



## The Coalition is reacting to the process of selection of candidates for the position of Prosecutor General

On December 12, the Parliament of Georgia confirmed Shalva Tadumadze, at the time Prosecutor General, for the position of a Supreme Court judge. In cases where the Prosecutor General's authority is terminated prior to the completion of his term, the Prosecutorial Council is required to immediately carry out consultations with representatives of academic circles, civil society and legal professionals with an aim of selecting a candidate for a new Prosecutor General. <sup>[1]</sup>

The Prosecutorial Council has already started this process. <sup>[2]</sup> The Council invited different organizations to participate in the process of selection. This step is important, but insufficient for ensuring transparency, legitimacy, and fairness of the entire process. The law <sup>[3]</sup> requires the Council to select three candidates based on consultations and individual voting. The candidate receiving the highest number of

votes (but no less than two thirds of the full composition of the Council) will be selected.

The Council has a statutory obligation to carry out consultations with different societal groups. However, it is unclear how it can reach a final decision through this process. Particularly, the format of consultations and rules for cooperation with civil society/academic institutions are not determined. It is unclear how the Council considers their recommendations. Moreover, the Council has not defined procedures for the selection of nominees. Correspondingly, the professional criteria for the selection of three candidates, one of whom will be submitted to the Parliament, are unclear.

The Parliament appoints the Prosecutor General by majority vote of the full membership.<sup>[4]</sup> The decision is not based on a political consensus and the process is not protected from single-party influences.<sup>[5]</sup> Remarkably, the past processes of selection and appointment of Prosecutor General revealed signs of political influences. In these cases the state did not manage to appoint individuals enjoying public trust and known for professional reputation.

Freeing the Prosecutor's Office and justice institutions from political influences, more specifically, the ones emanating from political parties, is a major challenge for the Georgian democracy and political stability. For many years, this issue has been brought up by local and international organizations.<sup>[6]</sup> The Office of Prosecutor General is one of the key institutions of the country's justice sector and the person leading it should enjoy high public trust and be known for his professional reputation. This objective will not be attained if the process of selection and appointment is carried out in the interest of one political group.

Considering the context and existing legislative gaps, the following steps have to be taken to make the process trustworthy:

- The Prosecutorial Council should develop procedures and criteria ensuring more active involvement of civil/professional groups in the process of selection of candidates;
- The Council should substantiate every nomination in accordance with the criteria established for the position of Prosecutor General;
- The ruling party should commit to not selecting a Prosecutor General based on

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narrow party interests and ensure a consensus among political parties as a basis for the Parliament's final decision.

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[1] Organic Law of Georgia on Prosecutor's Office, Article 16, Paragraph 4

[2] The Prosecutorial Council at the Prosecutor General's Office is starting a one-month consultations to select candidates, December 16, 2019, <http://pc.gov.ge/News/Detail?newsId=5021>, revised on 08.01.20.

[3] Organic Law of Georgia on Prosecutor's Office, Article 16, Paragraphs 4-6.

[4] Parliament Rules of Procedure, Article 204.

[5] The Coalition for an Independent and Transparent Judiciary Assesses the Prosecution Reform Results, December 7, 2018, to be found on the website of the Coalition for an Independent and Transparent Judiciary at [http://coalition.ge/index.php?article\\_id=196&clang=1](http://coalition.ge/index.php?article_id=196&clang=1), revised on 08.01.20.

[6] The United States Department of State, Democratic Developments in Georgia, December 23, 2019, to be found on the United States State Department web-site: <https://bit.ly/37KNADj>, revised on 08.01.20; Georgia in Transition, Assessments and Recommendations by Thomas Hammarberg, p.14, September 2013 to be found at [http://gov.ge/files/38298\\_38298\\_595238\\_georgia\\_in\\_transition-hammarberg1.pdf](http://gov.ge/files/38298_38298_595238_georgia_in_transition-hammarberg1.pdf), revised on 08.01.2020; The Coalition for an Independent and Transparent Judiciary Opinion on the Prosecutor's Office Reform to be found at <https://emc.org.ge/ka/products/koalitsiis-mosazrebebi-prokuraturis-reformaze>, revised on 08.01.2020.

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