

**ORGANIC LAW OF GEORGIA**  
**ON THE PROSECUTOR'S OFFICE**

**Section I**

**Powers, Legislation, Principles and Objectives**

**Chapter I – General Provisions**

**Article 1 – Purpose of the Law**

1. This Law determines the status and the guarantees of independence of the Prosecutor's Office of Georgia in accordance with the Constitution of Georgia.
2. The powers, structure and rules of operation of the Prosecutor's Office of Georgia shall be defined by this Law.

**Article 2 – Definition of key terms**

1. Prosecutor – the Prosecutor General of Georgia ('the Prosecutor General'), the First Deputy Prosecutor General and the Deputy Prosecutors General, the Prosecutors of the Autonomous Republics of Abkhazia and Adjara, the Prosecutor of Tbilisi, a district prosecutor, a regional prosecutor and their deputies, a prosecutor of a Specialised Prosecutor's Office, a senior prosecutor, a prosecutor, an intern prosecutor, as well as the heads and deputy heads of the departments, divisions, units and equivalent structural units of the Prosecutor's Office who directly perform the functions provided for by the criminal procedure legislation of Georgia, as well as, in individual cases, an employee of the Prosecutor's Office who does not directly perform the functions provided for by the criminal procedure legislation of Georgia, but has been granted the powers of a prosecutor by a decision of the Prosecutor General.
2. Investigator of the Prosecutor's Office – a senior investigator of especially important cases, an investigator of especially important cases, a senior investigator, an investigator, and an intern investigator.
3. Employee of the Prosecutor's Office – a prosecutor, an investigator of the Prosecutor's Office, a qualified public officer of the Prosecutor's Office, an intern of the Prosecutor's Office, and a contract employee of the Prosecutor's Office.
4. Intern of the Prosecutor's Office – a person with higher legal education who has passed a qualification examination of the Prosecutor's Office and who has been appointed as an intern at the Office of the Prosecutor General, the Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara, the Tbilisi Prosecutor's Office, District Prosecutor's Offices, Regional Prosecutor's Offices and Specialised Prosecutor's Offices, or a person who has been appointed as an intern to the vacant position of a prosecutor or an investigator of a structural unit in accordance with the procedure established by the Prosecutor General.
5. An apprentice of the Prosecutor's Office – a person with higher legal education, or a graduate of a higher legal educational institution, who meets the requirements defined by this Law and who has been appointed as an apprentice at the Office of the Prosecutor General, the Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara, the Tbilisi Prosecutor's Office, District Prosecutor's Offices, Regional Prosecutor's Offices and Specialised Prosecutor's Offices, in accordance with the procedure established by the Prosecutor General.
6. Qualified public officer of the Prosecutor's Office – an advisor of the Prosecutor's Office, the head of the administrative office, a specialist of the Prosecutor's Office, a witnesses, a victim coordinator, the managers and the deputy managers of structural units who are not prosecutors and are appointed to the positions established by the staff list in the system of the Prosecutor's Office, whose function is to exercise powers under public law.
7. A contract employee of the Prosecutor's Office – a person who is granted powers to fulfil the ancillary or temporary tasks of the Prosecutor's Office to ensure the performance of public services in the Prosecutor's Office on the basis of an employment contract.

**Article 3 – Legal grounds for activities of the Prosecutor's Office**

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

**Chapter II – Objectives, Principles and Powers**



## **Article 4 – Objectives of the Prosecutor’s Office**

1. In accordance with procedures established by law, the Prosecutor’s Office shall:

- a) conduct criminal prosecutions;
- b) provide procedural guidance for investigations to ensure criminal prosecution;
- c) conduct full scale investigations in the cases provided for by law;
- d) supervise those activities of operative and investigative bodies that fall within the prosecutorial powers provided for by the Law of Georgia on Operative-Investigative Activities;
- e) respond to the facts of violation of the rights of persons who have been imprisoned or whose liberty has been restricted, and perform procedural duties in penal institutions and/or in respect of other enforcement measures imposed by a court;
- f) support public prosecutions in a court;
- g) participate on behalf of the State, as plaintiff, in civil proceedings on confiscating and transferring to the State the property of a racketeer, an official, a member of the criminal underworld, a 'thief in law', a human trafficker, a person facilitating the distribution of drugs, or a person convicted of a crime provided for by Article 194 and/or Article 331<sup>1</sup> of the Criminal Code of Georgia, or their family member, close relative or a related person;
- h) carry out operative and investigative 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:

- a) lawfulness and fairness;
- b) objectivity and impartiality;
- c) professionalism and competence;
- d) unity and centralisation, and subordination by all subordinate prosecutors and other employees of the Prosecutor’s Office to the Prosecutor General;
- e) protection of the rights and freedoms and inviolability of dignity of an individual;
- f) political neutrality.

## **Article 6 – Status and independence of the Prosecutor’s Office**

1. The Prosecutor's Office of Georgia is a unified, centralised system that is independent in its activities and shall comply with law only. It shall be inadmissible to interfere in the activities of the Prosecutor’s Office, as well as any in other action that may encroach on its independence.

2. It shall be inadmissible to request a report in relation to the activities of the Prosecutor's Office, unless it is expressly provided for by the Constitution of Georgia and this Law.

3. The Prosecutor’s Office may, in accordance with the procedures provided for by legislation, conclude a contract, purchase property, possess and dispose of property, appear in a court as a plaintiff and a defendant, and exercise other rights granted and fulfil other duties imposed by the legislation of Georgia.

## **Article 7 – Subordination and jurisdiction**

The procedures for subordination during investigative processes, and the territories under the jurisdiction of the bodies and



structural divisions of the Prosecutor's Office, shall be determined by the Prosecutor General.

## **Section II**

### **System, Management and Subordination of the Prosecutor's Office**

#### **Chapter III – Structural Arrangement and Management of the Prosecutor's Office**

##### **Article 8 – System of the Prosecutor's Office**

1. The system of the Prosecutor's Office comprises the following:
  - a) the Office of the Prosecutor General of Georgia ('the Office of the Prosecutor General');
  - b) the Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara;
  - c) Tbilisi Prosecutor's Office;
  - d) District Prosecutor's Offices;
  - e) Regional Prosecutor's Offices;
  - f) Specialised Prosecutor's Offices – in the cases provided for by this Law.
2. It shall be prohibited to establish an ad hoc prosecutor's office or a special prosecutor's office.
3. The staffing positions of the Prosecutor's office and their quantity shall be determined by the Prosecutor General.
4. Decisions on matters related to a change of staffing positions and the transfer of a staffing position from a body or a structural division of the Prosecutor's Office to another body or structural division of the Prosecutor's Office shall be made by the Prosecutor General.

##### **Article 9 – Subordination and delegation of powers**

1. All prosecutors and other employees of the Prosecutor's Office shall be subordinated to the Prosecutor General.
2. Subordination of a subordinate prosecutor to a superior prosecutor shall imply that:
  - a) the fulfilment of instructions given by a superior prosecutor to a subordinate prosecutor on the organisation and activities of the Prosecutor's Office shall be binding;
  - b) a subordinate prosecutor shall be accountable to a superior prosecutor when performing his/her official duties;
  - c) a superior prosecutor may, where necessary, exercise the powers of a subordinate prosecutor or assign his/her own powers to a subordinate prosecutor;
  - d) a superior prosecutor may repeal and amend a subordinate prosecutor's decisions and acts or replace them 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 a report on his/her activities, as well as information about cases and materials, to a superior prosecutor.
3. The Prosecutor General shall be authorised to determine other ways in which a subordinate prosecutor is subordinate 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 the lawful requests and instructions of a superior prosecutor.
5. The structure and powers of the bodies of the Prosecutor's Office shall be determined by a statute that shall be approved by the Prosecutor General.



## **Article 10 – Office of the Prosecutor General**

1. The Office of the Prosecutor General is a body of the Prosecutor's Office headed by the Prosecutor General.
2. The Prosecutor General shall have a first deputy and deputies who shall be appointed to and may be dismissed from office by the Prosecutor General.
3. If the Prosecutor General is absent or his/her powers have been terminated, his/her duties shall be performed by the first deputy Prosecutor General, and if the first deputy Prosecutor General is absent or his/her powers have been terminated, his/her duties shall be performed by one of the deputies determined by the Prosecutor General.
4. The structural units of the Office of the Prosecutor General are the departments and divisions that shall have the heads and may have deputy heads, senior prosecutors, prosecutors, senior investigators of especially important cases, investigators of especially important cases, qualified public officers of the Prosecutor's Office, interns and persons employed on the basis of an employment agreement.
5. The employees of the departments and divisions shall be appointed to and may be dismissed from office by the Prosecutor General.

## **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') that are headed by the prosecutors of the Autonomous Republics of Abkhazia and Adjara.
2. The prosecutors of the Autonomous Republics shall be appointed to and may be dismissed from office by the Prosecutor General.
3. The prosecutors of the Autonomous Republics shall have deputies who shall be appointed to and may be dismissed from office by the Prosecutor General.
4. The employees of the Prosecutor's Offices of the Autonomous Republics shall be appointed to and may be dismissed from office by the Prosecutor General.
5. The Prosecutor General shall determine the territory within the jurisdiction of the Prosecutor's Offices of the Autonomous Republics.
6. The Prosecutor's Offices of the Autonomous Republics shall have departments and other structural divisions that shall have heads and may have deputy heads of structural divisions, senior prosecutors, prosecutors, senior investigators, and investigators, qualified public officers of the Prosecutor's Office, interns and persons employed on the basis of an employment agreement.
7. The prosecutors of the Autonomous Republics shall, within their competence, issue individual legal acts, such as orders that shall be binding on the employees of the subordinate Prosecutor's Offices.
8. The prosecutors of the Autonomous Republics shall be entitled, while strictly abiding by the principle of subordination in investigating cases according to jurisdiction, to withdraw a case from an investigative authority and transfer it to another investigative authority for investigation in accordance with the procedures of and in the cases determined by the Prosecutor General.

## **Article 12 – Tbilisi Prosecutor's Office and District Prosecutor's Offices**

1. Tbilisi Prosecutor's Office and District Prosecutor's Offices are bodies of the Prosecutor's Office that shall be headed by the prosecutor of Tbilisi and district prosecutors.
2. The prosecutor of Tbilisi and district prosecutors shall be appointed to and may be dismissed from office by the Prosecutor General.
3. The prosecutor of Tbilisi and district prosecutors shall have deputies who shall be appointed to and may be dismissed from office by the Prosecutor General.
4. The Tbilisi Prosecutor's Office and district prosecutor's offices shall have departments and other structural divisions that shall have heads and may have deputy heads of structural divisions, senior prosecutors, prosecutors, senior investigators, and investigators, qualified public officers of the Prosecutor's Office, interns and persons employed on the basis of an employment agreement.



5. The employees of the Prosecutor's Office of Tbilisi and district prosecutor's offices shall be appointed to and may be dismissed from office by the Prosecutor General.
6. The Prosecutor of Tbilisi and district prosecutors shall, within their competence, issue individual legal acts, such as orders that shall be binding on employees of the subordinate prosecutor's offices.
7. The territory within the jurisdiction of the Prosecutor's Office of Tbilisi and the district prosecutor's offices shall be determined by the Prosecutor General.

### **Article 13 – Regional prosecutor's offices**

1. Regional prosecutor's offices are bodies of the Prosecutor's Office that shall be headed by regional prosecutors.
2. Regional prosecutors shall be appointed to and may be dismissed from office by the Prosecutor General.
3. Regional prosecutors shall have deputies who shall be appointed to and may be dismissed from office by the Prosecutor General.
4. The employees of the Regional Prosecutor's Offices, including senior prosecutors, prosecutors, qualified public officers of the Prosecutor's Office, interns and persons employed on the basis of an employment agreement, shall be appointed to and may be dismissed from office by the Prosecutor General.
5. Regional Prosecutor's Offices shall, within their competence, issue individual legal acts, such as orders that shall be binding on the employees of the subordinate Prosecutor's Office.
6. The territory within the jurisdiction of Regional Prosecutor's Offices shall be determined by the Prosecutor General.

### **Article 14 – Specialised Prosecutor's Office**

The Prosecutor General may, within the powers determined by the Constitution of Georgia, this law and other legal acts, temporarily establish a Specialised Prosecutor's Office and determine the fields of its activities and the period of its functioning.

## **Chapter IV – Prosecutor General**

### **Article 15 – Prosecutor General**

1. The Prosecutor's Office of Georgia shall be headed by the Prosecutor General.
2. The Prosecutor General shall:
  - a) appoint, promote, release from position and may dismiss from the Prosecutor's Office the employees of the Prosecutor's Office;
  - b) define the powers of the first deputy Prosecutor General and the deputy Prosecutor General;
  - c) issue normative and individual administrative acts;
  - d) delegate certain powers;
  - e) establish and dissolve the bodies of the Prosecutor's Office, its structural units, and determine the territory within their jurisdiction, their staff list and powers;
  - f) be responsible for the activities of the Prosecutor's Office;
  - g) represent the Prosecutor's Office before the government authorities of Georgia, as well as in relations with international organisations and law-enforcement structures of other states, and, if necessary, grant them the representative powers of the Prosecutor's Office;
  - h) define and approve guiding principles taking into account criminal policy;
  - i) conduct criminal prosecutions in accordance with the procedures established by law, where a crime has been committed by the President of Georgia, the Prime Minister of Georgia, 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 Auditor General, 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 Envoy Extraordinary and Minister Plenipotentiary of Georgia, an incumbent high-ranking military or top special rank officer or a person equal thereto, a prosecutor, an investigator of the Prosecutor's Office, an advisor of the Prosecutor's Office, a witness, a victim coordinator;

j) carry out other procedural activities in the cases provided for by legislation;

k) consider complaints and applications;

l) determine the investigative and territorial jurisdictions of criminal cases;

m) repeal unlawful acts issued by subordinate prosecutors;

n) appoint a specially authorised prosecutor who files an application with a court on recognising an organisation as a terrorist organisation;

o) file a claim with the Constitutional Court regarding a dispute on the powers of the Prosecutor's Office of Georgia;

p) convene and preside over the Conference of Prosecutors of Georgia;

q) establish advisory bodies and determine their rules of operation in order to facilitate the activities of the Prosecutor's Office;

r) approve the code of ethics of the employees of the Prosecutor's Office and determine matters relating to the application of disciplinary sanctions to the employees of the Prosecutor's Office, except in the cases provided for by this Law;

s) determine the procedures for granting special state ranks to the employees of the Prosecutor's Office, grant and strip special state ranks, and make recommendations for honorary titles and state awards of Georgia;

t) within the limit of the allocated payroll fund, determine the staff list, the quantity of the staffing positions and the amount of official salaries of the employees of the Prosecutor's Office;

u) grant rewards to the employees of the Prosecutor's Office;

v) prepare proposals on funding and logistical support for the Prosecutor's Office and submit them to the Government of Georgia;

w) approve the strategy of activities and action plan of the Prosecutor's Office;

x) ensure statistical reporting, organise the generalisation of prosecution and investigation practices, facilitate the conduct of criminological research and the process of adapting and introducing scientific and technical innovations;

y) approve procedures for the recruitment of the employees of the Prosecutor's Office, competitions, internal competitions, promotion, demotion, transfer to another position (rotation), reorganisation, redundancy, ranking procedures and the evaluation system of the prosecutors/investigators of the Prosecutor's Office;

z) approve competition requirements, and determine procedures for holding a competition;

z<sup>1</sup>) determine procedures for internship and apprenticeship;

z<sup>2</sup>) determine the information policy of the Prosecutor's Office;

z<sup>3</sup>) determine appropriate measures for information security and procedures for the management of electronic systems;

z<sup>4</sup>) ensure the provision of a report on the activities of the Prosecutor's Office to the Prosecutorial Council and the Parliament of Georgia directly, and in the cases provided by law, through the Prosecutor General, his/her first deputy or a deputy;

z<sup>5</sup>) exercise other powers granted by the legislation of Georgia.

3. The liability of the Prosecutor General may arise only in accordance with the procedures provided for by the Constitution of Georgia and this Law.

4. Unlawful interference with the activities of the Prosecutor General shall be inadmissible.

5. The State shall take measures provided for by law in order to ensure personal protection and the protection of the property of the Prosecutor General.



## **Article 16 – Criteria and procedures for appointment to the office of the Prosecutor General**

1. A citizen of Georgia with higher education in law and with no record of convictions who, due to his/her moral and professional qualities, has a high reputation, and who has at least five years' experience working as a judge reviewing criminal cases, or as a prosecutor or as an advocate specialised in criminal law, or has at least 10 years' experience working in the legal profession and who, at the same time, is a recognised specialist in criminal law in the highest academic circles or a civil society organisation.
2. The term of office of the Prosecutor General comprises 6 years. The same person may not be elected as the Prosecutor General for two consecutive terms.
3. The Prosecutor General shall be elected by the Parliament of Georgia, in accordance with the procedure established by the Rules of Procedure of the Parliament of Georgia.
4. At least six months before the term of office of the Prosecutor General expires, or where the powers of the Prosecutor General have been terminated, the Prosecutorial Council shall immediately 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 position of the Prosecutor General where at least one third has to be a representative of a different gender.
5. The candidates for the position of the Prosecutor General shall be voted on individually at the meeting of the Prosecutorial Council. The voting shall be secret. The candidate who receives most votes, but at least two thirds of the total composition of the Prosecutorial Council, shall be deemed chosen. If the 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 a vote in a second round. If neither of the candidates receives the support of two thirds of the full composition of the Prosecutorial Council, the Prosecutorial Council shall select, within one week, other candidates in accordance with the procedures established by paragraph 4 of this article.
6. The Prosecutorial Council shall present the selected candidate to the Parliament of Georgia together with a relevant substantiation. If the presented candidate does not receive the required number of votes of the members of the Parliament of Georgia, the Prosecutorial Council shall select other candidates in accordance with the procedures established by paragraph 4 of this article.

## **Article 17 – Procedures for premature removal and termination of powers of the Prosecutor General**

1. The removal of the Prosecutor General from office shall be permissible only in accordance with the impeachment procedure provided for by the Constitution of Georgia.
2. Other grounds for the premature termination of powers of the Prosecutor General shall be:
  - a) a personal application;
  - b) the occupation of a position or the performance of activities incompatible with the status of the Prosecutor General;
  - c) recognition by a court as a beneficiary of support, unless otherwise determined by a court decision, recognition as a person with limited legal capacity, or as missing, or as declared dead;
  - d) the loss of the citizenship of Georgia;
  - e) death.

## **Article 18 – Acts of the Prosecutor General**

The Prosecutor General shall be authorised to issue normative and individual administrative acts, or orders.

Organic Law of Georgia No 4257 of 27 December 2018 – website, 29.12.2018

## **Chapter V – Advisory and Collegiate Bodies**

### **Article 19 – Prosecutorial Council**

1. In order to ensure the independence, transparency and efficiency of the Prosecutor's Office, an independent collegiate body called the Prosecutorial Council shall be established.



2. The Prosecutorial Council shall consist of 15 members:

- a) eight members, who are elected by the Conference of Prosecutors of Georgia in accordance with the procedures established by Article 20 of this Law and at least one fourth of whom shall be the representatives of different gender;
- b) two members, who are elected by the High Council of Justice of Georgia in accordance with the procedures established by its Rules of Procedure, from among the judges of the common courts of Georgia who have at least five years of experience working as a judge;
- c) two members of the Parliament of Georgia, one of whom is elected by the parliamentary majority from among its members, and the second is elected by members of parliament outside the parliamentary majority, from among those members of parliament who are not part of the parliamentary majority, in accordance with the procedure established 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 Parliament from among the members of parliament, by majority of its total members, in accordance with the procedure established by the Rules of Procedure of the Parliament of Georgia;
- d) one member, who is selected by the Parliament of Georgia, by majority of its total members, on the basis of a recommendation from the Minister of Justice of Georgia, in accordance with the procedure established by the Rules of Procedure of the Parliament of Georgia. A person shall be selected as a candidate for a member of the Prosecutorial Council if he/she has a higher education in law with a master's or equal academic degree and has at least five years' experience working as a lawyer;
- e) two members, who are selected by the Parliament of Georgia, by majority of its total members, in accordance with the procedure established by the Rules of Procedure of the Parliament of Georgia. Candidates for membership of the Prosecutorial Council shall be selected under the terms defined and the procedures established by Article 47(5) and (6) of the Organic Law of Georgia on Common Courts for electing candidates for membership of the High Council of Justice of Georgia.

3. The term of office of the members of the Prosecutorial Council shall be four years and the powers of a member of the Prosecutorial Council shall be terminated upon the expiry of the term.

4. The same person may not be elected as a member of the Prosecutorial Council for two consecutive terms.

5. The Prosecutorial Council shall, from among its members, elect by a secret ballot, the Chairperson of the Prosecutorial Council, for a term of two years, by a majority of votes of the members attending the meeting. If the candidates receive an equal number of votes, the voting shall continue until a candidate with more votes is selected.

6. The members of the Prosecutorial Council shall act under personal responsibility and shall not be accountable to the body that has elected them. It shall be inadmissible to influence the members.

7. If a prosecutor or investigator of the Prosecutor's Office who is a member of the Prosecutorial Council occupies one of the positions provided for by Article 20(8) of this Law, his/her powers as a member of the Prosecutorial Council shall be prematurely terminated, and if his/her official powers are terminated before the expiry of the term of office in the membership of the Prosecutorial Council and there are no grounds determined by paragraph 9 of this article, the member of the Council shall maintain the status until the term expires and act under personal responsibility.

8. If the official powers of the members of the Prosecutorial Council determined by paragraph 2(b) and (c) of this article are terminated before the expiry of the term and there are not any grounds determined by paragraph 9 of this article, they shall maintain the status of a member of the Prosecutorial Council and act under personal responsibility until the term expires.

9. Except for the cases provided for by paragraph 3 of this article, the grounds for the termination of the powers of a member of the Prosecutorial Council shall be:

- a) a personal application;
- b) recognition by a court as a beneficiary of support, unless otherwise determined by a court decision, recognition as a person with limited legal capacity, or as missing, or as declared dead;
- c) a judgement of conviction that has entered into legal force;
- d) occupation of a position of a public servant;
- e) the loss of the citizenship of Georgia;
- f) death.

10. 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, the expiry of the powers of the member of the Prosecutorial Council to be replaced, and in the case of





the premature termination of his/her powers, not later than two months from said premature termination of powers. If during the election of a new member of the Prosecutorial Council by the Parliament of Georgia these time limits coincide, fully or partially, with the period between the sessions of the Parliament of Georgia, the process of electing the member shall start or continue upon the commencement of the following session or before the commencement of the following session, in an extraordinary session.

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

12. The activities of the members of the Prosecutorial Council shall not be paid.

13. The powers of the Prosecutorial Council shall be to:

a) approve a candidate for the Prosecutor General, within its competence;

b) conduct disciplinary proceedings against the First Deputy Prosecutor General and Deputies Prosecutor General;

c) resolve issues of applying a disciplinary sanction to, or prematurely revoking a disciplinary sanction from, a member of the Prosecutorial Council elected by the Conference of Prosecutors of Georgia in accordance with the procedure established by this Law;

d) hear a report, once every six months, or by a decision of the majority of members of the Council, immediately, of the Prosecutor General, the First Deputy Prosecutor General or a Deputy Prosecutor General, on the activities of the Prosecutor's Office, which concerns the results of implementing criminal policy, the assessment of the general criminal situation in the country, including statistical data of common crimes, indicating their categories and trends, the protection of human rights and freedoms in the course of legal proceedings, areas of priority of the activities of the Prosecutor's Office, professional retraining and development programmes for prosecutors, and which does not cover matters related to the investigation of a specific criminal case, its hearing in a court and/or the specific circumstances of the case;

e) prepare recommendations on the issues provided for by sub-paragraph (d) of this paragraph and submit them to the Prosecutor General;

f) develop recommendations that facilitate the determination of its guidelines taking into account criminal policy, and the formulation and development of uniform practices in the Prosecutor's Office, and submit them to the Prosecutor General;

g) make decisions on matters related to the premature termination of powers of the members of the Prosecutorial Council.

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

15. The Prosecutorial Council shall meet at least once in every six months, or at the request of at least one third of the total members of the Prosecutorial Council, which shall be fulfilled immediately. A Prosecutorial Council shall be duly constituted if the session is attended by more than half of the total number of its members.

16. A decision of the Prosecutorial Council shall be deemed adopted if supported by a majority of the members present at the meeting, unless otherwise provided for by this Law.

17. If the First Deputy Prosecutor General or a Deputy Prosecutor General commits an act of disciplinary misconduct, the Prosecutorial Council shall make a decision in respect of imposing disciplinary liability on him/her.

18. Before the Prosecutorial Council makes a decision on imposing disciplinary liability, the First Deputy Prosecutor General, a Deputy Prosecutor General, and the members elected by the Conference of Prosecutors, shall have the right to appear and make statements before the Prosecutorial Council and present information supporting their position.

19. The Prosecutorial Council shall make a decision on imposing disciplinary liability, by a secret ballot, by a majority of no less than two third of the total number of its members.

20. The Prosecutorial Council shall issue its decisions in the form of ordinances.

21. The Prosecutor General shall be authorised to attend the meetings of the Prosecutorial Council with the right of a deliberative vote.

22. The Prosecutorial Council shall have its own website.

23. Organisational and technical support for the activities of the Prosecutorial Council shall be provided by the Office of the Prosecutor General.



24. The rules of operation of the Prosecutorial Council shall be determined by a statute approved by the Prosecutorial Council on the basis of a majority of votes of the members of the Prosecutorial Council.

## **Article 20 – Conference of Prosecutors**

1. The Conference of Prosecutors of Georgia ('the Conference') shall be a meeting of prosecutors and investigators of the Prosecutor's Office, which is authorised to elect the members of the Prosecutorial Council.
2. The powers of the Conference shall be regulated by this Law and the Rules of Procedure approved by the Conference.
3. The Chairperson of the Conference shall be the Prosecutor General, and in the case of his/her absence, the First Deputy Prosecutor General.
4. The Conference shall be convened by the Prosecutor General to exercise the powers determined by this Law.
5. The Conference shall consider an issue 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 make a decision, by a secret ballot, on the basis of a majority of votes of the members present at the meeting.
7. Before the start of the Conference, initiative groups of at least 30 persons shall be registered with the Chairperson. A representative from each initiative group, together with the Chairperson of the Conference, shall comprise the Administrative Committee, which shall, along with other organisational functions, exercise the 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 Council.
8. A candidate for membership of the Council shall not be the Prosecutor General, the First Deputy Prosecutor General, a Deputy Prosecutor General, the head of the department of the Office of the Prosecutor General, the Prosecutor of the Autonomous Republic of Abkhazia, the Prosecutor of the Autonomous Republic of Adjara, the Prosecutor of Tbilisi, or a district prosecutor.
9. The Conference shall elect the members of the Council according to the following quota:
  - a) three members – from among representatives of the Office of the Prosecutor General;
  - b) one member – from among representatives of the Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara;
  - c) three members – from among representatives of the District Prosecutor's Offices located in the territory of East Georgia (Kakheti, Samtskhe-Javakheti, Kvemo Kartli, Shida Kartli and Mtskheta-Mtianeti), the Prosecutor's Office of Tbilisi and the Regional Prosecutor's Offices;
  - d) one member – from among representatives of the District Prosecutor's Offices located in the territory of West Georgia (West Georgia, Samegrelo-Zemo Svaneti) and the Regional Prosecutor's Offices.
10. The Administrative Committee shall, by way of casting lots, determine the order of electing members to the vacant positions according to the quota, after which the voting for each vacancy of a member of the Council according to the quota determined by paragraph 9 of this article shall take place in a sequential manner. If after the election of the members to the first six vacant positions, all six members of the Council are the representatives of the same gender, the remaining vacant position shall be occupied only by a representative of a different gender.
11. A candidate who receives the majority of the votes of the members present at the Conference meeting shall be deemed elected to the vacant position.
12. If the candidates do not receive a sufficient number of votes for election to a vacant position, the two candidates with the best results for the vacant position shall be put to a vote in a second round of elections. If neither of the candidates still do not receive a sufficient number of votes, the nomination of candidates and the voting procedure shall be repeated.
13. If two or more candidates receive an equal number of votes, these candidates shall be put to a vote again.
14. Matters related to the election of the members that are not regulated by this Law shall be determined by the Rules of Procedure of the Conference.

## **Article 21 – Advisory bodies**



1. In order to facilitate the activities of the Prosecutor's Office, the standing advisory bodies of the Prosecutor General called the Career Management, Ethics and Incentives Council and the Strategic Development and Criminal Policy Council shall be established, which shall be managed by the Prosecutor General.
2. The powers of the Career Management, Ethics and Incentives Council shall be:
  - a) to draw up proposals and issue recommendations with regard to making amendments to the code of ethics of the employees of the Prosecutor's Office and the evaluation system of the prosecutors/investigators of the Prosecutor's Office, as well as to review matters related to the compliance of assessors and issue recommendations;
  - b) to review matters related to disciplinary misconduct (except for the cases established by this Law), incentives and promotion and to issue recommendations in accordance with the procedures determined by the Prosecutor General;
  - c) to review complaints against decisions made by the Claims Council and to make final decisions.
3. An employee of the Prosecutor's Office may attend a meeting of the Career Management, Ethics and Incentives Council to provide statements.
4. The powers of the Strategic Development and Criminal Policy Council shall be to review matters with regard to the improvement of the main directions and development plan of the activities of the system of the Prosecutor's Office, the determination and improvement of programmes and other needs, and taking into account criminal policy, the development and improvement of guidelines, strategies and action plans, and to issue recommendations.
5. The standing advisory councils shall consist of persons provided for by Article 19(2) (a) of this Law and other employees exercising the relevant powers of the Prosecutor's Office.
6. The Prosecutor General may establish other advisory councils, if necessary, to review matters not included in the powers of the standing advisory councils and that facilitate the prompt and efficient implementation of the tasks of the Prosecutor's Office.
7. The decisions of the advisory bodies, as a rule, are of a recommendatory character and shall not be binding upon the Prosecutor General.
8. The rules of operation and composition of the advisory bodies (except for the cases directly determined by this article) shall be determined by the Prosecutor General.

### **Section III**

#### **Directions of Activities, Personnel and Powers of the Prosecutor's Office**

##### **Chapter VI – Directions of Activities of the Prosecutor's Office**

##### **Article 22 – Criminal prosecution**

1. The Prosecutor's Office shall conduct criminal prosecutions in accordance with the procedures and within the scope established by criminal procedure legislation.
2. The Prosecutor's Office shall provide procedural guidance of investigations in order to ensure criminal prosecution.

##### **Article 23 – Investigation and operative and investigative activities**

The Prosecutor's Office shall, in the cases provided for and in accordance with the procedures established by criminal procedure legislation, carry out full investigations and may carry out operative and investigative activities.

##### **Article 24 – Support of public prosecution**

1. A prosecutor shall act as a public prosecutor and shall exercise his/her powers on behalf of the State. He/she shall bear the burden of proof.
2. A prosecutor may, with the consent of a superior prosecutor, withdraw charges or a part of charges, or replace existing charges with more lenient charges. The withdrawal of charges by the prosecutor shall be substantiated.
3. A prosecutor shall be obliged to participate in hearings.



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

## **Article 25 – Supervision over operative and investigative activities**

1. A prosecutor shall supervise the lawfulness of the operative and investigative measures carried out and the decisions made by the operative and investigative bodies that fall within the prosecutorial powers under the Law of Georgia on Operative Investigative Activities.

2. The operative and investigative measures that do not require the consent of a prosecutor shall not be subject to prosecutorial supervision.

3. The lawfulness and substantiation of a ruling issued by a judge for conducting, prolonging and terminating operative and investigative measures shall not be subject to prosecutorial supervision.

4. The data on a person, who is providing or has provided confidential assistance to, and is cooperating or has cooperated with, operative and investigative bodies, as well as the tactics and organisation of obtaining operative and investigative information, and its operative analysis, as well as the classified parts of operative and investigative records, shall not be subject to prosecutorial supervision.

5. The following persons shall have the right to view cases under operative analysis and the classified parts of operative and investigative records: the Prosecutor General, the First Deputy Prosecutor General and Deputies Prosecutor General, the heads and deputy heads of the relevant structural units of the Office of the Prosecutor General, the Prosecutors and Deputies Prosecutor of the Autonomous Republics of Abkhazia and Adjara, district prosecutors and their deputies, the Prosecutor of Tbilisi and his/her deputies and regional prosecutors according to the territories within their jurisdiction, as well as other prosecutors determined by the Prosecutor General, the First Deputy Prosecutor General and Deputies Prosecutor General, the Prosecutors of the Autonomous Republics of Abkhazia and Adjara, district prosecutors, the Prosecutor of Tbilisi and regional prosecutors.

## **Article 26 – Protecting the rights of persons who have been imprisoned or whose liberty has been restricted**

1. A prosecutor or investigator of the Prosecutor's Office may, at any time, freely enter the places of detention of persons who have been imprisoned or whose liberty has been restricted and:

a) conduct inspections in places of detention, that carry out penal functions or other coercive measures administered by a court, of persons who have been imprisoned or whose liberty has been restricted;

b) question detainees, prisoners, convicts and persons upon whom coercive measures have been imposed;

c) view documents on the basis of which the right of free movement of a person has been restrained or 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 – Claim of a prosecutor in proceedings stipulated by civil procedure legislation**

1. A prosecutor shall be entitled to initiate a claim on confiscating and transferring to the State the property derived from racketeering, or the property of an official, a member of the criminal underworld, or a 'thief in law', a human trafficker, a person facilitating the distribution of drugs, or a person convicted for a crime provided for by Articles 194 and/or 331<sup>1</sup> of the Criminal Code of Georgia, in accordance with the procedure established by the civil procedure legislation of Georgia.

2. A prosecutor shall be entitled to initiate a claim on confiscating and transferring to the State the property of a racketeer, an official, a member of the criminal underworld, a 'thief in law', a human trafficker, a person facilitating the distribution of drugs, or a person convicted for a crime provided for by Articles 194 and/or 331<sup>1</sup> of the Criminal Code of Georgia, their family member, close relative or a related person in accordance with the procedure established by the civil procedure legislation of Georgia.

## **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 mutually agreed activities of law enforcement bodies to identify, investigate, open, prevent and avoid crime, for the purposes of preventing crime, and eliminating the improvement of crime, and the causes and conditions conducive to crime.
2. The procedures for coordinating the fight against crime shall be determined by regulations which shall be approved by the Government of Georgia.
3. The Prosecutor's Office shall develop its guidelines taking into account the priority of human rights and fundamental freedoms, the strengthening of constitutional guaranties for legal protection, and the current situation in respect of the spread of crime, and shall depend on key directions of criminal policy as determined by the Parliament of Georgia, and such guidelines shall be approved by the Prosecutor General.

## **Article 29 – Supporting strategic development**

1. For the purpose of developing the system of the Prosecutor's Office, the Prosecutor General shall approve a development strategy and an action plan of the Prosecutor's Office for each subsequent six years.
2. Interagency working groups managed by the Prosecutor's Office may be established in order to fulfil the development strategy and the action plan of the Prosecutor's Office.

## **Chapter VII – International Cooperation**

### **Article 30 – International cooperation**

1. The Prosecutor's Office shall be entitled to cooperate with competent bodies of foreign states and international organisations in matters falling within the competence of the relevant agency.
2. In order to ensure the implementation of the cooperation provided for by paragraph 1 of this article, the Prosecutor's Office may, within its competence, conclude interagency international agreements with competent bodies of foreign states and international organisations.
3. The Prosecutor's Office shall ensure the implementation of international cooperation in the field of criminal law in accordance with procedures established by the legislation of Georgia.
4. In the cases provided for by paragraph 3 of this article, the Prosecutor's Office shall be entitled to:
  - a) ensure the implementation of relevant procedures provided for by legislation in relation to the announcement of an international search for a person by Interpol channels for the purpose of his/her detention and extradition;
  - b) apply to relevant bodies of a foreign state with a request for legal assistance in relation to criminal cases pending in competent bodies of Georgia and ensure the execution of the request in the territory of Georgia;
  - c) apply, in accordance with procedures established by the legislation of Georgia, to relevant bodies of a foreign state with a request to detain and/or extradite or temporarily deliver up a person wanted by the law enforcement bodies of Georgia for the purpose of extradition, and in the case of identifying or arresting a person wanted by a foreign state in the territory of Georgia, ensure participation in extradition procedures at the admissibility stage;
  - d) ensure, in accordance with procedures established by legislation, the transmission of criminal files or their duly certified copies for subsequent legal proceedings, or the enforcement of similar requests initiated by the competent bodies of a foreign state in the territory of Georgia;
  - e) cooperate with the relevant bodies of a foreign state, in accordance with the procedures established by legislation, regarding the confiscation of property and its further distribution (division).
5. In the absence of a relevant international agreement, in order to implement the cooperation provided for by paragraph 4 of this article, the Prosecutor General shall be entitled to conclude an individual agreement with a competent body of a foreign state or an international organisation.
6. In the case of concluding an individual agreement provided for by paragraph 5 of this article for the purpose of the detention and extradition of a person, the Prosecutor General shall hold preliminary consultations with the Minister of Justice.

## **Chapter VIII – Representation within the Country**



### **Article 31 – Relations with legislative, executive and judicial authorities**

The Prosecutor General or a person authorised by him/her shall represent the Prosecutor's Office in relations with legislative, executive and judicial authorities.

### **Article 32 – Relations with organisations, institutions, and representations**

1. The Prosecutor General or a person authorised by him/her shall represent the Prosecutor's Office in relations with organisations, institutions, and representations.
2. For the purpose of strengthening cooperation, the Prosecutor General shall be authorised to conclude a memorandum of cooperation on particular matters with organisations, institutions, and representations.

### **Article 33 – Secretary of Public Relations**

The Secretary of Public Relations shall be an employee of the Prosecutor's Office with representative powers granted by the Prosecutor General who shall ensure coordinated relations between the Prosecutor's Office and state authorities, and other organisations, institutions and representations, and shall promote quick and efficient communication, ensure the preparation of proposals regarding legislative changes, coordinate, and if necessary, participate in the activities of interagency working groups, and carry out other functions determined by the Prosecutor General.

## **Chapter IX – Employees of the Prosecutor's Office**

### **Article 34 – Procedure and criteria for occupying a position**

1. A vacant position of a prosecutor or investigator of the Prosecutor's Office may be occupied through a competition or an internship, the procedure of which shall be determined by the Prosecutor General.
2. A vacant position of a prosecutor or investigator of the Prosecutor's Office may be occupied without undergoing a competition or an internship by a reasonable decision of the Prosecutor General if a person meets the relevant criteria established by this Law.
3. A citizen of Georgia who has a higher education in law, has a command of the language of legal proceedings, has passed a qualification examination for the Prosecutor's Office, has completed an internship in the bodies of the Prosecutor's Office, has taken the oath of an employee of the Prosecutor's Office, and is able, based on his/her working and moral qualities, as well as his/her health status, to perform the duties of a prosecutor or investigator of the Prosecutor's Office, may be appointed to the position of a prosecutor or investigator of the Prosecutor's Office.
4. A person to be appointed to a vacant position of a prosecutor or investigator of the Prosecutor's Office shall have passed a qualification examination for the Prosecutor's Office in the following disciplines: Constitutional Law, International Human Rights Law, Criminal Law, Law of Criminal Procedure, Administrative Law, Penitentiary Law, and Principles of Operative and Investigative Activities.
5. The following persons shall be released from the obligation to pass a qualification examination for the Prosecutor's Office:
  - a) the Prosecutor General, his/her First Deputy and Deputies;
  - b) a person who has passed a qualification examination for judges or lawyers.
6. The following persons shall be released from going through an internship in the bodies of the Prosecutor's Office: the Prosecutor General, his/her First Deputy and Deputies, as well as a person who, together with the criteria established by paragraph 3 of this article, meets one of the following requirements:
  - a) has at least two years' work experience as a judge, a prosecutor, an investigator or a lawyer specialised in criminal law;
  - b) has at least five years' work experience as a lawyer;
  - c) has passed a qualification examination for judges.
7. A person to be appointed to a vacant position of a prosecutor or investigator of the Prosecutor's Office through a competition shall, together with the criteria established by paragraph 3 of this article, meet one of the following requirements:
  - a) has at least two years' work experience as a judge, a prosecutor, an investigator or a lawyer specialised in criminal law;



b) has at least five years' work experience as a lawyer.

8. A person to be appointed to a vacant position of a prosecutor or investigator of the Prosecutor's Office without a competition in accordance with paragraph 2 of this article shall, together with the criteria established by paragraph 3 of this article, meet one of the following requirements:

a) has at least four years' work experience as an investigator, a judge or a lawyer specialised in criminal law;

b) has at least two years' work experience as a prosecutor/investigator of the Prosecutor's Office and has been discharged from the system of the Prosecutor's Office for the past 10 years on the grounds of a personal application, the deterioration of health, redundancy, or moving to another job;

c) has been enrolled in the personnel reserve of the system of the Prosecutor's Office;

d) has completed an internship in the bodies of the Prosecutor's Office and not more than three years have passed from the completion of the internship;

e) is recognised in the highest academic circles as a specialist in criminal law.

9. A person to be appointed to a vacant position of a prosecutor or investigator of the Prosecutor's Office on the basis of a competition or in the case provided for by paragraph 2 of this article shall be released from going through an internship.

10. A person who meets the requirements established for the release from going through internship may take an internship in the bodies of the Prosecutor's Office at his/her own discretion.

11. Before a person is appointed to a vacant position of a prosecutor or investigator of the Prosecutor's Office on the basis of a competition or in the case provided for by paragraph 2 of this article, he/she shall undergo not more than a two-month course of vocational retraining, after the successful completion of which he/she shall be appointed to the vacant position.

12. Qualified public officers of the Prosecutor's Office shall be appointed to and may be dismissed from office by the Prosecutor General, taking into account the circumstances determined by this Law, and in accordance with the procedures established by the Law of Georgia on Public Service, and an employment agreement with a contract employee of the Prosecutor's Office shall be concluded or terminated by the Prosecutor General, taking into account the procedures determined by this Law, and in accordance with the procedures established by the Law of Georgia on Public Service and the Organic Law of Georgia the Labour 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 with a criminal record;

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

c) a person who has been recognised by a court as a person with limited legal capacity, or as a beneficiary of support, unless otherwise defined by a court judgement;

d) a person who, on the basis of an assessment, does not meet the requirements established by this Law.

## **Article 36 – Promotion of a prosecutor or investigator of the Prosecutor's Office**

1. A prosecutor or investigator of the Prosecutor's Office may be promoted to the position of head and deputy head of a department of the Prosecutor's Office, a prosecutor or a deputy prosecutor of the Autonomous Republics of Abkhazia and Adjara, the Prosecutor of Tbilisi and his/her deputy, a district prosecutor and his/her deputy, a regional prosecutor if he/she has at least 3 years' work experience as a prosecutor or investigator of the Prosecutor's Office.

2. A prosecutor or investigator of the Prosecutor's Office may be promoted to the position of head and deputy head of a division of the Office of the Prosecutor General, head and deputy head of a division, and head and deputy head of an investigative body of the Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara, the Prosecutor's Office of Tbilisi and the District Prosecutor's Offices, as well as a deputy regional prosecutor if he/she has at least 2 years' work experience as a prosecutor or investigator of the Prosecutor's Office.

3. The results of the assessment of the activities of a prosecutor or investigator of the Prosecutor's Office shall be taken into account when making a decision regarding promotion of the prosecutor/investigator of the Prosecutor's Office.



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

### **Article 37 – Grounds for discharging**

1. An employee of the Prosecutor's Office may be discharged from the Prosecutor's Office:

- a) on the basis of a personal application;
- b) due to any impairment to health status, disability or chronic disease if he/she is no longer able to perform his/her official duties;
- c) due to suffering from alcohol or narcotic drugs addiction, toxic substance abuse, mental or other severe chronic disease;
- d) due to being declared as a person with limited capabilities or as a beneficiary of support by a court, unless otherwise determined by a court decision;
- e) due to the non-performance or improper performance of official duties assigned under law;
- f) due to moving to another job;
- g) due to gross or systematic misconduct at work;
- h) due to ineptitude in the position held;
- i) due to a conflict of interests or incompatibility of positions;
- j) due to reorganisation and/or redundancy;
- k) due to disclosing a professional secret or committing any other inappropriate act;
- l) due to the failure to meet the critical margin of competence as a result of an assessment;
- m) due to a negative result obtained in the examination of compliance of a prosecutor or investigator of the Prosecutor's Office in the case of the failure to meet the minimum margin of competence as a result of an assessment;
- n) due to the failure to meet the minimum margin of competence as a result of an assessment which has been conducted twice;
- o) due to a judgement of conviction entered into legal force;
- p) due to a further act of disciplinary misconduct committed by a person who is subject to a disciplinary sanction;
- q) due to the expiry of the period provided for by an employment agreement;
- r) due to the non-performance or improper performance of requirements provided for by an employment agreement;
- s) due to the loss of the citizenship of Georgia;
- t) due to the violation of employment requirements;
- u) due to reaching a retirement age;
- v) due to other grounds provided for by the Law of Georgia on Public Service and the Organic Law of Georgia the Labour Code of Georgia.

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

### **Article 38 – Transfer to another position**

- 1. A prosecutor or investigator of the Prosecutor's Office may be transferred to another position on the basis of his/her request or consent.
- 2. A prosecutor or investigator of the Prosecutor's Office may be demoted to a lower position, whether or not he/she consents





thereto, if:

- a) his/her transfer to a position which is appropriate to his rank and position is not possible;
- b) the demotion is provided for as a form of disciplinary sanction;
- c) he/she does not meet the margin of competence required for his/her position on the basis of the results of assessment;
- d) there are cases provided for by Article 39 of this Law.

### **Article 39 – Dismissal due to reorganisation and/or redundancy**

1. In the case of reorganisation and/or redundancy, a prosecutor or investigator of the Prosecutor's Office shall be dismissed from the occupied position and he/she may be offered a transfer to a relevant vacant position in a different structural unit of the system of the Prosecutor's Office.
2. In the case of the refusal to exercise the powers by a prosecutor or investigator of the Prosecutor's Office in accordance with the procedures established by paragraph 1 of this article, or in the absence of a relevant vacant position, the prosecutor or investigator of the Prosecutor's Office shall be dismissed from the occupied position, and on the basis of his/her written consent, transferred to the personnel reserve.
3. In the case provided for by this article, a prosecutor or investigator of the Prosecutor's Office who is in the personnel reserve shall retain the right to receive a salary for three months after having been transferred to the reserve, unless he/she has occupied a position incompatible with the position of a prosecutor or investigator of the Prosecutor's Office or performs similar activities within the same period. A prosecutor or investigator of the Prosecutor's Office who is in the personnel reserve may be appointed in the system of the Prosecutor's Office on the basis of his/her written consent.
4. Following the expiry of three months after having been transferred to the personnel reserve, the transferred person shall remain in the personnel reserve without a salary for the following nine months, unless he/she is excluded due to occupying a position or carrying out the activities incompatible with the position of a prosecutor or investigator of the Prosecutor's Office, or on the basis of a personal application.

### **Article 40 – Grounds for suspension of powers**

1. The grounds for suspending the powers of an employee of the Prosecutor's Office shall be:
  - a) leave;
  - b) temporary disability, which shall be confirmed by a relevant certificate of sickness;
  - c) detention or administrative arrest;
  - d) criminal proceedings brought against him/her, before the termination of the criminal prosecution or the entry into force of the judgement;
  - e) other cases provided for by law.
2. An employee of the Prosecutor's Office shall retain his/her official salary during the period of suspension of his/her powers. A prosecutor or investigator of the Prosecutor's Office shall also retain his/her salary established for the rank and the supplement for years in service.

### **Article 41 – Procedure for appealing**

An employee of the Prosecutor's Office may, in accordance with procedures established by legislation, apply to a court within a month regarding the appointment to a position, demotion, dismissal and suspension of powers.

### **Article 42 – Specialisation of prosecutors**

In the cases determined, and in accordance with the procedure established, by the legislation of Georgia, a prosecutor or investigator of the Prosecutor's Office may be granted a specialisation, the procedure for the granting of which shall be determined by the Prosecutor General.



## Chapter X – Assessment of a Candidate

### Article 43 – Assessment of a candidate

1. A person to be appointed to a vacant position of an employee of the Prosecutor's Office shall be subject to an examination, the procedure of which shall be approved by the Prosecutor General.
2. The following information on a person shall be subject to an examination:
  - a) a criminal record and a current administrative penalty;
  - b) information regarding income and financial liabilities;
  - c) information regarding the possession and disposal of shares in entrepreneurial and non-entrepreneurial legal entities;
  - d) information regarding health status, education, work experience, academic degree, and educational activities.
3. The examination shall be carried out on the basis of a written consent of a candidate. If the candidate refuses to provide consent his/her candidacy shall not be considered.
4. If a candidate intentionally submits false information, his/her candidacy shall not be considered.

## Chapter XI – Oath of an Employee of the Prosecutor's Office, Conflict of Interests and Incompatibility of Positions

### Article 44 – Oath of an employee of the Prosecutor's Office

1. Upon the appointment to a position, an employee of the Prosecutor's Office shall take the following written oath: 'I, (first name, last name), swear before God and the nation that I will perform the duty of an employee 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 Oath may be taken in place of a religious oath. The oath, signed by an oath giver, shall be kept in his/her personal record.

### Article 45 – Conflict of interests and incompatibility of positions

1. The position of an employee of the Prosecutor's Office shall be incompatible with other positions within state institutions or local self-government bodies, as well as with any entrepreneurial or other paid positions other than scientific, creative and pedagogical activities.
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 (except for a contract employee of the Prosecutor's Office) shall not be a member of a political association or be engaged in political activities.
4. An employee of the Prosecutor's Office may not abuse his/her position or the opportunities related to it in order to obtain property or other interests and may not receive the said interests.
5. An employee of the Prosecutor's Office may not be a representative or a trustee of any natural or legal person, or represent or defend him/her/it in criminal, civil or administrative cases, except when the employee is a guardian, custodian or a supporter of the natural person, or is a representative of the relevant body.
6. An employee of the Prosecutor's Office (except for a contract employee of the Prosecutor's Office) shall be prohibited from participating in a meeting, or organising or taking part in a strike.

## Chapter XII – Prosecutorial Acts

### Article 46 – System of prosecutorial acts

When exercising his/her powers, a prosecutor, within his/her competence, shall prepare the following acts in accordance with the procedure established by the legislation of Georgia:

- a) a formal request



- b) a submission
- c) an objection
- d) an order
- e) a consent
- f) an instruction
- g) an appeal.

#### **Article 47 – Formal request**

1. In order to exercise his/her powers, a prosecutor may request:

- a) the transfer of necessary documents, materials, cases, data and other information;
- b) the assignment of specialists, experts, interpreters;
- c) to conduct an inspection of budget settlement or other types of inspections.

2. Any requested information must be submitted to the prosecutor within not later than 10 days, regardless of the regime of such information.

3. A document or other information may be verified at the request of a prosecutor on site either by the prosecutor, or by a specialist, an expert or any other person at the instruction of the prosecutor.

4. At the request of a prosecutor, a document or other information must be submitted to the place indicated by him/her.

5. In the cases provided for by the legislation of Georgia, a prosecutor shall ensure the protection of state secrets or other secrets contained in the requested information.

6. Interference with the scope of authority of a court or a request for any material or cases from a court shall be prohibited except for the cases provided for by legislation.

#### **Article 48 – Submission**

1. Within his/her competence and in accordance with procedures established by the legislation of Georgia, a prosecutor shall file a submission to rectify violations of legislation, and the causes and conditions supporting such violations, to the parties to legal relations referred to in Articles 22, 23, 25 and 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 with law of the acts and actions of the persons referred to in Articles 25 and 26 of this 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 liability measures.

3. A prosecutor shall file an objection to an unlawful act to the issuing authority or the superior authority. An objection to an



unlawful action by an official shall be filed in accordance with the same procedure.

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

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

6. A prosecutor who has 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 – Order**

A prosecutor shall issue an order within the powers determined and the procedures established by legislation.

## **Article 51 – Consent**

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

## **Article 52 – Instruction**

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

## **Article 53 – Appeal**

1. In accordance with the procedure established by the criminal procedure legislation of Georgia, a prosecutor may:

- a) appeal a court decision to a higher court and take part in the hearing as a party;
- b) appeal a court decision due to newly revealed circumstances and take part in the hearing as a party.

2. A prosecutor or a superior prosecutor who has filed an appeal, may withdraw the appeal before a summary decision is made.

## **Article 54 – Appealing prosecutorial acts**

1. A submission, objection, order and instruction of a prosecutor may be appealed to a court, in accordance with the procedure established by law, or appealed to a superior prosecutor only once, within 10 days, unless otherwise determined by criminal procedure legislation.

2. The act of appealing shall not suspend the execution of prosecutorial acts except for the cases provided for by criminal procedure legislation.

## **Section IV**

### **Other Fields of Activities and State Control**

#### **Chapter XIII – Organisational Activities**

## **Article 55 – Official sources for receiving and publishing information**

1. The Prosecutor's Office shall use telephone and electronic services for receiving information and a system for receiving documented information.

2. The Prosecutor's Office shall use a website and a social network as an official source for the proactive publication of information.



## **Article 56 – Digital and electronic systems and services**

1. In order to organise its activities, the Prosecutor's Office shall use electronic systems and digital and electronic services for internal communications, and the procedure, standards of management, and security therefor shall be determined by the Prosecutor General.
2. The Prosecutor's Office shall ensure the administration and management of the database, computer network and software modules installed on digital and electronic servers.

## **Article 57 – Archive management**

1. The Prosecutor's Office shall independently ensure the management of an archival fund (regardless of the type of carrier) in accordance with the procedure established by legislation.
2. The archival fund of the Prosecutor's Office shall consist of the funds of the bodies and structural units of the Prosecutor's Office.

## **Chapter XIV – Assessment of Activities and Personnel Reserve System**

### **Article 58 – Procedure and conditions for assessing activities**

1. A prosecutor or investigator of the Prosecutor's Office shall, as a rule, be subject to an assessment every 2 years, the results of which shall not be public.
2. A prosecutor or investigator of the Prosecutor's Office shall be assessed in accordance with the criteria determined by this Law and approved by the Prosecutor General.
3. The basic criteria for the assessment of a prosecutor or investigator of the Prosecutor's Office shall be:
  - a) assessment of prosecutorial activities and quality of investigation;
  - b) work load of a prosecutor and investigator of the Prosecutor's Office;
  - c) assessment of the head officer;
  - d) incentives and disciplinary sanctions.
4. A prosecutor or investigator of the Prosecutor's Office, whose results of the assessment do not meet the minimum margin of competence, shall be subject to an examination of compliance of a prosecutor or investigator of the Prosecutor's Office. If a prosecutor or investigator of the Prosecutor's Office receives a positive result in the examination of compliance of a prosecutor or investigator of the Prosecutor's Office, he/she shall be subject to a special assessment within a year after the examination. If a prosecutor or investigator of the prosecutor's Office fails to meet the minimum margin of competence as a result of the assessment for two consecutive terms, he/she may be dismissed from office.
5. The assessment of activities of a prosecutor or investigator of the Prosecutor's office shall be carried out by authorised divisions of the Office of the Prosecutor General.
6. The procedure and conditions for the assessment of activities of a prosecutor or investigator of the Prosecutor's Office shall be approved by the Prosecutor General.

### **Article 59 – Non-interference in the activities of an assessor**

Illegal interference with the activities of an assessor, and unlawful exercise of influence over him/her shall be inadmissible.

### **Article 60 – Procedure for appealing the results of an assessment**

1. A prosecutor or investigator of the Prosecutor's Office may appeal the results of an assessment within 10 days from the date of being informed of the results.



2. A prosecutor or investigator of the Prosecutor's Office may view the materials, on the basis of which an assessor has determined the margin of his/her competence.

3. An appeal of a prosecutor or investigator of the Prosecutor's Office shall be reviewed by a temporary advisory body called the Claims Council, which shall make one of the following decisions:

a) grant an appeal and amend or revoke the results of an assessment. In the case of the revocation of the results of the assessment, a prosecutor or investigator of the Prosecutor's Office shall be subject to reassessment within 60 days;

b) not to grant an appeal and uphold the results of the assessment.

4. A decision of the Claims Council may be appealed to the Career Management, Ethics and Incentives Council within 10 days of its delivery, and the latter shall make one of the following decisions within two months:

a) not to grant the appeal and uphold the decision of the Claims Council;

b) grant the appeal and amend the decision of the Claims Council.

5. Persons filing appeals and assessors may attend hearings held by the Board and the above Councils for reviewing appeals in order to provide explanations.

## **Article 61 – Personnel reserve system**

1. The Prosecutor's Office shall ensure the formation of a one-year personnel reserve system, in which the following people shall be registered:

a) persons who successfully complete an internship or a competition but are not appointed to a vacant position of a prosecutor or investigator of the Prosecutor's office;

b) a prosecutor or investigator of the Prosecutor's Office who has been dismissed from his/her position due to redundancy or reorganisation.

2. The grounds for removal from the personnel reserve system shall be:

a) the expiry of the term of being in the reserve;

b) a personal application;

c) the appointment to a relevant vacant position;

d) the existence of any grounds provided for by Article 37 of this Law;

e) other grounds provided for by the legislation of Georgia.

## **Chapter XV – Career Management and Development**

### **Article 62 – Supporting professional development and upgrading qualifications**

1. The improvement of professional skills and the promotion of the professional development of the employees of the Prosecutor's Office at the interagency level shall be ensured by the Prosecutor's Office of Georgia.

2. The employees of the Prosecutor's Office shall upgrade their qualifications at appropriate academic and training facilities.

3. In the cases provided for by international agreements, as well as by international programmes, employees of the Prosecutor's Office may upgrade their qualifications at educational institutions, law-enforcement bodies, and scientific and research centres of foreign states.

### **Article 63 – Procedure and conditions for conducting a qualification examination for the Prosecutor's Office and an examination of compliance of a prosecutor or investigator of the Prosecutor's Office**

1. The Prosecutor's Office shall conduct a qualification examination for the Prosecutor's Office and an examination of compliance of a prosecutor or investigator of the Prosecutor's Office.



2. The qualification examination for the Prosecutor's Office shall be conducted for:

a) candidates of an internship or a competition wishing to be appointed to a vacant position of a prosecutor or investigator of the Prosecutor's Office who has not passed a qualification examination for judges or lawyers;

b) persons with higher legal education.

3. The examination of compliance of a prosecutor or investigator of the Prosecutor's Office shall be conducted for persons who do not meet the minimum margin of competence determined by the assessment system.

4. The qualification examination for the Prosecutor's Office and the examination of compliance of a prosecutor or investigator of the Prosecutor's Office shall be conducted in the form of tests.

5. Passing of the qualification examination of the Prosecutor's Office successfully shall be confirmed by a certificate.

6. The procedure for conducting an examination and its programme shall be approved by the Prosecutor General.

#### **Article 64 – Procedure and conditions for undergoing apprenticeship**

1. A citizen of Georgia with no criminal record who has a command of the language of legal proceedings and who has a higher education in law or is a student receiving higher education in law may be appointed as an apprentice of the Prosecutor's Office.

2. The position of an apprentice of the Prosecutor's Office shall not be paid and it shall not be included in the years of service of a person.

3. The procedure for undergoing apprenticeship shall be approved by the Prosecutor General.

### **Chapter XVI – Other Fields of Activities of the Prosecutor's Office**

#### **Article 65 – Seal, workplace ID card and insignia**

1. The form and the procedure for using the seal, the logo, the workplace ID card and the badge of the bodies of the Prosecutor's Office shall be determined by the Prosecutor General.

2. The Workplace ID card of an employee of the Prosecutor's Office shall be issued by the Prosecutor General, First Deputy Prosecutor General or a Deputy Prosecutor General.

#### **Article 66 – Procedures for receiving citizens and reviewing correspondence**

1. The Prosecutor's Office shall, within its competence, review applications and complaints and receive citizens in accordance with the procedure established by law.

2. An application or a complaint about a crime shall be reviewed immediately.

#### **Article 67 – Granting access to state secrets**

1. The Prosecutor General of Georgia shall have access to state secrets upon his/her appointment to the position.

2. The procedure for granting employees of the Prosecutor's Office access to state secrets shall be regulated by the Law of Georgia on State Secrets and other acts.

3. A prosecutor may declassify documents and materials containing information on operative and investigative activities and covert investigative actions in the cases determined by and in accordance with procedures established by law.

### **Chapter XVII – Control over the Activities and Spending of Funds of the Prosecutor's Office**

#### **Article 68 – Parliamentary control**

1. Parliamentary control over the activities 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 shall, once a year and no later than 15 May, submit to the Parliament of Georgia a report on the activities performed by the Prosecutor's Office in the previous year, which concerns the results of implementing criminal policy, the assessment of the general criminal situation in the country, including statistical data of common crimes indicating their categories and trends, the protection of human rights and freedoms in the course of legal proceedings the areas of priority of the Prosecutor's Office, and professional retraining and development programmes for prosecutors. The report shall not include matters concerning the investigation of a specific criminal case, its hearing in a court and/or the specific circumstances of the case.

3. The Prosecutor General, the First Deputy Prosecutor General or a Deputy Prosecutor General shall have the right and may be required to attend Parliament, committee, or commission meetings, answer the questions raised at the meetings, and present a report of activities performed. The said requirement shall include comprehensive information on the issue(s) under review. The Prosecutor General, the First Deputy Prosecutor General or a Deputy Prosecutor General invited to the meeting shall not be required to speak on matters which have not been made known to him/her in advance. In addition, the Prosecutor General, First Deputy Prosecutor General or a Deputy Prosecutor General shall not be asked questions concerning the investigation of a specific criminal case, its hearing in a court and/or the specific circumstances of the case.

4. A report on the activities performed, when requested, shall be submitted by the Prosecutor General, the First Deputy Prosecutor General or a Deputy Prosecutor General, within two weeks after the request.

## **Article 69 – Judicial control**

The performance of such investigative and procedural acts by the Prosecutor's Office which impose restrictions on human rights and freedoms as defined by the Constitution of Georgia shall be permitted by a decision of a court, in accordance with the procedure established by the legislation of Georgia.

## **Article 70 – Control over the use and spending of state funds**

Control over the use and spending of state funds and other tangible assets of the State allocated to the Prosecutor's Office shall be exercised by the State Audit Office.

# **Section V**

## **Budget, Assets and Public Procurement**

### **Chapter XVIII – Logistical Support and Financing of the Prosecutor's Office**

#### **Article 71 – Financing and logistical support of the Prosecutor's Office**

1. The Prosecutor's Office shall be financed from allocations from the State Budget. The expenditures of the Prosecutor's Office shall be specified in the State Budget using a separate organisational code, in accordance with the procedure established by the legislation of Georgia.

2. A reduction of allocations from the State Budget for the Prosecutor's Office in comparison to the allocations stipulated by the budget approved for the previous year may take place only with the prior consent of the Prosecutor General.

3. Logistical support for the Prosecutor's Office shall be provided in a centralised manner.

4. Funds collected by the Prosecutor's Office to reimburse losses incurred by the State shall be transferred to the State Budget.

5. The representation expenses of the Prosecutor's Office of Georgia shall be reimbursed in accordance with procedures established by the legislation of Georgia.

6. Except as provided for by this Law, matters related to the logistical support and financing of the Prosecutor's Office may be regulated by a relevant act of the Prosecutor General.

### **Chapter XIX – Assets of the Prosecutor's Office and Procurement**

#### **Article 72 – Assets of the Prosecutor's Office**





1. Assets in the ownership 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 targeted use of the state property in its ownership and/or use.
3. The Prosecutor General may apply to the Government regarding the transfer of property necessary for the functioning of the Prosecutor's Office.
4. The Prosecutor's Office may conclude appropriate agreements in accordance with the procedure established by the legislation of Georgia in order to temporarily use the property necessary for functioning.

### **Article 73 – Management and organisation of public procurement**

1. In order to facilitate the logistical support and activities of the Prosecutor's Office, public procurement shall be carried out in a centralised manner, in accordance with legislation.
2. A decision on public procurement shall be made by the Prosecutor General or a person authorised by him/her.

## **Section VI**

### **Social and Legal Protection and Liability**

#### **Chapter XX – Legal Protection and Liability 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 a court to protect his/her rights and freedoms in accordance with procedures established by legislation.
2. An employee of the Prosecutor's Office shall be independent in his/her official activity. He/she may not be dismissed from the position held except in the 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 result in liabilities as provided for by law.
4. Upon the 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, the State is obligated to take statutory measures 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 defence tools, in accordance with procedures established by the legislation of Georgia.
6. The Prosecutor General shall determine procedures for keeping, registering and issuing a service firearm, as well as a list of the qualified public officers of the Prosecutor's Office who have the right to keep, carry, and use a service firearm.
7. The Prosecutor General may grant the status of a service firearm to a firearm in the ownership of an employee of the Prosecutor's Office and grant him/her the right to carry the firearm.

### **Article 75 – Inadmissibility of interference in activities**

Interfering in the activity of an employee of the Prosecutor's Office by officials, public and political associations, their representatives or by other persons not authorised by law to interfere in the activity of an employee of the Prosecutor's Office or to exercise influence over them in any way, as well as preventing an employee of the Prosecutor's Office from performing his/her activities, shall be punishable by law.

### **Article 76 – Liability of an employee of the Prosecutor's Office**

1. An employee of the Prosecutor's Office shall be held liable for committing a crime or administrative offence under the general rules.
2. The Prosecutor General shall initiate a criminal prosecution against a prosecutor or investigator of the Prosecutor's Office, an advisor to the Prosecutor's Office, a witnesses, or a victim coordinator.



3. The Prosecutor's Office shall investigate a crime committed by an employee of the Prosecutor's Office in accordance with the investigative jurisdiction, except for the exception provided for by the Law of Georgia on State Inspector's Service.

4. A detained, arrested or convicted employee of the Prosecutor's Office shall be placed, or shall serve his/her sentence, isolated from other special contingents.

5. If a criminal prosecution is initiated against an employee of the Prosecutor's Office, the matter of suspension of powers shall be dealt with by the Prosecutor General.

6. If an employee of the Prosecutor's Office violates official discipline, behaves inappropriately, or fails to perform or improperly performs his/her duties assigned under law, he/she shall be subject to a disciplinary sanction.

7. Disciplinary misconduct shall be divided into the following categories:

- a) minor misconduct
- b) moderate misconduct
- c) gross misconduct.

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

- a) improperly performs his/her duties assigned under law, taking into account the circumstances, it shall be considered as minor misconduct;
- b) violates official discipline, taking into account the circumstances, it shall be considered as minor or moderate misconduct;
- c) behaves inappropriately for an employee of the Prosecutor's Office, it shall be considered as gross misconduct;
- d) fails to perform his/her duties assigned under law, it shall be considered as gross misconduct.

9. Types of disciplinary sanctions shall be:

- a) a reprimand;
- b) a reproach;
- c) the deduction of 30 per cent of salary for a period of one to six months;
- d) transfer to a lower rank;
- e) demotion;
- f) dismissal.

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

- a) improperly performs his/her duties assigned under law, taking into account the circumstances, it shall be considered as minor misconduct and a reprimand or a reproach shall be applied as a disciplinary sanction;
- b) violates official discipline, taking into account the circumstances, it shall be considered as minor or moderate misconduct and a reprimand, a reproach or a deduction of 30 per cent of salary for a period of one to six months shall be applied as a disciplinary sanction;
- c) behaves inappropriately, it shall be considered as gross misconduct, and taking into account the circumstances, a reproach, a transfer to a lower rank, a deduction of 30 per cent of salary for a period of one to six months, or dismissal from the Prosecutor's Office shall be applied as a disciplinary sanction;
- d) fails to perform his/her duties assigned under law, it shall be considered as gross misconduct, and taking into account the circumstances, a reproach, a transfer to a lower rank, a deduction of 30 per cent of salary for a period of one to six months, or dismissal from the Prosecutor's Office shall be applied as a disciplinary sanction.

11. A single disciplinary sanction only shall be applied where an employee of the Prosecutor's Office commits the same misconduct.

12. If an employee of the Prosecutor's Office is found liable of further disciplinary misconduct before a previous disciplinary sanction has been expunged, a disciplinary sanction greater than that referred to in paragraph 10 of this article may be applied.



13. If an employee of the Prosecutor's Office is found liable of two or more acts of disciplinary misconduct, dismissal from the Prosecutor's Office may be used as a disciplinary sanction.
14. The Prosecutor General shall have the right to repeal a disciplinary sanction applied in relation to an employee of the Prosecutor's Office.
15. A disciplinary sanction shall be applied not later than one year after establishing (revealing) an act of misconduct. This period shall not include any periods of illness or leave of an employee of the Prosecutor's Office. A disciplinary sanction shall not be applied if three years have elapsed since the commission of the act of misconduct.
16. In the case of a premeditated crime or a crime of negligence committed by an employee of the Prosecutor's Office, the Prosecutor General shall make a decision on the matter of his/her dismissal from the Prosecutor's Office irrespective of the time elapsed from the commission of the act, except for the cases provided for by the legislation of Georgia.
17. A disciplinary sanction shall be imposed by an order of the Prosecutor General, except for the cases provided for by this Law, when such decision is made by the Prosecutorial Council. The employee of the Prosecutor's Office who is the subject of the disciplinary sanction shall be informed of the order of the Prosecutor General or decision of the Prosecutorial Council. An order of the Prosecutor General or decision of the Prosecutorial Council on imposing a disciplinary sanction shall be kept in the personal file of the employee of the Prosecutor's Office.
18. An employee of the Prosecutor's Office shall be deemed free of a disciplinary sanction if one year has elapsed since the imposition of the disciplinary sanction and no new disciplinary sanction has been imposed on him/her.
19. If demotion or transfer to a lower rank is used as a disciplinary sanction, the expiry of the term of the disciplinary sanction shall not result in the restoration of the position or the rank that existed before the imposition of the sanction.
20. An order of the Prosecutor General or decision of the Prosecutorial Council may be appealed to a court within one month after the issuance of the order or decision in accordance with procedures established by legislation.
21. Appealing an order or decision on the imposition of a disciplinary sanction shall not suspend the execution of the imposed disciplinary sanction.
22. Incentives shall not be applied to an employee of the Prosecutor's Office who is subject to a sanction, except for the incentives provided for by Article 78(e) of this Law.
23. An employee of the Prosecutor's Office who is subject to a sanction shall not:
- a) be granted the next special state rank;
  - b) receive a higher rank or class;
  - c) be paid a salary increment.
24. An employee of the Prosecutor's Office who is subject to a sanction shall not be promoted.
25. A disciplinary sanction imposed on an employee of the Prosecutor's Office may be revoked ahead of time in the case provided for by Article 78 of this Law. A disciplinary sanction shall be revoked by a relevant order or decision. The employee of the Prosecutor's Office who is subject to the disciplinary sanction shall be informed of the order or decision.
26. An order or decision on the revocation of a disciplinary sanction ahead of time shall be kept in the personal file of the employee of the Prosecutor's Office.

## **Article 77 – Disciplinary proceedings**

1. If an employee of the Prosecutor's Office violates official discipline, behaves inappropriately, or fails to perform or improperly performs his/her duties assigned under law, the General Inspection of the Office of the Prosecutor General ('the General Inspection') shall carry out an official inspection.
2. The General Inspection shall be accountable to the Prosecutor General.
3. The grounds for an official inspection may be any type of information on an act of disciplinary misconduct or other offence committed by an employee of the Prosecutor's Office.
4. The General Inspection may, within an official inspection:



- a) invite an employee of the Prosecutor's Office or any person and receive a statement regarding the fact to be inspected;
  - b) explain to a person his/her right to refuse to give a statement;
  - c) request all materials, documents or information to examine the matter;
  - d) invite and consult a specialist, if specialised knowledge is necessary;
  - e) prepare an opinion regarding the official inspection;
  - f) exercise other powers provided for by legislation.
5. An opinion on imposing a disciplinary sanction as a result of an official inspection shall be submitted to the Prosecutor General.
6. The Prosecutor General shall transfer an opinion on imposing a disciplinary sanction on an employee of the Prosecutor's Office to the Career Management, Ethics and Incentives Council.
7. An employee of the Prosecutor's Office whose disciplinary liability is being considered may attend a Council meeting to provide statements.
8. A Council meeting may be recorded and/or filmed by a decision of the Council and the consent of the persons attending the meeting.
9. The Council shall make a decision by a majority of votes, through open ballot. The Prosecutor General shall not participate in voting. A member of the Council shall have the right to refrain from participating in voting.
10. A decision of the Council, which is recommendatory, shall be submitted to the Prosecutor General.

#### **Article 78 – Forms of incentives**

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

- a) a commendation;
- b) monetary rewards or valuable gifts;
- c) additional paid leave of 10 calendar days;
- d) an early promotion to the next special state rank;
- e) the revocation of a disciplinary sanction ahead of time;
- f) a firearm as an award;
- g) being granted the title of 'Honorary Employee of the Prosecutor's Office' and awarded an appropriate badge;
- h) nomination for a special state rank;
- i) nomination for a state award.

#### **Article 79 – Reorganisation**

1. In order to ensure better governance, the Prosecutor General shall make a decision and approve the procedure for reorganisation.
2. Reorganisation shall not be the basis for the dismissal of an employee of the Prosecutor's Office, except for the cases provided for by this Law.

### **Chapter XXI – Social Protection of Employees of the Prosecutor's Office**

#### **Article 80 – Social protection**



1. The 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 the health insurance of his/her family (spouse minor child/adopted child) shall be compulsory, which shall be financed by the Prosecutor's Office from the allocations determined for the Prosecutor's Office, on the basis of an agreement concluded with an insurance company in accordance with procedures established by legislation.
4. The medical service expenses of a prosecutor or investigator of the Prosecutor's office that are not subject to reimbursement under an insurance contract shall, in exceptional cases, be reimbursed by the Prosecutor's Office by a decision of the Prosecutor General.
5. If a prosecutor or investigator of the Prosecutor's Office exercises his/her official powers in a territorial unit other than his/her permanent residence where he/she does not have a residential apartment, the State may provide him/her with necessary living space or reimburse his/her necessary living expenses.
6. An employee of the Prosecutor's Office shall be entitled to annual paid leave of 30 calendar days.
7. An employee of the Prosecutor's Office shall be entitled to paid leave of not more than three months once every five years and/or unpaid leave of not more than one year in order to participate in professional development programmes 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 jurisdiction, and the Prosecutor General, his first deputy and deputies shall be entitled to all the benefits of the Chairperson of the Supreme Court of Georgia and, respectively, of his/her deputies.
9. The procedures for providing an employee of the Prosecutor's Office with fuel, vehicles and other benefits shall be established by the Prosecutor General.
10. State compensation shall be granted to an employee of the Prosecutor's Office in accordance with the procedures and in the amount established by the Law of Georgia on State Compensation and State Academic Stipends.

## **Article 81 – Remuneration**

1. The salary of an employee of the Prosecutor's Office (except for a prosecutor or investigator of the Prosecutor's Office) shall consist of an official salary, a salary increment, and in the case provided for by the Law of Georgia on Civil Service, a class-based increment and a monetary reward.
2. The salary of a prosecutor/investigator of the Prosecutor's Office shall consist of an official salary, a salary increment, a monetary reward, and may consist of the salary established for the rank and supplement for years of service, the amount of which shall be determined by the Prosecutor General.
3. The amount of salary increment shall be determined by the Prosecutor General, within the limit of the allocated payroll fund, taking into account overtime work and/or additional functions, as well as particularly important functional responsibilities.
4. A salary increment of an employee of the Prosecutor's Office (except for a prosecutor or investigator of the Prosecutor's Office) shall be granted in accordance with the Law of Georgia on Civil Service and the Law of Georgia on Remuneration in Public Institutions.
5. A prosecutor or investigator of the Prosecutor's Office who fulfils the functions of an employee of the Prosecutor's Office who is temporarily absent from post and who is exempted from fulfilling his/her own official duties (the fulfilment of other functions), shall be paid the official salary of the person absent from post, if it exceeds his/her official salary. If the official salary of an employee of the Prosecutor's Office who is temporarily absent from post is lower than the official salary of a substituting prosecutor/ or investigator of the Prosecutor's Office, the latter shall retain his/her own official salary. A prosecutor or investigator of the Prosecutor's Office who fulfils the functions of an employee of the Prosecutor's Office who is temporarily absent from post without being exempted from fulfilling his/her own official duties (the fulfilment of additional functions), shall be paid a salary increment in addition to his/her own official salary.
6. It shall be inadmissible to reduce the salary of a prosecutor or investigator of the Prosecutor's Office during the period of his/her authority, except for the cases provided for by Article 76(9) (c) of this Law.
7. The amount of salary of a prosecutor or investigator of the Prosecutor's Service (except for an intern of the Prosecutor's Service) shall not be less than the basic official salary multiplied by a coefficient of 1.2.



## **Article 82 – Allowance in the case of death or mutilation**

1. If an employee of the Prosecutor's Office dies in the line of duty, his/her family (parents, spouse, child/adopted child or if there is no such person, an heir) shall be paid a one-time compensation of GEL 15 000 from the State Budget of Georgia.
2. If an employee of the Prosecutor's Office suffers a bodily injury or any other aggravation of health in the line of duty, as a result of which he/she is recognised as a person with a disability status, or in the case of his/her mutilation, he/she shall be paid a one-time compensation of not more than GEL 7 000. The procedure for granting compensation shall be regulated in accordance with the procedures established by Article 80(10) of this Law.
3. If a prosecutor or investigator of the Prosecutor's Office dies in an attack or from wounds received in the line of duty or in relation to his/her official activities, his/her family (parents, spouse, child/adopted child or if there is no such person, an heir) shall be paid a one-time compensation of GEL 100 000 from the State Budget of Georgia.
4. Any damage suffered by an employee of the Prosecutor's Office (or his/her family member) in the line of duty shall be compensated in full from the State Budget, in accordance with procedures established by law, which the employee of the Prosecutor's Office (or his/her family member) may claim within 1 year from said damage.

## **Article 83 – Special state ranks and procedure for granting special state ranks**

1. Prosecutors, investigators of the Prosecutor's Office, and qualified public officers of the Prosecutor's Office shall be granted special state ranks for the position occupied, qualifications, length of service, exemplary performance of duties, or special merits.
2. The procedure for granting and revoking special state ranks shall be determined by the legislation of Georgia.
3. The special state ranks of a prosecutor and an investigator of the Prosecutor's Office shall be equated with the special ranks of employees of the institutions provided for by Article 1(2) of the Law of Georgia on Special State Ranks.

## **Section VII**

### **Final 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 called the Prosecutor's Office of Georgia shall be reorganised and established as an independent body called the Prosecutor's Office of Georgia.
2. The Prosecutor's Office of Georgia shall be a legal successor to the state subordinate agency within the system of the Ministry of Justice of Georgia called the Prosecutor's Office of Georgia.
3. The Prosecutor's Office of Georgia shall ensure the completion of the cases under proceedings in the state subordinate agency within the system of the Ministry of Justice of Georgia called the Prosecutor's Office of Georgia.
4. The Prosecutor's Office of Georgia shall ensure the compliance of relevant subordinate legal acts with this Law.
5. The normative acts issued by the Minister of Justice of Georgia shall remain in force until the measures under paragraph 4 of this article are taken.
6. By the date of the entry into force of this Law, the Government of Georgia shall, in accordance with procedures established by the legislation of Georgia, ensure the transfer of the budget appropriations allocated for the state subordinate agency within the system of the Ministry of Justice of Georgia called the Prosecutor's Office of Georgia to the Prosecutor's Office of Georgia.
7. By the date of the entry into force of this Law, the Ministry of Economy and Sustainable Development of Georgia shall ensure the transfer of assets (inter alia, the property recorded in the balance sheet of the state subordinate agency within the system of the Ministry of Justice of Georgia called the Prosecutor's Office of Georgia) necessary for the functioning of the Prosecutor's Office of Georgia, to the Prosecutor's Office of Georgia in accordance with procedures established by the legislation of Georgia.
8. Upon the entry into force of this law, the Chief Prosecutor appointed at the time of the entry into force of this Law shall acquire the full powers of the Prosecutor General for the remaining term of his/her office.



9. The Minister of Justice shall maintain the status of the Chairperson of the Prosecutorial Council until a new Chairperson is elected, which shall be done in accordance with the procedure established by this Law, and within a month after the entry into force of this Law.

10. Upon the entry into force of this law, the members of the Prosecutorial Council shall maintain their authority for a term of authority of the members of the Prosecutorial Council.

11. The entry into force of this Law shall not result in the termination of the powers of the employees of the Prosecutor's Office; they shall maintain the status of the employees of the Prosecutor's Office and shall be transferred to appropriate positions.

12. The crimes committed by the employees of the Prosecutor's Office before 1 July 2019 shall be investigated by the Prosecutor's Office of Georgia in accordance with the investigative jurisdiction.

*Organic Law of Georgia No 4257 of 27 December 2018 – website, 29.12.2018*

## **Chapter XXIII – Final Provisions**

### **Article 85 – Final provisions**

1. This Law shall become effective after an oath is taken by the President of Georgia elected in the next presidential elections.

1<sup>1</sup>. The Prosecutor General shall conduct the criminal prosecution provided for by Article 15(2)(i) of this Law against a state inspector in accordance with the procedure established by law from 1 July 2019.

2. Upon the entry into force of this Law, the Law of Georgia of 21 October 2008 on the Prosecutor's Office (Legislative Herald of Georgia, No 27, 27.10.2008, Art., 170) shall be declared invalid.

*Organic Law of Georgia No 4257 of 27 December 2018 – website, 29.12.2018*

