara, the Prosecutor's Office of the City of Tbilisi, Regional, District and Specialized Prosecutors' Offices;

6. professional public servant – an advisor to the Prosecutor's Office, head of administration, a specialist of the Prosecutor's Office, a coordinator of a witness and a victim, heads and deputy heads of structural units who are not prosecutors and are appointed in the system of the Prosecutor's Office to a position provided for by the staff list, and whose function is the exercise of powers under public law;

7. person employed by the Prosecutor's Office under a labor contract – a person who, for the provision of public service at the Prosecutor's Office, has been granted the power for performing ancillary or temporary tasks of the Prosecutor's Office on the basis of the labor contract;

Article 3. Legal grounds for the activity of the Prosecutor's Office

The Constitution of Georgia, international treaties and agreements of Georgia, this Law and other legal acts shall be legal grounds for the activity of the Prosecutor's Office.

Chapter II Tasks, principles and authority

Article 4. Tasks of the Prosecutor's Office

1. In the manner laid down by the law, the Prosecutor's Office shall:

- a) conduct criminal prosecution;
- b) provide procedural guidance at the stage of investigation to ensure criminal prosecution;
- c) conduct investigation to the full extent where so provided for by law;
- d) supervise the part of the activities of criminal investigation authorities which under the Law of Georgia "On Criminal Investigation Activity" falls within the prosecutorial powers.
- e) respond to the facts of violation of the rights of the incarcerated and imprisoned persons and discharge procedural duties in places of detention and penitentiary institutions and other facilities executing penitentiary functions or other enforcement measures administered by a court;
- f) support state prosecution;
- g) participate, as a plaintiff, on behalf of the State, in civil proceedings on seizure and transfer to the State of the property owned by a racketeer, an official, a member of the "criminal world"/a "thief in law", a human trafficker, an illegal narcotic drugs distributor, or a person convicted under Article 194 and/or 331¹ of the Criminal Code of Georgia, their family member, close relative or related person;
- h) conduct criminal intelligence activities;
- i) coordinate the fight against crime and crime prevention.

2. The Prosecutor's Office may not be assigned a duty that is not provided for by the Constitution of Georgia, this Law or other legislative acts.

Article 5. Principles of activity of the Prosecutor's Office

The principles of activity of the Prosecutor's Office shall be as follows:

- a) legitimacy and fairness;

- b) objectiveness and impartiality;
- c) professionalism and competence;
- d) unity and centralization, subordination of all subordinate prosecutors and other officers of the Prosecutor's Office to the Prosecutor General;
- e) protection of the rights and freedoms and inviolability of honor of a person;
- f) political neutrality.

Article 6. The status and independence of the Prosecutor's Office

1. The Prosecutor's Office of Georgia is a unified centralized system, which is independent in its activities and bound only by the Law. Interference with the activities of the Prosecutor's office shall be prohibited. Also any other activity that may infringe upon its independence.
2. A report on the activities of the Prosecutor's Office may not be requested unless expressly provided for by the Constitution and this Law.
3. In the manner laid down by the Law the Prosecutor's Office shall have the right to: enter into a contract, purchase property, own and dispose of it, appear in court as a plaintiff and a defendant, exercise other rights and obligations provided for by the legislation of Georgia.

Article 7. Jurisdiction and territorial scope

The rule of investigative jurisdiction of criminal cases, the territorial scope of the bodies of the Prosecutor's Office and structural units shall be defined by the Prosecutor General.

Section II

System, management, subordination of the Prosecutor's Office

Chapter III

Structural organization and management of the Prosecutor's Office

Article 8. System of the Prosecutor's Office

1. The following shall form the system of the Prosecutor's Office:
 - a) the General Prosecutor's Office of Georgia ('General Prosecutor's Office');
 - b) the Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara;
 - c) the Prosecutor's Office of the city of Tbilisi;
 - d) District Prosecutors' Offices;
 - e) Regional Prosecutors' Offices;
 - f) Specialized Prosecutors' Offices where provided for by this Law.
2. No extraordinary or specialized Prosecutor's Offices may be established.
3. The Prosecutor General shall define the staffing positions of the Prosecutor's Office and their number.
4. The decision on the issue of changes in staffing positions or transfer of a staffing position from one body/structural unit of the Prosecutor's Office to other body/structural unit of the Prosecutor's Office (regardless of the increase of one-month payroll) shall be made by the Prosecutor General.

Article 9. Subordination and delegation of authorities

1. All subordinate prosecutors and other employees of the Prosecutor's Office shall be subordinated to the Prosecutor General.
2. Subordination of subordinate prosecutor to a superior prosecutor shall imply that:
 - a) the instructions given by a superior prosecutor to a subordinate prosecutor on the organization and activities of the Prosecutor's Office shall be binding;
 - b) a subordinate prosecutor shall report to a superior prosecutor when discharging his/her official duties;
 - c) a superior prosecutor may, if necessary, exercise the powers of a subordinate prosecutor or assign his/her own certain powers to a subordinate prosecutor;
 - d) a superior prosecutor may repeal and amend a subordinate prosecutor's decisions and acts or replace with other decisions and acts;
 - e) a superior prosecutor shall review complaints against a subordinate prosecutor's decisions and acts;
 - f) a subordinate prosecutor shall submit reports of his/her activity, information, cases and materials to a superior prosecutor.
3. The Prosecutor General may introduce other forms of subordination of a subordinate prosecutor to a superior prosecutor that are not in conflict with the Constitution of Georgia and this Law.
4. A subordinate prosecutor and any other employee of the Prosecutor's Office shall comply with lawful requests and instructions of a superior prosecutor.
5. The structure and authorities of the Prosecutor's Office shall be defined by the regulations approved by the Prosecutor General.

Article 10. General Prosecutor's Office

1. The General Prosecutor's Office is a body of the Prosecutor's Office that is managed by the Prosecutor General.
2. The Prosecutor General has the First Deputy and Deputies whom the Prosecutor General shall appoint to and remove from office.
3. If the Prosecutor General is absent or his/her powers have been terminated, his/her duties shall be discharged by the First Deputy of the Prosecutor General, and if the First Deputy of the Prosecutor General is absent or his/her powers have been terminated, his/her duties shall be discharged by one of the deputies designated by the Prosecutor General.
4. The structural units of the General Prosecutor's Office are: departments and divisions that shall have heads and may have deputy heads, senior prosecutors, prosecutors, senior prosecutors for cases of extraordinary significance, prosecutors for cases of extraordinary significance, coordinators of a witness and a victim, advisers, specialists, interns and persons employed under a labor contract.
5. The Prosecutor General shall appoint to and remove from office employees of the department and the division.

Article 11. Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara

1. The Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara are the bodies of the Prosecutor's Office (the 'Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara) that shall be headed by the prosecutors of the Autonomous Republics of Abkhazia and Adjara.
2. The Prosecutor General shall appoint to and remove from office the prosecutors of the Autonomous Republic.
3. The prosecutors of the Autonomous Republics shall have deputies who shall be appointed to and removed from office by the Prosecutor General.
4. Employees of the Prosecutor's Offices of the Autonomous Republics shall be appointed to and removed from office by the Prosecutor General.
5. The Prosecutor General shall define the territorial scope of the Prosecutor's Offices of the Autonomous Republics.
6. The Prosecutor's Offices of the Autonomous Republics shall be comprised of divisions and other structural units that shall have heads and may have deputy heads of structural units, senior prosecutors, prosecutors, senior investigators, investigators, advisors and specialists, interns, coordinators of a witness and a victim and persons employed under a labor contract.
7. Within the scope of their authority, prosecutors of the Prosecutor's Offices of the Autonomous Republics shall issue individual legal acts – orders that shall be binding on the employees of the Prosecutor's Offices subordinate to them.
8. In compliance with the territorial investigative jurisdiction, the prosecutors of the Autonomous Republics shall be authorized to withdraw a case from one investigative body and transfer it for investigation to other investigative body according to the rule and in cases as defined by the Prosecutor General.

Article 12. Prosecutor's Office of the city of Tbilisi and Regional Prosecutor's Offices

1. The Prosecutor's Office of the city of Tbilisi and regional Prosecutor's Offices are bodies of the Prosecutor's Office headed by a prosecutor of Tbilisi city and regional prosecutors.
2. The Prosecutor General shall appoint to and remove from office the prosecutor of Tbilisi city and regional prosecutors.
3. The prosecutor of Tbilisi city and regional prosecutors shall have deputies who shall be appointed to and removed from office by the Prosecutor General.
4. The Prosecutor's Office of the City of Tbilisi and Regional Prosecutor's Offices shall be comprised of divisions and other structural units that shall have heads and may have deputy heads of structural units, senior prosecutors, prosecutors, senior investigators, investigators, advisors, specialists, interns, coordinators of a witness and a victim and persons employed under a labor contract.
5. Employees of the Prosecutor's Office of the city of Tbilisi and Regional Prosecutor's Offices shall be appointed to and removed from office by the Prosecutor General.
6. The Prosecutor of the City of Tbilisi and regional prosecutors, within their scope of authority, shall issue individual legal acts – orders which shall be binding on employees of the Prosecutor's Office subordinate to them.
7. The Prosecutor General shall define the territorial scope of the Prosecutor's Office of the city of Tbilisi and Regional Prosecutor's Office.

Article 13. District Prosecutor's Offices

1. District Prosecutor's Offices are bodies of the Prosecutor's Office headed by district prosecutors.
2. The Prosecutor General shall appoint to and remove from office the district prosecutors.
3. District prosecutors shall have deputies who shall be appointed to and removed from office by the Prosecutor General.
4. The employees of the district Prosecutor's Office: senior prosecutors, prosecutors, specialists, interns, coordinators of a witness and a victim, persons employed under a labor contract shall be appointed to and removed from office by the Prosecutor General.
5. District prosecutors, within their scope of authority, shall issue individual legal acts – orders which shall be binding on employees of the Prosecutor's Office subordinate to them.
6. The Prosecutor General shall define the territorial scope of the District Prosecutor's Office.

Article 14. Specialized Prosecutor's Office

Within the scope of authorities defined by the Constitution of Georgia, this Law and other legal acts the Prosecutor General may temporarily form a Specialized Prosecutor's Office and define the areas and term of its activity.

Chapter IV Prosecutor General

Article 15. Prosecutor General

1. The Prosecutor General shall head the Prosecutor's Office of Georgia.
2. The Prosecutor General shall:
 - a) appoint to and remove from office, promote and discharge from the Prosecutor's Office employees of the Prosecutor's Office;
 - b) define the scope of authorities of the First Deputy and Deputy of the Prosecutor General;
 - c) issue normative and individual administrative legal acts;
 - d) delegate certain authorities;
 - e) form and dissolve bodies of the Prosecutor's Office, structural units of the General Prosecutor's Office, define their territorial scope, staff list and authorities;
 - f) assume responsibility for the activities of the Prosecutor's Office;
 - g) represent the Prosecutor's Office before higher state authorities of Georgia, as well as in relations with international organizations and law-enforcement bodies of foreign states and, if necessary, grant representation authority of the Prosecutor's Office;
 - h) based on criminal policy define and approve its guidelines;
 - i) conduct criminal prosecution in the manner provided for by law, where a crime has been committed by the President of Georgia, the Prime Minister, any other member of the Government of Georgia, the head of the State Security Service of Georgia, the Chairperson of the Parliament of Georgia, a member of the Parliament of Georgia, the Chairperson of the Supreme Court of Georgia, a judge of the common courts of Georgia, the Chairperson of the Constitutional Court of Georgia, a member of the Constitutional Court of Georgia, the Public Defender of Georgia, the State Inspector, the General Auditor, the President of the National Bank of Georgia, a member of the Board of the National Bank of Georgia, an Ambassador

Extraordinary and Plenipotentiary and an Envoy Extraordinary, an incumbent high-ranking military or top special rank officer, or a person equated with him/her, a prosecutor, an investigator of the Prosecutor's Office or an advisor to the Prosecutor's Office or coordinator of a witness and a victim;

- j) perform other procedural acts in cases defined by the legislation;
 - k) review complaints and applications;
 - l) define investigative and territorial investigative subordination of criminal cases;
 - m) repeal unlawful acts issued by subordinate prosecutors;
 - n) appoint a specially authorized prosecutor who files a motion in court to recognize an organization as a terrorist organization;
 - o) file a claim with the Constitutional Court on a dispute over the authority of the Prosecutor's Office of Georgia;
 - p) convene and preside over the Conference of Prosecutors;
 - q) set up consultative bodies to facilitate the activities of the Prosecutor's Office, defines the rule of procedure;
 - r) approve the Code of Ethics of employees of the Prosecutor's Office and decide matters relating to the application of disciplinary measures to employees of the Prosecutor's Office, except as determined by this Law;
 - s) define the procedure for granting special state ranks to the employees of the Prosecutor's Office, grant and deprive of special state ranks, and nominate them for granting honorary titles and state awards;
 - t) within the allocated payroll, define the staff list, number of staffing positions and the amount of official salary for the employees of the Prosecutor's Office;
 - u) grant awards to the employees of the Prosecutor's Office;
 - v) develop proposals on funding and logistic support of the Prosecutor's Office and submit them to the government of Georgia;
 - w) approve the strategy of the activities of the Prosecutor's Office and the action plan;
 - x) ensure statistical reporting, manage generalization and improvement of prosecution and investigation practices, facilitate criminological research and adapting scientific and technical innovations and introduce them into practice;
 - y) approve the rules of recruitment, competition, internal competition, promotion, demotion, transfer (rotation) to other position, reorganization, staff reduction, ranking of the employees of the Prosecutor's Office and the assessment system of prosecutors/investigators of the Prosecutor's Office;
 - z) approve competition requirements, define the procedure for its conduct;
 - v1) determine the procedure for internship and training;
 - v2) determine the information policy of the Prosecutor's Office;
 - v3) determine the relevant measures for information security and the procedure for maintaining electronic systems;
 - v4) directly submit a report on the activities of the Prosecutor's Office to the Prosecutorial Council and the Parliament of Georgia, and in cases specified by the Law through the Prosecutor General, Deputy Prosecutor General or a designated person;
 - v5) exercise other authorities granted by the legislation of Georgia.
3. The question of liability of the Prosecutor General may be raised only according to the procedures provided for by the Constitution of Georgia and this Law.
4. Exercising any influence on the decisions of the Prosecutor General shall be prohibited.
5. The State shall be obliged to take actions provided for by law to protect personal safety and property of the Prosecutor General.

Article 16. Procedure and criteria for appointment to office of the Prosecutor General

1. The Prosecutor General may be a citizen of Georgia with higher legal education and with no record of convictions, who due his/her moral and professional qualities has high reputation and who has at least five years' experience of working as a judge reviewing criminal cases, or as a prosecutor or as a criminal lawyer, or has at least 10 years' experience of working in the legal profession and is at the same time a recognized specialist in criminal law from a higher institution or a civil society organization.
2. The term of office of the Prosecutor General is six years. The same person may not be elected as the Prosecutor General for two consecutive terms.
3. The Prosecutor General is elected by the Parliament of Georgia as determined by the regulations.
4. At least six months before the term of office of the Prosecutor General expires, or in the case of termination of powers of the Prosecutor General– without delay, the Prosecutorial Council shall start one-month consultations with academic circles, representatives of civil society and law specialists to select candidates for the position of the Prosecutor General. Based on the consultations, the Prosecutorial Council shall select at least three candidates for the Prosecutor General position where at least one third has to be of a different gender.
5. The candidates for the Prosecutor General position shall be voted for individually at the meeting of the Prosecutorial Council. The voting shall be secret. The candidate who receives more votes but at least two thirds of the full composition of the Prosecutorial Council shall be deemed elected. If votes are equally divided between two or more candidates, the chairperson of the Prosecutorial Council shall have the casting vote. If none of the candidates receives the required number of votes, the two candidates with the best results shall be put to vote in the second round. If yet neither of the candidates receives support of two thirds of the full composition of the Prosecutorial Council, the Prosecutorial Council shall nominate, within one week, different candidates under the procedure established by paragraph 4 of this article.
6. The Prosecutorial Council shall present the selected candidate to the Parliament of Georgia.

Article 17. Procedure for premature removal and termination of powers of the Prosecutor General

1. The Prosecutor General may be removed from office only by means of impeachment.
- 2 . Other grounds for premature termination of powers of the Prosecutor General are:
 - a) personal application;
 - b) taking up a position incompatible with the status of the Prosecutor General or carrying out incompatible activities;
 - c) recognition by the court as a beneficiary of support, unless otherwise determined under court decision, declared as having limited competence or missing or dead;
 - d) loss of the Georgian citizenship;
 - e) death.

Article 18. Acts of the Prosecutor General

The Prosecutor General shall be authorized to issue normative and individual administrative and legal acts.

Chapter V

Consultative and collegial bodies

Article 19. Prosecutorial Council

1. In order to ensure independence, transparency and efficiency of the Prosecutor's Office an independent collegial body – the Prosecutorial Council – shall be established.
2. The Prosecutorial Council shall consist of 15 members:
 - a) a person nominated by the Minister of Justice of Georgia;
 - b) eight members, who are elected by the Conference of the Prosecutors of Georgia under article 20 of this Law and at least one fourth of whom is of different gender;
 - c) two members, who are elected by the High Council of the Justice of Georgia as determined by its Regulations, from among the judges of common courts of Georgia who have at least five years' experience of working as a judge;
 - d) two members from the Parliament of Georgia, one of whom is elected by the parliamentary majority from among its members, and the other is elected by the members of parliament, who are outside the parliamentary majority, from among those members of parliament that are not part of the parliamentary majority, as determined by the Rules of Procedure of the Parliament of Georgia. If a parliamentary majority has not been established, both members of the Prosecutorial Council shall be elected by the Parliament from among members of parliament, by majority of its total membership, as determined by the Rules of Procedure of the Parliament of Georgia;
 - e) two members, who are elected by the Parliament of Georgia by majority of its total membership as determined by the Rules of Procedure of the Parliament of Georgia. Candidates for membership of the Prosecutorial Council shall be selected under the terms and established procedure for electing candidates for membership of the High Council of Justice of Georgia as determined under Article 47(5), (6) of the Organic Law of Georgia on Common Courts.
3. The term of office for members of the Prosecutorial Council shall be four years and upon expiry of this term the powers of the member of the Prosecutorial Council shall be terminated.
4. The same person may not be elected as the member of the Prosecutorial Council for two consecutive terms.
5. The chairperson of the Prosecutorial Council shall be elected by the Prosecutorial Council for two years' term from among its members by the majority present at the meeting.
6. The members of the Prosecutorial Council act under their personal responsibility and are not accountable to the body that elected them. Exercising any influence on them shall be prohibited.
7. . If a prosecutor member of the Prosecutorial Council has taken up any post specified in Article 20(8) of this Law, his/her powers of a member of the Prosecutorial Council shall be prematurely terminated, and if his/her official powers are terminated before expiry of this term, the question of leaving him/her on the Prosecutorial Council or terminating his/her powers of a member of the Prosecutorial Council shall be resolved by the Prosecutorial Council.
8. . If official powers of members of the Prosecutorial Council defined in paragraph 2(c-d) of this article are prematurely terminated, they shall maintain the status of the member of the Prosecutorial Council until the expiry of the term, act under their personal responsibility and are not accountable to the body that elected them.

9 . A new member of the Prosecutorial Council shall be elected not earlier than thirty calendar days before, and not later than seven calendar days after expiration of powers of a respective member of the Prosecutorial Council and in case his/her powers are prematurely terminated, a new member of the Prosecutorial Council shall be elected not later than two months from the day when powers of the respective member of the Prosecutorial Council are prematurely terminated. If during election of a new member of the Prosecutorial Council by the Parliament of Georgia these time limits coincide, fully or partially, with the inter-sessional period of the Parliament of Georgia, the process of electing the new member of the Prosecutorial Council, if necessary, shall consequently start or continue on an extraordinary session upon commencement or before commencement of a regular session.

10 . A member of the Prosecutorial Council provided for by paragraph 2(b) of this article may be a prosecutor/an investigator of the Prosecutor's Office who has at least five years' experience of working as a lawyer, including at least three years' experience of working as a prosecutor or as an investigator of the Prosecutor's Office.

11 . Members of the Prosecutorial Council shall not receive remuneration for their activities.

12 . Powers of the Prosecutorial Council shall be to:

- a) approve a candidate for the Chief Prosecutor, within the scope of its authority;
- b) conduct disciplinary proceedings against the First Deputy and Deputies of the Prosecutor General;
- c) resolve a question of whether to apply a disciplinary measure, prematurely remove from office a member of the Prosecutorial Council that is elected by the Conference of Prosecutors of Georgia under the procedure established by this Law;
- d) hear a report of the Prosecutor General, the First Deputy or Deputies Prosecutor General on the activities of the Prosecutor's Office, which concerns the crime combating policy, statistical data, protection of human rights and freedoms in the course of legal proceedings, areas of priority of the Prosecutor's Office, professional retraining and development programs for prosecutors, and which does not cover matters related to the investigation of a specific criminal case, its hearing in a court and/or specific circumstances of the case, once a year, or by decision of the majority of members of the Prosecutorial Council – without delay;
- e) produce recommendations on issues provided for in subparagraph (d) of this paragraph and submit them to the Prosecutor General;
- f) based on the criminal policy, develop and submit to the Prosecutor General recommendations on determining its guidelines, establishing uniform practices for the activities of the Prosecutor's Office and facilitating development;
- g) make a decision on premature termination of powers of the member of the Prosecutorial Council.

13. The Prosecutorial Council shall not interfere with the exercise of investigative and prosecutorial powers by the employees of the Prosecutor's Office.

14. The Prosecutorial Council shall meet at least once a year, or by request of at least one third of the full composition of the Prosecutorial Council; the request must be complied with immediately. The Prosecutorial Council shall be duly constituted if more than half of its full composition is present at the meeting.

15. Unless otherwise provided for by this Law, a decision of the Prosecutorial Council shall be deemed adopted if it is voted for by majority of the Prosecutorial Council members present at the Council's meeting.

16. If the First Deputy or Deputies of the Prosecutor General commit a disciplinary offence, the Prosecutorial Council shall make a decision to impose a disciplinary liability.

17. Before the Prosecutorial Council makes a decision to impose the disciplinary measure, the First Deputy and Deputies of the Prosecutor General, members elected by the Conference of

prosecutors have the right to appear before the Prosecutorial Council to provide explanation and submit information confirming his/her position.

18. The Prosecutorial Council shall make a decision to impose a disciplinary measure through secret ballot by at least two-thirds of the full composition of the Prosecutorial Council.

19. The Prosecutorial Council shall issue the decision in the form of a decree.

20. The Prosecutor General may participate in the Prosecutorial Council's meetings with a consultative vote.

21. The Prosecutorial Council has its own web-site.

22. The General Prosecutor's Office shall ensure the organizational and technical support of the activities of the Prosecutorial Council.

23. Rules of procedure of the Prosecutorial Council shall be established by the Statute approved by the Prosecutorial Council by the majority of members of the Prosecutorial Council.

Article 20. Conference of Prosecutors

1. The Conference of Prosecutors of Georgia (the 'Conference') is a meeting of prosecutors and investigators of the Prosecutor's Office, which is authorized to elect members to the Prosecutorial Council.

2. In its activities the Conference of Prosecutors of Georgia shall be guided by this Law and the Regulations of the Conference of Prosecutors of Georgia approved by the Conference of Prosecutors of Georgia.

3. The chairperson of the Conference is the Prosecutor General and in his/her absence- the First Deputy Prosecutor General.

4. The Conference of Prosecutors of Georgia shall be convened by the chairperson of the Conference to exercise powers determined by this Law.

5. The Conference is duly constituted to consider a question and adopt a decision if more than half of the prosecutors and investigators of the Prosecutor's Office are present at the meeting.

6. The Conference shall adopt decisions through secret ballot by majority of the prosecutors and investigators of the Prosecutor's Office present at the meeting.

7. Before the Conference initiative groups of at least 30 persons consisting of members shall be registered at the Chairperson of the Conference. One representative from each initiative group, together with the Chairperson of the Conference shall establish the Administrative Committee, which shall, along with fulfilling other organizational functions, exercise powers of the Election Committee. A prosecutor/investigator of the Prosecutor's Office may be a member of only one initiative group. An initiative group may nominate no more than two candidates for membership of the Prosecutorial Council.

8. A candidate for membership of the Prosecutorial Council may not be the Prosecutor general, the first Deputy Prosecutor General, the Deputy Prosecutor General, the head of a department of the General Prosecutor's Office, the prosecutor of the Autonomous Republic of Abkhazia, the prosecutor of the Autonomous Republic of Adjara, the prosecutor of Tbilisi city or a Regional Prosecutor.

9. The Conference shall elect members of the Prosecutorial Council according to the following quota:

a) three members shall be elected from among the representatives of the General Prosecutor's Office;

- b) one member shall be elected from among the representatives of Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara;
 - c) three members shall be elected from among the representatives of Regional Prosecutor's Offices located in the territory of East Georgia (Kakheti, Samtskhe-Javakheti, Kvemo Kartli, Shida Kartli and Mtskheta-Mtianeti), Tbilisi city Prosecutor's Office and District Prosecutor's Offices;
 - d) one member shall be elected from among the representatives of Regional and District Prosecutor's Offices located in the territory of West Georgia (West Georgia, Samegrelo-Zemo Svaneti).
10. The Administrative Committee shall, by way of drawing lots, determine the order of electing members of the Prosecutorial Council to the vacant positions according to the quota, after which voting for each vacancy of a member of the Prosecutorial Council according to the quota defined under paragraph 9 of this article shall take place according to order. If after the election of members to the first seven vacant positions it becomes clear that six members of the Council represent same gender, only a representative of the different gender may be elected to the remaining two or one vacant position.
11. A candidate who receives the majority of votes of those present at the meeting of the Conference, shall be considered to be elected to a vacant position.
12. If none of the candidates receives the number of votes that is sufficient for the election to a vacant position, two candidates with the best results for this vacant position shall be put to vote in the second round of the elections. If yet none of the candidates receives the sufficient number of votes, nomination of candidates and voting shall be repeated.
13. If two or more candidates receive an equal number of votes, these candidates shall be put to a repeat vote.
14. The issues related to the election of members to the Council that are not regulated under this Law shall be defined under the Regulations of the Conference.

Article 21. Consultancy bodies

1. The following standing consultancy bodies shall be established to facilitate the activities of the Prosecutor's Office: career management, ethics and incentives council and strategic development and criminal policy council headed by the Prosecutor General.
2. The scope of competence of the career management, ethics and incentives council includes:
 - a) develop proposals and issue recommendations on amendments to the ethics code of the employees of the Prosecutor's Office, assessment system of prosecutors and investigators of the Prosecutor's Office and consider the issue of compliance of evaluators and issue recommendations;
 - b) review issues of disciplinary misconduct (except as determined by this Law), incentives and promotion according to the procedure established by the Prosecutor General and issue recommendations;
 - c) review complaints on the decisions made by the claims council and make a final decision.
3. An employee of the Prosecutor's office shall have the right to attend the career management, ethics and incentives council meetings to make explanations.
4. The powers of the strategic development and criminal policy council include reviewing issues of and making recommendations on improving main directions and development plan of the activities of the system of the Prosecutor's Office, defining and improving programs and other

needs, developing and improving guidelines, strategy and action plan based on the criminal policy.

5. The standing consultancy bodies shall be composed of persons defined by subparagraph "b" of part 2 of article 19 of this Law and other employees exercising the relevant powers of the Prosecutor's Office.

6. If required, the Prosecutor General shall be authorized to establish other consultancy bodies to review the issues that do not fall within the competence of the standing councils and shall facilitate prompt and efficient implementation of the tasks of the Prosecutor's Office.

7. The decision of the consultancy bodies carries a recommendatory character and is not bounding on the Prosecutor General.

8. The rules of procedure and composition of the consultative bodies (except as directly determined by this article) shall be defined by the Prosecutor General.

Section III

Areas of Activity of the Prosecutor's Office, Personnel and Powers

Chapter VI

Areas of Activity of the Prosecutor's Office

Article 22. Conducting criminal prosecution

1. The Prosecutor's Office shall conduct criminal prosecution in the manner and to the extent provided for by the criminal procedure legislation.

2. To ensure criminal prosecution, the Prosecutor's Office shall provide procedural guidance of the investigation.

Article 23. Investigations and criminal investigation activities

In the cases and according to the procedure provided for by the criminal procedure legislation, the Prosecutor's Office shall conduct investigations to the full extent and can carry out criminal investigation activity.

Article 24. Public Prosecution Support

1. A prosecutor is a public prosecutor and he/she shall exercise powers on behalf of the State. The burden to prove the charge shall rest with him/her.

2. A prosecutor may, with the consent of the superior prosecutor, drop a charge in whole or in part, or replace the existing charges with more lenient charges. Dropping the charge by a prosecutor shall be substantiated.

3. A prosecutor shall take part in the review of the case.

4. In the courts of all three instances, in support of the public prosecution, the prosecutor shall exercise all powers granted by the criminal procedure legislation.

Article 25. Supervision of criminal investigation activities

1. A prosecutor shall supervise the legitimacy of the criminal investigation measures performed by the criminal investigation authorities that according to the Law "On criminal investigation activities" falls within the scope of the authorities of the prosecutor.
2. The criminal investigation measure that does not require the consent of the prosecutor shall not be the subject of prosecutorial supervision.
- 3 . The legitimacy and substantiation of a judge's order for conducting, prolonging or terminating a criminal investigation measure shall not be a subject of prosecutorial supervision.
- 4 . The data on a person, who is providing or has provided confidential assistance to, is cooperating or has cooperated with, criminal investigation authorities, as well as tactics and organization of obtaining criminal intelligence information, and analysis of criminal investigation cases and the classified part of criminal intelligence records shall not be the subject of prosecutorial supervision.
- 5 . The following persons shall have the right to view cases under criminal intelligence analysis and the classified materials of criminal intelligence records: the Prosecutor General, his/her first deputy and deputies, heads and deputy heads of relevant structural units of the General Prosecutor's Office, prosecutors of the Autonomous Republics of Abkhazia and Adjara and their deputies, regional prosecutors and their deputies, the Prosecutor of the City of Tbilisi and his/her deputies, and district prosecutors within their territorial jurisdiction, as well as other prosecutors designated by the Prosecutor General, his/her first deputy and deputies, prosecutors of the Autonomous Republics of Abkhazia and Adjara, regional prosecutors, the Prosecutor of the City of Tbilisi and district prosecutors.

Article 26. Protection of rights of incarcerated persons and persons deprived of liberty

1. A prosecutor/an investigator of the Prosecutor's Office shall have the right to freely enter at any time the places of detention of incarcerated persons and persons deprived of liberty:
 - a) conduct inspections in the places of detention of incarcerated persons and persons deprived of liberty, executing penitentiary functions or other enforcement measures administered by a court;
 - b) question detainees, prisoners, convicts and persons upon whom coercive measures have been imposed;
 - c) view documents based on which persons whose right on free movement has been restricted;
 - d) take immediate measures to release any unlawfully detained, or imprisoned person or a person upon whom other coercive measures have been imposed.
2. A prosecutor shall exercise other powers provided for by the legislation of Georgia.

Article 27. A prosecutor's claim in the proceedings provided for by the civil procedure legislation

1. A prosecutor shall initiate a claim to seize and transfer to the State the property resulting from racketeering, property of an official, member of the "criminal world"/a "thief in law", human trafficker, illegal narcotic drugs distributor or person convicted of a crime under Article 194 and/or 331¹, in the manner and to the extent provided for by the legislation of Georgia on civil procedure.
2. A prosecutor shall initiate a claim to seize and transfer to the State the property owned by a racketeer, an official, a member of the "criminal world"/a "thief in law", a human trafficker, an illegal narcotic drugs distributor, or a person convicted under Article 194 and/or 331¹ of the

Criminal Code of Georgia, their family member, close relative or related person, in the manner and to the extent provided for by the legislation of Georgia on civil procedure.

Article 28. Coordination of the fight against crime, criminal policy and crime prevention

1. The Prosecutor's Office shall coordinate the fight against crime and reconcile activities of law-enforcement bodies to timely detect, investigate, open, prevent and avoid crime, improve the criminal situation, in order to eliminate the causes of crime and conditions conducive to crime.
2. The procedure for coordination of the fight against crime shall be defined in Regulations that shall be approved by the Government of Georgia.
3. The Prosecutor's Office, taking into consideration the priority of human rights and freedoms, strengthening constitutional guarantees of legal protection and the status of spread of crime, based on criminal policy shall develop its guidelines to be approved by the Prosecutor General.

Article 29. Support of strategic development

1. For the purpose of the development of the system of the Prosecutor's Office, the Prosecutor General shall approve for next 6 years the strategy of the development of the Prosecutor's Office and the action plan.
2. Inter-agency working groups can be established to implement the strategy of the development of the Prosecutor's Office and the action plan, which will be headed by the Prosecutor's Office.

Chapter VII International cooperation

Article 30. International cooperation

1. The Prosecutor's Office can cooperate with the competent authorities of foreign countries and international organizations with regard to the issues falling within the competence of the agency.
2. To ensure cooperation envisaged by paragraph one of this article, the Prosecutor's Office shall be authorized, within its competence, sign an international agreement of inter-agency nature with the competent authority of a foreign state or an international organization.
3. The Prosecutor's Office shall ensure implementation of international cooperation in the sphere of criminal law, as determined by the legislation of Georgia.
4. In cases provided for by paragraph 3 of this article, the Prosecutor's Office shall be authorized to:
 - a) ensure implementation of the relevant procedures envisaged by the legislation with the aim of detention and extradition with regard to declaring international search of a person by means of Interpol channels;
 - b) apply with a motion to the relevant bodies of a foreign state for legal assistance with regard to criminal cases under proceedings in the competent authorities of Georgia and ensure granting their motions at the territory of Georgia;
 - c) According to the procedure established by the legislation of Georgia apply with a motion to the competent authorities of a foreign state on detainment and/or extradition or giving in temporal charge of a person wanted by law enforcement authorities of Georgia; and in case of

identification/detaining of a person wanted by a foreign state at the territory of Georgia, ensure participation in extradition procedures at the admissibility stage;

d) according to the procedure laid down by the legislation, ensure transmitting criminal case materials or their duly certified copies for their use in subsequent legal proceedings against a person in a foreign state or execute similar requests initiated by competent authorities of a foreign state at the territory of Georgia;

e) according to the procedure laid down by the legislation, cooperate with the relevant authorities of a foreign state with regard to seizure of property or its subsequent distribution (division).

5. If there is no relevant international agreement for cooperation provided for by paragraph 4 of this article, the Prosecutor General shall be authorized to sign an individual agreement with a competent authority of a foreign state or an international organization.

6. In case of signing an individual agreement provided for by paragraph 5 of this article, with the purpose of detaining and extradition of a person, the Prosecutor General shall have preliminary consultations with the Minister of Justice.

Chapter VIII

Representation in the country

Article 31. Relations with legislative, executive and judicial authorities

The Prosecutor General or a person duly authorized by the Prosecutor General shall represent the Prosecutor's Office in relations with legislative, executive and judicial authorities.

Article 32. Relations with organizations, institutions, representations

1. The Prosecutor General or a person duly authorized by the Prosecutor General shall represent the Prosecutor's Office in relations with organizations, institutions, representations.

2. To intensify cooperation the Prosecutor General shall be authorized to sign memorandum of mutual cooperation on certain issues with organizations, institutions, representations.

Article 33. Public Relations Secretary

Public Relations Secretary is an employee of the Prosecutor's Office to whom the Prosecutor General has granted representation powers, and who ensures coordinated relationship of the Prosecutor's Office with state authorities and judicial bodies, other organizations, institutions and representations and facilitates prompt and efficient communication, ensures preparing proposals for legislative amendments, coordinates and, if required, participates in the activities of the inter-agency working groups, performs other functions assigned by the Prosecutor General.

Chapter IX

Employee of the Prosecutor's Office

Article 34. Procedure and criteria for holding the position

1. A vacant position of a prosecutor/investigator of the Prosecutor's Office can be occupied by way of competition or internship, the procedure for which shall be defined by the Prosecutor General.

2. A vacant position of a prosecutor/investigator of the Prosecutor's Office can be occupied without competition and internship based on the motivated decision of the Prosecutor General, provided the person meets the relevant criteria determined by this Law.

3. Any citizen of Georgia who has a higher legal education, has a command of the language of proceedings, has passed a qualification exam, has completed internship in the bodies of the Prosecutor's Office, has taken the oath of an employee of the Prosecutor's Office, and can, based on his/her working and moral qualities, as well as his/her health status, perform the duties of a prosecutor or an investigator of the Prosecutor's Office, may be appointed to the position of a prosecutor or an investigator in the Prosecutor's Office.

4. A person to be appointed as a prosecutor/investigator of the Prosecutor's office shall pass a qualification exam in the following disciplines: Constitutional Law, International Human Rights Law, Criminal Law, Law of Criminal Procedure, Administrative Law, Penitentiary Law, and Principles of Criminal Intelligence.

5. The following persons shall be released from passing the qualification exam for employees of the Prosecutor's Office:

- a) the Prosecutor General, his/her first deputy and deputies;
- b) a person who has passed a judicial qualification exam or sat for a lawyer's test;

6. The following persons shall be released from internship in the bodies of the Prosecutor's Office: the prosecutor General, his/her first deputy and deputies, as well as a person, who along with criteria set forth by paragraph 3 of this article, meets one of the following requirements:

- a) has at least two years' experience of working as a judge, a prosecutor, an investigator or a criminal lawyer;
- b) has at least five years' experience of working in a legal specialty;
- c) has passed the judicial qualification exam;

7. A person to be appointed to a vacant position of a prosecutor/investigator of the Prosecutor's Office based on competition, along with criteria determined by paragraph 3 of this article, shall meet one of the following requirements:

- a) has at least two years' experience of working as a judge, a prosecutor, an investigator or a criminal lawyer;
- b) has at least five years' experience of working in a legal specialty.

8. According to paragraph 2 of this article, a person to be appointed to a vacant position of a prosecutor/investigator of the Prosecutor's Office without competition, along with the criteria determined by paragraph 3 of this article, shall meet one of the following requirements:

- a) has at least four years' experience of working as an investigator, a judge, a criminal lawyer;
- b) has at least two years' experience of working as a prosecutor/investigator of the Prosecutor's Office and has been discharged from the system in recent 10 year period based on a personal application, impairment of health status, staff reduction or taking another job;
- c) is a person enrolled in the personnel reserve of the system of the Prosecutor's Office;

d) has successfully taken internship in the system of the Prosecutor's Office and three years have not passed since the internship;

e) is a recognized specialist of criminal law from academic circles.

9. The person to be appointed to a vacant position of a prosecutor/investigator of the Prosecutor's Office by way of a competition or in cases determined by paragraph 2 of this article shall be released from the internship.

10 . A person who meets the requirements for being released from an internship, may take an internship in the bodies of the Prosecutor's Office at his/her own discretion.

11. Before being appointed to a vacant position of a prosecutor/investigator of the Prosecutor's Office based on the competition or in cases provided for in paragraph 2 of this article, a person shall take at least two months' course, and having completed it successfully is appointed to a vacant position.

12. Professional public servants of the Prosecutor's Office shall be appointed and discharged by the Prosecutor General taking the specifics defined by this Law into consideration, under the procedure laid down by the Law of Georgia on Public Service; and the labor contract with a person employed by the Prosecutor's Office under a labor contract shall be signed or terminated by the Prosecutor General, taking the specifics defined by this Law into consideration, under the procedures established by the Law of Georgia on Public Service and the Organic Law of Georgia – the Labor Code of Georgia.

Article 35. Grounds for refusal to employ a person

The following persons shall not be employed in the Prosecutor's Office:

a) a person having a criminal record;

b) a person suffering from alcohol or narcotic drug addiction, toxic substance abuse, mental or other severe chronic disease;

c) a person recognized by court as having limited competence or as a beneficiary of support, unless otherwise determined under court decision;

d) a person who as a result of background check does not meet the requirements determined by this Law.

Article 36. Promotion of a prosecutor/investigator of the Prosecutor's Office

1. A prosecutor/investigator of the Prosecutor's Office may be promoted to the position of a head and deputy head of a department of the General Prosecutor's Office, a prosecutor and deputy prosecutor of the Autonomous Republics of Abkhazia and Adjara, a prosecutor and deputy prosecutor of the City of Tbilisi, district prosecutors, provided he/she has at least three years' experience of working as a prosecutor/investigator of the Prosecutor's Office.

2. A prosecutor/investigator of the Prosecutor's Office may be promoted to the position of a head and deputy head of a division of the General Prosecutor's Office, a head and deputy head of a department of the Prosecutor's Office of the Autonomous Republics of Abkhazia and Adjara, the City of Tbilisi and Regional Prosecutor's Office, a head and deputy head of an investigative unit, a deputy district prosecutor, provided the person has at least two years' experience of working as a prosecutor/investigator of the Prosecutor's Office.

3. When taking a decision on promotion of a prosecutor/investigator of the Prosecutor's Office, the results of the assessment of the activities of the prosecutor/investigator of the Prosecutor's Office shall be taken into consideration.

4. The rule and criteria for the promotion of the prosecutor/investigator of the Prosecutor's Office shall be approved by the Prosecutor General.

Article 37. Procedure and grounds for discharge

1. The grounds for discharge of an employee of the Prosecutor's Office from the Prosecutor's Office may be:

- a) his/her personal application;
- b) any impairment of health status, disability or chronic disease preventing him/her from performing his/her official duties;
- c) alcohol or narcotic drug addiction, toxic substance abuse, mental or other severe chronic disease;
- d) recognition by court as having limited competence or as a beneficiary of support, unless otherwise determined under court decision;
- e) non-performance or improper performance of official duties;
- f) taking another job;
- g) gross or systematic misconduct at work;
- h) inaptitude to the position held;
- i) incompatibility of interests or duties;
- j) reorganization and staff reduction;
- k) breaking the oath, disclosing a professional secret or committing any other act unbecoming to an employee of the Prosecutor's Office;
- l) failure to meet the critical limit of competence as a result of assessment;
- m) negative result received in the compliance exam when meeting the minimum limit of competence as a result of assessment;
- n) failure to meet the minimum limit of competence as a result of assessment two times running;
- o) a valid guilty verdict;
- p) committing a new offence by a person who is subjected to an administrative penalty for disciplinary misconduct;
- q) expiry of a labor contract;
- r) non-performance or improper performance of requirements under a labor contract;
- s) loss of the Georgian citizenship;
- t) violation of employment requirements;
- u) reaching retirement age.
- v) other grounds provided for by the Law of Georgia on Public Service and/or the Organic Law of Georgia the Labor Code.

2. An employee of the Prosecutor's Office may be discharged from the Prosecutor's Office due to long-term incapacity for work confirmed by a relevant medical opinion for being absent for four consecutive months or for six months during a calendar year and there is a relevant medical opinion according to which he/she will not be able to exercise powers in future.

Article 38. Transfer to another position

1. A prosecutor/investigator of the Prosecutor's Office may be transferred to another position based on his/her request or consent.

2. A prosecutor/investigator of the Prosecutor's Office may be transferred to a lower position without his/her consent, if:
 - a) it is impossible to transfer him/her to a position corresponding to his/her rank and position;
 - b) demotion is envisaged as a form of disciplinary liability;
 - c) based on the results of assessment system he/she fails to meet the limit of competence required for this position;
 - d) in cases specified by article 39 of this Law.

Article 39. Discharge as a result of reorganization and/or staff reduction

1. In case of reorganization and/or staff reduction, the prosecutor/investigator of the Prosecutor's Office shall be discharged and he/she may be offered transfer to other structural unit of the system of the Prosecutor's Office to the relevant vacant position.
2. If a prosecutor/investigator of the Prosecutor's Office refuses to exercise powers as determined by paragraph one of this article or if there is no relevant vacant position, he/she shall be discharged and enrolled in the personnel reserve based on his/her written consent.
3. In cases provided for by this article the prosecutor/investigator of the Prosecutor's Office who is enrolled in the personnel reserve shall maintain the right to receive salary within 3 months from the date of enrolling in the personnel reserve, unless he/she has occupied a position incompatible with the position of the prosecutor/investigator of the Prosecutor's Office or is engaged in similar activities. The prosecutor/investigator of the Prosecutor's Office enrolled in the personnel reserve may be appointed in the system of the Prosecutor's Office based on his/her written consent.
4. After the passage of 3 months from enrolling in the personnel reserve, the enrolled person shall be enrolled in the personnel reserve for the subsequent 9 months without salary, unless he/she has occupied a position incompatible with the position of the prosecutor/investigator of the Prosecutor's Office or is engaged in similar activities or his/her removal from the list based on a personal application.

Article 40. Grounds for suspension of official powers

1. The grounds for suspension powers of the employee of the Prosecutor's Office are:
 - a) leave;
 - b) temporary incapacity for work which shall be proved by a certificate of sickness;
 - c) detention or administrative detention;
 - d) institution of criminal proceedings against him/her, before termination of criminal prosecution or entry into force of the judgment of conviction;
 - e) other cases as provided for by the Law.
2. The employee of the Prosecutor's Office shall continue receiving salary during the period of suspension of official powers. The prosecutor/investigator of the Prosecutor's Office shall also retain salary defined for the rank and increment for the years of service.

Article 41. Appeal procedure

A prosecutor/investigator of the Prosecutor's Office, a candidate for internship or competition, according to the procedure laid down by the legislation, shall have the right to apply to the court within the term of one month with regard to appointment to office, demotion, discharge and suspension of powers.

Article 42. Specialization of prosecutors

In cases defined by the legislation of Georgia and according to the established procedure, a prosecutor/investigator of the Prosecutor's Office may be granted specialization the procedure for which shall be defined by the Prosecutor General.

Chapter X**Background check of a candidate****Article 43. Background check of a candidate**

1. A person to be appointed to a vacant position of an employee of the Prosecutor's Office shall be subjected to background checking, the procedure for which shall be approved by the Prosecutor General.
2. The following information about a person shall be subject to background check:
 - a) record of convictions and the fact of imposing administrative liability;
 - b) information related to income and financial liabilities;
 - c) information related to ownership and disposal of shares in entrepreneurial and non-entrepreneurial (non-commercial) legal entities;
 - d) information related to the state of health, education, work experience, academic degree, training activities.
3. The background check shall be performed based on the written consent of the candidate. If he/she refuses to issue a consent, his/her candidature shall be withdrawn from the discussion.
4. In case of submitting intentionally false information the candidature shall be withdrawn from the discussion.

Chapter XI**Oath of the employee, incompatibility of interests and duties****Article 44. Oath of the employee of the Prosecutor's Office**

1. When designated to work at the Prosecutor's Office an employee shall take a written oath: "I, (first name, last name), hereby solemnly and sincerely swear before God and the People to perform the duty of an officer of the Prosecutor's Office of Georgia in good faith and in so doing comply only with the Constitution and law of Georgia."
2. An employee of the Prosecutor's Office may be sworn to office without a religious oath. The oath giver shall sign the oath text that shall be kept in the officer's personal record.

Article 45. Incompatibility of interests and duties

1. The position of an employee of the Prosecutor's Office shall be incompatible with other positions within state or local self-government bodies, as well as with any entrepreneurial or other paid position other than scientific, creative and pedagogical activity.
2. An employee of the Prosecutor's Office may concurrently perform other paid work and/or hold another position within the system of the Prosecutor's Office.
3. An employee of the Prosecutor's Office shall not be a member of a political party or engage in political activity.
4. An employee of the Prosecutor's Office shall have no right to use the post or opportunities related to it for receipt of property or other assets or receive these assets.
5. An employee of the Prosecutor's Office shall have no right to be a representative or a trustee of any physical or legal person or execute representation or advocacy in criminal, civil or administrative cases, unless he/she is the guardian, caregiver or supporter of this physical person.
6. An employee of the Prosecutor's Office shall be prohibited from organizing or taking part in a strike.

Chapter XII Prosecutorial acts

Article 46. System of prosecutorial acts

When exercising his/her powers, a prosecutor, within the scope of his/her authority, as determined by the legislation of Georgia, shall prepare the following acts:

- a) a request;
- b) a submission;
- c) an objection;
- d) a decision;
- e) a consent;
- f) a directive;
- g) an appeal.

Article 47. Request

1. To exercise authorities a prosecutor may request:
 - a) submission of necessary documents, materials, cases, data and other information;
 - b) allocating a specialist, expert, translator;
 - c) conduct audit of payment from the budget or other transaction.
2. Any requested information must be submitted to the prosecutor within 10 days, regardless of the security level of such information.
3. A document or other information may be verified at the request of a prosecutor in situ either by the prosecutor, or at the assignment of the prosecutor, by a specialist, an expert or any other person.
4. At the request of a prosecutor, a document or other information must be submitted at the place indicated by him/her.
5. In the cases provided for by the legislation of Georgia, a prosecutor shall ensure protection of state secrets or other secrets contained in the requested information.

6. Interference with the scope of a court's authority or request for any information or cases from a court shall be prohibited except as provided for by the criminal procedure legislation.

Article 48. Submission

1. Within the scope of his/her authority and as provided for by the legislation of Georgia, a prosecutor shall file a submission to eliminate violations of legislation, the causes and conditions supporting such violations to the parties to legal relations provided for in Articles 22-23 and 25-26 of this Law, who shall, within 10 days, inform the prosecutor about the measures taken.

2. A prosecutor shall be informed of the date of consideration of a submission and he/she shall have the right to take part in the consideration.

Article 49. Objection

1. A prosecutor shall submit a written objection to the incompatibility of the acts and actions of the persons indicated in Articles 25-26 of this Law with law.

2. In the objection a prosecutor may request that:

- a) an unlawful act be repealed in whole or in part or brought in line with the law;
- b) an unlawful action be ceased;
- c) a violated right be restored;
- d) an offender be subject to relevant measures.

3. A prosecutor shall file an objection to an unlawful act to the issuing authority or superior authority. An objection to an unlawful action of an official shall be filed according to the same procedure.

4. A prosecutor's objection shall be considered not later than 10 days after the receipt. The prosecutor shall be immediately informed of the results of the consideration.

5. A prosecutor shall be informed of the date of consideration of the submitted objection. He/she may support the objection in person or through his/her representative.

6. A prosecutor having filed an objection, or a superior prosecutor, may withdraw the objection before the consideration commences.

7. A superior prosecutor shall have the right to amend an objection or replace it with a new objection before the consideration commences.

Article 50. Decision

Depending on the character of a violation of the legislation of Georgia by a citizen or an official, a prosecutor, within the scope of his/her authority and according to the procedure determined by law, shall issue a decision.

Article 51. Consent

Where provided for by law, a prosecutor shall issue a written consent to the actions of state bodies and officials.

Article 52. Instruction

Where provided for by law, a prosecutor may give investigation authorities a written instruction, which shall be binding.

Article 53. Appeal

1. As determined by the criminal procedure legislation of Georgia, a prosecutor may:
 - a) appeal a court judgment in a criminal case to a higher court and take part in the trial as a party;
 - b) appeal a court judgment based on newly revealed circumstances and take part in the trial as a party.
2. A prosecutor having filed an appeal, or a superior prosecutor, may withdraw the appeal before a summary judgment has been made.

Article 54. Appealing prosecutorial acts

1. A prosecutor's submission, objection, decision and instruction may be appealed to a court, as determined by law, or appealed to a superior prosecutor, within 10 days, except as provided for by the criminal procedure legislation of Georgia.
2. The act of appealing shall not suspend execution of prosecutorial acts except as provided for by the criminal procedure legislation of Georgia.

Section IV. other directions of activities and state control

Chapter XIII Organizational activities

Article 55. Official sources of receiving and publication of information

1. The Prosecutor's Office shall use telephone, electronic services of receiving information and the system of documentary receipt of information.
2. For proactive publication of public information the Prosecutor's Office uses webpage and social media.

Article 56. Digital and electronic systems and services

1. For organizing its activities the Prosecutor' Office uses electronic systems and digital and electronic services of internal communication, whose management and security rules and standards shall be determined by the Prosecutor General.
2. The Prosecutor's Office shall ensure administration and management of database, computer network and software modules installed on the digital and electronic servers.

Article 57. Archive management

1. The Prosecutor's Office shall independently ensure maintaining of archive fund (regardless of their medium) according to the procedure established by the legislation.
2. The archive fund system of the Prosecutor's Office consists of archives of central and certain bodies and structural units.

Chapter XIV
Evaluation of activities and personnel reserve system**Article 58. The rule and procedure for the evaluation of activities**

1. The prosecutor/investigator of the Prosecutor's Office, as a rule, is subject to evaluation once in 2 years, whose results are not public.
2. The prosecutor/investigator of the Prosecutor's Office shall be evaluated according to the criteria defined by this Law and approved by the Prosecutor General.
3. The basic criteria for the evaluation of the prosecutor/investigator of the Prosecutor's Office are:
 - a) evaluation of the quality of prosecutorial activities/investigation;
 - b) load of the prosecutor/investigator of the Prosecutor's Office;
 - c) evaluation of the head;
 - d) incentives and disciplinary liability.
4. The prosecutor/investigator of the Prosecutor's Office, whose results of evaluation do not meet the minimum limit of competence, shall be subjected to the compliance test. In case of receiving positive evaluation in the compliance test, the prosecutor/investigator of the Prosecutor's Office shall be subjected to extraordinary evaluation within 1 year after taking the test. In case of failure to meet the minimum limit of competence for two consecutive times, the prosecutor/investigator of the Prosecutor's Office may be discharged from office.
5. The duly authorized units of the Prosecutor's Office perform the evaluation of the activities of the prosecutor/ investigator of the Prosecutor's Office.
6. The rule and procedure for the evaluation of the activities of the prosecutor/investigator of the Prosecutor's office shall be approved by the Prosecutor General.

Article 59. Non-interference into the activities of the evaluator

Illegal interference into the activities of the evaluator, exercising inappropriate influence on him/her shall be prohibited.

Article 60. Procedure for appealing the results of evaluation

1. The prosecutor/investigator of the Prosecutor's Office shall be authorized to appeal the results of evaluation within 10 days after he/she has been notified of the results of the evaluation.

2. The prosecutor/investigator of the Prosecutor's Office shall be authorized to familiarize himself/herself of the materials based on which the evaluator defined the limit of his/her competence.
3. The temporal consultancy body- claims council shall review the appeal of the prosecutor/investigator of the Prosecutor's Office and make one of the decisions:
 - a) satisfy the claim and change or repeal the results of the evaluation; in case of repealing the results of the evaluation, the prosecutor/investigator of the Prosecutor's Office shall be subject to new evaluation within the term of 60 days;
 - b) not to satisfy the claim and uphold the result of the evaluation.
4. The decision of the claims council may be appealed within 10 days after its delivery to the prosecutor/investigator of the Prosecutor's Office in the career management, ethics and incentives council, which shall make one of the decisions within the term of 2 months:
 - a) not to satisfy the claim and uphold the decision of the claims council;
 - b) satisfy the claim and change the decision of the claims council.
5. The author of the claim and the evaluator shall be authorized to attend the claims review meetings to give explanations.

Article 61. Personnel reserve system

1. The Prosecutor's Office shall ensure formation of one-year personnel reserve system with the following enrolled in it:
 - a) persons, who will successfully complete internship or competition, but will not be appointed to the vacant positions of the prosecutor/investigator of the Prosecutor's Office;
 - b) the prosecutor/investigator of the Prosecutor's Office who as a result of staff reduction or reorganization will be removed from office.
2. The grounds for removal from the personnel reserve system:
 - a) expiry of the term of enrolment in the reserve;
 - b) personal application;
 - c) appointment to the relevant vacant position;
 - d) presence of any grounds provided for by article 37 of this Law;
 - e) other grounds as determined by the legislation of Georgia.

Chapter XV

Career management and development

Article 62. Support of professional development and continuing education

1. The Prosecutor's Office of Georgia shall ensure the improvement of professional skills of employees of the Prosecutor's Office and facilitate professional development at the inter-agency level.
2. Employees of the Prosecutor's Office shall receive continuing education at appropriate academic and training facilities.
3. In the cases provided for by international treaties and agreements, as well as by international programs, employees of the Prosecutor's Office may receive continuing education at educational institutions, law-enforcement bodies, and research and development centers of foreign states.

Article 63. The rule and terms of qualification and compliance exam

1. The Prosecutor's Office shall ensure conduct of qualification exam of the Prosecutor's Office and compliance exam of the prosecutor/investigator of the Prosecutor's Office.
2. The qualification exam of the Prosecutor's Office shall be conducted:
 - a) for interns and competition candidates willing to be appointed to the vacant position of the prosecutor/investigator of the Prosecutor's Office, who haven't undertaken a lawyer or judge qualification exam;
 - b) for persons with higher legal education.
3. The compliance exam of prosecutors/investigators of the Prosecutor's Office shall be conducted for those who fail to meet the minimum limit of competence defined by the evaluation system.
4. The qualification exam of the Prosecutor's Office and the compliance exam of the prosecutor/investigator of the Prosecutor's Office shall be conducted by test approach.
5. Successful passage of the qualification exam of the Prosecutor's Office shall be confirmed by a certificate.
6. The rule and program for the exams shall be approved by the Prosecutor General.

Article 64. The rules and terms of doing practical training

1. A citizen of Georgia with no record of conviction, who has a command of the language of proceedings and has higher legal education or is a student of law may be admitted to practical training.
2. The position of a trainee is not paid and shall not be considered to be work experience.
3. The rule of undergoing practical training shall be approved by the Prosecutor General.

Chapter XVI**Other directions of the activities of the Prosecutor's Office****Article 65. Seal, work certificate and insignia**

1. The Prosecutor General shall determine the form and the rule of use of the seal, logo, work certificate and badge of the bodies of the Prosecutor's Office.
2. The Prosecutor General, his/her first deputy or deputy, shall issue the work certificate of the employee of the Prosecutor's Office.

Article 66. Procedures for receiving citizens and review of correspondence

1. Within the limit of its competence, as determined by the Law, the Prosecutor's Office shall review the incoming applications and complaints, receive citizens.
2. The application and complaint about an offence shall be reviewed immediately.

Article 67. Access to classified material

1. The access of the Prosecutor General of Georgia to classified material shall be ensured upon his/her selection for the position.

2. The rule of access of an employee of the Prosecutor's Office to classified information shall be regulated by the Law of Georgia on State Secretes and other acts.
3. The prosecutor shall have the right to declassify documents and materials reflecting criminal investigation and covert investigative activities according to the procedure established by the Law.
4. Within the authorities defined by the Law, the Prosecutor General, his/her first deputy or deputy shall assign security classification marking to the criminal case.

Chapter XVII

Control over the activity and spending of state funds by the Prosecutor's Office

Article 68. Control by the legislative authorities

1. Parliamentary control over the activity of the Prosecutor's Office shall be carried out by hearing an annual report on the activities of the Prosecutor's Office.
2. The Prosecutor General, his/her first deputy or deputy shall submit to the Parliament of Georgia the report on activities carried out by the Prosecutor's Office during the previous year, which concerns the crime combating policy, statistical data, protection of human rights and freedoms in the course of legal proceedings, areas of priority of the Prosecutor's Office, professional retraining and development programs for prosecutors no later than on May 15. The report which does not cover matters related to the investigation of a specific criminal case, its hearing in a court and/or specific circumstances of the case.
3. The Prosecutor General, his/her first deputy or deputy shall be authorized, and if requested-obliged to attend the meetings of the Parliament, its committee and commission, answer questions and submit a report on the performed activities. This request shall contain full information about the issue(s) to be discussed. The General Prosecutor, his/her first deputy or deputy shall have the right not to speak on the issue that was not notified to him/her in advance. The General Prosecutor, his/her first deputy or deputy shall not be asked questions with regard to investigation of a specific criminal case, its hearing in a court and/or specific circumstances of the case.
4. In case of requesting a report on the performed activities, the Prosecutor General, his/her first deputy and deputy shall have to submit the report within 2 weeks after the request.

Article 69. Judicial control

The performance of such investigative and procedural acts by the Prosecutor's Office that limit the human rights and freedoms guaranteed by the Constitution of Georgia shall be permitted by a substantiated decision of a court, as determined by the legislation of Georgia.

Article 70. Control over the use and spending of state funds

The State Audit Service shall control the use and spending of state funds and other tangible assets of the state allocated to the Prosecutor's Office.

Section V. Budget, property and public procurement

Chapter XVIII

Logistical support and financing of the Prosecutor's Office

Article 71. Logistical support and financing of the Prosecutor's Office

1. The Prosecutor's Office shall be financed with appropriations allocated from the state budget. Expenditures of the Prosecutor's Office must be provided for in the state budget using a separate organizational code, according to the procedure determined by the legislation of Georgia.

1. A reduction of current expenditures within the sums allocated in the state budget for the Prosecutor's Office, compared to the budgetary funds of the previous year, may take place only by the consent of the Prosecutor General.

2. The proposed budget submitted by the Prosecutor's Office, as well as the approved budget may be adjusted only on the basis of a prior consent of the Prosecutor General.

3. Logistical support to the Prosecutor's Office shall be provided in a centralized manner.

5 . Funds collected by the Prosecutor's Office to reimburse losses incurred by the State shall be transferred to the state budget.

6 . Representation expenses of the Prosecutor's Office of Georgia shall be reimbursed as determined by the legislation of Georgia.

7 . In addition to the matters envisaged by this Law, issues related to the logistical support and financing of the Prosecutor's Office may be regulated by the relevant act of the Prosecutor General.

Chapter XIX

Property and procurement of the Prosecutor's Office

Article 72. Property of the Prosecutor's Office

1. The property in the possession and/or use of the Prosecutor's Office shall be the property of the State.

2. The Prosecutor's Office shall be responsible for the protection and purposeful use of the state property in its possession and/or use.

3. The Prosecutor General shall be authorized to apply to the government on the matters related to the transfer of property required for the operation of the Prosecutor's Office.

4. The Prosecutor's Office shall conclude relevant agreements as determined by the legislation of Georgia, for temporal use of property required for its operation.

Article 73. Management and organization of the state property

1. To ensure logistical support and facilitate activities of the Prosecutor's Office, public procurement is done in a centralized way, according to the legislation.

2. The Prosecutor General or a person duly authorized by the Prosecutor General shall make a decision on public procurement.

Section VI. Social and legal protection and responsibility

Chapter XX

Legal protection and responsibility of employees of the Prosecutor's Office

Article 74. Legal protection

1. An employee of the Prosecutor's Office shall have the right to apply to court to protect his/her rights and freedoms as determined by the legislation.
2. An officer of the Prosecutor's Office is independent in his/her official activity. He/she may not be removed or dismissed from the position held except in cases provided for by this Law.
- 3 . Hindering an employee of the Prosecutor's Office from performing his/her official duties, degrading, threatening, resisting, or using violence against him/her, as well as making an attempt on his/her family member's life, health or property shall entail the punishment determined by law.
4. Upon receipt of any report or information on an attempt on the life, health or property of an employee of the Prosecutor's Office or his/her family member, state bodies shall be obliged to take actions provided for by law to protect their personal safety and property.
5. An employee of the Prosecutor's Office may keep and carry a firearm, as well as special personal defense tools in the manner determined by the legislation of Georgia.
6. The Prosecutor General shall determine the rule of keeping, registration and issuance of a service firearm, as well as the list of employees, who shall have the right to keep and carry the service firearm.
7. The Prosecutor General shall be authorized to assign the status of a service firearm to a firearm owned by an employee of the Prosecutor's Office and grant to him/her the right to carry it.

Article 75. Inadmissibility of interference in the activity

Any interference in the activity of an employee of the Prosecutor's Office by officials, public and political parties, their representatives or by other persons not authorized by law to interfere in the activity of an employee of the Prosecutor's Office or in any way exert influence on him/her, as well as preventing an employee of the Prosecutor's Office from performing his/her activity shall be punishable by law.

Article 76. Responsibility of an employee of the Prosecutor's Office

1. An employee of the Prosecutor's Office shall be held responsible under the general procedure for committing a crime or administrative offence.
- 2 . The Prosecutor General shall be authorized to initiate criminal prosecution where a crime has been committed by a prosecutor, an investigator of the Prosecutor's Office, an advisor of the Prosecutor's Office or a coordinator of a witness and a victim.
- 3 . The crime committed by an employee of the Prosecutor's Office, according to investigative jurisdiction, shall be investigated by the Prosecutor's Office of Georgia, except as provided for by the Law of Georgia on State Inspector Service.

4 . A detained, confined or convicted employee of the Prosecutor's Office shall be placed and serve his/her sentence in isolation from other prison population.

5 . In case of initiation of criminal prosecution of an employee of the Prosecutor's Office, the Prosecutor General shall resolve the issue of maintaining powers.

6 . In case of breaking an oath, committing misconduct or any act unbecoming to an employee of the Prosecutor's Office, or failure to perform or negligent performance of his/her duty vested by law, an employee of the Prosecutor's Office shall be subject to the disciplinary measures.

7. The disciplinary misconduct shall be divided into categories:

- a) light misconduct;
- b) medium misconduct;
- c) serious misconduct.

8. Where an employee of the Prosecutor's Office:

- a) performs his/her duties vested by the Law in a negligent manner, taking into account circumstances, shall be considered as a light misconduct;
- b) commits misconduct, taking into account circumstances, shall be considered as a medium misconduct;
- c) acts unbecomingly to an employee of the Prosecutor's Office, shall be considered as a serious misconduct;
- d) failure to perform duties vested in him/her by law, shall be considered as a serious misconduct;
- e) breaking an oath shall be considered as a serious misconduct.

9. The types of disciplinary measures are: a) reprimand;

- b) reproach;
- c) deduct 30% from the salary for the term from 1 to 6 months;
- d) demotion to a lower rank;
- e) demotion;
- f) dismissal.

10. Where an employee of the Prosecutor's Office:

- a) performs a duty vested in him/her in a negligent manner, taking into account circumstances, it shall be considered as a light misconduct and reprimand or reproach shall be applied as a form of disciplinary action;
- b) commits misconduct, taking into account circumstances, it shall be considered as a light or medium misconduct and reprimand, reproach or deduction of 30% of salary for the term from 1 to 6 months, shall be applied as a form of disciplinary action;
- c) acts unbecomingly it shall be considered as a serious misconduct and taking into account circumstances, reproach, demotion to a lower rank, deduction of 30% of salary for the term from 1 to 6 months or dismissal from the Prosecutor's Office shall be applied as a form of disciplinary action;
- d) fails to perform duties vested in him/her by law, it shall be considered as a serious misconduct and taking into account circumstances, a reproach, demotion to a lower rank, deducting 30% from the salary for the term from 1 to 6 months or dismissal from the Prosecutor's Office shall be applied as a form of disciplinary action;
- e) breaks an oath, it shall be considered as a serious misconduct and dismissal from the Prosecutor's Office shall be applied as a form of disciplinary action.

11. Only a single disciplinary action shall be applied for committing the same misconduct by an employee of the Prosecutor's Office.

12. If a new disciplinary misconduct is committed prior to expunging of the disciplinary action, more severe disciplinary action than the one indicated in paragraph 10 of this article may be applied.

13. Where an employee of the Prosecutor's Office commits two or more disciplinary misconducts, dismissal from the Prosecutor's Office may be applied as a form of disciplinary action.

14. The Prosecutor General shall be authorized to apply any disciplinary action in relation to an employee of the Prosecutor's Office, regardless of the circumstances defined by paragraph 10 of this article.

15. The Prosecutor General shall have the right to repeal a disciplinary action applied in relation to an employee of the Prosecutor's Office.

16. A disciplinary action shall be applied no later than one year after establishing (revealing) a misconduct. This period does not include the period of illness or leave of an employee of the Prosecutor's Office. Disciplinary action shall not be applied if three years have elapsed since the day of the misconduct.

17. In the case of a premeditated crime or a crime of negligence committed by an employee of the Prosecutor's Office, the decision on his/her dismissal from the Prosecutor's Office shall be made by the Prosecutor General irrespective of the time elapsed from committing the act, except as provided for by the legislation of Georgia.

18. A disciplinary measure shall be imposed by order of the Prosecutor General, except in cases provided for by this law when the Prosecutorial Council makes this decision. The employee of the Prosecutor's Office who has been imposed the disciplinary measure shall be notified of the order of the prosecutor/decision of the Prosecutorial Council. An order of the prosecutor/decision of the Prosecutorial Council on imposing the disciplinary measure shall be kept in a personal file of the employee of the Prosecutor's Office.

19 . An employee of the Prosecutor's Office shall be deemed free of a disciplinary action, if one year has elapsed since the imposition of the disciplinary action and no new disciplinary action has been imposed on him/her.

20. In case of applying demotion or transfer to a lower rank as a form of a disciplinary action, the elapse of the term of serving action shall not cause restoring the position and rank existing prior to imposing the action.

21. The order of the Prosecutor General or decision of the Prosecutorial Council about imposing a disciplinary action may be appealed in the court within 1 month from the date of receipt of the order/decision according to the procedure laid down by the legislation.

22. Appealing an order/decision on the imposition of a disciplinary action shall not suspend the execution of the applied disciplinary action.

23. Incentives shall not be applied in relation to an employee who has been subjected to a disciplinary action, except for the measures provided for by paragraph "e" of part one of article 78 of this Code.

24. An employee who has been subjected to a disciplinary action:

- a) shall not be granted the next special rank;
- b) shall not be promoted in rank and/or class;
- c) shall not receive a salary increment.

25. Promotion of an employee who has been subjected to a disciplinary action is prohibited.

26 . A disciplinary action may be lifted from an employee of the Prosecutor's Office ahead of time in cases provided for by article 78 of this Law. The disciplinary action shall be lifted on the basis of a relevant order/decision. This order/decision shall be notified to the employee of the Prosecutor's Office, who has been imposed a disciplinary action.

27. An order/decision on the removal of the disciplinary measure ahead of time shall be kept in a personal file of the employee of the Prosecutor's Office.

Article 77. Disciplinary proceedings

1. In case of breaking an oath, committing misconduct or any act unbecoming to an employee of the Prosecutor's Office, or failure to perform or negligent performance of his/her duty vested by law, the General Inspectorate of the General Prosecutor's Office (the 'General Inspectorate') shall conduct an employee monitoring.
2. The General Inspectorate shall be accountable to the Prosecutor General.
3. The grounds for the employee monitoring may be any type of information about offence or disciplinary misconduct committed by an employee of the Prosecutor's Office.
4. Within the scope of employee monitoring, the General Inspectorate shall be authorized to:
 - a) invite an employee of the Prosecutor's Office or any other person and receive explanations on the fact to be checked;
 - b) explain to the person his/her right to refuse to give explanations;
 - c) request all materials, documents or information required to study the issue;
 - d) if special knowledge is required, invite and receive consultations from a specialist;
 - e) draw up a report on employee monitoring;
 - f) exercise other powers determined by the legislation.
5. The report on application of a disciplinary action as a result of the employee monitoring shall be submitted to the Prosecutor General.
6. The Prosecutor General shall submit a conclusion on application of a disciplinary measure to an employee of the Prosecutor's Office for review to the career management, ethics and incentives council.
7. The employee of the Prosecutor's Office whose issue of disciplinary liability is under review shall be authorized to attend the meeting of the council to give explanations.
8. By the decision of the council and with the consent of the participants, the meeting of the council can be recorded by means of audio/video recording devices.
9. The decision of the council shall be made by the majority of votes, by open voting. The Prosecutor General shall not participate in the voting. The member of the council may refrain from voting.
10. The decision of the Council that is recommendatory, shall be submitted to the Prosecutor General.

Article 78. The rule and forms of granting incentive

For exemplary performance of his/her duty and other achievements, an employee of the Prosecutor's Office may be granted the following incentives:

- a) declaration of appreciation;
- b) paying a bonus or presenting a valuable gift;
- c) allocation of an additional paid leave of 10 calendar days;
- d) granting the next special state rank earlier;
- e) lifting a disciplinary action ahead of time;
- f) granting firearms as an award;
- g) granting the title and awarding a badge of 'Honorary Employee of the Prosecutor's Office';
- h) nomination for a highest special state rank;

i) nomination for a state award.

Article 79. Reorganization

1. The Prosecutor General shall make a decision and approve the rule for reorganization to ensure better management.
2. Reorganization may not be the basis for dismissal of an employee of the Prosecutor's Office from the Prosecutor's Office, except as provided for by this law.

Chapter XXI

Social protection of employees of the Prosecutor's Office

Article 80. Social protection

1. Social protection of an employee of the Prosecutor's Office shall be guaranteed by the Constitution of Georgia, this Law and other legal acts of Georgia.
2. The State shall provide the social protection of an employee of the Prosecutor's Office.
3. The life and health insurance of an employee of the Prosecutor's Office, as well as health insurance of his/her family members (a spouse and minor children/adoptees) is mandatory and shall be financed by the Prosecutor's Office, from appropriations allocated to the Prosecutor's Office, based on the agreement signed with the insurance organization according to the rule laid down by the legislation.
4. The costs of medical services provided to an employee of the Prosecutor's Office (which are not subject to reimbursement within the insurance agreement), in special cases, by the decision of the Prosecutor General, shall be reimbursed by the Prosecutor's Office.
5. A prosecutor/investigator of the Prosecutor's Office, who exercises official powers in a territorial unit different from the permanent place of residence, where he/she has no dwelling, the state shall provide the required accommodation and/or reimburse the costs incurred on it.
6. An employee of the Prosecutor's Office shall be entitled to an annual paid leave of 30 calendar days.
7. An employee of the Prosecutor's Office shall be entitled to a paid leave once in five years for no more than 3 months, and/or unpaid leave no more than 1 year in order to participate in the professional development program outside the system of the Prosecutor's Office.
8. A prosecutor, an investigator of and an adviser to the Prosecutor's Office shall be entitled to all the benefits of a judge of the court of the relevant level, while the Prosecutor General, his first deputy and deputies shall be entitled to the benefits provided for the Chairperson of the Supreme Court of Georgia and his/her deputies, respectively.
9. The Prosecutor General shall define the procedure for the provision of fuel, vehicle and other benefits to the employee of the Prosecutor's Office.

Article 81. Remuneration

1. Salary of an employee of the Prosecutor's Office (except for a prosecutor and an investigator of the Prosecutor's Office) shall consist of the salary as per the position, a salary increment, in cases provided for by the Law of Georgia on Public Service-a class-based increment and money rewards.

2. Salary of a prosecutor/investigator of the Prosecutor's Office shall consist of the salary as per the position, a salary increment, money reward and may include salary defined for rank and increment for years of service, the amount of which shall be defined by the Prosecutor General.
3. The amount of monthly salary increment of an employee of the Prosecutor's Office, taking into consideration overtime work and functional load of extreme responsibility, shall be defined by the Prosecutor General within the limits of allocated payroll.
4. The monthly salary increment of an employee of the Prosecutor's Office (except for a prosecutor and an investigator of the Prosecutor's Office) shall be paid according to the Law of Georgia on Public Service and Labor Remuneration in Public Institutions.
5. The salary of the prosecutor/investigator of the Prosecutor's Office may not be reduced while he/she is in office, except in cases provided for by subparagraph "c" of paragraph 9 of article 76.
6. The salary of the prosecutor/investigator of the Prosecutor's Office (except for the intern of the Prosecutor's Office) may not be less than GEL1200.

Article 82. Assistance in case of death or disability

1. In case of death of an employee of the Prosecutor's Office in the performance of his/her duty, his/her family (parents, a spouse, children/adoptees or in case of absence of such, his/her heir) shall be paid a one-time compensation from the state budget in the amount of GEL15000.
2. An employee of the Prosecutor's Office, who suffered bodily injury or other impairment of health status in the performance of his/her duty, as a result of which he/she was recognized as a person with a disability, or was disabled, shall be paid a one-time compensation in the amount of GEL 7 000.
3. In case of death of a prosecutor/investigator of the Prosecutor's Office, as a result of an assault in the performance of his/her duty or in connection with his/her official activity, his/her family (parents, a spouse, children/adoptees or in case of absence of such, his/her heir) shall be paid a one-time compensation from the state budget in the amount of GEL100 000.
3. Any damage, borne by an employee of the Prosecutor's Office (his/her family member) in the course of discharging his/her duties shall be compensated in full from the state budget, as determined by law, which an employee of the Prosecutor's Office may claim within one year after the damage has occurred.

Article 83. Special state ranks and the procedure for their granting

1. For the position held, qualifications, length of service, exemplary performance of duties or special merits, a prosecutor, an investigator of Prosecutor's Office and a professional public servant shall be granted special state ranks.
2. The procedure for granting and depriving of special state ranks is defined by the legislation of Georgia.
3. Special state ranks of a prosecutor and an investigator of the Prosecutor's Office shall be equated with the special state ranks of the employees of agencies provided for by paragraph 2 of article one of the Law of Georgia on State Special Ranks.

Section VII. Concluding and transitional provisions

Chapter XXII. Transitional provisions

Article 84. Transitional provisions

1. The state subordinate agency within the system of the Ministry of Justice of Georgia-the Prosecutor's Office of Georgia shall be reorganized and established as an independent agency-the Prosecutor's Office of Georgia.
2. The Prosecutor's Office of Georgia is a legal successor of a state subordinate agency within the system of the Ministry of Justice of Georgia-the Prosecutor's Office of Georgia.
3. The Prosecutor's Office of Georgia shall ensure completion of the cases under proceedings in the state subordinate agency within the system of the Ministry of Justice of Georgia-the Prosecutor's Office of Georgia.
4. The Prosecutor's Office of Georgia shall ensure the conformity of relevant subordinate legal acts with this Law.
5. Normative acts issued by the Minister of Justice of Georgia shall remain in force until the measures under paragraph 4 of this article are implemented.
6. By the date of entry into force of this Law, according to the procedure determined by the legislation of Georgia, the Government of Georgia shall ensure the transfer of the budget appropriations allocated for a State subordinate agency within the system of the Ministry of Justice of Georgia-Prosecutor's Office of Georgia to the Prosecutor's Office of Georgia;
7. By the date of entry into force of this Law, the Ministry of Economic Development of Georgia shall ensure the transfer of assets (inter alia, the property recorded on the balance sheet of the State subordinate agency within the system of the Ministry of Justice of Georgia-the Prosecutor's Office of Georgia) necessary for the functioning of the Prosecutor's Office of Georgia to the Prosecutor's Office of Georgia, according to the procedure determined by the legislation of Georgia.
8. Upon entry of this Law into force, the Chief Prosecutor appointed by the time of entry into force of this Law shall obtain the powers of the Prosecutor General for the remaining term.
9. The Minister of Justice shall maintain the position of the chairperson of the Prosecutorial Council before a new chairperson is elected, who shall be elected according to the procedure established by this Law, within the term of one month after entry into force of this Law.
10. Upon entry into force of this Law, the members of the Prosecutorial Council shall maintain their powers for the term of authority of a member of the Prosecutorial Council.
11. The Ministry of Justice to be assigned nomination of a person defined by subparagraph "a" of paragraph 2 of article 19 of this Law by the first session of the Prosecutorial Council after this Law enters into force.
12. The entry into force of this Law shall not cause termination of the powers of the employees of the Prosecutor's Office; they will remain employees of the Prosecutor's Office and be re-appointed to the relevant positions.

Chapter XXIII. Concluding provisions

Article 85. Concluding provisions

1. The Organic Law shall enter into force upon taking of the oath of office by the President of Georgia elected in the next Presidential Elections.
2. Upon the entry into force of the Organic Law, the Organic Law “On the Prosecutor’s Office” of October 21, 2008 (Legislative Herald of Georgia, 27, 27/10/2008) shall be declared void.

Explanatory Note

On the draft Organic Law of Georgia on the Prosecutor's Office

a) General information about the draft law

a.a) The reason for adoption of the draft law

Elaboration of the draft Organic Law of Georgia was stipulated by amendments made to the Constitution of Georgia in connection with the establishment of the Prosecutor's Office of Georgia as an independent body, the need to define by the Organic Law the scope of authority, structure and rules of procedure of the Prosecutor's Office of Georgia.

The draft Organic Law was developed based on the in-depth analysis of the legislation of European states and international standards and recommendations. Along with different international and regional instruments, the recommendations of the Venice Commission were analyzed both in relation to Georgia and to other countries. In addition, in order to reveal the best practices, the institutional place and the role of the Prosecutor's Office in the constitutional system of different countries was analyzed, including: the United States, Germany, Hungary, Italy, Ghana, Bulgaria, Chile, Great Britain, Serbia, Portugal, Poland, Norway and Spain.

a.b) Goal of the draft law

According to Article 65(5) of the Constitution of Georgia, the authority, structure and rule of procedure of the Prosecutor's Office shall be determined by the Organic Law. The present draft law ensures implementation of a flexible mechanism for the efficient enforcement of criminal law policy and criminal prosecution.

The objective of the draft Organic Law is to create and regulate the norms of the activities of the Prosecutor's Office of Georgia in accordance with the place and role defined by the Constitution of Georgia, as well as to optimize certain provisions of the Law of Georgia on the Prosecutor's Office.

a.c) Essence of the draft law

The draft Organic Law defines the authority and the rule of procedure, structure, legislative guarantees of independence of the Prosecutor's Office of Georgia. The Prosecutor's Office of Georgia is no longer accountable to the executive authorities. In addition, the draft Organic Law strictly defines the mechanism of accountability to the legislative authority and financial independence of the Prosecutor's Office of Georgia.

The draft Organic Law defines the scope of responsibilities of employees and legal and social security guarantees. The draft Organic Law minimizes the possibility of taking significant decisions at the sole discretion, which is ensured by considerable expansion of the functions of the consultative and collegial bodies and their high involvement while making decisions on particular issues. All this unequivocally increases the possibility of better protection and taking into account the opinions of all employees in connection with any issue. The draft Organic Law is consistent with modern international standards and best practices.

Structure of the Law

The draft Organic Law is divided into sections. Each section determines general and content wise common range of issues; with the aim of further specification, sections are divided into chapters and chapters-into articles.

The draft Organic Law consists of seven sections. After determination of the authority, tasks, principles and governing legislation of the Prosecutor's Office of Georgia, the system, governance and norms of internal subordination are established, which are specified in the next section, dedicated to regulation of certain areas of the activities of the Prosecutor's Office, at both domestic and international level, as well as the authorities of the employees. The fourth section deals with the areas of activities, which are not directly related to the prosecution activities, it also defines the scope of the state control. The issues related to financial resources and property management are regulated by an independent, fifth section. The responsibility and norms regulating legislative protection of the employees of the Prosecutor's Office are dealt with in the sixth section. The seventh section presents the concluding and transitional provisions.

Definition of terms

The draft Organic Law amends and replenishes definition of terms existing in the Law of Georgia on the Prosecutor's Office. The new version is consistent with the legislation – with the Criminal Procedure Code of Georgia and the Law of Georgia on Public Service. Amendments made in this part are not new or related to the content; they are technical in nature.

Tasks and principles

The principle of fairness is added to the principles of the Prosecutor's Office of Georgia, which along with the principle of legitimacy ensures the enforcement of criminal mechanisms. In addition, legal formulations are specified and amended.

Status and independence

Main purpose of the amendments made to the Constitution of Georgia was to strengthen and ensure the principles of maximum independence of and non-interference with the activities of the Prosecutor's Office of Georgia. Article 6 of the draft Organic Law emphasizes the legislative safeguards of protection from any kind of interference with the governance of the Prosecutor's Office. Control may be exercised only in cases and as provided for by the Constitution of Georgia and the Organic Law.

Separation of powers with the executive authorities

The draft Organic Law clearly separates the powers of the Prosecutor's Office of Georgia and certain bodies of executive authorities. According to the current legislation, the Minister of Justice of Georgia, as a person implementing monitoring over the activities of subordinate agencies of the Ministry of Justice of Georgia, ensures governance of the system of the Prosecutor's Office. Based on the constitutional amendments, according to the draft Organic Law, the Prosecutor General shall be granted the relevant authorities of the Minister of Justice. Namely:

- determine the investigative jurisdiction over criminal cases and territorial limits of the bodies and structural units of the Prosecutor's Office;
- issues related to management of staffing positions (creation, abolition, transfer, determination of authority);
- approve its guidelines in accordance with criminal policy;
- approve the Code of Ethics for the employees of the Prosecutor's Office;
- develop proposals on financing and logistical support and submission to the Government of Georgia;
- independent exercise of certain powers in the sphere of international cooperation (announce adjudgement into wanted list through International police channels for detainment/extradition, file motions for legal aid and execute in situ, withdrawal/transfer criminal case materials from/to a foreign country, apply to a foreign country with the objective of extradition of wanted and participate in extradition procedures of wanted by a foreign state at the territory of Georgia at the admissibility stage, manage the issue of seizure/distribution of property)

The status of the Prosecutor General, the Conference of Prosecutors and the Prosecutorial Council

In the draft Organic Law, the criteria for the selection and the procedure for nominating candidates for the position of the Prosecutor General is brought forward without changes from the Law of Georgia on the Prosecutor's Office.

The collegial body is preserved in the draft Organic Law, which is a Prosecutorial Council that guides the procedure for selection of candidates for the position of the Prosecutor General. In addition, following the constitutional amendments, some regulations that govern the activities of the Prosecutorial Council have been amended:

- the chairperson of the Prosecutorial Council shall be a person elected out of the members of the Council instead of the Minister of Justice for the term of 2 years;
- the Minister of Justice shall not be strictly defined as a member of the Prosecutorial Council and shall be replaced by "a person designated by the Minister of Justice", thereby the Prosecutorial Council, on the one hand, will preserve the voting right of representatives elected from executive, legislative, judicial authorities and members of the civil society and, on the other hand, grant an opportunity to preside over the Council to any member instead of a representative of executive authorities;
- the rule and procedural part for approval of the candidature of the Prosecutor General to be nominated to the Parliament of Georgia will remain unchanged and be carried out by the mediation of the Prosecutorial Council and on the basis of the final decision of the Parliament of Georgia;
- the Regulations of the Prosecutorial Council shall be approved by the Prosecutorial Council itself instead of the Minister of Justice;
- in case of early termination of the powers of a member of the Prosecutorial Council, the term of selecting a the new member shall increase from 1 month up to 2 months (stipulated by practical issues and time required for the organizational issues)

The status and the rule of organization of the Conference of the Prosecutors of Georgia shall not change in the draft Organic Law.

According to the amendments made to the Constitution of Georgia, the dismissal of the Prosecutor General is allowed only by impeachment. Based on the above, the draft Organic Law is in line with the constitutional amendment, and so-called ad hoc prosecutor institute shall be abolished.

Consultative bodies

In order to minimize the rule of taking decisions at the sole discretion in the system of the Prosecutor's Office, facilitate engagement of employees, reconcile opinions in the process of making decisions and practically apply consensus principles, in accordance with the draft Organic Law, the standing and temporal consultative bodies shall be established in the system of the Prosecutors' Office, which will be staffed at the expense of existing human resources (a prosecutor/an investigator of the Prosecutor's Office) and will not require additional financial expenses, as they will not be paid. The existence of consultative bodies is not a novelty for the system and currently it exists in the form of a consultative council. The members of the standing consultative bodies and the scope of their activities shall be defined by this Organic Law and temporal consultative bodies shall be established based on the need, to resolve the issues that do not fall within the scope of the activities of the standing bodies.

The Prosecutor General shall make decisions based on the recommendations issued by the standing consultative bodies on the following issues:

- changes in the code of ethics of the employees of the Prosecutor's Office;
- changes in the evaluation system of prosecutors and investigators of the Prosecutor's Office;
- compliance of evaluators who assess the activities of prosecutors and investigators of the Prosecutor's Office;
- disciplinary misconduct of prosecutors/investigators (except on the part that does not fall within the powers of the Prosecutor General), incentives and promotion;
- improvement of main directions and the development plan of the activities of the system of the Prosecutor's Office;
- determine and improve programs that facilitate the activities and other needs;
- based on the criminal policy, develop and improve its guidelines;
- determine and improve the strategy and the action plan.

According to the draft Organic Law, the decisions of the consultative body bear recommendatory nature for the Prosecutor General; in addition, as an exception, this Organic Law defines the range of issues on which the consultative body shall make the final decision:

- a decision by temporal consultative body-claims council, making a decision on the claim filed by a prosecutor/investigator of the Prosecutor' Office in relation to annual results of evaluation;
- review the claim and make a decision on the above decision made by the standing consultative body-career management, ethics and incentives council.

The main directions of the activities of the Prosecutor' Office

Based on the Constitutional changes, the scope of powers of the Prosecutor' Office of Georgia includes, proceeding from the criminal policy, not only enforcement, but also approval powers,

which along with the coordination of combat against crime and crime prevention powers, ensures the efficiency of criminal mechanisms.

The new norm of the draft Organic Law regulates mechanisms required for the development of the system of the Prosecutor's Office-the issues of elaboration of the development strategy and action plan. The mentioned document is not new, it is currently in force and public, but there was no legislative record, which has been improved.

The new norm of the draft organic Law regulates the organizational issues necessary for proper operation of the system of the Prosecutor's Office, in particular:

- the sources of receiving and placing information (observing principle of proactive publication within the limits of the legislation) and the rule of its use:
- The rule of use of digital-electronic system;
- The rule for administration of the archive fund.

The mentioned directions of the activities of the Prosecutor's Office are not new and are currently in force, though there is no clear legal regulation, which has been eradicated and is significant to the extent that the Prosecutor's Office of Georgia independently ensures implementing and management of the mentioned system, as well as the information policy and information security measures, which is particularly important for the introduction of digital-electronic system and preferential use while organizing activities.

A special norm of the draft Organic Law regulates the issues of access to official secrets, declassification of classified documents and the issue of assigning the security label to the criminal case. The mentioned direction is not new and is currently in force in accordance with the legislation of Georgia, though there is no clear legislative record, which has been improved.

The mentioned changes do not require attracting additional human/financial resources or adjusting current expenses, as they will be implemented at the expense of the existing resources (human/financial) and do not represent a novelty.

Public Relations Secretary

In accordance with the draft Organic Law, with the aim of developing a flexible mechanism with institutions and agencies, to ensure prompt and efficient communication, an institute of the Public Relations Secretary has been established, which is not a new staffing position, but is a position defining the status, which will be combined by one or several employees of the Prosecutor's Office. Accordingly, it does not require attracting additional resources, including additional financial expenses. The Public Relations Secretary shall ensure:

- coordinated relationship of the Prosecutor's Office with state authorities and judicial bodies, other organizations, institutions and representations;
- development of proposals with relation to legislative changes;
- coordination of the activities of inter-agency working groups.

Financial independence

While defining the degree of independence of the Prosecutor's Office, particular significance is assigned to its financial independence.

In order to ensure the independence guaranteed by the Constitution of Georgia, the draft Organic Law defines the guarantees of financial independence of the Prosecutor's Office of Georgia with regard to receiving budget independence and, in accordance with the legislation of Georgia, introducing an independent mechanism of logistic support.

The growth of the financial independence guarantees is facilitated by a regulation of the draft Organic Law, according to which allocations in the state budget intended for the Prosecutor's Office are reduced compared to the volumes defined by the approved budget of the previous year, the draft budget submitted by the Prosecutor's Office, as well as the approved budget can be amended only on the bases of the preliminary consent of the Prosecutor General (instead of the Minister of Justice).

According to the draft Organic Law the norms regulating logistic support and public procurement remain unchanged, which will be implemented according to the legislation of Georgia.

Control over activities

According to the Constitutional changes, the draft Organic Law shall abolish the control mechanism of the executive authorities over the Prosecutor's Office. Though legislative, judicial and financial control mechanisms have been preserved. The scope of control is strictly defined by the Constitution of Georgia and the draft Organic Law. In particular:

- control over the legislative authorities, as the bodies that make the final decision on the election of the Prosecutor General, includes the right to hear the annual report on the activities of the Prosecutor's Office. In order to ensure non-interference into certain criminal cases, the draft Organic Law defines the right to be protected from the obligation to provide information on certain criminal cases when submitting a report.
- in order to ensure the legitimacy of spending budget resources and other tangibles by the Prosecutor's Office of Georgia, as an agency free from the control of executive authorities, the control is performed by the State Audit Service. Changes have not been made to this end.
- control by the Prosecutor's Office of Georgia over protection of human rights and freedoms guaranteed by the Constitution in the process of fulfillment of tasks defined by the draft Organic Law and criminal procedure legislation, shall be ensured by the court. Changes have not been made to this end as well.

An employee of the Prosecutor's Office

The draft Organic Law defines in detail who can be an employee of the Prosecutor's Office: a prosecutor, an investigator of the Prosecutor's Office, a professional public servant of the Prosecutor's Office, an intern of the Prosecutor's Office, a person employed in the Prosecutor's Office based on a labor agreement. The employees of the Prosecutor's Office shall be divided into two main categories:

- persons with prosecutorial and investigative authorities, whose employment and career management rules are defined only by the Organic Law;
- all other persons, who don't exercise prosecutorial and investigative authorities and the rules for their employment and career management, along with the draft Organic Law

shall be defined by the Law of Georgia "On Public Service" and the Organic Law of Georgia "Labor Code of Georgia".

a) procedure for employment as a prosecutor/investigator of the Prosecutor's Office

According to the draft Organic Law, the opportunity of employment by way of competition shall added to the rule of employment as a prosecutor/investigator of the Prosecutor's Office through internship, the criteria of employment on an exclusive basis shall be improved.

According to the draft Organic Law, all three ways of employment have unified mandatory general criteria. In particular, a citizen of Georgia, who has a higher legal education, knows legal language, passed qualification exam, completed internship in the bodies of the Prosecutor's Office, taken an oath of an employee of the Prosecutor's Office, has professional and moral qualities, and relevant health status, may fulfill the obligations of a prosecutor/an investigator of the Prosecutor's Office.

Additional requirements to persons to be employed by way of competition are:

- At least 2 years' experience of working as a judge, prosecutor, an investigator or a criminal cases lawyer or
- At least 5 years' experience of working in the legal profession.

The requirements to persons to be appointed on an exclusive basis are:

- At least 4 years' experience of working as an investigator, a judge, a criminal cases lawyer or
- At least 2 years' experience of working as a prosecutor/investigator of the Prosecutor's Office and has been discharged from the system in recent 10 year period based on a personal application, impairment of health status, staff reduction or taking another job, or
- Is a person enrolled in the staff reserve of the system of the Prosecutor's Office;
- Has successfully completed internship in the system of the Prosecutor's Office and 3 years have not passed since completion of the internship;
- Is a recognized specialist of criminal field from academic circles.

There are several reasons for change in the procedure for employing a person as a prosecutor/investigator of the Prosecutor's Office:

1. The internship system is an opportunity of career growth for beginner lawyers and the practice has shown that most of employees employed by way of internship have little working experience or no experience at all;
2. The salary of an intern differs (is less) from that of a prosecutor and an investigator of the Prosecutor's Office, as well as from the average salary of professional staff employed in the law enforcement or other system, which on its part hinders the opportunity to attract experienced staff;
3. Along with the development of the labor market of Georgia, the competition in terms of attracting staff has increased between private and public sectors and different agencies of public sector, which for its part increases the motivation to attract specialists with experience and high qualification along with beginner and less experienced employees.

Based on the foregoing, the draft Organic Law implements and expands the opportunities to attract staff, which serves:

- Respect for the years of professional service and respect and acknowledgment of other jobs/organizations by professional line, due to which experienced persons have an opportunity to start exercising of prosecutorial and investigative authorities without internship, moreover, this concerns only persons, who have experience of working as a judge, a prosecutor, an investigator or a criminal cases lawyer, which for its part, is also limited by the term of years of service;
- Respect for, and acknowledgement of the system of education and the relevant higher academic degree, due to which specialists of criminal field acknowledged by academic circles have an opportunity to apply their knowledge and experience for the improvement of the system of the Prosecutor's Office and to observe the principles of competition and attracting staff with high qualification
The Prosecutor General has sufficient powers to appoint them without competition and completing internship by a substantiated decision.
- Those who successfully competed internship and are enrolled in the personnel reserve of the system of the Prosecutor's Office (it is one-year according to the draft) with the aim of maintaining labor resources and encouraging them, due to which the Prosecutor General shall receive authority to appoint them without competition and internship on the basis of a substantiated decision.

As appointing based on a competition and on an exclusive basis, in its essence does not constitute an internship, for adaptation and to ensure efficient exercise of powers, the draft Organic Law introduces a maximum 2-month training course. This need is due by the necessity to have skills of electronic systems existing in the system of the Prosecutor's Office, without which prosecutorial powers cannot be exercised in an efficient way, as well as, for prompt adaptation of a person with professional and practical skills, which includes training in judicial skills, as well as practical and legal training. As persons to be appointed based on a competition and on an exclusive basis have either professional experience or higher academic education, therefore the maximum term for professional training is limited to 2 months.

The mentioned changes do not require attracting additional human/financial resources or changing the existing expenses, as they shall be implemented at the expense of the existing resource (human/financial).

Background check of a candidate

Apart from the general and special criteria indicated above, the draft Organic Law also provides for the implementation of legislative regulation for the background check of a candidate, which is common for all employees of the Prosecutor's Office. As activities in the system of the Prosecutor's Office, include access to classified information, is related to high standard of professional responsibility, on which personal qualities have proportional effect, a system is implemented, for checking information directly defined by the draft Organic Law, such as:

- Record of conviction and the fact of imposing an administrative action;
- Information related to the income and financial liabilities;
- Information related to the ownership and disposing of shares in entrepreneurial and non-entrepreneurial entities;

- Information related to the health status, education, work experience, academic degree, and educational activities.

Simultaneously, the draft Organic Law defines a mandatory consent of a person prior to the commencement of the background check procedure. In case of absence of the consent, the candidate shall be removed from discussion and shall no longer be subject to background check.

The circumstance should be taken into account that, on the one hand, the above information is mandatory information to be submitted with the application of the candidate and, on the other hand, background check information submitted by the candidate, is a kind of test of his/her conscience and sincerity.

It should be noted that such background check a candidate is deemed to be corresponding to international standards by the Venice Commission.

This change does not require attracting additional financial/human resources, as it shall be implemented at the expense of existing (human/financial) resources.

Grounds for refusal to employ and dismissal

The draft Organic Law does not change the grounds for refusal to employ an employee of the Prosecutor's Office (due to violation of moral norms, the evaluation of a person includes the system of candidate evaluation), only the possibility of refusal identified as a result of checking on the basis of incompliance is added.

The draft Organic Law does not change the basis for dismissal of an employee of the Prosecutor's Office, only committing a new misconduct by an employee subjected to disciplinary liability is added (which is limited in term under the special legislation) and based on the results of the evaluation system, meeting the minimum limit of competence, which is a new ground based on implementing an evaluation system.

Promotion of a prosecutor/investigator of the Prosecutor's Office

The anti-corruption network of the organization for economic development and cooperation (OECD ACN), within the monitoring mechanism defined by Istanbul action plan, based on the recommendation given to Georgia in 2016, a regulatory norm of promotion of a prosecutor/investigator of the Prosecutor's Office was added to the draft Organic Law, in the form of an independent norm. The regulatory norm of promoting other employees is not defined in a separate article, as it is regulated by the Law of Georgia "On Public Service" and accordingly, there is no need to duplicate it in the Organic Law.

The draft Organic Law envisages at least 2 years' working experience (which is a novelty) as a prosecutor/investigator of the Prosecutor's Office as a mandatory condition for the promotion to the position of a prosecutor/investigator of the Prosecutor's Office, and for appointing as a head of prosecutorial bodies and structural units 3 years' experience is envisaged (it is envisaged by the Law currently in force as well). Besides the experience, the results of evaluation of the activities of a prosecutor/investigator of the Prosecutor's Office shall be taken into account, which shall define the scope of his/her competence.

Succession of authority

A novelty in the draft Organic Law is adding legislative regulation of the rotation rule, which for this case envisages the existence of mandatory consent of a prosecutor/investigator of the Prosecutor's Office, in addition, it defines the opportunity of his/her rotation to a lower position without his/her consent. In particular:

- The possibility to transfer him/her to the position corresponding to his/her rank (a new regulation is being prepared which currently does not exist);
- Demotion as a form of disciplinary action;
- Failure to satisfy the limits of competence defined for the occupied position based on the results of the evaluation system;
- Reorganization/staff reduction.

Reorganization/staff reduction and personnel reserve

A novelty in the draft Organic law is the legislative regulation of procedure for reorganization/staff reduction. The draft envisages for this occasion for the prosecutor/investigator of the Prosecutor's Office:

- The possibility to offer transfer to the relevant vacant position in other structural unit of the system of the Prosecutor's Office;
- The basis for enrolling in the personnel reserve based on his/her consent.

The wording of the Law currently in force envisages the possibility of creating a unified database for those willing to be employed. According to the submitted draft, the mentioned possibility is substituted with one-year personnel reserve (will be mandatory). The draft Organic Law defines the circle of persons for the formation of the reserve:

- Persons, who successfully complete internship or competition, but will not be appointed to the vacant position of a prosecutor/investigator of the Prosecutor's Office;
- A prosecutor/investigator of the Prosecutor's Office, who due to staff reduction or reorganization was discharged from office.

The draft Organic Law clearly defines the basis for removal from the reserve. In addition, in order to ensure respect to years of service and to the person, lack of personnel with prosecutorial skills on the labor market, psychological support and minimum standards of social protection of a prosecutor/investigator of the Prosecutor's Office due to reorganization and/or staff reduction, the prosecutor/investigator of the Prosecutor's Office enrolled in the reserve shall retain the salary within 3 months after enrolling in the reserve, and during subsequent 9 months his/her status shall be preserved without salary, which is a guarantee that as soon as there is a vacancy, his/her candidature without internship and competition will fall in the list of persons who have an opportunity to be appointed on an exclusive basis.

The mentioned change does not require attracting additional financial/human resources, as it will be implemented at the expense of the existing resources (human/financial).

Suspension of powers

A novelty in the draft Organic Law is a legislative regulation of exhaustive grounds for suspension of the powers of an employee of the Prosecutor's Office. This was proactively performed according to the norms regulated by the legislation of Georgia, though there has not been a relevant legislative provision.

A novelty in the draft Organic Law is retaining salary as per official position, salary defined for an employee of a prosecutor/investigator of the Prosecutor's Office for the rank and increment for the years of service in case of suspension of powers. Introduction of this regulation ensures democratic labor policy. In particular, psychological support of the employee and a minimum standard of social protection ((in case of leave or sickness), standard of presumption of innocence (in case of detaining/imprisonment or conviction) and respect for the existence of other circumstances stipulated by the legislation, that are not the grounds for dismissal (the Law of Georgia "On Public Service", the Organic Law of Georgia "Labor Code of Georgia").

Non-compliance of interests and official duties

This provision exists in the current regulation as well, the formulation in the draft Organic Law has been improved, and all occasions of non-compliance of interests and official duties formulated in different articles of current wording of the Law are accumulated in a special article in the draft Organic Law.

The system of evaluating activities

A novelty in the draft Organic Law is the legislative regulation of the rule and procedure for the evaluation of the activities of a prosecutor/investigator of the Prosecutor's Office. The change ensures the formation of transparent and fair system of evaluation of the activities of prosecutors, which is one of the requirements of the European standards existing in this sphere. To ensure transparency of the evaluation system, the draft defines:

- The list of main criteria for evaluation, to be clear for the subject of evaluation at the legislative level;
- The grounds for taking compliance exam-if he/she fails to meet the minimum limit of competence.
- As a rule, the activities are evaluated once in 2 years.

It should be noted that in the process of development of criteria for the evaluation of the activities of a prosecutor/investigator of the Prosecutor's Office, the procedure of evaluation and the rule of periodicity, the practice of foreign states and European instruments have been studied, which concern evaluation standards of judges/prosecutors. As a result of the studied documents, an optimal option has been chosen. It is important not to evaluate a prosecutor/investigator of the Prosecutor's Office only based on figures without taking into account the content of the cases. The evaluation system should not depend on the number of cases under prosecution or the indicator of non-guilty verdicts. Consequently, according to the legislation, the evaluation a prosecutor/investigator shall be performed according to quantitative, as well as qualitative characteristics, based on predetermined objective criteria.

As to the periodicity of evaluation, taking into account the experience and the opinion of international organizations, the periodicity for the evaluation of a prosecutor/investigator has been selected-once in two years, as regular evaluation is significant for timely identification of

problems that arise in the process of performing activities. In addition, evaluation that is more frequent may have a negative impact on the quality of independence of the prosecutor. For example, evaluation once in two years is envisaged in Austria and France. As to the international instruments, these documents do not define particular period for the evaluation of the activities of prosecutors, though the Venice Commission and OSCE have criticized the draft law of Moldova related to this issue, which defined a five-year term for the periodicity of evaluation of prosecutors. The commission recommended to conduct the evaluation of the activities of prosecutors with more frequent intervals. When defining the frequency of the evaluation N17 opinion of the consultative council of European judges of the Council of Europe, according to which evaluations should not be conducted too frequently, in order to avoid the perception of permanent supervision, which for its part, endangers independence of an employee.

In order to ensure high guarantees of protection of the rights of a subject, the draft Organic Law defines a two-level internal system for appealing results of the evaluation, where a temporal consultative body reviews the initial claim—the claims council and the next stage of appealing its decision shall be ensured in standing consultative body—with the possibility of appealing in career management, ethics and incentives council.

In order to ensure transparency of the appeal procedure, the right to protect interests, the draft Organic Law guarantees the right of the author of the appeal and the evaluator to attend the meetings of review of the claim by the councils to give explanations.

This change does not require attracting additional financial/human resources, as it shall be implemented at the expense of the existing resources (human/financial).

Qualification and compliance exams

The draft Organic Law envisages the authority of the Prosecutor's Office of Georgia to ensure conduct of two exams: the qualification exam and compliance exam of the Prosecutor's Office. The qualification exam of the Prosecutor's Office is not a legislative novelty, only the subject who conducts it is changed. Based on the Constitutional changes, the status of the Prosecutor's Office of Georgia and the specific nature, it shall be more expedient and efficient if the Prosecutor's Office exercises this right and organizes it, in order to ensure principles of correct focus on exam management and needs.

The compliance exam is a new exam defined by the draft Organic Law of Georgia, which directly proceeds from the evaluation system and is an opportunity to improve the situation for the prosecutors/investigators of the Prosecutor's Office, who according to the results of recent 2 years fail to meet the minimum competence limit defined by the evaluation system.

This change does not require attracting additional financial/human resources, as it shall be implemented at the expense of existing resources (human/financial).

Responsibility and incentives

The norms that regulate the responsibility of an employee of the Prosecutor's Office are envisaged in the current wording of the Law, consequently, they shall have no impact on the condition of the employed.

The anti-corruption network of the Organization for economic development and cooperation (OECD ACN), within the framework of monitoring mechanism defined by the Istanbul action plan and on the basis of the recommendation issued in 2016 to Georgia by the Group of States Against Corruption (GRECO), the draft Organic Law improved and detailed the grounds for disciplinary liability, issues that remained beyond legislative arrangement in this direction are explained, such as the procedure for disciplinary proceedings, forms of response, results, the procedure and conditions for the appeal. In particular, the recommendation issued in 2016 by Anti-corruption network of the Organization for economic development and cooperation (OECD) envisages regulating at the legislative level of the procedure for disciplinary proceedings against prosecutors. In addition, it should be noted that the Prosecutor's Office of Georgia has undertaken an obligation to comply with the recommendation of the Group of States against Corruption (GRECO) within 2017-2020 agenda of the association of EU and Georgia.

According to the current wording, the rule for encouraging shall be brought forward without changes, transfer of firearms as a prize and the possibility to be nominated to the higher state special ranks are added.

Social protection

For any state proper social protection is one of the main conditions for development. The system of economic, medical, moral, social, and psychological guarantees creates necessary equal conditions for capable of working population and constitutes a better condition for increasing the standard of life, work share and the use of labor resources. The social protection guarantee is provided for in the current legislation as well. The draft Organic Law additionally envisages/brings in line with modern standards circumstances that were not at all or were insufficiently reflected in the Law. For example, to ensure practical need and the general principle of the social responsibility of the state the draft Organic Law defines in special cases, reimbursement by the Prosecutor's Office of costs of medical service to an employee of the Prosecutor's Office that are not subject to reimbursement under the insurance agreement. The minimum rate of salary for the official position of a prosecutor/investigator of the Prosecutor's Office has increased (except for an intern of the Prosecutor's Office) and the possibility of its reduction has been limited, the rule for issuing increments has been defined at the legislative level, the amount of compensation to be given also increased (from GEL 10 000-to GEL 15 000) and the rule and amount of compensation to be issued in case of assault on a prosecutor/investigator of the Prosecutor's Office while performing official duties or in relation to the official activities (was brought in line with the relevant guarantees of protection of law enforcement bodies).

b) financial substantiation of the draft law

b.a) the resource for covering expenses required for adopting the draft law

The source of funding is the state budget. The draft law shall not cause any material changes in the resource part, consequently, it does not require attracting new sources of funding, funding will be ensured from allocations envisaged for the Prosecutor's Office from the annual budget law, as the majority of changes that differ from the current wording is a regulation of actions unregulated in terms of legislation and practically viable in current mode. As to novelties, it shall be performed at the expense of the existing resources.

b.b) impact of the draft law on the income part of the budget

Adopting the draft law shall not influence the income part of the budget.

b.c) impact of the draft law on the spending part of the budget

The development of this draft Organic Law was stipulated by changes made in the Constitution of Georgia, in relation to establishment of the Prosecutor's Office of Georgia as an independent body, the necessity to define the powers, structure and rule of procedure of the Prosecutor's Office of Georgia.

According to the Law of Georgia on State Budget of 2018 the allocations approved for the Prosecutor's Office of Georgia constitute GEL36 million, this draft Law does not cause any significant changes in the part of financial resources and does not require adding financial sources, accordingly, the mentioned activities shall be funded within the framework of allocations envisaged by the annual budget law for the Prosecutor's Office within the current and mid-term period. The majority of changes that differ from the current wording are related to the regulation of actions unregulated in legislative terms and practically viable in the current mode (not new). In particular:

- The total number of human resources of the Prosecutor's Office does not change, all changes presented in the 2nd article of the draft law are only technical by nature, e.g. the intern institute (article 64) is the position implemented over years, which currently exists in the system and is not a novelty, it's technical regulation occurs only at the legislative level, simultaneously, this position is not a paid one, accordingly, it does not require any change in the part of financial resources;
- The tasks, principles and powers of the Prosecutor's Office, as well as organizational activities (Section I, Chapter II, Section IV, Chapter XIII) do not change, the draft law does not envisage adding any new obligations and directions, all changes are technical in nature (certain formulations have been improved in technical terms), accordingly, no changes are required in the part of financial resources, no additional human resources are required, as it shall be performed at the expense of the existing resources;
- The bodies in the system of the Prosecutor's Office (Section II, Chapter III) and structural units don't change, all changes are only technical by nature (certain formulations have been improved in technical terms), accordingly, no changes are required in the part of financial resources, no additional human resources are required, as it shall be performed at the expense of the available resources;
- In order to minimize taking decisions at the sole discretion in the system of the Prosecutor's Office, ensure involvement of employees, with due account of opinions when making decisions and practical implementation of the principles of consensus, according to the draft Organic Law, a standing and temporal consultative bodies shall be established in the system of the Prosecutor's Office (Section II, Chapter V), which shall be staffed at the expense of existing human resources (a prosecutor/investigator of the Prosecutor's Office) not requiring any additional financial resources, as they are not paid positions. The existence of consultative bodies is not a novelty for the system and it currently exists in the form of a consultative council, which is also not a paid position. The technical regulation of consultative bodies is performed only at the

legislative level and only their contextual format is changed for ensuring involvement of more employees;

- The Conference of Prosecutors (Section II, Chapter V) is regulated similarly to the format of the consultative council currently operating in the system and consequently, it does not constitute any substantial novelty, accordingly, it does not require additional financial/human resources and shall be implemented at the expense of the existing ones;
- The directions of activities of the Prosecutor's Office (Section III, Chapter VI) don't change, all changes are technical (certain formulations have been technically improved) and don't require any changes in the form of financial resources, additional human resources are not required either, as it will be performed at the expense of existing human resources (including crime prevention component and support of strategic development, which is not a novelty and is currently in force as well);
- directions of international cooperation and internal representation within the country (Section III, Chapter VII and VIII) do not change, due to independent establishment from the executive authority, certain powers shall be separated only technically with the Ministry of Justice, which does not require any change in the form of financial resources nor any additional human resources, as it is implemented at the expense of the existing resources;
- ways of employing in the Prosecutor's Office (Section III, Chapter IX) are improved, new ways of appointing to a position are added in order to ensure a flexible mechanism and attraction of human resources, though this will not be implemented at the expense of the increase of the staff and will continue within the framework of the existing resources, which does not require any change in the form of financial resources.
- The innovation of the draft Organic Law is the legislative regulation of the rule of reorganization/staff reduction. The current wording of the Law provides for the possibility of creating a unified database of those willing to be employed (Article 61). According to the proposed project, a one-year staff reserve shall replace it (will be mandatory). Under the draft Organic Law, the grounds for removal from the reserve are clearly defined. In addition, in order to show respect to the prosecutor/investigator of the Prosecutor's Office, who has been dismissed due to reorganization and/or staff reduction, to his/her professional skills, due to the lack of specialists with prosecutorial skills, to ensure minimum standards of psychological support and social protection, a prosecutor/investigator of the Prosecutor's Office who has been enrolled in the reserve shall preserve the salary within 3 months after enrolling in the reserve. Based on the constitutional changes, regulation of this area was necessary, as only this draft Organic Law shall regulate the labor rights of prosecutors and investigators of the Prosecutor's Office. As for the potential impact on the financial resources, it is impossible to predict reorganization/staff reduction; it is therefore difficult to determine future expenses or savings. As for the creation of a unified database of those willing to be employed, this does not require attracting additional financial/human resources, as it shall be implemented at the expense of the existing resources (human/financial).
- The draft Organic Law provides for the implementation of the legislative regulation (Section III, Chapter X) for the background check of a candidate, which is common to all employees of the Prosecutor's Office. Since the activities in the Prosecutor's Office, include access to information strictly protected by law, is associated with high standards of professional responsibility, which is directly affected by personal characteristics, a

system is implemented for verification of information defined by the draft Organic Law. Study of individual components of this system is currently performed as well, but it does not have an organized nature; the latter has been regulated in this draft Organic Law. The General Inspectorate performs background check of a candidate, which does not require attracting additional financial/human resources, as it shall be implemented at the expense of the existing resources (human/financial).

- The draft law introduces the evaluation of the activities of the prosecutor/investigator of the Prosecutor's Office (Section IV, Chapter XIV), which represents the product of the reform of the existing systems and the outcome of the implementation of the best international practice. The introduction of this system does not require any change in the form of financial resources, nor does it require additional human resources, as it will be implemented at the expense of existing resources and is not an introduction of any new system but the reformed product of the activities of the structural units of the Prosecutor's Office;

No changes applied to career management and development of the employees of the Prosecutor's Office (Section IV, Chapter XV), all changes are only of technical nature (certain formulations have been technically improved), and accordingly, do not require any changes in the form of financial resources, nor any additional human resources, as it will be implemented at the expense of the existing resources; also the reform part of the exam procedure and training course do not require any additional financial resources, as organizing of internships or other exam procedures is currently performed as well, to which a renewed form of exam will be added technically, which will be conducted at the expense of the existing resources (financial/human);

- The norms regulating the responsibilities of an employee of the Prosecutor's Office are also envisaged by the current wording of the Law; therefore, changes will not have a new effect on the status of the employed (Chapter XVII). Based on the recommendations of the international organizations (indicated above), the draft Organic Law only technically improves and details in the Law the grounds for the disciplinary liability, issues that remained beyond the legislative provisions are reflected, such as the procedure for disciplinary proceedings, response forms, outcomes, rules and terms for appealing. These norms were formulated in the Code of Ethics, which is not a novelty for the system. As to the impact on potential financial resources, it is difficult to make a preliminary forecast as to how many persons might be held responsible and the consequences, it is therefore difficult to make future determination of the costs or savings. At the same time, the changes in this direction do not require attracting additional financial/human resources, as they shall be implemented at the expense of the existing resources (human/financial).
- Funding the Prosecutor's Office and logistic support (Section V). In view of the constitutional amendments, in particular due to the establishment of the Prosecutor's Office of Georgia as a body independent of the jurisdiction of the executive authorities, the expenses of the Prosecutor's Office should be envisaged in the state budget by a separate organizational code, this change is not related to the change of the volume of financial resources and the source, but it is a change of only technical nature. The increase of the guarantees of financial independence are facilitated by a regulation of the draft Organic Law, according to which reduction of allocations intended for the Prosecutor's Office in the state budget compared to the volume defined by the approved budget of the previous year, adjustment of the draft budget submitted by the

Prosecutor's Office, as well as of the approved budget can be performed only on the basis of preliminary consent of the Prosecutor General (instead of the Minister of Justice). This norm is principally important, it directly affects the independence of the Prosecutor's Office and is an important guarantee for ensuring this independence; for its regulation and increase of the quality of protection, it should apply to all allocations. As for the organization of procurement and logistical support, it shall be carried out in a centralized manner and independently, and to this end no changes will be made and current (before changes) valid procedures will be preserved and consequently, this does not require attracting additional financial/human resources, since it will be implemented at the expense of the existing resources (human/financial).

b.d) new financial obligations of the state

Adopting the draft law does not envisage undertaking any new financial obligations by the state.

b.e) expected financial outcomes of the draft law for those affected by it

In the norms regulating the social protection of an employee of the Prosecutor's Office (Chapter XXI, Social protection, Labor remuneration, assistance, special ranks) mainly technical changes have been made, norms have been improved and complemented in the part that was implemented in practical terms, though were not properly reflected in the Law (e.g., article 80, part 4, Part 9), based on the foregoing changes in this direction do not require attracting additional financial resources, since they shall be implemented at the expense of the existing resources (financial). As for the fact of increase of assistance indicated in article 82 and possible impact on budget resources, it is impossible to make a forecast based on the context as to how many persons might be subjected to such responsibility, accordingly, it is difficult to determine costs in advance. As regards the rules for granting special ranks (Article 83), they have not changed and, consequently, if required, will be implemented at the expense of the existing financial resources.

b.f) Amount of taxes, fees or other types of duties defined by the draft law and principle of determination of the amount:

No taxes, fees or other duties are imposed by the draft law.

c) Relation of the draft law with the international legal standards

c.a) Relation of the draft law with EU legislation

The draft law does not contradict the EU law.

c.b) Relation of the draft law with international obligations related to membership in Georgia

The draft law does not contradict the obligations related to membership of Georgia in the international organizations.

c.c) The relation of the draft law with bilateral and multilateral agreements and treaties of Georgia, and in case of existence of such an agreement/treaty with which development of the draft law is related-its relevant article and/or part:

The draft law does not contradict bilateral and multilateral agreements signed by Georgia.

c.d) The legal act of the European Union harmonization with which is based on the "Association Agreement between Georgia, on the one hand, and, on the other hand, EU and European Atomic Energy Union and their Member States" or other bilateral and multilateral agreements of Georgia with the European Union, if any:

N/A

d) consultations received in the process of developing the draft law

d.a) state, non-governmental and/or an international organization/institution, experts, who participated in the development of the draft law, if any:

Research Center of the Parliament of Georgia; professors: Giorgi Ghlonti and Malkhaz Badzaghua; experts of the field: Kakhaber Uriadmkopeli, Sopho Verdzeuli (Human Rights Education and Monitoring Center - EMC)

d.b) Assessment of an organization (institution) and/or an expert who participated in the development of the draft law, if any:

N/A

e) Author of the draft law

The working group of the Prosecutor's Office established in the Legal Issues Committee

f) Initiator of the draft law

Members of the Parliament: Eka Beselia, Gedevan Popkhadze, Ruslan Pogosyan