



INSTITUTIONAL CHALLENGES WITHIN GEORGIA'S PROSECUTION SYSTEM



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Institutional Challenges within Georgia's Prosecution System

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Responsible Person on the Document: Ana Papuashvili

Author: Tamar Pachulia

Cover Design: Roland Raiki

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Address: 12b I. Abashidze Street, Tbilisi, Georgia

Tel: +995 032 2 23 37 06

<https://socialjustice.org.ge/>

info@socialjustice.org.ge

<https://www.facebook.com/socialjustice.org.ge>

Introduction

In a democratic and rule-of-law-based state, the Prosecutor's Office plays a crucial role in ensuring the impartial administration of criminal justice grounded in human rights. For this institution to fully carry out its functions in alignment with the rule of law, its sound institutional design is of paramount importance. Likewise, the accurate analysis of the prosecutorial system is essential for identifying existing problems. Today, several fundamental models of the prosecutorial institution exist in developed democracies, with their design heavily dependent on the political and legal systems of the respective countries. Nevertheless, in all cases, the functioning of this institution is based on the complementary principles of independence and democratic accountability.

In Georgia, the prosecutorial system is currently centralized and characterized by an internal hierarchy. However, it should be noted that over the past two decades, multiple legislative reforms - some even at the constitutional level - have been undertaken regarding the functioning and structure of the Prosecutor's Office. These reforms have led to several substantial changes in the institutional status and design. Ultimately, the Prosecutor's Office was granted the status of an independent constitutional body. Nonetheless, legislative and institutional reforms alone have failed to ensure the system's actual independence, resembling the unfortunate outcomes of the justice system's years-long yet superficial institutional reform process. Instead of fostering the development of law enforcement and justice systems, the ruling authorities have, for years, demonstrated a vested interest in maintaining and expanding control over the Prosecutor's Office. As a result, systemic reform and the creation of effective mechanisms for ensuring prosecutorial independence have never been the genuine objectives of the legislative changes.

Recently, amid an acute political and societal crisis in Georgia, political and partisan influence over the Prosecutor's Office - similar to other state and democratic institutions - has been steadily increasing. This trend is particularly evident in politically sensitive criminal cases, where fundamental rights such as liberty, freedom of expression, and others are blatantly violated through the actions of individual prosecutors and the application of criminal law mechanisms. Therefore, in the event of potential future democratic change, the need for fundamental reform of both the justice system as a whole and the Prosecutor's Office in particular must be firmly placed on the agenda. Such reform, in turn, must be based on a careful observation and critical analysis of the current state of affairs.

The present document - offering a concise and critical overview of the main institutional challenges facing Georgia's prosecutorial system today - is an attempt in that direction. It critically examines the concentration of powers in the key bodies of the prosecutorial system,

namely the General Prosecutor's Office and the Prosecutorial Council, and devotes a separate section to analyzing the flaws related to the system's democratic accountability.

The institutional and legal analysis of the prosecutorial system reveals the following:

- A dominant role in system governance and decision-making processes is assigned to the central body - **the General Prosecutor's Office**, headed by the General Prosecutor. Excessive power is concentrated in the hands of the General Prosecutor, while the rules governing their appointment fail to ensure selection based on impartiality and integrity.
- Since 2015, an independent collegial body - **the Prosecutorial Council** - has been part of the prosecutorial system, created to enhance its independence and impartiality. However, this body holds limited powers and has not developed into an effective institution. Moreover, the procedure for composing the Council does not comply with the recommendations of the Venice Commission.
- The institutional and functional challenges of the prosecutorial system significantly undermine the institution's **accountability**, erode public trust, and hinder the fair administration of criminal justice.

Conclusion

Despite multiple legislative changes and alterations to its institutional model, the Prosecutor's Office remains an unaccountable and politicized system. Politically sensitive criminal cases have further underscored the consequences brought about by the failure of prosecutorial reform and the implementation of superficial changes.

Establishing political neutrality within the prosecutorial system and empowering individual prosecutors requires a systemic reform - one that entails a revision of the powers held by both the General Prosecutor and the Prosecutorial Council. In order to reduce political influence over the prosecutorial system, it is essential to balance the institution's power and to ensure that appointments to key positions are made through political consensus. The authority of the General Prosecutor should be limited to making decisions on institutional and criminal justice policy matters. Furthermore, the Prosecutorial Council must be equipped with effective powers and its role in decision-making related to personnel and administrative issues must be strengthened.

A systemic reform of the Prosecutor's Office also cannot be achieved without the establishment of effective mechanisms for institutional transparency and accountability, as well as the empowerment of individual prosecutors.

It is evident that reform of this magnitude can only be implemented in the future through the involvement of broad segments of society, academic circles, and with due consideration of recommendations from international organizations. Ultimately, the success of such reform will depend, first and foremost, on the existence of genuine political will to strengthen the prosecutorial system.