

ACCOUNTABILITY OF THE PROSECUTOR'S OFFICE OF GEORGIA

CURRENT SITUATION,
WAYS OF IMPROVEMENT



TBILISI
2023



USAID საგარეო სახმარებო სააგენტოს პროგრამა
USAID RULE OF LAW PROGRAM

The report was prepared by the Rule of Law Centre with the support of the **USAID Rule of Law Program** funded by the **United States Agency for International Development (USAID)** through the **East-West Management Institute (EWMI)**.

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I. INTRODUCTION

Exclusive right of the Prosecutor's Office to launch criminal prosecution and determine which person to bring before the Court, determines its crucial role in the administration of justice. Therefore, effectiveness of the Prosecutor's Office and fairness, objectivity and impartiality of its decisions largely determine the state of human rights protection in the Country.

Independence of the Prosecutor's Office is crucial, however, independence without accountability creates real risks of abuse of power and danger for democratic functioning of other state institutions (including judiciary). All-powerful Prosecutor's Office, without any oversight, may become a tool for repression. Therefore, control over the Prosecutor's Office, as well as executive authorities, is necessary.¹ Accountability does not contradict the concept of independence. On the contrary, the more independence requires more accountability.²

Prosecutor's Office of Georgia is a Constitutional authority. It is not a part of any Governmental branch. Therefore, the level of its independence is high. Where the prosecutor is independent of the executive authority, the extent of that independence must be fixed by State which on the one hand will ensure eradication of practices of informal influence and on the other - risks of abuse of power by prosecutors.³

Accountability of the Prosecutor's Office does not apply to individual criminal cases. Accountability of the Prosecutor's Office implies control over the issues of general policy, implemented through various instruments – by presenting its activity report to the Parliament or Prosecutorial Council, by publication of report on official website, by direct communication with media or/and public. Accountable

1 See. CDL-AD (2004)038, *Opinion on the Draft Law amending the Law of Ukraine on the Office of the Public Prosecutor*, §23, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2004\)038-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2004)038-e) ;

„Prosecutorial Independence and Accountability“ James Hamilton, 2011, P. 7, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-UDT\(2011\)008-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-UDT(2011)008-e)

2 See. *Consultative Council of European Prosecutors (2018)*, „Report of the meeting of the Working Group of 8-9 February 2018“, <https://rm.coe.int/report-of-the-22nd-meeting-of-the-ccpe-gt-8-9-february-2018-strasbourg/168089ff4f>

3 See. *The Role of Public Prosecution in the Criminal Justice System*, <https://rm.coe.int/16804be55a>

Prosecutor's Office should periodically and publicly account for its activities as a whole and, in particular, the way in which its priorities were carried out.⁴

The independence of the Prosecutor's Office of Georgia is reinforced by the Constitution of Georgia and the „Organic Law of Georgia on the Prosecutor's Office“. It is inadmissible to interfere in the activities of the Prosecutor's Office, as well as any other action that may impair its independence. At the same time, the Constitution of Georgia and the mentioned Organic Law establish various mechanisms of external monitoring of the activities of the Prosecutor's Office. In particular, control over the activities of the Prosecutor's Office is carried out by the Parliament and collegial body – Prosecutorial Council – the Prosecutor's Office presents report of its activities to the Parliament and the Council. State Audit Office also controls the use and spending of budget funds allocated for the Prosecutor's Office. At the same time, the Court monitors the Prosecutor's Office by decisions on investigative and other procedural activities restricting human rights and freedoms, conducted by Prosecutor's Office.

The purpose of this report is to evaluate the degree of accountability of the Prosecutor's Office of Georgia and develop recommendations to improve it in case of such a need.

4 See. *The Role of Public Prosecution in the Criminal Justice System*, <https://rm.coe.int/16804be55a>



II. MAIN FINDINGS OF THE REPORT

The study has revealed that the Parliamentary oversight with respect to the Prosecutor's Office of Georgia is not functional and does not work in practice. As for the accountability of the Prosecutor's Office before the Prosecutorial Council, the study has shown that the Prosecutorial Council does not ensure transparency and effectiveness of the Prosecutor's Office. In particular, the study has revealed that:

- The Parliament of Georgia has never evaluated the activities of the Prosecutor's Office of Georgia since the establishment of the Prosecutor's Office as an independent state agency. In particular, the Parliament of Georgia has not heard the reports of the Prosecutor's Office on its 2019-2021 activities and evaluated work of the Prosecutor's Office. Consequently, the Parliament has not issued any recommendation/assignment to improve the work of the Prosecutor's Office. In one case the state of emergency is named as a reason for non-hearing, in other cases reasons are unclear;
- The only mechanism within which the Parliament of Georgia has been annually issuing assignments to the Prosecutor's Office for the last four years was the Public Defender's report on the state of protection of human rights and freedoms. However, the Parliament of Georgia has not evaluated fulfillment of assignments issued within the mentioned mechanism since 2019;
- Written questions sent to the Prosecutor's Office by the members of the Parliament, as one of the mechanisms of Parliamentary oversight, refer to the request of statistical data (54%), part of which is reflected in the annual written reports presented by the General prosecutor to the Parliament or published by the National Statistics Office on its website. Processing of the part of the statistical data requested by MP's does not fall under the competence of the Prosecutor's Office. The content of the written questions show that MP's does not effectively use this mechanism;

- Supervision over the activities of the Prosecutor's Office was not as well carried out by the State Audit Office in 2019-2022, duty of which is to control the use and spending of budgetary funds and other material values allocated to the Prosecutor's Office;
- Prosecutorial Council which is created to ensure independence, transparency and effectiveness of the Prosecutor's Office, heard the report of the Prosecutor's Office only once since 2019, while law requires such hearing to be conducted in every 6 months;
- Information on hearings of the Prosecutorial Council is not provided to the public in reasonable time. Also, thorough information (protocols of hearings of the Prosecutorial Council, ordinances and etc) on activities of the Council is not public;
- Members of the Prosecutorial Council are not given reports of the General Prosecutor in advance within a reasonable time (as it is in the case of Parliament), which would give them opportunity to prepare for the hearing. Therefore, members of the Council hear a report (which exceeds 100 pages) directly on the hearing and issue recommendations on the same hearing. Despite the fact, that Chair of the Council offers members of the Council to share additional recommendations through e-mail, the number of recommendations is not changed later;
- Reports of the Prosecutor's Office mainly reflect statistical data (graphs where increase/decrease are shown) and do not explain content behind the data, except for rare exceptions. None of the reports of the Prosecutor's Office contain a response to the main question – what is the criminogenic situation in the country, is it improved or deteriorated. Reports reflect information on criminal justice policy carried out by the Prosecutor's Office, however, it does not reflect consequences of such criminal justice policy. As a rule, there is no explanation why the policy is tightened, changed, softened. Statistical information is not presented according to a single standard - the data is presented from different years. Among them, some data are compared to the situation 12-14 years ago. Reports do not contain statistical data on crucial directions of the work of the Prosecutor's Office and its main functions. While the report contains information on the analytical and research activities carried out by the Prosecutor's Office, in no case the content of the research - identified tendencies, results, findings and other important information is reflected in the report. The report has no information on the role of the Prosecutor's Office in the field of human rights. None of the reports reflect challenges/shortcomings with respect to quality of investigation identified in the course of prosecutorial

supervision. None of the reports presented to the Parliament by the General Prosecutor reflect challenges/impediments identified in the course of supporting state charges in the Court;

- Members of the Parliament practically do not participate in the work of the Prosecutorial Council. As a rule, they don't attend hearings or if they attend, are not engaged in it. Judge members and NGO representatives elected by the Parliament also have a passive role in the work of the Prosecutorial Council. As a rule, they don't ask questions, don't participate in elaboration of recommendations;
- Absolute majority of the questions asked by the members of the Council are neutral and mostly refers to the future plans and vision of the Prosecutor's Office, rather than results reflected in the reports. Only few number of questions addresses challenges and shortcomings, reflected in the report presented to the Prosecutorial Council;
- Members of the Prosecutorial Council always positively evaluate the reports of the General Prosecutor. All members of the Council are satisfied with the presented report. None of them have ever expressed different opinions or made critical remarks on the content of the report. Lawyer, nominated by the Ministry of Justice and elected by the Parliament, is an exception. She emphasizes the challenges that the lawyers face in relation with the Prosecutor's Office, but the problematic issue raised by this member of the Prosecutorial Council is not reflected in the recommendations issued by the Prosecutorial Council;
- Annually increased number of recommendations issued by the Prosecutorial Council do not respond to the most important challenges that the Prosecutor's Office is facing and shortcomings which are clearly identified in the reports. The Prosecutorial Council does not thoroughly discuss the recommendations to be issued - the practice of meeting the members of the Prosecutorial Council and discussing the recommendations before or after the session of the Council is not implemented. In some cases, the deliberation of the Council on the recommendations to be given to the Prosecutor General (which is sometimes held at the same session) is attended by the Prosecutor General and his deputies, which may hinder the expression of opinions by the members of the Council regarding the content of the recommendations;
- While the manner of formation and composition is essential for the effective role of the Prosecutorial Council, legislation limits the possibility of the employees of the Prosecutor's Office (prosecutors, investigators) to freely nominate their candidate as a member of the Council and exclude their election

to the Council without the involvement of the management of the Prosecutor's Office. In addition, experience requirements for different members of the Prosecutorial Council vary according to the legislation. Only one of the current non-prosecutor members of the Prosecutorial Council has experience in criminal law. According to the records of the meetings of the Prosecutorial Council, it is established that such members do not/cannot play an active role in the work of the Council;

- The role of the non-governmental sector is passive in the process of formation of members of the Prosecutorial Council. The Prosecutorial Council is currently represented by a person from a non-governmental organization whose work is not available in open sources and is unknown to the public. Not a single non-governmental organization, working on the issues within the competence of the Prosecutor's Office, has nominated a candidate to the Parliament of Georgia for the membership of the Prosecutorial Council;
- One of the judges represented in the Prosecutorial Council has been sanctioned by the United States for significant corruption. No extraordinary meeting of the Prosecutorial Council has held in this regard, and the Prosecutorial Council has not considered what impact may this have on the reputation of the Prosecutorial Council;
- The Prosecutor's Office periodically presents reports on particular crimes with the participation of other state agencies and non-governmental sector, however, the Prosecutor's Office has not implemented the practice of presenting a report of its activities to the media and/or civil society;
- As for the response of the Prosecutor's Office to the request for public information, the study shows that the content of the answers almost never fully addresses the questions asked by the interested persons (including members of the Parliament);
- The official web-site and Facebook page of the Prosecutor's Office, which is used by the Prosecutor's Office for active communication with the public, contains large volume of information on re-training of employees of the Prosecutor's Office, awareness raising campaigns conducted by the Prosecutor's Office, launching of criminal prosecution, application of pre-trial measures, court rulings, appeals. As a rule, the Prosecutor's Office does not disseminate information of launching of investigation, refusal to launch investigation, progress of investigation, including on high profile cases. In addition, the website of the Prosecutor's Office of Georgia does not actually publish information related to the consequences of the criminal justice policy carried out by the

Prosecutor's Office, the assessment of the criminogenic situation in the Country, measures taken by the Prosecutor's Office to protect human rights. Also, the Prosecutor's Office does not publicly speak about the challenges in the system, the shortcomings in the process of implementation of prosecutorial activities. The role of the General Prosecutor in the process of communication with the public is also passive.

The above-mentioned reveals that the Parliament of Georgia has not carried out a function of supervision over the Prosecutor's Office of Georgia after its separation from the Ministry of Justice and its establishment as an independent state institution. Also, the process of using and spending budgetary funds and other material values allocated for the Prosecutor's Office has not been evaluated by the State Audit Service. The only body to which the Prosecutor General was submitting reports (in violation of the legal deadlines) was the Prosecutorial Council, composition, manner of formation and the content of the issued recommendations of which make it clear that it does not have and cannot have a real and tangible impact on the activities of the Prosecutor's Office.

It should also be noted that the 2022-2027 strategy of the Prosecutor's Office does not say anything about the need to improve the quality of accountability of the Prosecutor's Office. The Prosecutor's Office does not see the current situation regarding accountability of the Prosecutor's Office as a challenge. Accordingly, neither the improvement of the legal framework nor any effective practical steps are considered.⁵

5 See. *Strategy of the Prosecutor's Office (2022-2027)*, <https://pog.gov.ge/uploads/7f5da215-saqarT-velos-prokuraturis-2022-2027-wlebis-strategia.pdf>



III. METHODOLOGY OF THE STUDY

In order to assess the quality of accountability of the Prosecutor's Office of Georgia, the following work was carried out within the framework of the study:

- International regulations, legislation and reports of activities of the Prosecutor's Offices of different countries on the accountability of the Prosecutor's Office were studied. At the initial stage general information on prosecutorial systems and accountability mechanisms of the countries which could be interesting for Georgia's context, considering various factors, were identified: Baltic States (Lithuania, Latvia) – post-Soviet and currently EU member states, having managed to build democracy in a short period of time; Ukraine and Moldova – countries of associated trio and EU membership candidate states; Balkans (Albania, North Macedonia, Serbia, Montenegro), which are in the course of EU membership negotiations; Other democratic countries, which have accountability system of the Prosecutor's Office before the Parliament. After obtaining general information about the prosecution systems and accountability mechanisms of the above-mentioned countries, the circle of research countries was narrowed and Lithuania, Latvia, Switzerland, Australia, Canada, England and Wales were subjected to in-depth study. Activities of the Prosecutor's Offices of these countries are interestingly presented in their reports. Therefore, sharing their practices is interesting for Georgia;
- 2022-2027 Strategy of the Prosecutor's office was analysed in light of accountability;
- 2020, 2021, 2022 activity reports of the Prosecutor's Office presented to the Parliament within last three years were studied and analyzed;
- Information requested from the Parliament regarding the review of activity reports of the Prosecutor's Office and other state agencies by the Parliament, the written questions sent by the members of the Parliament to the Prosecutor's Office, the assignments given by the Parliament to the Prosecutor's Office based on the report of the Public Defender, and the election of the members of the Prosecutorial Council by the Parliament were analyzed;

- The public information published on the official website of the Parliament of Georgia regarding the accountability of the Prosecutor’s Office was studied;
- Reports on the activities of the Prosecutor’s Office of Georgia submitted to the Prosecutorial Council for the last three years (2020, 2021, 2022) were studied and analyzed;
- Audio-video recordings of the sessions of the review of the reports on the activities of the Prosecutor’s Office by Prosecutorial Council for the last three years (2020, 2021, 2022) were studied and analyzed;
- The information requested from the General Prosecutor’s Office and Prosecutorial Council about the sessions of the Prosecutorial Council and their recommendations were analyzed;
- Website of Prosecutorial Council, FB page of the Prosecutor’s Office and information posted therein were analyzed;
- Information published on the website of the Prosecutor’s Office in 2022 was analyzed;
- Based on the pre-developed questionnaire, interviews on the issues of accountability of the Prosecutor’s Office were conducted with 4 members of the Prosecutorial Council (2 – prosecutor members, 1 – member of the Parliamentary opposition, 1 – NGO representative elected by the Parliament), 4 members (Ana Natsvlishvili, Mikheil Daushvili, Khatia Dekanoidze, Iago Khvichia) of the Parliamentary opposition (Lelo, For Georgia, UNM, Girchi), 4 representatives of NGO’s (GYLA, TI, Social Justice Center) and 3 members of Public Defender’s Office.

In order to conduct an interview, a meeting was also offered to the representatives of the Parliamentary majority of the Legal Affairs Committee of the Parliament of Georgia. For this purpose, the Head of the Committee’s Office was contacted twice and information was provided about the essence and terms of the project, however, the Committee did not express a position on inclusion in the project, nor did it refuse to participate in the project.

It should be noted that the information requested for the purposes of the research was provided by the Parliament of Georgia in full and within the legal deadlines. As for the Prosecutor’s Office of Georgia, it did not provide the following information requested for the purposes of the research: the action plan developed on the basis of the 2022-2027 strategy of the Prosecutor’s Office and the protocols of the meetings of the Prosecutorial Council.



IV. ACCOUNTABILITY OF THE PROSECUTOR'S OFFICE BEFORE THE PARLIAMENT OF GEORGIA

One of the widespread mechanisms of accountability of the Prosecutor's Office is accountability before the Parliament. International regulations limit the scope of the Parliament's authority in the course of Parliamentary control. In particular, setting general principles and criteria by the legislative branch according to which the Prosecutor's Office decides on individual cases is considered to be a normal practice, while, interference in decision-making on particular criminal cases by the legislative branch is considered as a threat to independence of the Prosecutor's Office.

Venice Commission highlights that the prosecutor must be accountable before Parliament on the issued of general policy, not on decisions regarding particular cases.⁶ Prosecutor must not have an obligation to report before National Assembly (meaning Parliament) over particular cases.⁷ The role of the legislative branch, Ministry of Justice and the Government in defining criminal justice policy is crucial, however, launching-refusal to launch criminal prosecution on particular cases is only up to the prosecutor to decide. General Prosecutor must transparently explain how general instructions were implemented, however, launching-refusal to launch criminal prosecution on particular cases must be excluded from Parliamentary control.⁸

The Organization for Economic Cooperation and Development (OECD) in its 2020

⁶ See. *The Independence of Judges and Prosecutors: Perspectives and Challenges*, P.10, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-UDT\(2011\)008-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-UDT(2011)008-e)

⁷ See. CDL-AD (2013)006, *Opinion on the Draft amendments to the Law on the Public Prosecution of Serbia*, §25, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)006-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)006-e)

⁸ See. *Independence of Prosecutors in Eastern Europe, Central Asia and Asia Pacific*, P. 55, Para. 1.5., <https://www.oecd.org/corruption/The-Independence-of-Prosecutors-in-Eastern-Europe-Central-Asia-and-Asia-Pacific.pdf>

study „Independence of Prosecutors in Eastern Europe, Central Asia and Asia Pacific“ highlights that autonomy of the Prosecutor’s Office is balanced by accountability before the branches of the Government, judiciary, public and the Prosecutor’s Office internally. The General Prosecutor is accountable on the general activities of the Prosecutor’s Office. Interference in decision-making on particular cases is inadmissible.⁹ According to the same report, 85% of the countries studied within the framework of the report (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Cambodia, Cook Islands, Estonia, Georgia, Kyrgyzstan, Latvia, Lithuania, Malaysia, Moldova, Mongolia, Philippines, Romania, Serbia, Slovenia, Timor-Leste, Ukraine, Uzbekistan and Vietnam) require the Attorney General to present a report to the executive or legislative branch. These reports include, inter alia, the status of implementation of the general instructions and guidelines issued to the prosecutors office (where issued).¹⁰

Georgia’s legislation sets the accountability of the Prosecutor’s Office of Georgia to the Parliament, the scope of which complies with international standards. In particular, the Parliament of Georgia determines the main directions of the criminal justice policy. In addition, the Prosecutor General is obliged to submit an annual report to the Parliament of Georgia on the results of the implementation of the criminal justice policy and the general criminogenic situation in the Country, which does not include information on particular criminal cases.

1. LEGISLATIVE REGULATION OF THE ACCOUNTABILITY OF THE PROSECUTOR’S OFFICE BEFORE THE PARLIAMENT

The Constitution of Georgia, the „Organic Law on the Prosecutor’s Office“ and the Rules of Procedure of the Parliament of Georgia regulate accountability of the Prosecutor’s Office of Georgia to the Parliament.

According to the Article 65 (3) of the Constitution of Georgia, The Prosecutor’s Office submits an activity report annually to the Parliament.

According to Article 68 of the „Organic Law on the Prosecutor’s Office“, Parliamentary control of the activities of the Prosecutor’s Office is carried out by hearing the parliamentary report on the activities of the Prosecutor’s Office.

⁹ See. *Independence of Prosecutors in Eastern Europe, Central Asia and Asia Pacific*. P. 55, Para 1.5., <https://www.oecd.org/corruption/The-Independence-of-Prosecutors-in-Eastern-Europe-Central-Asia-and-Asia-Pacific.pdf>

¹⁰ See. *Independence of Prosecutors in Eastern Europe, Central Asia and Asia Pacific*, P. 55, Para 1.5.1., <https://www.oecd.org/corruption/The-Independence-of-Prosecutors-in-Eastern-Europe-Central-Asia-and-Asia-Pacific.pdf>

For this purpose, the General Prosecutor of Georgia, once a year, no later than May 15, submits a report on the activities performed by the Prosecutor's Office in the previous year to the Parliament of Georgia. The organic law also specifies the list of issues that should be included in the report.

Article 172 of the Rules of Procedure of the Parliament of Georgia, which determines the obligation of the General Prosecutor to submit a report on the activities of the Prosecutor's Office in the previous year to the Parliament once a year, no later than May 15, and the requisites of the report, also establishes the procedure for consideration of the report by the Parliament (and makes reference to Article 176 (2-5, 9) of the Rules of Procedure of the Parliament).

According to the Rules of Procedure of the Parliament of Georgia, the report submitted by the General Prosecutor of Georgia to the Parliament of Georgia goes through the following stages:

- The Organizational Department of the Parliament's Apparatus presents report to the next hearing of the Bureau of the Parliament after the report is submitted by the General Prosecutor;
- The Bureau of the Parliament decides on the initiation of the report review procedure, determines the leading committee and the terms of the Parliamentary review of the report at the next session;
- After the meeting of the bureau, the report is submitted to the leading Committee, other committees and factions for consideration;
- Committees and factions of the Parliament shall submit their comments on the report to the leading committee within the period determined by the Bureau of the Parliament;
- The leading committee reviews the report, prepares a conclusion and submits it to the Bureau of the Parliament within the time limit determined by the bureau;
- After the meeting of the bureau, the report will be discussed at the plenary session according to the procedure established for the first reading of the draft law;¹¹

¹¹ According to the Rules of Procedure of the Parliament of Georgia, the discussion of the report at the plenary session of the Parliament is mandatory, if the relevant law provides for the participation of the Parliament in the staffing of the agency presenting the report. As the General Prosecutor of Georgia is elected by the Parliament of Georgia, consideration of the report on the activities of the General Prosecutor submitted to the Parliament of Georgia is mandatory at the plenary session, Article 176(6), <https://parliament.ge/legislation/reglament/1560>

- After reviewing the report, the Parliament evaluates the activities of the Prosecutor's Office by resolution recommendations and proposals related to the elimination of specific shortcomings/or improvement of the work of the Prosecutor's Office may be specified in the resolution of the Parliament;
- Fulfillment of the resolution is overseen by the Legal Committee of the Parliament.

2. CONTENT OF THE REPORTS PRESENTED TO THE PARLIAMENT BY THE PROSECUTOR'S OFFICE

The „Organic Law on the Prosecutor's Office“ and the Rules of Procedure of the Parliament of Georgia prescribe the list of issues that should be included in the report submitted by the General Prosecutor to the Parliament. It should cover the following issues: Results of the implementation of the criminal justice policy; evaluation of the general criminogenic situation in the Country, including statistical data of widespread crimes, referring to their categories and tendencies; protection of human rights in the course of administration of justice; priorities of the Prosecutor's Office; programs of professional re-training and development of the prosecutors. The report does not contain issues regarding investigation of particular criminal cases, court hearings or/and details of the case.

Within the framework of the study, the reports of the activities of the Prosecutor's Office in the last three years, submitted by the General Prosecutor to the Parliament of Georgia were analyzed: the report of the activities of the Prosecutor's Office in 2020 (115 pages), submitted to the Parliament on May 14, 2021; The report of the activities of the Prosecutor's Office in 2021 (120 pages), submitted to the Parliament on May 13, 2022; Report of the activities of the Prosecutor's Office in 2022 (158 pages), submitted to the Parliament on May 15, 2023.

2.1. THE STRUCTURE OF THE REPORT AND THE MAIN DIRECTIONS OF THE ACTIVITIES OF THE PROSECUTOR'S OFFICE

The structure of the report on the activities of the Prosecutor's Office expresses the directions and priorities of the Prosecutor's Office.

The main structure (chapters) of all three reports are almost identical: Introduction, results of procedural guidance of investigation, juvenile justice, Prosecutor's Office as agency responsible for investigation, fight against specific crimes, jury

trials, prosecutorial supervision and analytical work, human resources and professional development, social guarantees and improvement of working environment, work of the General Inspection, international cooperation, public relations, fulfillment of the recommendations of the Prosecutorial Council, future plans.

As for the sub-chapters of the reports, some of them change every year depending on the legislative changes, the priorities of the Prosecutor's Office and the positive results achieved. For example, In the 2020 report, the chapter on fighting specific crimes provides information on the following crimes: Violence against women and domestic violence, crimes against sexual inviolability and freedom, hate crimes, ill-treatment, trafficking, money laundering, corruption, drug-related crimes. Fight against criminal world („thieves-in-law“) and protection of the rights of PWD's are added in 2021 report, while transnational fraud and cybercrime are added to 2022 report. Also, in the chapter of the Prosecutor's Office as an agency exercising investigative powers, the 2020 report contained the following chapters: launching of investigation, launching of criminal prosecution, judgements (convictions/acquittals), use of artificial intelligence in the course of investigation (program IBM12), return of confiscated property, results of investigations conducted based on the decisions of European Court of Human Rights. In the 2021 report chapter on artificial intelligence is removed, whereas in 2022 report results of investigations conducted based on the decisions of the European Court of Human Rights is removed.

As for the information given in each part (chapter, sub-chapter), in some cases statistical data or/and information about the steps taken in a specific direction have been added, however, in some cases, information similar to previous year(s) is presented - statistics, implemented reforms (sometimes the texts are transferred identically), while the public is interested in the progress of the last year (and not progress 2 years ago).

For example:

2020 report: „Since September 1, 2020, by the order of the General Prosecutor of Georgia, specialized prosecutors, who have completed a training course with the support of the Council of Europe, lead the procedural guidance of crimes committed on the grounds of intolerance.“

2021 report: „Since September 1, 2020, by the order of the General Prosecutor of Georgia, specialized prosecutors, who have completed a training course with the support of the Council of Europe, lead the procedural guidance of crimes committed on the grounds of intolerance.“

2022 report: „Since 2020, specialized prosecutors, who have completed a training course with the support of the Council of Europe, lead the procedural guidance of crimes committed on the grounds of intolerance.”

In order for the recommendations issued within the framework of the study to respond to the current situation, the study analyzed the last report, submitted by the General Prosecutor to the Parliament of Georgia, reflecting information on the activities of the Prosecutor’s Office in 2022, in detail.

2.2. STATISTICAL DATA

One of the interesting issues is the statistical data in the report. The calculation methodology of each statistical data is unclear to the public, which makes their analysis difficult or/and impossible. A memorandum signed in 2010 between the state agencies (Ministry of Internal Affairs, Ministry of Justice, Supreme Court, Ministry of Penitentiary, Probation and Legal Assistance, National Statistics Office) regarding unified report on criminal statistics is available on the website of the National Statistics Office (at that time, the Prosecutor’s Office of Georgia was the subordinated institution of the Ministry of Justice of Georgia). According to the memorandum, annex, which is not available in open sources, is an integral part of the memorandum. Therefore, the origin of each statistical data (calculation method) is unknown.¹² The methodology of the Prosecutor’s Office (if any) for counting/calculating the statistical data the production of which is within the competence of the Prosecutor’s Office is not publicly available. For example, launching of investigation (on cases under the jurisdiction of the Prosecutor’s Office), launching of criminal prosecution, recognizing person as victim, diversion rate and etc. It should be noted that the reports of the General Prosecutor submitted to the Parliament sometimes contain the methodology for calculating specific data. It confuses the public – what causes difference in methodologies and according to which methodology it should evaluate given issue, also given that methodology of the Court is different as well. According to the information provided by the Prosecutor’s Office of Georgia, the statistical methodology is currently being developed, which will be public.

As for the period of statistical data given in the report, different data are presented from different years. In particular:

- Since 2012 - data on juvenile diversion and launching of criminal prosecution;

¹² See. Text of the Memorandum: https://www.geostat.ge/media/39605/statistikis_memorandumi_GEO.pdf

- Since 2013 - data on launching of criminal prosecution;
- Since 2014 - information on the application of custodial and non-custodial restrictive measures on domestic violence and other categories of crimes; stages of signing a plea agreement; application of restrictive measures and results of trials against juveniles; rate of fines, community service and imprisonment applied as a condition of plea agreement; rate of imprisonment applied as a result of substantial hearing (without plea agreement); statistics related to domestic violence;
- Since 2015 – rate of custodial and non-custodial restrictive measures and diversion of adults (above 21 years age);
- Since 2017 – statistics on the criminal cases under the investigative jurisdiction of the Prosecutor’s Office;
- Since 2019 – data on the reports received from the State Audit Office and response to them, also, launching of criminal prosecution on cases involving „criminal underworld“ and drug dealers;
- Since 2020 – data on launching of investigation and criminal prosecution on money laundering cases, confiscation/seizure of property obtained through criminal means, criminal prosecution on transnational fraud and crimes against sexual inviolability and freedom;
- Since 2021 – data on investigation, prosecution and judgments on corruption cases, convicts on the cases involving „criminal underworld“;
- Since 2022 – results of the work of General Inspection, data related to the provision of public information, information on the launching of criminal prosecution based on specific signs of discrimination.

Part of the statistical data is not differentiated by years at all, which makes it difficult to measure progress or/and evaluate the dynamics of response to this crime (for example, the data is given in the following form: „210 cases of confiscation of property from citizens were identified in 2015-2022“, „In 2015-2021, criminal prosecution was initiated against 44 persons for unlawful interference with the journalist’s professional activities“, „77 criminal proceedings have been held since the introduction of the jury trial“; „In 2018-2021, criminal prosecution was launched against 14 persons for alleged crimes committed against human rights defenders“).

For some statistical data, the period specified in the report is explained by legislative changes. For example, information on murder cases tried by a jury is presented since 2011 - the time of the introduction of this institution, as well as statistics on diversion of persons under the age of 21 are presented since the introduction

of this mechanism (since 2010). As for other data, it is difficult to connect them with a specific circumstance. Therefore, it is unclear why some of them are presented from 2014, some from 2017, some from 2019, etc.

It should also be noted that statistical data from 12-14 years ago are presented on issues that show the results of the implementation of strict criminal justice policy during the previous Government or/and indicate the lack of monitoring of the activities of the Prosecutor's Office by the Court. In particular:

- Since 2009, the following data is presented - statistics of acquittals and partial acquittals (in 2009, the rate of acquittals was 0.3% and in 2022 - 10.5%), the amount of the fine directed to the budget based on the plea agreement (in 2009 this amount was 61,989 122, and in 2022 - 31,693,751 GEL); The number of persons sentenced by the court (their number was 19,956 in 2010 and 16,843 in 2022), the ratio of verdicts issued based on substantive hearing and plea agreement (in 2011 the rate of plea agreement was 87% and in 2022 - 71 %);
- Since 2010, the following data is presented - the granting rate of restrictive measures requested by prosecutors (in 2010 was 99% and in 2022 - 82%), the granting rate of detention requested by prosecutors (in 2010 was 99% and in 2022 - 72%), the total number of defendants/convicts placed in penitentiary institutions (in 2010 their number was 23,684 and in 2022 - 9868), the number of juvenile defendants/convicts (in 2010 their number was 209 and in 2022 - 46).

In order to demonstrate progress, some data are accompanied by a comment with a special emphasis on the progress after 2010-2012 (for example, the report states: „As the data shows, the number of adult prisoners placed in penitentiary institutions after 2010-2012 is actually reduced by 50-60%“).

The above-mentioned approach of the Prosecutor's Office, besides making the report politicized, is also an attempt for the public to compare the activities of the Prosecutor's Office in the last year (and the achieved progress or shortcomings) not with the previous recent years (including measuring the annual progress after the election of the current General Prosecutor by the Parliament), but with the period 13-14 years ago.

It should also be emphasized that the report does not present statistical information on specific crimes in a uniform standard. In fact, the Prosecutor's Office of Georgia uses a different approach in the production and presentation of statistics regarding all crimes. In particular, in some cases, information is presented only

about the launching of criminal prosecution, in some cases, along with the information about the launching of criminal prosecution, the indicator of the launching of investigation is given, in several chapters, information is presented about the requested/applied restrictive measures or/and judgments delivered by Court. For example statistical data on launching of investigation and criminal prosecution are presented regarding money laundering; statistical data on launching of investigation, criminal prosecution and convictions are presented regarding corruption. Criminal prosecution and conviction data are presented regarding cases involving „criminal underworld“; data on criminal prosecution and restrictive measures are presented regarding domestic crime, however, data on judgements is not presented on the same crimes; The presentation of information in such a manner does not create a complete picture of the criminal justice policy implemented in a specific direction.

While the Ministry of Internal Affairs of Georgia publishes information on registered crimes,¹³ the report on the activities of the Prosecutor's Office of Georgia presents information on the launching of investigations (which is the correct practice), including the number of criminal cases on which other investigative agencies (for example, the Special Investigation Service, other agencies on corruption) have launched investigation. It is important for the Prosecutor's Office of Georgia to take steps aimed at developing and implementing a unified crime registration methodology.

The report does not provide information on such activities of the Prosecutor's Office as: information regarding investigative/procedural activities restrictivg human rights (how many of them were conducted under a Court ruling and how many under urgent necessity; what is the rate of granting motions of prosecutors); dismissal of investigation or/and criminal prosecution; dismissal of the case by judge during pre-trial hearing; refusal by the Prosecutor's Office to charge a person or change existing charges with less grave ones; number of written recommendations issued by the Prosecutor's Office to the investigative agencies; dismissal of the decision of the subordinate prosecutor by the superior prosecutor; release of persons by Prosecutors arrested by investigative agencies; refusal by defendants to be tried by jury; number of persons recognized as victims, including number of persons denied victims status; appeals and results of appeals. The above-mentioned indicators best show how the Prosecutor's Office fulfills its supervisory function over the investigative bodies and how effective it is in the process of protecting human rights and rights of the participants of criminal proceedings.

¹³ Number of registered crime – number of investigationes launched minus cases where investigation was terminated due to absence of signs of the crime.

It should also be noted that the activity reports provided by the Prosecutor's Office of Georgia do not include information about the activities of the territorial and structural divisions of the Prosecutor's Office, which makes it impossible to assess criminogenic situation in each region and the workload of prosecutors.

2.3. THE RESULTS OF THE IMPLEMENTATION OF THE CRIMINAL JUSTICE POLICY

The reports present information about the criminal justice policy implemented by the Prosecutor's Office in a particular direction, however, not all important issues are covered. In particular, the reports reveal that:

- The goal of the Prosecutor's Office is to introduce a uniform and correct practice;
- During the implementation of the criminal justice policy, special importance is given to the legal interest of the victims, as well as the public interest;
- The priority of the Prosecutor's Office is to spend less resources on criminal prosecution of petty crimes;
- When using alternative mechanisms of criminal prosecution against adults - discretion and diversion - the public interest, the nature of the crime, the resulting outcome, the position of the victim, the personal characteristics of the perpetrator and other circumstances that characterize a specific criminal case are taken into account;
- The alternative mechanism of criminal prosecution - diversion, as a rule, is not used for such crimes, the commission of which caused serious and irreparable consequences;
- Priority is given to the use of an alternative mechanism of criminal prosecution - diversion/mediation against juveniles in conflict with law;
- The criminal justice policy of the Prosecutor's Office is strict towards persons who commit violent crimes, as well as crimes related to the „criminal underworld“ – detention is applied as a restrictive measure, criminal cases are sent to the court for substantial hearing and a plea agreement is formed only in exceptional cases of special cooperation or/and whistle-blowing testimony;
- The criminal justice policy of the Prosecutor's Office is strict towards drug dealers - detention is applied as a restrictive measure against drug dealers, and as a rule, plea agreements are not entered.

The reports do not provide information on such important issues as: the vision and policy of the Prosecutor's Office on theft (while the most criminal prosecutions have been initiated by the Prosecutor's Office against the perpetrators of this crime in recent years); What is the criminal justice policy regarding corruption, also ill-treatment committed by public officials (what measures were taken to prevent this category of crimes, which restrictive measures are requested by prosecutor and applied by Court against defendants of such crimes, whether a plea agreement is signed with them (if yes, under what conditions), whether alternative mechanisms of criminal prosecution are used against them); What is the criminal justice policy of the Prosecutor's Office against defendants having committed hate crimes and also, crimes against journalists/human rights defenders.

In addition, the reports do not contain information about the results of the criminal justice policy implemented by the Prosecutor's Office (while the law requires presentation of such information). For example report does not contain information on what were the consequences of strict criminal justice policy against drug dealers or/and defendants having committed violent crimes, what were the consequences of the strictest criminal justice policy against „thieves-in-law“ and etc. The Prosecutor's Office of Georgia has only measured the results of the use of diversion against juveniles.

In the reports (as well as in previous years), as a rule, it is not explained what is the reason for tightening, changing or softening criminal justice policy. For example, why the detention rate is decreased (for which crimes and why the Prosecutor's Office softened the policy);¹⁴ What led to the increase in the percentage of plea agreements; While the Prosecutor's Office noted the reduction of the rate of fines when concluding a plea agreement as a positive trend every year, why is the rate of fines increased for the first time after 2014; Why is the rate of use of imprisonment in a penitentiary institution increased as a condition of plea agreement; Why and at the expense of which crime has the number of convicts/defendants in the penitentiary increased; Why is the rate of plea agreements with juveniles low compared to adults; What led to the increase in the rate of launching of investigations by the Prosecutor's Office (as an investigative body), etc.

In some rare cases, the Prosecutor's Office explains the reason for the increase/decrease of this or that data. For example, the reason for the increase in the motion for detention is the increase of the quality of substantiation of motions by the prosecutors. The development of guidelines for prosecutors is named as the reason for the increase in the rate of diversion of adults. It should also be em-

¹⁴ Regarding the decrease in detention, it is only indicated that the rate of requests for detention for domestic crimes in 2021-2022 decreased slightly (the reason is not explained).

phasized that the increase/decrease of some indicators is explained by irrelevant circumstances.

It should be noted that Strategic Development and Criminal Justice Policy Council is created in the Prosecutor's Office. One of the functions of this council is to discuss issues related to elaboration and improvement of guiding principles of criminal justice policy, strategy and action plan and issue recommendations. Although one chapter of the report is devoted to the work of this Council and it is noted that in 2022 the council discussed the 2022-2027 Strategy of the Prosecutor's Office of Georgia and drafts of changes planned to be made to the evaluation system of the Prosecutor's Office, as well as the 2021 activity reports of the territorial units of the Prosecutor's Office, no information is provided by the Council About the recommendations issued in the direction of the criminal justice policy. Therefore, it is not seen how effective the Council's work is in this direction.

2.4. EVALUATION OF THE GENERAL CRIMINOGENIC SITUATION

According to the „Organic Law on the Prosecutor's Office“ as well as Rules of Procedure of the Parliament, the report must contain an assessment of the general criminogenic situation in the country, including statistical indicators of widespread crimes, indicating their categories and trends.

The activity reports of the Prosecutor's Office of Georgia mainly contain dry statistical figures (graphs showing the decrease and increase). As a rule (with rare exceptions), it is not explained what is the content behind these numbers.

Not a single report describing the activities of the Prosecutor's Office has an answer to the main question - what is the criminogenic situation in Georgia - has it improved or worsened. In 2022, the rate of launching of criminal prosecution increased significantly. The report does not explain what caused the increase in the rate of launching of criminal prosecutions and whether it is related to the deterioration of the criminogenic situation. The reports submitted by the Prosecutor's Office to the Parliament do not show the role of the Prosecutor's Office as a coordinating agency in the fight against crime - what steps the agency has taken to improve the criminogenic situation, eliminate the causes and contributing factors of crime.

There are few criminogenic studies, the promotion of which is defined as the competence of the General Prosecutor. In 2022, only a survey of the characteristics of diverted juveniles was conducted. According to the report, the information in-

licated in the survey, may represent the causes of juvenile delinquent behavior. Also, crimes committed on the grounds of religious intolerance in 2018-2021 were analyzed, which, according to the report, also includes criminological aspects of this category of crime.

In addition, the Prosecutor's Office rarely informs the public about the methods of committing a specific category of crimes, while this information is essentially important for crime prevention. In the 2022 report, such information is given only in relation to two categories of crime – methods of committing the crime of so-called "call-centers" and the methods used by drug dealers.

In general, prosecution reports lack analytics. Although the report includes information on the analytical and research activities carried out by the Prosecutor's Office, in no case is the content of the studies - revealed trends, results, conclusions and other important information - reflected in the report. For example, the reports indicate that the reasons for acquittals were analyzed, but although the number of acquittals has increased, the findings of the analysis are not given.

2.5. PROTECTION OF HUMAN RIGHTS IN THE COURSE OF ADMINISTRATION OF JUSTICE

Reports contain the most scarce information regarding this issue. In particular, the reports does not contain any information on the role of the Prosecutor's Office, which is assigned to it in protection of human rights. In particular, the reports does not provide information on the following important issues:

- The results of supervision of the Prosecutor's Office on the legality of the operative-search measures and the decisions made by the operative-search bodies;
- Results of the response of the Prosecutor's Office over the violation of the rights of persons deprived of their liberty;
- Results of the monitoring of the protection of human rights in the course of procedural guidance – information on deciding the appeals of the actions of investigator, information on submissions presented to eradicate violation of law, reasons and contributing factors to it, information on supervision of the conduct of investigative/procedural activities restricting human rights (For example.: release of arrested person, approval/dismissal of investigative/procedural activities conducted un the state of emergency by the Court). The results of monitoring the protection of human rights during the implementation of

procedural guidance - information about the complaints considered regarding the investigator's actions, information about the submissions of prosecutor to eliminate the violation of the law, its causes and triggering factors, information about the conduct of investigative and procedural activities restricting human rights and their supervision (eg: regarding the release of the detainee, approval/dismissal of the investigative/procedural activity by the court conducted in case of urgency);

- Information about the complaints considered by the superior prosecutor regarding the actions of the subordinate prosecutor.

In general, none of the reports submitted by the General Prosecutor to the Parliament of Georgia indicate the challenges/shortcomings identified by the Prosecutor's Office during the process of procedural supervision with respect to the quality of investigations conducted by investigative agencies. The only investigative agency, which the General Prosecutor pointed out in the report, was the State Inspector's Service, which investigates about 1% of registered crimes in Georgia (after the Parliament of Georgia made a decision to abolish this service).¹⁵

Also, none of the reports submitted by the General Prosecutor to the Parliament of Georgia mentions the challenges/obstacles in Court in the process of supporting the state prosecution. The reports only cite the difficulty of selecting jurors as a challenge, which is associated with extended time frames, but nothing is said about the delay in the trials (which is evident from the analysis of the statistical data cited in the reports).

2.6. PROGRAMS FOR PROSECUTORS' PROFESSIONAL RE-TRAINING AND DEVELOPMENT

The reports provide the most complete information about the steps taken and the reforms implemented in the direction of professional re-training and development of prosecutors.

A large part of the reports is dedicated to the activities carried out in the direction of retraining and raising the qualifications of the employees of the Prosecutor's Office. For example, the 2022 report provides detailed information on 135 activities conducted by the employees of the Prosecutor's Office of Georgia using internal resources and with the support of international donor organizations.

¹⁵ See. *The 2021 Activity Report of the Prosecutor's Office*, P. 61-62, <https://pog.gov.ge/uploads/fbe6749f-13-maisi-angarishi.pdf>

3. PRACTICES OF OTHER COUNTRIES

The General Prosecutor of Lithuania, who is accountable to the Parliament, in the report submitted to the Parliament puts the main emphasis on the following - „Trust of the citizens of Lithuania“. The entire speech of the General Prosecutor echoes this goal - he especially thanks the employees of the Prosecutor’s Office for the attention and care shown to the victims; for the extra voluntary (and not mandatory) efforts prosecutors make towards victims. He thanks prosecutors for considering serving the people as an honorable duty and not as a privilege granted by the State. According to the preface, the figures, statistics, indicators in the report are important as they show the sincere desire to serve the Lithuanian people. The overall report interestingly echoes the goal stated in the preface – „Trust of the citizens of Lithuania“. In particular, the indicators that determine public confidence in the activities of the Prosecutor’s Office are presented. For example: statistical data showing that courts rarely overturn prosecutors’ decisions; Statistical data indicating that the Court of Appeal and the Supreme Court often change decisions based on the prosecutor’s appeal. In addition, it is striking to reflect statistical data unfavourable for the Prosecutor’s Office in the report (eg: increase in corruption, acquittals). Also, explanation of statistical data is provided. For example, different assessment of the elements of the crime by the prosecutor and the Court is named as a reason for acquittals. Also, information is provided about the difficulties of investigating a specific category of cases.¹⁶ Statistical data are presented from 2018.

The report of the Prosecutor’s Office of Latvia is largely focused on presenting the achievements of the Prosecutor’s Office during the reporting period. It includes information on the steps taken by the Prosecutor’s Office in the direction of raising qualifications of prosecutors, managing human resources, prosecutors’ workload and evaluation system, elaborating a long-term strategy for the development of the Prosecutor’s Office, creating a statistical/analytical module, and electronic investigation programs. The report presents the activities of the Prosecutor’s Office according to structural and territorial divisions as well as priority crimes in detail. Statistical data for 2021 is compared with the previous 3-year period.¹⁷ It is worth noting that the main findings and recommendations of the Audit Service of Latvia dated January 11, 2021 („Does the activity of the Prosecutor’s Office of Latvia need improvement?“) evaluates the annual reports of the Prosecutor’s Office of Latvia as insufficient. According to the document, the Rules of procedures of the Parliament do not specify the procedures for review of the report, also, the re-

¹⁶ See. 2021 Activity Report of the Prosecutor’s Office of Lithuania, <https://www.prokuraturos.lt/data/public/uploads/2022/03/2021-m.-ataskaita-2022-03-01-nr.-17.9.-222803.21.pdf>

¹⁷ See. 2021 Activity Report of the Prosecutor’s Office of Latvia, https://prokuratūra.lv/media/Normative_akti/Zinojums.pdf

ports contain only quantitative indicators on the state of criminogenic situation in the country, the activities of the Prosecutor's Office, and are devoid of qualitative analysis of the activities of the Prosecutor's Office. According to the assessment of the Audit Service, the report does not say anything, for example, what impact the activities of the Prosecutor's Office have on crime reduction, what measures the Prosecutor's Office plans to take to increase the efficiency and quality of investigation and state support of criminal charges.¹⁸

According to the legislation of Switzerland, the report of the General Prosecutor must include information on the internal organization, general instructions, the number and types of completed and ongoing cases, the use of human, financial and material resources, the number of appeals against the decisions made by the Prosecutor's Office and the results of their consideration.¹⁹ The 2021 report of the General Prosecutor of Switzerland presents information on the mandate (jurisdiction) of the Prosecutor's Office, criminal cases of public importance, cooperation with each law-enforcement agency, the activities of specific units, the progress of the Prosecutor's Office in various areas, budget spending and procurement, human resources, employee satisfaction survey findings, as well as statistical data (all statistical data are presented from 2017).²⁰

A clear separation of functions between the prosecution and investigative agencies is striking in the Australian Public Prosecution Service report.²¹ Also, the Australian Public Prosecutor's Office attaches great importance to the satisfaction of partner agencies with the work of the Public Prosecutor's Office, and to this end conducts an anonymous survey every two years. The report contains the satisfaction rate of partner agencies. Indicators for evaluating the activities of the Prosecutor's Office are presented separately. The report features detailed financial reporting. Unlike other reports, the Australian Attorney General's report highlights inclusion and employee health as a component of employees' well-being.²²

The very first page of the report of the Public Prosecutor's Office of Canada states the mission of the Public Prosecutor's Office - to prosecute federal crimes and

18 See. *Report of the State Audit Office of Latvia*, <https://www.lrvk.gov.lv/en/news/the-state-audit-office-concludes-that-a-better-organised-work-of-the-prosecutors-office-would-improve-the-quality>

19 See. *Criminal Justice Authorities Act (Criminal Justice Authorities Act – CJAA)*, Article 17, https://www.fedlex.admin.ch/eli/cc/2010/444/de#art_7

20 See. *2021 Activity Report of the Prosecutor's Office of Switzerland*, <https://www.bundesanwaltschaft.ch/mpc/en/home/taetigkeitsberichte/taetigkeitsberichte-der-ba.html>

21 See. *2021-2022 Activity Report of the Prosecutor's Office of Australia*, <https://www.cdpp.gov.au/system/files/CDPP%20Annual%20Report%202021-22.pdf>

22 See. *2021-2022 Activity Report of the Prosecutor's Office of Australia*, <https://www.cdpp.gov.au/system/files/CDPP%20Annual%20Report%202021-22.pdf>

protect Canadians. The report includes information on the role of the prosecutor, organizational priorities of the Prosecutor's Office, structure, policy of the Prosecutor's Office, fight against specific crimes, finances, activities of regional offices, human resources, work environment. The report also presents priority criminal cases.²³

In the introduction to the performance report of the Public Prosecution Service of England and Wales, the strategic priorities of the Public Prosecution Service are presented – „Our people, digital capabilities, strategic partnerships, quality of work, public trust“. The achievements of the reporting period are highlighted. Compared to other countries, the mentioned Prosecutor's Office has set public trust as a priority. In the direction of public trust, special emphasis is placed on cases of rape and sexual violence. In particular, according to the Prosecutor's Office, it is very important to clearly explain the decisions made by the Prosecutor's Office for public trust and for people to properly understand the importance of the Prosecutor's Office. Here, the Prosecutor's Office claims that it cannot be unilateral. Therefore, during the reporting period, public engagement channels were activated in order to hear the relevant actors, their concerns, which will be used as a basis for improving the activities of the Prosecutor's Office. The report pays a lot of attention to the satisfaction of the victims with the activities of the Prosecutor's Office (data is presented on how satisfied people are with the effectiveness of the prosecution of the perpetrators). Unlike other reports, values of the Prosecutor's Office are presented separately. In addition to traditional values, it is worth noting the emphasis on the responsibility of the Prosecutor's Office „when spending taxpayers' money“. Also, the protection of the systems is emphasized as a determinant of public trust in the Prosecutor's Office. The report of the Public Prosecutor's Office of England and Wales also differs from other reports in that individual chapters are titled with a kind of slogan (for example: „Our people have the skills and tools to succeed“, „Our people are guided by our values“, „We have confidence in our security systems“, etc.). The report of the Public Prosecution Service of England and Wales is also outstanding in terms of presenting statistical data. Statistical data is not presented as dry, but in terms of measuring the effectiveness of activities. For example, timely prosecution decisions, timely execution of judge's directives, plea agreement at the first hearing. Also, the statistics methodology is presented. The report pays special attention to inclusion and community engagement strategy. According to the Prosecutor's Office, the agency has developed community involvement mechanisms both at the national and local levels. These include the National Public Accountability Forum, external advisory

23 See. 2021-2022 Activity Report of the Prosecutor's Office of Canada, https://www.ppsc.gc.ca/eng/pub/ar-ra/2021_2022/ar22-ra22.pdf

groups, local engagement panels and public discussions led by prosecutors. The aforementioned mechanisms help the Prosecutor's Office to hear directly from the public about issues important to them and take them into account in the decision-making process. According to the report, over the years the Prosecutor's Office has implemented various programs to explain to member of the Parliament the role and functions of the Prosecutor's Office and the priorities of the Prosecutor's Office (the Prosecutor's Office has an important responsibility to advise MPs so that any legislative changes serve the purpose of investigating cases effectively). Independence of decision-making from the Government and the Police is emphasized („We must always be fair, objective and impartial to ensure justice for victims, witnesses, accused and the public“). The report also focuses on the work environment, well-being and mental health support of employees, their recruitment and satisfaction surveys. Like other reports, digitalization, sustainability, equality, diversity (gender, sexual orientation, ethnicity, disability) and inclusion are identified as priority areas. The report presents detailed financial statements, including salaries. Statistical data are presented from 2017.²⁴

4. HEARING OF THE ACTIVITY REPORTS OF THE PROSECUTOR'S OFFICE IN THE PARLIAMENT

According to the information provided by the Parliament of Georgia and official website of the Parliament of Georgia, it is established that the reports on the activities of the Prosecutor's Office of Georgia in 2019-2021 have not been reviewed by the Parliament of Georgia. Accordingly, based on the reports, the Parliament of Georgia did not evaluate the activities of the Prosecutor's Office, did not issue any assignments and recommendations.

Regarding reports submitted by the Prosecutor's Office of Georgia, the Bureau of the Parliament of Georgia only made decisions on the initiation of review procedures, meetings were held where the leading committee (Legal Committee) and mandatory committee (Human Rights Protection and Civil Integration Committee) were determined. Estimated dates of committee and plenary sessions were also determined however hearing of the reports was not conducted.

In particular, in 2019, the Bureau of the Parliament of Georgia postponed the review of the report on the activities of the Prosecutor's Office several times based

²⁴ See. 2021-2022 Activity Report of the Prosecutor's Office of England and Wales, https://www.cps.gov.uk/sites/default/files/documents/publications/CPS%20Annual%20Report%20and%20Accounts%202021-22_2.pdf

on the submissions of the Legal Affairs Committee and determined the review date five times (in May, June, September, October and November). As the reason for the request to postpone the review of the report, the Legal Affairs Committee indicated an „objective reason“, although this reason was not named (the letter states as a template that „due to objective reasons, it is not possible to discuss the issue within the specified period“).²⁵

In 2020, the Parliament of Georgia postponed the consideration of the report on the activities of the Prosecutor’s Office twice, again based on the submission of the Legal Affairs Committee. In one case, the state of emergency declared in the country and the situation created by the pandemic, and in the other case, the „objective reason“, which is still not named, was indicated as the reason for postponing the review of the report.²⁶

As for the consideration of the report by the Parliament in 2021 and 2022, on the activities of the Prosecutor’s Office of Georgia in the previous years, the Bureau of the Parliament of Georgia has determined the date of its review in both cases in May (immediately after the submission of the report by the Prosecutor’s Office), after which no decision has been taken to postpone the review of the report. Neither the submission of the Legal Affairs Committee to the bureau on postponing the date of the session, nor the decisions of the Bureau of the Parliament of Georgia are observed.²⁷

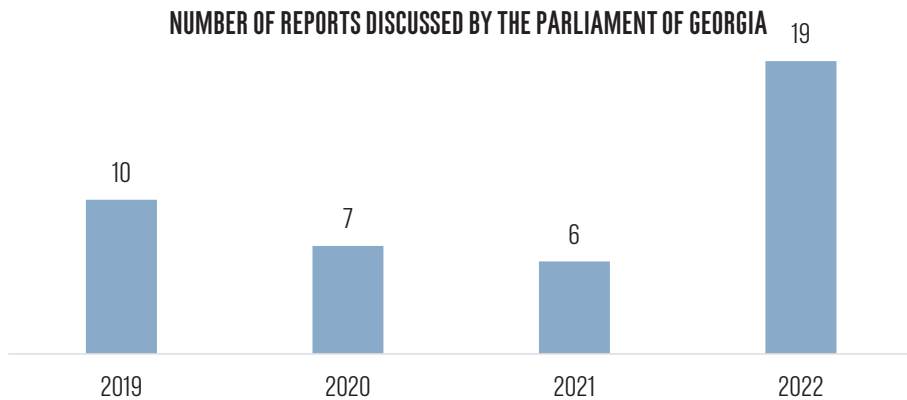
Along with leaving the report on the activities of the Prosecutor’s Office of Georgia unreviewed, it should be noted that in 2019-2022, the Parliament of Georgia discussed the reports on the activities of a number of agencies (a total of 42 reports were discussed). Among them, the Parliament of Georgia reviewed the report of the State Security Service, the report of the State Audit Service, the report of the Public Defender, the report of the National Bank, etc., almost every year. It should be noted that in the process of review of the reports, the heads of the above-mentioned agencies presented themselves in an oral hearing. Also, almost every year (except 2020) the Minister of Internal Affairs and the Minister of Justice appeared

25 See. documentation produced in the Parliament of Georgia concerning hearing of the report of the 2018 activities of the Prosecutor’s Office: <https://parliament.ge/legislation/18102>

26 See. documentation produced in the Parliament of Georgia concerning hearing of the report of the 2019 activities of the Prosecutor’s Office: <https://parliament.ge/legislation/20379>

27 See. documentation produced in the Parliament of Georgia concerning hearing of the report of the 2020-2021 activities of the Prosecutor’s Office: <https://parliament.ge/legislation/22041>, <https://parliament.ge/legislation/24158>

before the Parliament of Georgia.²⁸



Also, in accordance with Article 153 of the Rules of procedure of the Parliament of Georgia in 2019-2022, both the Minister of Internal Affairs of Georgia and the Minister of Justice of Georgia presented reports at the plenary sessions of the Parliament of Georgia in 2019, 2021, 2022 in the minister's hour format.

The above makes it clear that the General Prosecutor of Georgia is an exception, whose report submitted to the Parliament of Georgia in 2019-2022 was never reviewed and no document was issued based on the reports submitted by the General Prosecutor.

²⁸ In 2019, the Parliament of Georgia reviewed the 2018 activity reports of the following agencies: the State Security Service, State Audit Office, Public Defender, Personal Data Protection Service, National Bank, Legal Aid Service, National Statistics Service, National Energy and Water Supply Regulatory Commission, Pension Agency and also, the annual report on the performance of the state budget for 2018.

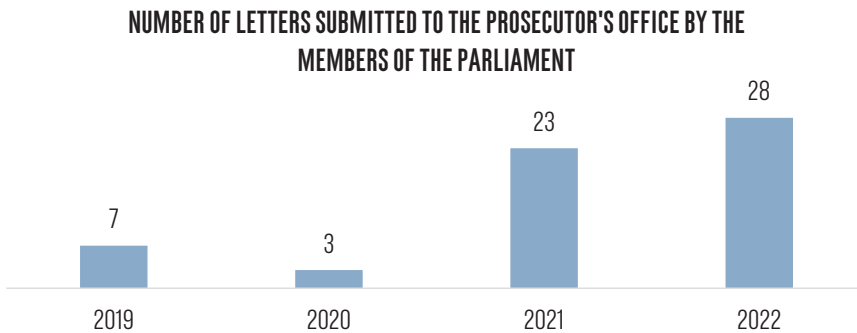
In 2020, the Parliament of Georgia reviewed the 2019 activity reports of the following agencies: the reports of the State Audit Office, State Inspector Service, Public Defender, National Bank, National Energy and Water Supply Regulatory Commission, as well as the 2019 annual report on the implementation of the state budget and the report on the implementation of the Government program.

In 2021, the Parliament of Georgia reviewed the 2020 activity reports of the following agencies: the reports of the State Security Service, State Audit Office, Public Defender, National Bank, as well as the 2020 annual report on the implementation of the state budget and the report on the implementation of the Government program.

In 2022, the Parliament of Georgia reviewed the 2021 activity reports of the following agencies: State Security Service, Public Defender, State Audit Office, National Bank, Legal Aid Service, National Statistics Service, Public Broadcaster, Pension Agency, National Communications Commission, National Energy and Water Supply Regulatory Commission, Labor Inspection Service, National Competition Agency. Also, the 2021 state budget implementation report and the Government program implementation progress report. In addition, the 2020 activity report of several agencies (Legal Assistance Service, Pension Agency, National Energy and Water Supply Regulatory Commission, Public Broadcaster, National Communications Commission) was heard.

5. WRITTEN QUESTIONS SUBMITTED TO THE PROSECUTOR'S OFFICE BY THE MEMBERS OF THE PARLIAMENT

In 2019-2022, in accordance with Article 148 of the Rules of Procedure of the Parliament of Georgia, 61 written questions were sent to the Prosecutor's Office by the members of the Parliament of Georgia.

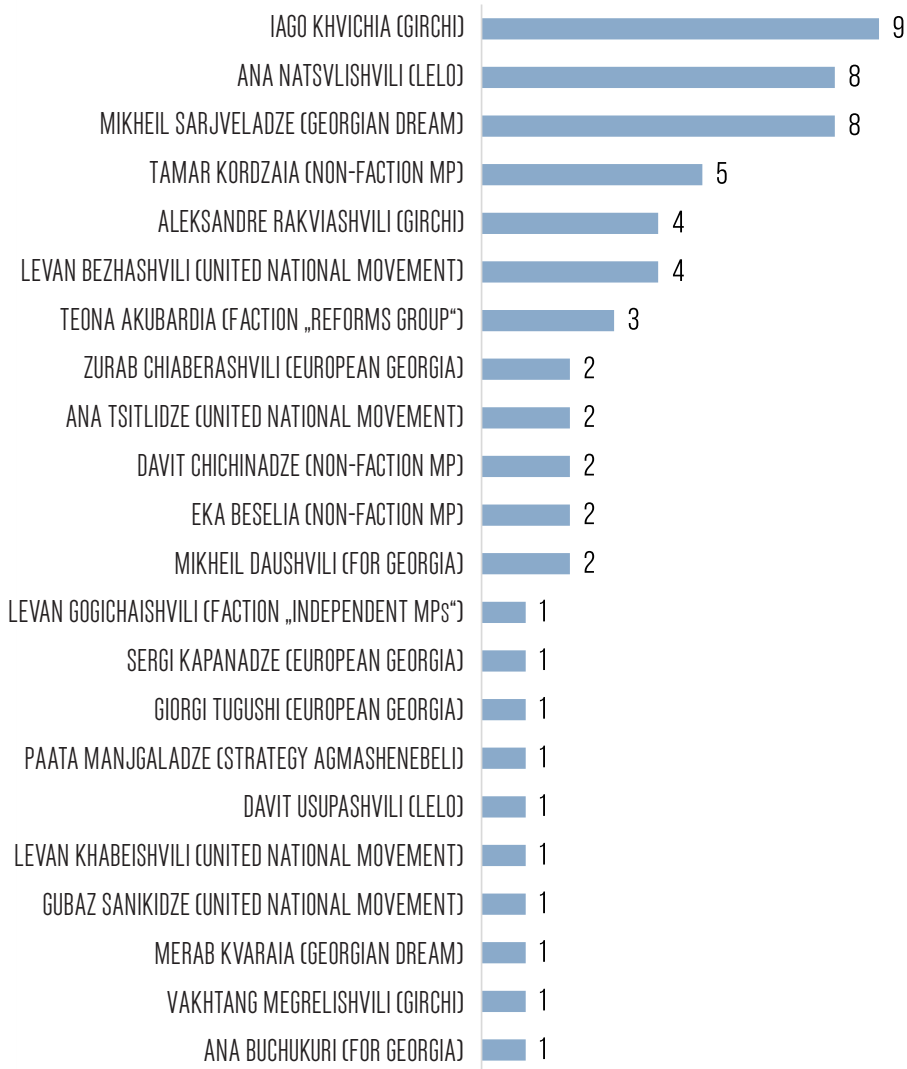


In 2019-2022, the largest number of 61 written questions sent to the Prosecutor's Office by the members of the Parliament of Georgia were sent by the political group „Girchi“ and members of the Parliament not affiliated with any of the factions.



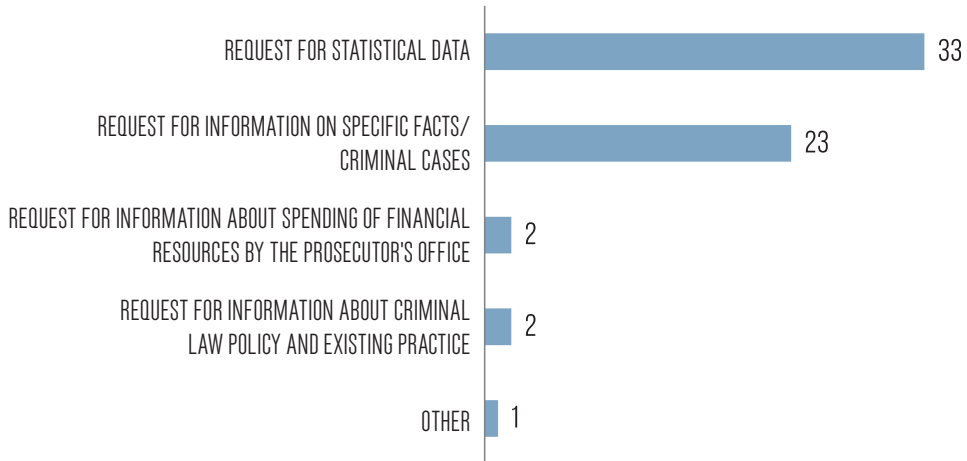
As for the members of the Parliament of Georgia, Iago Khvichia (political party „Girchi“), Mikheil Sarjveladze (political party „Georgian Dream“) and Ana Natsvlishvili (political party „Lelo“) sent the most written questions to the Prosecutor’s Office.

AUTHORS OF THE WRITTEN QUESTIONS SUBMITTED TO THE PARLIAMENT



As for the content of 61 written questions sent to the Prosecutor’s Office by the members of the Parliament of Georgia, 54% of them refer to statistical data, and 37% - request information on specific facts (about the launching of the investigation, the progress or/and results of the investigation).

CONTENT OF THE LETTERS SUBMITTED TO THE PROSECUTOR'S OFFICE BY THE MEMBERS OF THE PARLIAMENT

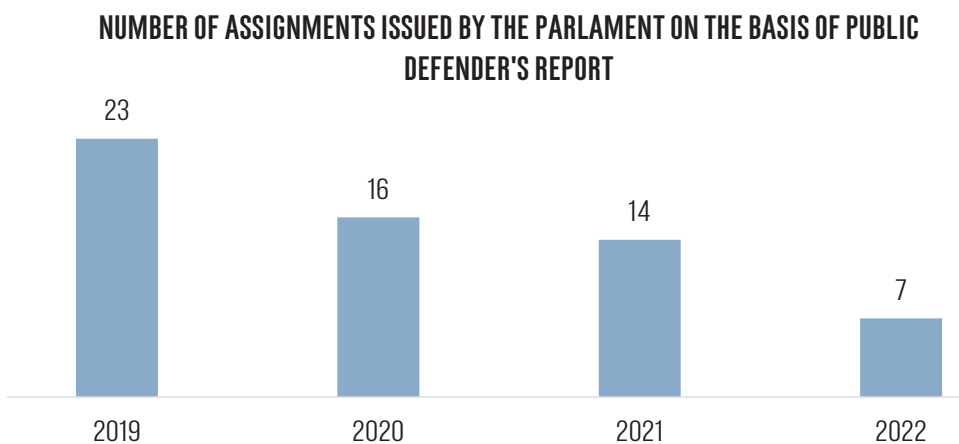


Questions related to statistical data mainly concern the following issues: launching of the investigation/criminal prosecution (including number of arrests) on specific article(s) of criminal code, number of convictions, number of cases tried by jury, data regarding covert investigative activities (motions sent to the Court and Court rulings), number of motions sent to the Court based on the newly discovered circumstances, information on complaints submitted to the Prosecutor's Office regarding specific issues. It is worth noting that sometimes the members of the Parliament requested from the Prosecutor's Office such statistical data, the collection/production of which is not the competence of the Prosecutor's Office, but of another agency (for example, requested information about the number of convicted persons and Court rulings on various issues (on which statistical information is recorded by the Court), about the rate of initiation of investigations and the number of arrested persons (on which information is recorded by the Ministry of Internal Affairs)). 24% of the letters sent to the Prosecutor's Office by the members of the Parliament with the request to provide statistical data were related to the data belonging to the competence of another agency.

As for the information requested by the members of the Parliament of Georgia on the spending of financial resources, they were related to the travel expenses of the officials and the funds used for sponsoring the content of the social pages of the Prosecutor's Office.

6. ASSIGNMENTS ISSUED BY THE PARLIAMENT TO THE PROSECUTOR'S OFFICE ON THE BASIS OF THE PUBLIC DEFENDER'S REPORT

The only mechanism within the framework of which the Parliament of Georgia annually issued assignments to the Prosecutor's Office for the past four years was the assignments issued as a result of the review of the Public Defender's report on the state of human rights and freedom protection. Based on the Public Defender's reports, the Parliament of Georgia adopted 4 resolutions (September 20, 2019; June 29, 2020; July 12, 2021; October 18, 2022), according to which 60 assignments were issued to the Prosecutor's Office.



For the past three years, the Parliament of Georgia has not assessed the state of performance of the tasks assigned to the Prosecutor's Office of Georgia by the resolutions adopted by the Parliament of Georgia in 2020-2022. According to the information provided by the Parliament of Georgia, the Human Rights Protection and Civil Integration Committee has assessed only the state of fulfillment of 23 tasks issued to the Prosecutor's Office of Georgia by the resolution of the Parliament of Georgia on September 20, 2019, the performance rate of which is low (at the time of the evaluation, only 9 of them (39%) were fulfilled and 14 were in the process of execution).²⁹

²⁹ Information provided by the Parliament of Georgia by its May 23, 2023, №3783/2-7/23 letter.

Regarding the content of the given assignments:

- 13 of them related to the reflection of information about a specific category of crimes (investigation, applied criminal justice policy) in the report of the Prosecutor's Office;
- 12 - informing the public about the progress of the investigation of a specific/ individual criminal case;
- 7 - informing the public about the progress of the investigation and applied criminal justice policy on specific category of crimes;
- 6 - informing Public Defender on the conduct of investigative and procedural activities regarding specific categories (or individual) of criminal case(s);
- 5 - conduct of effective criminal investigation (including summary decisions) on specific cases;
- 4 - informing the public about official misconduct established during the investigation of specific criminal cases;
- 3 - implementing an effective criminal justice policy on specific category of criminal cases;
- 3 - analysis of criminal cases/statistics or/and production of segregated statistics on specific categories of crimes;
- 2 - to thoroughly investigate certain circumstances(s) of a specific category of crimes;
- 1 - effective investigation of specific category of crimes and implementation of effective procedural supervision over it;
- 1 - to submit detailed information to the Parliament about the ongoing investigation of a specific criminal case;
- 1 -strengthening of preventive measures for specific category of crimes;
- 1 - raising the qualifications of prosecutors and investigators;
- 1 - ensuring publicity of reports of witness and victim coordinators.

In the assignments issued by the Parliament of Georgia to the Prosecutor's Office (almost every year), special emphasis is placed on the following categories of crimes: infringement of privacy, infringement of the right to life, hate crime, election-related crimes, violence against women, ill-treatment. Most of the assigned

tasks relate to the effective investigation of this category of crimes, their analysis, the production of complete statistical data regarding them, informing the public and the Public Defender about their investigation.

One of the interesting issues is the formulation of the assignments outlined in the resolutions of the Parliament of Georgia. In particular, part of the assignments in the 2019 and 2020 resolutions of the Parliament of Georgia refer to the provision of information to the Parliament of Georgia about the progress/effectiveness of the investigation of a specific criminal case or/and a specific category of crimes (while according to Article 68 of the „Organic Law of Georgia on the Prosecutor’s Office“, the report on the activities of the Prosecutor’s Office should not include issues related to the investigation of a specific criminal case, court hearing or/and the individual circumstances of the case. In addition, the General Prosecutor, his first deputy or the deputy cannot be asked questions related to the investigation of a specific criminal case, court hearing or/and specific circumstances of the case in the Parliament of Georgia). The wording of the tasks in the resolutions adopted by the Parliament of Georgia in 2021 and 2022 is much more careful and does not refer to the request for a report on specific criminal cases.

For example:

The resolution adopted by the Parliament of Georgia on September 20, 2019 – „In case of discovery of new circumstances, the Prosecutor’s Office of Georgia shall reflect information on the ongoing investigation and activities carried out in the cases of all criminal acts detected during the election period in the activity report of the Prosecutor’s Office of Georgia submitted to the Parliament of Georgia in accordance with Article 172 of the Rules of Procedure of the Parliament of Georgia.“

Resolution adopted by the Parliament of Georgia on September 20, 2019 – „The Prosecutor’s Office of Georgia should provide detailed information about the ongoing investigation into the actions against the Muslim population in the village of Samtatskaro in 2012-2014.“

Resolution adopted by the Parliament of Georgia on June 29, 2020 – „The Prosecutor’s Office of Georgia, in accordance with Article 68 of the „Organic Law of Georgia on the Prosecutor’s Office“ and Article 172 of the Rules of Procedure of the Parliament of Georgia, should include information on the progress of the investigation of all violent acts detected during the election period and the activities performed in 2018 and 2019, in the report of the Prosecutor’s Office of Georgia’s submitted to the Parliament of Georgia“.

Resolution adopted by the Parliament of Georgia on July 12, 2021 – „Prosecutors Office of Georgia in accordance with the article 172 of the Rules of Procedure of the Parliament, to

reflect information on criminal justice policy applied with respect to all violent activities and alleged vote-buying revealed in election period of 2018, 2019 and 2020 years in the activity report (report does not contain issues regarding investigation of specific criminal cases, court hearing and/or individual circumstances of the case) of the Prosecutor's Office presented to the Parliament“ .

Resolution adopted by the Parliament of Georgia on October 18, 2022 – „Prosecutors Office of Georgia in accordance with the article 172 of the rules of procedure of the Parliament, to reflect information on criminal justice policy applied with respect to prevention of the infringement of the right to life, in the activity report (report does not contain issues regarding investigation of specific criminal cases, court hearing or/and individual circumstances of the case) of the Prosecutor's Office presented to the Parliament“.

7. RESULTS OF THE INTERVIEWS CONDUCTED WITHIN THE FRAMEWORK OF THE STUDY

During the interviews conducted as part of the study, the representatives of the Public Defender, the non-governmental sector and the parliamentary opposition noted that, as of today, there is no parliamentary supervision over the Prosecutor's Office, and the accountability of the Prosecutor's Office to the Parliament is completely disrupted. According to the respondents, when the report of the Prosecutor's Office was not discussed either by the committees or at the plenary session and no resolution was issued on the evaluation of the activities of the Prosecutor's Office, it is evident that there is no parliamentary control. For effective parliamentary control, MPs should have the opportunity to ask the General Prosecutor (who is responsible for the activities of the Prosecutor's Office) questions and hear answers from him. The hearing of the report by the Parliament, in addition to parliamentary supervision, also serves the purpose of informing the public. Today this mechanism does not work.

Part of the representatives of the parliamentary opposition also noted that despite the fact that at the meetings of the bureau and committees they have raised issue of hearing the General Prosecutor in the Parliament, there is not enough pressure/activity on the part of the opposition regarding this issue, which would put a political price on the refusal of the General Prosecutor to be heard in the Parliament. According to them, the Prosecutor's Office answers parliamentary questions within the time limit established by law, but the answers are devoid of content and do not reflect (or do not fully answer) the questions asked. Also, the parliamentary opposition does not have the leverage to summon the General Prosecutor to the

Parliament, the need for which is obvious in the light of the fact that the reports of the General Prosecutor have not been considered by the Parliament of Georgia for years. It was also mentioned that it is necessary to increase the awareness of the members of the Parliament of Georgia regarding the activities of the Prosecutor's Office and the issues belonging to the competence of this agency.

Regarding the reports submitted by the Prosecutor's Office to the Parliament of Georgia, it was noted that they are declarative in nature and devoid of content. No information is given on the challenges in the course of investigation and procedural guidance. The Prosecutor's Office never talks about the challenges in the system, which is important to gain public trust. The statistical data given in the report do not fully reflect the directions of the activities of the Prosecutor's Office. In some cases, the report contains such statistical data, the production of which does not represent the competence of the Prosecutor's Office at all, and therefore reflects the activity of another agency (for example, court, investigative agency) rather than the Prosecutor's Office. At the same time, statistical data on launching investigation and criminal prosecution, judgements of the court are not enough to evaluate what are the circumstances regarding particular categories of crimes (for example where are those crimes spread, what are the methods of their commission and etc). The report also does not provide information regarding the spending of financial funds, while there is a high public interest in the public regarding the amount of money spent by the Prosecutor's Office (including those used for employee salaries, bonuses and allowances) (in this context, it should be noted that the State Audit Service, which is responsible to control the use and spending of budget funds and other material assets allocated to the Prosecutor's Office, has not audited the Prosecutor's Office of Georgia in 2019-2022. According to the 2023 audit activity plan of the State Audit Service, the audit in the Prosecutor's Office is planned for 2023).³⁰

According to the respondents, a clear record should be made in the Rules of Procedure of the Parliament of Georgia about the mandatory hearing of the General Prosecutor's report at committees and plenary sessions. Also, the legislation should expand the list of issues that should be included in the report.

30 See. 2023 action plan of the State Audit Office, <https://sao.ge/Uploads/2023/2/2023%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%A3%E1%83%93%E1%83%98%E1%83%A2%E1%83%9D%E1%83%A0%E1%83%A3%E1%83%9A%E1%83%98%20%E1%83%A1%E1%83%90%E1%83%A5%E1%83%9B%E1%83%98%E1%83%90%E1%83%9C%E1%83%9D%E1%83%91%E1%83%98%E1%83%A1%20%E1%83%92%E1%83%94%E1%83%92%E1%83%9B%E1%83%90.pdf>

V.

ACCOUNTABILITY OF THE PROSECUTOR'S OFFICE BEFORE THE PROSECUTORIAL COUNCIL

The Prosecutorial Council is a collegial body purpose of which is to ensure the independence, transparency and efficiency of the Prosecutor's Office.

To ensure the above objectives, the powers of the Prosecutorial Council are: a) approval of a candidate for the General Prosecutor, within its competence; b) implementation of disciplinary proceedings against the first deputy and deputies of the General Prosecutor; c) resolution of issues of applying a disciplinary sanction to or early revoking a disciplinary sanction from a prosecutor and investigator members of the Prosecutorial Council; d) listening to the report of the Prosecutor General, his first deputy or deputy on the activities of the Prosecutor's Office and developing recommendations to be submitted to the Prosecutor General based on it; e) elaboration of recommendations aimed at supporting to define guiding principles of criminal justice policy, establish and develop unified practice in light of the criminal justice policy. Presenting recommendations to the General Prosecutor; f) make decisions on matters related to early termination of powers of the members or the Prosecutorial Council.

1. LEGISLATIVE REGULATION OF THE WORK OF THE PROSECUTORIAL COUNCIL

The activities of the Prosecutorial Council are regulated by the Constitution of Georgia, the „Organic Law on the Prosecutor's Office“, the Rules of Procedure of the Parliament of Georgia and the Statute of the Prosecutorial Council adopted by the Prosecutorial Council.

The objectives of the creation of the Prosecutorial Council, the number of its members and the procedure for electing the Chairman are determined by the Constitution of Georgia. According to Article 65 of the Constitution of Georgia, the objectives of the Prosecutorial Council are to ensure the independence, transparency and efficiency of the Prosecutor's Office. It consists of 15 members. The Council is chaired by a person elected from among the members of the Prosecutorial Council for a 2-years term.³¹

The „Organic Law of Georgia on the Prosecutor's Office“ determines the composition of the Prosecutorial Council, the rules for electing its members and the grounds for terminating their powers, the powers of the Prosecutorial Council, the requisites for the report on the activities of the Prosecutor's Office to be submitted to the Prosecutorial Council, and general issues of the Prosecutorial Council's work.³²

The rules for electing the members of the Prosecutorial Council by the Parliament are specified in the Rules of Procedure of the Parliament of Georgia.³³

The Statute of the Prosecutorial Council, approved by the decree of the Prosecutorial Council on January 16, 2019, repeats a large part of the provisions of the „Organic Law on the Prosecutor's Office“ about the activities of the Prosecutorial Council, and at the same time, regulates the following issues in more detail: organizational issues of convening the session of the Prosecutorial Council, the venue and terms of the session, rules of publicizing the meetings of the Prosecutorial Council and its decisions.³⁴

2. PROCEDURE OF FORMATION OF THE PROSECUTORIAL COUNCIL AND ITS COMPOSITION

The manner of staffing the Prosecutorial Council and the experience of its members are essential to ensure a high level of accountability of the Prosecutor's Office before the Prosecutorial Council and the effective work of the Council.

31 See. *Constitution of Georgia*, <https://matsne.gov.ge/ka/document/view/30346?publication=36>

32 See. „Organic Law on the Prosecutor's Office“ Articles: 15-16, 19-20, 76, <https://matsne.gov.ge/ka/document/view/4382740?publication=9>

33 See. *Rules of Procedure of the Parliament*, Article 207, <https://parliament.ge/legislation/reglament>

34 See. *Statute of the Prosecutorial Council*, <http://pc.gov.ge/Multimedia%2FFiles%2Fnews%2F%E1%83%A1%E1%83%90%E1%83%9E%E1%83%A0%E1%83%9D%E1%83%99%E1%83%A3%E1%83%A0%E1%83%9D%E1%83%A0%E1%83%9D%20%E1%83%A1%E1%83%90%E1%83%91%E1%83%AD%E1%83%9D%E1%83%A1%20%E1%83%93%E1%83%94%E1%83%91%E1%83%A3%E1%83%9A%E1%83%94%E1%83%91%E1%83%90%20.pdf>

The Prosecutorial Council consists of 15 members, of which 8 members (the majority) are elected by the Conference of Prosecutors of Georgia, 5 members by the Parliament of Georgia, and 2 members by the High Council of Justice of Georgia.

According to the „Organic Law of Georgia on the Prosecutor’s Office“, only those employees of the Prosecutor’s Office (prosecutor, investigator) who are nominated by the initiative group consisting of 30 members can be elected to the Prosecutorial Council as a member of the Prosecutorial Council. The initiative group is formed by the members of the Prosecutors’ Conference of Georgia (prosecutors and investigators of the Prosecutor’s Office). One initiative group is authorized to nominate only 2 candidates.

The total number of prosecutors and investigators is less than 30 in many district prosecutor’s offices, as well as in the vast majority of structural units of the regional prosecutor’s offices and the General Prosecutor’s Office. Accordingly, in order to nominate his/her own candidacy for membership of the Council, the line prosecutor/investigator must communicate with prosecutors and investigators of other structural units (in the case of regions, with employees of structural units in other regions) to create an initiative group or/and to gain the support of an already existing group. In a strictly hierarchical system, such as the Prosecutor’s Office system, it is practically impossible for an ordinary prosecutor to create an initiative group or/and gain its support without the involvement/assistance of management. Even if such coordination is possible without the involvement of the management, it is difficult for an ordinary (even more so, employed in the region) prosecutor/investigator of the Prosecutor’s Office to find 30 such persons who are familiar with his professional activity and possess complete information about his professionalism/qualification. Without such awareness, the initiative group would obviously not (should not) nominate a candidate for such an important position. It should also be noted that there are no detailed rules/procedures regulating the formation of initiative groups, the procedure gaining the trust/support of members of the initiative group for prosecutor/investigator of the Prosecutor’s Office.

According to the 2022 activity report of the Prosecutor’s Office of Georgia, the Prosecutor’s Office employs 419 prosecutors and 81 investigators (500 people with the right to vote in the Prosecutorial Council elections). This number makes it possible to form a maximum of 16 initiative groups and present a maximum of 32 candidates for the membership of the Prosecutorial Council. Accordingly, 468 prosecutors and investigators are restricted from freely and unimpededly presenting their candidates for the membership of the Prosecutorial Council.

Since the current model of selecting prosecutors/investigators of the Prosecutor's Office does not give prosecutors and investigators a practical opportunity to be elected in the Prosecutorial Council without the involvement/assistance of the management, which in turn creates a real possibility for the management to fill the Prosecutorial Council with the prosecutors/investigators they want, implementation of changes in the „Organic Law of Georgia on the Prosecutor's Office“ is necessary, which will significantly reduce the number of members of the initiative group (and it will be adjusted to the number of staff of structural units of the Prosecutor's Office) or by which it will be possible for the prosecutor/investigator to put his own candidacy as a member of the Prosecutorial Council without the initiative group. Otherwise, the legitimacy of the Prosecutorial Council will be questioned and the accountability of the Prosecutor's Office to the Prosecutorial Council loses its importance. The prosecutor/investigator members of the Prosecutorial Council, taking into account the subordination of the General Prosecutor and the powers of the General Prosecutor (they are appointed and dismissed by the General Prosecutor), already have a big barrier to express their opinion at the session of the Prosecutorial Council and boldly ask questions (which is very clearly visible in the audio-video recordings of the meetings of the Prosecutorial Council).

Judge members of the Prosecutorial Council are elected by the High Council of Justice. Questions regarding composition of the High Council of Justice, sanctioning of the member of the High Council of Justice – Levan Murusidze for significant corruption by United States, disregarding of the Venice Commission recommendations with respect to reform of the High Council of Justice, question legitimacy of the members of the Prosecutorial Council elected by the High Council of Justice. The picture is further aggravated by the fact that one member of the Prosecutorial Council, Irakli Shengelia, was sanctioned by the United States in April 2023 for his involvement in significant corruption.³⁵

5 members of the Prosecutorial Council are elected by the Parliament of Georgia with the majority of the full composition (simple majority). As of today, the following persons elected by the Parliament of Georgia are represented in the Prosecutorial Council:

- 2 members of the Parliament: Anri Okhanashvili - Chairman of the Legal Affairs Committee (representative of the parliamentary majority) and Iago Khvichia - representative of the parliamentary opposition (Girchi party). Along with Iago Khvichia, other candidates were nominated for membership of the Prosecutorial Council (Ana Natsvlshvili, Paata Manjgaladze);

35 See. Information on sanctioning Irakli Shengelia, <https://www.facebook.com/watch/?v=915844926287616>

- Lawyer specializing in criminal law (Lili Gelashvili) - she was nominated as a member of the Prosecutorial Council by the Minister of Justice of Georgia. According to the information³⁶ provided by the Parliament of Georgia, no other candidate was nominated with her;³⁷
- Lawyer specializing in civil law (Tea Cheishvili) - she was nominated as a member of the Prosecution Council by the Georgian Bar Association. According to the information³⁸ provided by the Parliament of Georgia, no other candidate was nominated with her;³⁹
- Representative of a non-governmental organization (Revaz Mikaberidze) - he was nominated as a member of the Prosecutorial Council by three non-entrepreneurial (non-commercial) legal entities, however, the experience required for nomination was only met by one of them – „Civil Development Society“, one of the fields of activity of which at least the last 2 years prior to the announcement of competition was participation in court proceedings in a representative capacity. According to the information⁴⁰ provided by the Parliament of Georgia, along with Revaz Mikaberidze, three other candidates were nominated by other non-entrepreneurial (non-commercial) legal entities. Two of them could not meet the requirements established by the law, and one (who fully met the criteria defined for the candidate) withdrew his candidacy.⁴¹ It should be noted that the Civil Development Society (registered in 2015)⁴² is not an active non-governmental organization. Neither the organization’s website, Facebook page, nor any activities that the organization carries out as a non-governmental organization can be found on the Internet.

As for the experience of the members of the Prosecutorial Council, the „organic law of Georgia on the Prosecutor’s Office“ sets the criteria of experience for some of the members of the Prosecutorial Council, while no such requirement is imposed on the other part. In particular:

³⁶ Information provided by the Parliament of Georgia, by its May 22, 2023, №3759/2-7/23 letter.

³⁷ See. Information on the election of Lili Gelashvili, <https://xnews.ge/%E1%83%A1%E1%83%90%E1%83%9E%E1%83%A0%E1%83%9D%E1%83%99%E1%83%A3%E1%83%A0%E1%83%9D%E1%83%A0%E1%83%9D-%E1%83%A1%E1%83%90%E1%83%91%E1%83%AD%E1%83%9D%E1%83%A1-%E1%83%AC%E1%83%94%E1%83%95%E1%83%A0%E1%83%90/>

³⁸ Information provided by the Parliament of Georgia, by its May 22, 2023, №3759/2-7/23 letter.

³⁹ See. Documents on the election of Tea Cheishvili, <https://info.parliament.ge/file/1/BillReviewContent/246366>

⁴⁰ Information provided by the Parliament of Georgia, by its May 22, 2023, №3759/2-7/23 letter.

⁴¹ See. Information spread in media, <https://ipress.ge/news/politika/revaz-miqaberidze-saprokuro-ro-sabtchos-tsevrad-airchies>

⁴² See. Register of entrepreneurial and non-entrepreneurial legal entities: https://enreg.reestri.gov.ge/_dea/main.php?m=new_index

- For the judge members of the Prosecutorial Council, five years of experience as a judge is established, although the specialization is not specified;
- The member of the Prosecutorial Council nominated by the Minister of Justice to the Parliament of Georgia is required to have at least 5 years of legal working experience (there is no requirement for specialization here either);
- There is no experience requirement for prosecutors/investigators of the Prosecutor's Office, as well as professors and researchers working in higher educational institutions of Georgia, members of the Georgian Bar Association;
- There is no established experience requirement for the MP members of the Prosecutorial Council;
- There is no experience requirement for a person nominated by a non-entrepreneurial (non-commercial) legal entity of Georgia, however, the organic law imposes an experience requirement on the non-entrepreneurial (non-commercial) legal entity presenting the candidate. In particular, one of the fields of activity of the said non-entrepreneurial (non-commercial) legal entity for at least the last 2 years prior to the announcement of the competition for the member of the Prosecutorial Council must be participation in the court proceedings in a representative capacity, however, it is not specified what kind of experience of participation in court disputes is necessary.

It should be noted that all prosecutor/investigator members of the Prosecutorial Council have/had at least five years of experience working in the Prosecutor's Office, even though the organic law does not establish an experience requirement for them.

As for the other members of the Council, currently two judges⁴³ are represented in the Prosecutorial Council: Irakli Shengelia⁴⁴ and Revaz Nadaraia⁴⁵, neither of whom is a judge reviewing criminal cases. The experience prescribed for judges by the „Organic Law of Georgia on the Prosecutor's Office“ (as well as the experience requirement for all vacancies in general) serves (should serve) the purpose of effective performance of its functions by the member of the Prosecutorial Council. The experience of reviewing civil cases cannot be considered as relevant experience for a member of the Prosecutorial Council, who must make recommendations on such important issues as: implementation of the criminal justice policy, criminogenic situation in the Country, protection of human rights in the course of criminal proceedings, directions of the activities of the Prosecutor's Office – agency respon-

⁴³ See. *Statement of election of judges as members of the Prosecutorial Council*, <http://pc.gov.ge/News/Detail?newsId=5015>

⁴⁴ See. *Biography of Irakli Shengelia*, <http://pc.gov.ge/board/index>

⁴⁵ See. *Biography of Revaz Nadaraia*, <http://pc.gov.ge/board/index>

sible for criminal prosecution. It is clear from the video-recordings of the meetings of the Prosecutorial Council that election of such judges in the Council is non-effective. They are not engaged in the work of the Prosecutorial Council. In particular, one judge member of the Prosecutorial Council (Revaz Nadaraia) asked only one question during three sessions (regarding the reasons for the reduction of the request for pre-trial bail by the Prosecutor's Office), and the other member (Irakli Shengelia) asked 2 questions (at two different sessions – plans of the Prosecutor's office for preventing overloading of the Court and measures to be implemented by the Prosecutor's Office in order to increase public trust), none of which were related to the supervision of the activities of the Prosecutor's Office by the Court (while the Prosecutor's Office of Georgia has the closest communication in the process of its activities with the Court and the Court, along with the Parliament of Georgia and the State Audit Service, is the body that controls activities of the Prosecutor's Office). In addition, the audio-video recording of the review session of the 2021 activity report of the Prosecutor's Office (which includes the process of issuing recommendations by the members of the Prosecutorial Council) reveals that the judicial members are not involved in the process of developing recommendations.

The audio-video recordings of the sessions of the Prosecutorial Council reveal that the people who have experience in the field of criminal law (prosecutors, investigators of the Prosecutor's Office, lawyers specializing in criminal law) are more actively involved in the work of the Council. In addition, statements on the practical issues of the work of the Prosecutor's Office and the shortcomings in this process are made by the member of the Prosecutorial Council who work on criminal cases as a lawyer. Other members of the Council (including the representative of the non-governmental organization elected by the Parliament of Georgia, members of the Parliament of Georgia), like the judge members of the Prosecutorial Council, are not involved in the work process of the Prosecutorial Council or the questions they ask are general (neutral) and are not focused on the existing real challenges of the Prosecutor's Office.

Considering the above-mentioned, in order to ensure effectiveness of the Prosecutorial Council and preparation of the relevant and qualified recommendations by the Council, it is necessary to staff Prosecutorial Council with the members who have knowledge of criminal law issues or/and practical experience in the field of criminal law. To this end, it is necessary to implement an amendment to the „Organic law on the Prosecutor's Office“, by which a uniform standard regarding experience will be established for all members of the Prosecutorial Council (except members of the Parliament of Georgia) (including the same period of experience for all members) and the scope of experience will be specified in such a way that ensures membership of minimum one judge and one lawyer specialized in criminal law.

3. FREQUENCY OF REPORTING TO THE PROSECUTORIAL COUNCIL

According to the „Organic Law of Georgia on the Prosecutor’s Office“, the Prosecutorial Council shall hear the report on the activities of the Prosecutor’s Office once every 6 months, and by the decision of the majority of the members of the Prosecutorial Council - immediately.

Since 2019, the Prosecutorial Council has not heard the report on the activities of the Prosecutor’s Office of Georgia within the period established by the organic law (once every 6 months). In particular, the Prosecutorial Council held its session only three times: the 2020 activity report was heard on January 12, 2021, the 2021 activity report - on February 17, 2022, and the 2022 nine-months report - on December 6, 2022. Prevention of the spread of COVID19 was named as the reason for this by the prosecutor members of the Prosecutorial Council interviewed within the scope of the study. However, COVID-19 cannot be considered as a circumstance that made it impossible to hold a meeting of the Prosecutorial Council, when the Prosecutor’s Office of Georgia was conducting almost all types of activities online/remotely during the same period (meetings of the local multidisciplinary council for juveniles, online meetings of the local council within the project „Public Prosecutor’s Office“, research/reports presentations with the participation of state agencies, non-governmental sector or international organizations, online information campaigns, trainings/study courses and meetings), in which the number of participants exceeded the number of members of the Prosecutorial Council.

As for the extraordinary session of the Prosecutorial Council, such a session has not been held in the history of the existence of the Prosecutorial Council. In the framework of the report, during the interviews by the members of the Prosecutorial Council, it was noted that the circumstances that could become the basis for convening an extraordinary session could be, for example, the discussion of the issue of disciplinary responsibility towards those persons whose misconduct is included in the functions of the Prosecutorial Council.

4. CONTENTS OF THE REPORTS SUBMITTED BY THE PROSECUTOR’S OFFICE TO THE PROSECUTORIAL COUNCIL

According to the „Organic Law of Georgia on the Prosecutor’s Office“, identical requirements are established regarding the content of the report to be submitted by the General Prosecutor to the Prosecutorial Council and the Parliament of Georgia. The report on the activities of the Prosecutor’s Office before the Prosecutorial

Council should include the following issues: Results of the implementation of the criminal justice policy; evaluation of the general criminogenic situation in the Country, including statistical data of widespread crimes, referring to their categories and tendencies; protection of human rights in the course of administration of justice; priorities of the Prosecutor's Office; programs of professional re-training and development of the prosecutors. In this case too the report should not contain issues regarding investigation of particular criminal cases, court hearings or/and details of the case.

Considering that the reports on the activities of the Prosecutor's Office of Georgia were submitted to the Prosecutorial Council in 2020 and 2021 once a year (not 6 months), the structure and content (the vast majority of issues) of the reports submitted by the General Prosecutor to the Parliament of Georgia and the Prosecutorial Council are identical. Compliance of the content of the reports submitted to the Prosecutorial Council with the organic law and the role and tasks of the Prosecutor's Office is discussed in Chapter IV.⁴⁶

5. QUESTIONS ASKED AT THE SESSION OF THE PROSECUTORIAL COUNCIL, RECOMMENDATIONS ISSUED BY THE PROSECUTORIAL COUNCIL

At the session of the Prosecutorial Council, after hearing the report on the activities of the Prosecutor's Office, the Chairman of the Prosecutorial Council directs the members of the Council to ask questions, if any.

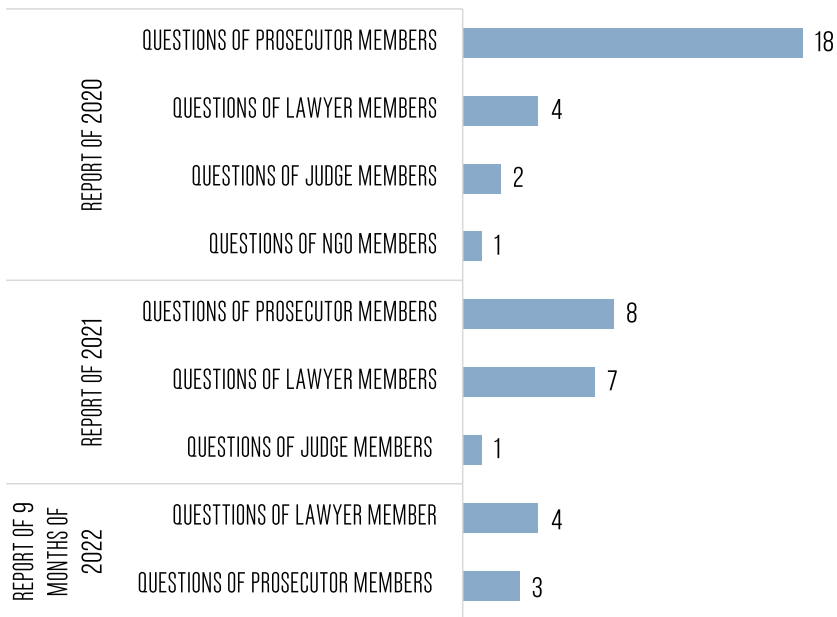
A total of 25 questions were asked at the hearing of the 2020 activity report of the Prosecutor's Office of Georgia, 16 at the hearing of the 2021 report, and 8 questions at the hearing of the 9-months activity report of 2022.

The video recordings of the last three meetings of the Prosecutorial Council show that the main part of the questions are asked by the prosecutor/investigative members of the Prosecution Council. Lawyer members of the Prosecutorial Council are also active. As for other members of the Prosecutorial Council, within the framework of the three sessions of the Prosecutorial Council held in 2020 and 2021, two questions were asked by one judge member of the Prosecutorial Council, one

⁴⁶ The analysis regarding the content of the report on the activities of the Prosecutor's Office is provided in Chapter IV of the report (Subchapter 2 - Content of the reports submitted by the Prosecutor's Office to the Parliament).

question by another judge member, one by a member representing a non-governmental organization, and not a single question was asked by members of the Parliament (when the Georgian Parliament has not held a hearing on the General Prosecutor’s report in the last three years, and they did not have a parliamentary format for asking questions to the Prosecutor General).

NUMBER OF QUESTIONS ASKED DURING HEARINGS OF THE PROSECUTORIAL COUNCIL



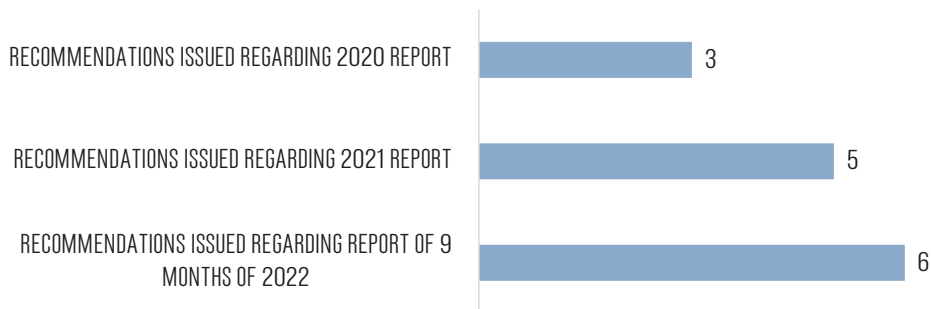
As a rule, questions from all members of the Council begin with a positive assessment of the submitted report on the activities of the Prosecutor’s Office (this is especially true for the prosecutor/investigator members of the Prosecutor’s Office, who express their satisfaction with the report submitted by the General Prosecutor and never have a comment/different opinion regarding the content of the report). Only on the Lawyer nominated by the Ministry of Justice and elected by the Parliament, underlines challenges and problems lawyers face in co-operation with the Prosecutor’s Office. As for the content of the questions, the vast majority of them are formal and relate more to the future plans and visions of the Prosecutor’s Office rather than to the results contained in the report. A small part of the questions asked addresses the gaps and challenges that are clearly visible in the report on the activities of the Prosecutor’s Office submitted to the Prosecutorial Council.

The questions asked by the members of the Prosecutorial Council at the session were related to the following issues:

- 6 - retraining/meetings;
- 4 - communication with the public;
- 4 - statistical data;
- 4 - future plans regarding fight against specific crimes and re-activation of the institution;
- 3 - electronic criminal case management system;
- 3 - criminal justice policy;
- 2 - workload of the prosecutors;
- 2 - internship system, qualification exam of prosecutors;
- 2 - ranking of prosecutors;
- 2 - challenges before the Prosecutor's Office;
- 2 - standard of proof;
- 2 - human resources (including gender balance);
- 2 - criminogenic situation;
- 2 - challenges related to the jury trial;
- 1 - openness/transparency;
- 1 - infrastructure of the Prosecutor's Office;
- 1 - social guarantees of prosecutors;
- 1 - difficulty of communication between lawyers and prosecutors;
- 1 - procrastination of the entering of the plea agreement by the prosecutors;
- 1 - the strictness of the terms of the plea agreement;
- 1 - separation of investigative and prosecutorial functions.

As for the recommendations submitted to the General Prosecutor by the Prosecutorial Council based on the report, it should be noted that their number increases every year.

NUMBER OF RECOMMENDATIONS ISSUED BY THE PROSECUTORIAL COUNCIL



As for the content of the recommendations, they do not respond to the most important challenges facing the Prosecutor's Office and the shortcomings that are clearly highlighted in the reports (especially in the statistical data). The members of the Prosecutorial Council do not conduct a thorough discussion regarding the recommendations to be issued. The audio-video recording of the meeting of the Prosecutorial Council on the hearing of the 2021 activity report of the Prosecutor's Office of Georgia includes the discussion of the members of the Prosecutorial Council on the recommendations to be issued. The mentioned discussion lasts only half an hour and participants agree on 5 recommendations. Although the Chairman of the Prosecutorial Council suggested to the members of the Council to additionally send other recommendations (if any) via e-mail, it can be seen from the recommendations issued by the Prosecutorial Council this year, that no recommendations were added after the end of the session. It should also be noted that the General Prosecutor and his deputies were present at the discussion of the recommendations by the Prosecutorial Council, which may be an obstacle for the members of the Council to boldly put forward proposals regarding the recommendations to be submitted to the General Prosecutor.

When discussing the content of questions and recommendations, their relevance, it must be noted that the members of the Prosecutorial Council are not sent a report on the activities of the Prosecutor's Office in advance (as it happens, for example, in the case of the Parliament of Georgia). Accordingly, the members of the Prosecutorial Council do not have time to prepare for the session and have to read/listen to the report (the volume of which usually exceeds 100 pages) directly at the session of the Prosecutorial Council. As it became clear from the interviews with the members of the Prosecutorial Council, there is no practice of meeting or/and preliminary coordination of the members of the Prosecutorial Council before the session of the Prosecutorial Council, where the expectations related to

the hearing of the report or/and the challenges they saw before the Prosecutor's Office in the past would be discussed. The above-mentioned circumstances may hinder the proper preparation of the members of the Prosecutorial Council for the session.

Based on the above, it is advisable to send a report on the activities of the Prosecutor's Office to the members of the Prosecutorial Council in a reasonable period of time, which will give them the opportunity to better prepare for the session (including asking questions in response to existing challenges and developing problem-oriented recommendations). In addition, the implementation of the practice of holding a meeting (even online) between the members of the Prosecutorial Council before and after the session should be considered, in order to better prepare for the session and thoroughly discuss the recommendations to be issued. In addition, the chairman of the session of the Prosecutorial Council should ensure that the recommendations are discussed without the presence of the General Prosecutor and his deputies. Also, it is appropriate to specify in Article 19 (21) of the „Organic Law on the Prosecutor's Office“, in which case the General Prosecutor of Georgia has the authority to attend the Prosecutorial Council session with the right of deliberative vote, and to exclude the possibility of his attendance at the Prosecutorial Council session when discussing recommendations.

On the necessity to change the procedure for the formation of the Prosecutor's Council Recommendations were also issued within the framework of the study (“Prosecution System Reform”) conducted by the Human Rights Education and Monitoring Center (EMC) in 2018.

6. REVIEW OF THE REPORT ON THE ACTIVITIES OF THE PROSECUTOR'S OFFICE IN 2020 AT THE MEETING OF THE PROSECUTOR'S COUNCIL

According to Article 15 of the „Organic Law of Georgia on the Prosecutor's Office“, the General Prosecutor is responsible for the activities of the Prosecutor's Office. However, according to Article 19 of the same organic law, the report on the activities of the Prosecutor's Office can be submitted to the Prosecutorial Council by both the General Prosecutor and his first deputy or deputy. According to the video recordings of the meetings of the Prosecutorial Council, at the meetings of the Prosecutorial Council, the report on the activities of the Prosecutor's Office is presented by the General Prosecutor, as well as his first deputy and one of the deputies.

The session of the Prosecutorial Council was held on January 12, 2021 to discuss the report on the activities of the Prosecutor's Office in 2020. At the meeting of the Prosecutorial Council, the General Prosecutor, first deputy and deputy presented the 2020 activity report of the Prosecutor's Office.

The session of the Prosecutorial Council lasted 4 hours and 39 minutes, of which the report was presented for 2 hours and 30 minutes and questions were asked for 1 hour and 50 minutes (a 20-minute break was announced).

6.1. TRENDS HIGHLIGHTED IN THE REPORT

According to the report presented before the Prosecutorial Council:

- Decreased rate of: launching criminal prosecution,⁴⁷ application of alternative mechanisms for criminal prosecution – diversion in adults (21 years above) and juveniles (first time since 2016), granting of detention motions by court, plea agreements (including at early stage), application of fine as a condition of plea agreement, acquittals, detention motions regarding juveniles. Also, the number of juveniles in conflict with the law has decreased (in 2019 there were 767, and in 2020 - 556);
- Increased rate of: application of detention by prosecutors, plea agreements on substantial hearings, application of community service and imprisonment as a condition of plea agreement, application of detention by Court in juveniles, (by 25%) plea agreements with juveniles, imprisonment of juveniles as a condition of plea agreement, by 5% acquittals on the cases under investigative jurisdiction of the Prosecutor's Office, criminal prosecution on money laundering, criminal prosecution on domestic violence cases, criminal prosecution on crimes on the grounds of intolerance. Application of detention on domestic crimes is increased, however its granting rate is low (53%) (and diminished compared to previous year).

In addition, the following trends are highlighted in the report: the jury has issued a guilty verdict in all murder cases; 63% of diverted minors have committed theft; criminal prosecution on cases under the investigative jurisdiction of the Prosecutor's Office was launched against 179 persons – public officials, 40% of whom are

⁴⁷ The rate of initiation of criminal prosecution decreased by 3 489 units. (The highest rate of initiation of criminal prosecution is recorded for the following crimes: theft - 15.8% (Article 177 of the Criminal Code of Georgia), drug crime - 14% (Articles 260, 265, 273¹ of the Criminal Code of Georgia), domestic violence - 13.3% (Article 126¹ of the Criminal Code of Georgia), harm to health and violence - 11.5% (Articles 117, 118, 120, 126 of the Criminal Code of Georgia) and threats - 8.7% (Article 151 of the Criminal Code of Georgia).

civil servants (53.5% of them are employees of the Ministry of Internal Affairs); strict criminal law policy has been applied to drug dealers; only 12% of people in managerial positions are women.

6.2. SESSION OF THE PROSECUTORIAL COUNCIL AND QUESTIONS ASKED BY ITS MEMBERS

25 questions were asked by the members of the Prosecutorial Council, of which 18 questions were asked by the prosecutor members of the Prosecutorial Council, and 7 by non-prosecutor members (4 questions - by the lawyer members elected by the Parliament, 2 questions - by the judge members elected by the High Council of Justice, 1 question - by representative of the non-governmental sector elected by the Parliament).

QUESTIONS ASKED BY THE MEMBERS OF THE COUNCIL ⁴⁸	
Prosecutor member (Merab Jeranashvili)	1. To address the problems with jury selection, should sanctions be toughened against jurors who do not appear? Or should the grounds that exclude a person from serving as a juror be reduced?
	2. What trainings and workshops are planned to improve the quality of investigation of corruption crimes?
	3. Will the internship continue in the Prosecutor’s Office?
Prosecutor member (Ivane kakalia)	4. What is the situation regarding the construction of a building for Tbilisi District Prosecutor’s Offices?
Prosecutor Member (Amiran Guluashvili)	5. How would you evaluate the reporting period in terms of informing the public by the Prosecutor’s Office? Was the Prosecutor’s Office proactive?
	6. What is your vision for electronic communication with the Court and the defense through the electronic criminal case management program?
	7. How does the decision made by the Constitutional Court on drug crimes, which changed the evidentiary standard for this category of crimes, affect it?
	8. Are there any concrete steps planned to further improve the social guarantees of prosecutors?

⁴⁸ The questions are not quoted verbatim. They are shortened preserving content.

Prosecutor Member (Gvantsa Gvimradze)	9. What challenges does the Prosecutor's Office of Georgia face in 2021?
Prosecutor Member (Vladimer Narindoshvili)	10. Are there plans for additional training of specialized prosecutors?
	11. How this process of ranking prosecutors will continue. Will the number of first and second rank prosecutors be expanded?
Prosecutor Member (Irakli Gachechiladze)	12. Despite strict policies, the rate of domestic violence is increasing. What is the impact of tough domestic violence policies on the prevalence of this crime?
Prosecutor Member (Ilia Janashia)	13. Is it planned to recruit new personnel in relatively busy structural units?
	14. What is the reason for decreasing granting rate of detention motions on domestic crimes?
Prosecutor Member (Nana Khunjua)	15. Is there a limitation in ranking prosecutors? How many prosecutors are covered by this promotion policy and are there any limitations in number?
	16. Do you think that research is needed to determine the causes of gender disbalance among managers?
	17. Is the average workload of prosecutors estimated? Are the current staff sufficient or do we need to increase their number?
	18. Will the qualifying exams become systematic or will they be held only in 2021?
Non-prosecutor member (Revaz Mikaberidze) - NGO representative elected by the Parliament)	19. What is your general assessment of the criminogenic situation in the country?
Non-prosecutor member (Irakli Shengelia– judge elected by the High Council of Justice)	20. Against the background of increased cases, how do you ensure the prevention of overloading of the Prosecutor's Office and the Court. In what ways is it possible to save resources?
Non-prosecutor member (Revaz Nadaraia– judge elected by the High Council of Justice)	21. What led to the decrease in the number of motions regarding pre-trial bail?

Non-prosecutor member (Lili Gelashvili – Lawyer elected by the Parliament)	22. Only strictness of policy on domestic crime is not result oriented. Should the standard of proof be raised for domestic crimes?
	23. Is a plea agreement a solution to the delay of court sessions? Attorneys have been waiting months for the terms of the plea agreement to be approved. Not only lawyers but also judges complain about this. These processes are postponed for months on the basis of a plea, and in the end, the plea is either refused or such conditions are proposed that the defense party does not agree to and cannot agree to. Are you working in this regard to increase the number of plea agreements?
	24. The biggest problem lawyers have is communication with prosecutors, lack of communication with prosecutors. There is also a problem with the phone call. This is not a groundless statement. This is the problem of 70% of lawyers. Why do prosecutors delay plea deals for months and not respond to statements (relating to plea deals)?
Non-prosecutor member (Tea Cheishvili – Lawyer elected by the Parliament)	25. Are the trainings adapted to the challenges that appear during the evaluation of the quality of prosecutors' activities?

The questions asked reveal that very few questions address the challenges presented in the 2020 activity report of the Prosecutor's Office. In particular, not a single question is asked about the important challenges identified in the report: what is the vision and plans of the Prosecutor's Office (as the coordinating body responsible for fighting and preventing crime) on theft (which has been the most widespread crime for years); Why is the number of use of alternative mechanisms of criminal prosecution against adults and juveniles reduced; In general, what is the vision and policy of the Prosecutor's Office regarding the use of alternative mechanisms of criminal prosecution; Why is the incarceration rate increased; Why is there such a big difference between the rate of initiation of criminal prosecution and the cases considered by the Court; Why is the rate of plea agreements, including early stage plea agreements, reduced (while in the context of the spread of Covid this mechanism may have been the best solution for the implementation of speedy justice); Why is the rate of imprisonment as a condition of plea agreement increased; Why is the criminal justice policy against juveniles toughened in the conditions of the spread of Covid 19 (in particular, number of juvenile diversion/mediation decreased, number of prosecutors' motions regarding pre-trial detention against juveniles increased, number of imprisonment against juveniles as a condition of plea agreement increased); What caused the 25% increase in plea

agreements against juveniles; What caused the increase in the number of acquittals on cases under the investigative jurisdiction of the Prosecutor's Office.

6.3. RECOMMENDATIONS ISSUED BY THE PROSECUTORIAL COUNCIL

In light of a number of challenges in the 2020 activity report of the Prosecutor's Office, only three recommendations have been issued by the Prosecutorial Council:

1. To hold working meetings between the prosecutors and investigators of the Prosecutor's Office of Georgia and the representatives of the Common Courts of Georgia on the important topics related to the implementation of justice;
2. The Prosecutor's Office of Georgia should ensure the study of issues related to domestic crimes and discuss the possibilities of using and encouraging alternative measures of imprisonment for persons accused of these types of crimes, while maintaining the current strict policy;
3. The Prosecutor's Office should take effective measures aimed at identifying and eliminating the reasons for the delay in jury trials.

The recommendations issued by the Prosecutorial Council show that they do not respond to the challenges indicated in the report, nor to the concerns expressed by the members of the Prosecutorial Council at the session (for example, at the session of the Prosecutorial Council, the difficulty of communication between lawyers and prosecutors, the delay in signing the plea agreement, the proposal of strict conditions during the plea agreement, procrastination of responses by prosecutors to the statement related to the signing of the plea agreement, gender imbalance among managers, etc. were identified as problems).

7. REVIEW OF THE 2021 ACTIVITY REPORT OF THE PROSECUTOR'S OFFICE AT THE SESSION OF THE PROSECUTORIAL COUNCIL

The meeting of the Prosecutorial Council was held on February 17, 2022 to discuss the report on the activities of the Prosecutor's Office in 2021. The General Prosecutor, first deputy and deputy presented the 2021 activity report of the Prosecutor's Office at the meeting of the Prosecutorial Council.

The session of the Prosecutorial Council lasted 4 hours and 41 minutes, of which 2 hours and 45 minutes were spent presenting the report, 1 hour and 10 minutes were spent asking questions, and about half an hour was devoted to discussing the recommendations (a 20-minute break was announced).

7.1. TRENDS HIGHLIGHTED IN THE REPORT

According to the report submitted to the Prosecutorial Council:

- Decreased: percentage of application of detention by prosecutors, plea agreement on substantial hearing, application of community service and imprisonment as conditions of plea agreement, use of imprisonment as a result of substantial hearing, application (request by prosecutor and granting by the Court) of detention against juveniles, (22%) plea agreement with juveniles, application of imprisonment against juveniles as a result of substantial hearing, (8%) acquittals on cases under investigative jurisdiction of the Prosecutor's Office, launching of investigation on corruption, launching of investigation based on the reports of the State Audit Office;
- Increased: percentage of launching of criminal prosecution,⁴⁹ application of alternative mechanisms to criminal prosecution – diversion against adults (above 21 years age) and juveniles, granting of motions regarding restrictive measures by Court, plea agreements (including plea agreements during first appearance hearing), application of fines as a condition of plea agreement, launching of investigation and criminal prosecution on cases under investigative jurisdiction of prosecutor's office, confiscation of property obtained through criminal means, detection of involvement of legal entities in money laundering cases, acquittals on jury trial on murder cases. Also, the rate of initiation of criminal prosecution for the following crimes has increased: crimes related to the „criminal underworld“, drug dealers, domestic crimes, crimes committed on the basis of intolerance, money laundering, crimes against sexual freedom and inviolability.

In addition, the following trends are highlighted in the report: the number of juveniles in conflict with the law has increased (in 2020 it was 556, and in 2021 - 614), 66% of diverted juveniles committed theft; The number of cases considered by the Court is significantly lower than the rate of initiation of criminal prosecution; In particular, in 2021, criminal prosecution was initiated against 251 juveniles and the Court considered 154 of them (61%); criminal prosecution against public officials on cases under investigative jurisdiction of the Prosecutor's Office was launched against 117 persons, the majority of which (79%) are representatives of the Minis-

⁴⁹ The rate of initiation of criminal prosecution, compared to the previous year, has increased by 4119 units. The highest rate of initiation of criminal prosecution is recorded for the following crimes: theft - 15.6% (Article 177 of the Criminal Code of Georgia), drug crime - 13.2% (Articles 260, 265, 273¹ of the Criminal Code of Georgia), domestic violence - 10.8% (Article 126¹ of the Criminal Code of Georgia), threats - 9% (Article 151 of the Criminal Code of Georgia), harm to health and violence - 10.8% (Article 117 of the Criminal Code of Georgia Articles 118, 120, 126).

try of Internal Affairs and local self-government bodies; 42% of defendants of corruption crimes are employed in the public sector. 60% of defendant civil servants are persons employed in local self-government bodies; the percentage of requests for detention is still high (91%) for domestic crimes, however (and it has decreased compared to the previous year) the rate of granting of detention motions (51%) is low on the same crimes; Only 11% of people in managerial positions are women.

7.2. QUESTIONS ASKED BY THE MEMBERS OF THE PROSECUTORIAL COUNCIL REGARDING REPORT

15 questions were asked by the members of the Prosecutorial Council, of which 8 questions were asked by prosecutor members of the Prosecutorial Council, and 8 by non-prosecutor members of the Prosecutorial Council (1 question was asked by a judge member, 7 questions by lawyer members elected by the Parliament of Georgia).

QUESTIONS ASKED BY THE MEMBERS OF THE COUNCIL	
Prosecutor member (Nana Khunjua)	1. Is it planned to involve witness and victim coordinators in the process of improving communication with victims and the public, and are their resources sufficient?
	2. In case of expansion of the diversion, will there be an emphasis on community service?
	3. Will prosecutors' meetings with schoolchildren be a priority again?
Prosecutor member (Amiran Guluashvili)	4. How do you assess the fight against fraud and money laundering crimes in the future or what is the vision for international cooperation?
	5. How do you evaluate the bill submitted to the Parliament of Georgia on the separation of investigative and prosecutorial functions. How effective will this law make the implementation of investigative functions?
	6. Is it planned to exchange evidence with the parties electronically and involve the Court and the defense in the electronic criminal case management program?
Prosecutor member (Irakli Gachechiladze)	7. Why is the indicator of the use of discretionary powers without diversion included in the methodology for calculating non-custodial restrictive measures?

Prosecutor member (Gvantsa Gvimradze)	8. Considering that fraud is one of the challenges, their number is large, there are many complaints about this crime, what are the plans of the Prosecutor's Office?
Non-prosecutor member (Irakli Shengelia, judge, elected by High Council of Justice)	9. There is frequent disinformation towards the Prosecutor's Office on television and the Internet. It is impossible to prevent this with a press release. What measures are planned in order to further increase public trust in the Prosecutor's Office?
Non-prosecutor member (Lili Gelashvili, lawyer, elected by the Parliament)	10. Prosecutor often offers such conditions of plea agreement to the defense that there is no longer any interest in the plea agreement. There are frequent cases when the Court's decision is more humane than the conditions of the Prosecutor's Office. The rate of recidivism by diverted juveniles is low. Presumably, the same situation applies to those convicts with whom a plea agreement was signed. Should it be prosecutorial policy to increase plea bargaining?
	11. Are there any studies planned regarding causes for the increase in domestic crime?
	12. Are only women victims of domestic crime or are there also men?
Non-prosecutor member (Tea Cheishvili, lawyer, elected by the Parliament)	13. What is planned and what are the challenges regarding the jury trial. Few cases are discussed and what can be done in this direction?
	14. Is prosecutors re-training planned for the development of the jury trial institution?
	15. Recidivism rate in diversion-mediation is 9%. What are the challenges in its application and plans for its development?
	16. Is your participation in the bench-bar meetings planned? Does this institute need to be activated?

The questions asked reveal that very few questions address the challenges presented in the report. In particular, not a single question is asked about the important challenges identified in the report: What led to a significant increase in launching criminal prosecution, when the number of crimes registered in 2021

(compared to 2020) is practically the same; What is the vision and plans of the Prosecutor's Office (as the coordinating body responsible for fighting and preventing crime) on theft (which has been the most widespread crime for years); Why did the initiation of criminal prosecutions against drug dealers increase, why did this crime increase and what is the vision of the Prosecutor's Office in the direction of fighting/preventing this crime; Why is the number of cases considered by the Court significantly lower than the rate of initiation of criminal prosecution, why is the consideration of criminal cases delayed in the court, including juvenile cases; Why is the rate of acquittals increased and what are the reasons for acquittals; Why is the rate of using a fine as a condition for plea agreement increased, and why is the use of community service as a condition for plea agreement decreased? What is the general perspective of the Prosecutor's Office in relation to crimes committed by juveniles; Why is the use of plea agreements for juveniles reduced, while there was a growth trend in the previous year (in general, what is the policy of the Prosecutor's Office on signing plea agreements with juveniles); What vision does the Prosecutor's Office have on the prevention of crimes committed by civil servants (and what steps have been taken in this direction together with the Ministry of Internal Affairs and local self-government bodies, whose employees have the largest share of crimes committed by civil servants); What led to the increase in criminal prosecutions for corruption crimes, while the decrease in the initiation of investigations; Why is there such an imbalance among persons in managerial positions (even reduced compared to the previous year).

7.3. RECOMMENDATIONS ISSUED BY THE PROSECUTORIAL COUNCIL

Unlike the previous year, a discussion was held at the session of the Prosecutorial Council regarding the recommendations to be issued by the Prosecutorial Council. Only the prosecutor members of the Prosecutorial Council expressed opinions regarding the recommendations to be issued by the Prosecutorial Council.

Based on the 2021 activity report of the Prosecutor's Office, five recommendations were issued:

1. In order to increase the effectiveness of the fight against cybercrime, trainings for investigators and prosecutors should be planned. At the same time, an appropriate manual must be elaborated, which will describe the basic investigative and procedural activities that are necessary to detect this type of crime;
2. In order to increase the efficiency of the financial investigation and to fulfill the existing recommendations, it is recommended to develop a manual for the prosecutors and investigators on conducting a parallel financial investigation,

in which the investigative/procedural activities to be carried out will be provided in detail. After receiving the manual, employees should be given additional trainings and re-trained around the issue;

3. In order to implement the standards established by the European Court of Human Rights in practice by prosecutors and to raise the qualifications of prosecutors in this field, appropriate trainings should be conducted, the latest decisions of the European Court of Human Rights should be analyzed and appropriate recommendations and guidelines should be developed. Monitoring of the cases of ill-treatment by public officials and persons equal to officials, must be strengthened;
4. According to the Investigators' and Prosecutors' Workload Portal, the Career Management, Ethics and Incentives Council should develop appropriate guidelines to encourage overburdened staff and prosecutors overseeing complex cases;
5. In order to ensure continuous justice, guidelines for prosecutors must be implemented. The involvement of the Prosecutor's Office of Georgia should be increased as much as possible in the so-called "bench-bar" format meetings and working groups.

The content of the report, the questions asked at the session and the recommendations issued by the council reveal that they do not fully respond to the challenges indicated in the report, nor to the concerns expressed by the members of the Prosecutorial Council at the session. For example, the proposal of excessively strict conditions for the defense during the signing of the plea agreement was identified as a problem, absence of information about the victims (in this particular case, about the victims of domestic crime) in the report, lack of proper communication with the public, involvement of the Court and the defense in the program of electronic criminal case management program, study of the reasons for increase of domestic crime, absence of information (survey) on recidivism rate of defendants offered plea agreement, strengthening of the human rights protection unit and etc.

8. REVIEW OF THE 2022, 9 MONTHS ACTIVITY REPORT OF THE PROSECUTOR'S OFFICE AT THE SESSION OF THE PROSECUTORIAL COUNCIL

The session of the Prosecutorial Council was held on December 6, 2022 to discuss the activity report of the Prosecutor's Office for 9 months of 2022. The General Prosecutor, first deputy and deputy presented the report of the activities of the Prosecutor's Office for 9 months of 2022.

The session of the Prosecutorial Council lasted 4 hours and 11 minutes, of which the report was presented for 3 hours and 6 minutes and questions were asked for half an hour (a break was announced for 35 minutes).

8.1. TRENDS HIGHLIGHTED IN THE REPORT

According to the report submitted to the Prosecutorial Council:

- Increased: The percentage of the use of alternative mechanisms of criminal prosecution for adults (over 21 years of age) and juveniles - diversion, plea agreement, plea agreement at the substantive hearing, acquittal and partially acquittal verdicts; the percentage of application of fines and imprisonment as a condition of plea agreement, application of imprisonment against juveniles as a result of substantial hearing; launching of the investigation and criminal prosecution on money laundering cases; seizure and confiscation of property obtained through criminal means; detection of involvement of legal entities in cases of money laundering; launching of investigation on corruption; launching of criminal prosecution on the basis of reports of the State Audit Office, launching of criminal prosecution against drug dealers and cases involving crimes against sexual freedom and inviolability;
- Decreased: the percentage of application of detention by prosecutors, plea agreements at an early stage (at first appearance hearing, pre-trial hearing, between first appearance and pre-trial hearing), use of imprisonment at substantial hearing, application (request and granting) of detention against juveniles, imprisonment of juveniles as a condition of plea agreement.

In addition, the report highlights the following trends: the highest rate of initiation of criminal prosecution is recorded for the following crimes: theft - 15.9% (Article 177 of the Criminal Code of Georgia), drug crime - 15.7% (Articles 260, 265 of the Criminal Code of Georgia 273¹), crimes against health and violence - 10.9% (Arti-

cles 117, 118, 120, 126 of the Criminal Code of Georgia), threats - 9.1% (Criminal Code of Georgia Article 151), domestic violence - 8.8% (Article 126¹ of the Criminal Code of Georgia); Number of juveniles in conflict with law is increased (in 2021 there were 614, and in only 9 months of 2022 - 704); There is a big difference between the number of criminal cases considered by the Court against juveniles and the number of juveniles against whom criminal prosecution was initiated (criminal prosecution was initiated against 250 juveniles in 9 months of 2022, and the Court considered only 134 of them); 74% of diverted juveniles have committed theft; The number of defendants and convicts placed in a special penitentiary institution has increased; The largest part of defendant public officials of corruption are those employed in local self-government bodies.

8.2. QUESTIONS ASKED BY THE MEMBERS OF THE PROSECUTORIAL COUNCIL

7 questions were asked by the members of the Prosecutorial Council, three of which were asked by the prosecutor members of the Prosecutorial Council, and 4 by one of the non-prosecutor members of the Prosecutorial Council (a lawyer elected by the Parliament of Georgia).

QUESTIONS ASKED BY THE MEMBERS OF THE COUNCIL	
Prosecutor member (Vladimer Narindoshvili)	1. Are training of regional investigators on money laundering issues planned?
Prosecutor member (Eka Kharebava)	2. What events and campaigns are planned to combat domestic violence? What instruments is the Prosecutor's Office going to use to fight against this crime?
Prosecutor member (Gvantsa Gvimradze)	3. What are the innovations in the direction of involving the Court and the defense in the criminal case management program?
Non-prosecutor member (Tea Cheishvili- Lawyer elected by the Parliament)	4. What are the criteria when applying for non-custodial restrictive measures?
	5. Are the decisions of the Ethic Commission public?
	6. What are the challenges of trying a case by a jury? How does the Prosecutor's Office see the ways to solve them?
	7. What are the challenges in the process of obtaining digital evidence and how does the Prosecutor's Office see ways to solve them?

The number of questions asked by the members of the Prosecutorial Council at the mentioned session is very small. However, as in previous years, they do not address the important challenges identified in the report: What is the vision and plan of the Prosecutor's Office (as the coordinating body responsible for fighting and preventing crime) on theft (which has been the most widespread crime for years); Why is the percentage of plea agreement reduced at the early stage (at the first appearance session, at the pre-trial session, in the period between the first appearance and the pre-trial session) and, accordingly, the percentage of plea agreement at substantive hearing increased (the signing of the plea agreement on time was named as major problem at the previous two sessions by the lawyer member of the Prosecutorial Council); Why is the number of juveniles in conflict with law increased and what is the vision and plan of Prosecutor's Office; Why is there a big difference between the cases of juveniles considered in Court and the cases of juveniles who have been prosecuted (why are cases of this category delayed in Court, while they should be considered as a priority); Why has corruption increased in the public and private sector and what is the vision of the Prosecutor's Office on this issue; What are the plans of the Prosecutor's Office in the direction of prevention and response to corruption in local self-government bodies (representatives of this body represent the largest part of persons accused of corruption); Why does the number of drug dealers increase every year and what vision does the Prosecutor's Office have in the fight against this crime? What led to the increase in the number of criminal prosecutions for crimes against sexual freedom and inviolability in the last two years, what did the Prosecutor's Office change in its policy; What are the plans of the Prosecutor's Office for gender balancing of persons in managerial positions; Why is the rate of detection of disciplinary offenses committed by prosecutors increased and what types of misconduct occur in the prosecution system.

8.3. RECOMMENDATIONS ISSUED BY THE PROSECUTORIAL COUNCIL

In light of the numerous challenges in the activity report of the Prosecutor's Office for 9 months of 2022, the Prosecutorial Council issued 6 recommendations:

1. According to the 2022-2027 strategy of the Prosecutor's Office of Georgia, the goal of the Prosecutor's Office in 2022-2027 is to increase the effectiveness of the fight against certain crimes. In addition to the crimes specified in the strategy, appropriate measures should be taken to ensure investigation and procedural guidance on fraud cases;
2. In order to prevent crime and increase public trust, within the framework of the „Public Prosecutor's Office,, project, the „No to Femicide“ campaign

against violence against women and gender-based murders of women should be actively conducted, during which meetings with representatives of different ages and fields will be held in order to raise awareness in society;

3. For the proper functioning of the Jury Trial Institution, the Prosecutor's Office of Georgia should take effective measures aimed at raising awareness on the institution and professional development of the employees of the Prosecutor's Office;
4. In order to increase the discretionary powers of the prosecutors and the area of application of a liberal approach on their part, the criminal justice policy should be revised in relation to the category of crimes against property, where the aggravating circumstance „significant damage“ is caused by the value of the item over 150 GEL. It would be appropriate to recommend to the prosecutors that in the presence of such aggravating circumstances, if the damage caused does not significantly exceed the 150 GEL defined by law, it should not be evaluated as a qualifying circumstance that causes the defendant to be punished relatively harshly;
5. In order to select and train qualified personnel in the Prosecutor's Office, develop their professional skills, improve their practical skills, supervise the internship process and evaluate interns, the functions of the Internship Commission of the Prosecutor's Office of Georgia created in the General Prosecutor's Office of Georgia should be integrated and implemented by the permanent deliberative body of the General Prosecutor – Council of Career Management, Ethics and Incentives;
6. In order to increase the functions of the Prosecutorial Council and increase the effectiveness of the activities of the permanent deliberative body of the General Prosecutor of Georgia - the Strategic Development and Criminal Justice Policy Council, issues under the mandate of the Council should be discussed/decided with active participation of the Council.

The content of the report, the questions asked at the meeting and the recommendations issued by the council show that they do not respond to the challenges indicated in the report, nor to the concerns expressed by the members of the Prosecutorial Council at the meeting (for example, at the meeting (as in the previous two years) involvement of the Court and the defense in the electronic criminal case management program, as well as publicity of the decisions of the Ethics Commission were identified as problems).

9. PUBLICITY OF THE WORK OF THE PROSECUTORIAL COUNCIL

According to the „Organic Law of Georgia on the Prosecutor’s Office“ the Prosecutorial Council has its own website. In accordance with Article 4 of the Statute of the Prosecutorial Council, the decrees adopted by the Prosecutorial Council, as well as the protocols of the Council’s session, are published on the website of the Prosecutorial Council. According to the same article, the function of the Secretariat of the Prosecutorial Council and the organizational and technical support of its activities are carried out by the Administration (Department) of the General Prosecutor’s Office of Georgia. In the course of the research, through interviews with prosecutor members of the Prosecutorial Council, it became clear that the technical support of the website of the Prosecutorial Council is provided by the Software, Security and Technical Support Center (Department).

It is clear from the website⁵⁰ of the Prosecutorial Council, that it does not include complete information about the activities of the Council. In particular, on the mentioned website:

- a) None of the decrees reflecting results of the activities of the Prosecutorial Council are uploaded – recommendations issued by Prosecutorial Council on the basis of the report on the activities of the Prosecutor’s Office;
- b) The protocols of the meeting of the Prosecutorial Council (hearing the activity reports for the 9 months of 2020, 2021, 2022) are not uploaded, despite the fact that a separate space is allocated for the protocols on the website;
- c) Complete information about the members of the Prosecutorial Council is not given. In particular, there is no information about one member of the Council - member of the Parliament of Georgia, Iago Khvichia. Thus, according to the website, only 14 members are fixed in the Council;
- d) The website of the Prosecutorial Council does not contain information about the election of non-prosecutor members of the Prosecutorial Council (by which agency they were elected, how they were elected, who nominated them as members of the Prosecutorial Council, etc.);
- e) Video recordings of the Prosecutorial Council meetings are not uploaded to the website (it should be noted that the Prosecutorial Council also has an official Facebook page,⁵¹ which has been active since December 19, 2019. It contains information about the Prosecutorial Council meetings and uploaded video recordings of the meetings).

50 See. Webpage of the Prosecutorial Council, <http://pc.gov.ge/>

51 See. Facebook page of the Prosecutorial Council, www.facebook.com/profile.php?id=100066835612709

In order to ensure transparency of the Prosecutorial Council, the Prosecutorial Council must pay due attention to functioning of the webpage (necessity of which is guaranteed by „Organic Law on Prosecutors Office“), to ensure uploading of thorough and updated information on the activities of the Prosecutorial Council with the support of the Administration (department) and Software, Security and Technical Support Center (Division), conduct periodic monitoring to this end.

The Statute of the Prosecutorial Council (which was approved by the Prosecutorial Council on January 16, 2019 and posted on the website of the Prosecutor's Council) provides for a number of restrictions regarding the publicity of the Prosecutorial Council meeting. In particular, according to the Statute, the session of the Prosecutorial Council is closed and the decision of the majority of the members present at the session of the Prosecutorial Council is required to hold it in public. The Statute provides for the audio recording of the session of the Prosecutorial Council (the rules of transmission of which to interested persons are not spelled out in the Statute and it is unclear whether it will be transferred to the interested persons upon request), however, video recording of the session of the Council is possible only by the decision of the chairman of the Prosecutorial Council. Attendance of the mass media is also limited at the session of the Prosecutorial Council. Mass media are authorized to photograph, film, video, audio record and broadcast only the initial stage of the meeting of the Prosecutorial Council, after which they are obliged to leave the session of the Council according to the instructions of the Chairman of the Prosecutorial Council. It should also be noted that it is unclear what is meant by the „initial stage of the session of the Prosecutorial Council“. If the initial phase means the period before the hearing, it is unclear what the media should broadcast.

Also, the Statute does not spell out the rules for holding the Prosecutorial Council and informing the public about the agenda of the session in a reasonable period of time. Information about the holding of the session of the Prosecutorial Council is published on the official Facebook page of the Prosecutorial Council on the day of the session, a few hours before or the day before. This prevents interested persons from following the current regime for the Council meeting.

Despite the fact that the sessions of the Prosecutorial Council are usually public and it is broadcasted on the so-called LIVE mode, the restrictions imposed by the Prosecutorial Council Statute on the publicity of the session are not compatible with the goal of the Prosecutorial Council - to ensure the transparency of the Prosecutor's Office.

Based on the above, it is necessary to make changes in the Statute of the Prosecutorial Council, which will ensure the publicity of the sessions of the Prosecutorial Council, which should be closed in exceptional cases, with a reasoned decision of the Council. Attendance of the mass media at the entire session of the Prosecutorial Council should also be taken into account, which should be limited by a reasoned decision of the Prosecutorial Council. In addition, the Statute should regulate the procedure for informing the public a reasonable time before the session of the Prosecutorial Council, the procedure for transmitting the audio/video recording of the session of the Prosecutorial Council to interested persons.⁵²

10. RESULTS OF INTERVIEWS CONDUCTED WITHIN THE FRAMEWORK OF THE STUDY

During the interviews conducted within the framework of the study, the prosecutor members of the Prosecutorial Council stated that the activity of the Prosecutorial Council is completely satisfactory. In particular, they noted that the legislative regulation of the composition and formation of the Prosecutorial Council does not require any changes. According to their explanation, not a single prosecutor was prevented from realizing their will - to become members of the Prosecutorial Council. Prosecutors did not make any complaints regarding this issue. In their opinion, the reports submitted by the General Prosecutor to the Prosecutorial Council are comprehensive. As for the recommendations developed by the Prosecutorial Council, they fully respond to the trends and challenges indicated in the report on the activities of the Prosecutor's Office.

The representative of the non-governmental organization of the Prosecutorial Council positively evaluates the work of the Prosecutorial Council and considers it a step forward. In addition, in his opinion, it would be better to have more members from the civil sector represented in the Prosecutorial Council (instead of judges and members of Parliament). As for the content of the reports, according to his explanation, the content of the reports is improved every year. They are voluminous, well organized structurally, and the statistical data are interestingly analyzed.

⁵² Such rules are prescribed in legislation with respect to the High Council of Justice of Georgia. According to Article 49 (4) of the „Organic Law On Common Courts“, the High Council of Justice of Georgia, based on a relevant request, immediately provides access to the audio recording of the session to the interested parties. In addition, at least 3 working days before the session of the High Council of Justice of Georgia, information on the date of the session and the agenda of the session is published on the website of the High Council of Justice of Georgia. see „Organic Law on Common Courts“, https://matsne.gov.ge/ka/document/view/90676?publication=47#part_56

The member of the parliamentary opposition of the Prosecutorial Council pointed out that the Prosecutorial Council is not a body that will effectively monitor prosecutorial activities. It has no real leverage to ensure the effectiveness of the prosecution. Council meetings, where only statistical data are discussed, are uninteresting. The recommendations issued by the Council are also general. According to his own explanation, the Parliament of Georgia was never interested in his involvement in the activities of the Prosecutorial Council.

As for the representatives of the Public Defender and the non-governmental sector, in their opinion, the creation of the Prosecutorial Council was a step in the right direction, although it is currently an ineffective mechanism and cannot meet the goals (transparency and effectiveness of the Prosecutor's Office) for which it was created. The Prosecutorial Council ostensibly performs the function of a collegial body, since it cannot/does not make decisions on the main issues of the Prosecutor's Office. The only function that the Council performs is to nominate the candidate of the Prosecutor General to the Parliament of Georgia. During the interviews, it was noted that there is no critical opinion on the Prosecutorial Council, even from non-prosecutor members. In addition, there are many problems with the staffing of the Prosecutorial Council. The Prosecutorial Council is mainly composed of people who report to the General Prosecutor. Despite the fact that according to a number of international recommendations, prosecutors should be in the majority in the Prosecutorial Council, experience has shown that in such collegial bodies, where representatives of this agency have a majority, it creates a danger of corporativism. According to them, more representatives of professional circles and the civil sector should be represented in the Prosecutorial Council, however, not in such a way that without prosecutor members they could make any decisions on the activities of the Prosecutor's Office. The more critical voices are presented at the Council meeting, the more likely the challenges facing the Prosecutor's Office will be identified. The legal procedure for electing prosecutors/investigators of the Prosecutor's Office as members of the Prosecutorial Council was identified as a problem. It was noted that elitism is formalized in the Prosecutorial Council, and prosecutors are elected there, who could not have been there without the involvement of the management, taking into account the legal framework of nomination. Therefore, prosecutors should be able to independently nominate their candidacies as a member of the Council. The presence of members of the Parliament in the Prosecutorial Council was also named as a problem. In particular, in the conditions when the Prosecutor's Office is accountable to the Parliament and the members of the Parliament have a parliamentary mechanism to supervise the activities of the Prosecutor's Office, the presence of members of the Parliament in the Prosecutorial Council is unnecessary and creates a danger of politicization of the activities of the Prosecutorial Council. In their opinion the role

of the Parliament of Georgia should be limited to the election of non-prosecutor members of the Prosecutorial Council (lawyers, representatives of the civil sector and academic circles) with a high quorum. An opinion was also expressed regarding the Council being a permanent body, which will be staffed with active members. In addition, the members of the Prosecutorial Council must have experience in the field of criminal law and/or have professional contact with the activities of the Prosecutor's Office.

Representatives of non-governmental organizations and the parliamentary opposition were also asked about how active they were during the selection of members of the Prosecutorial Council, within their competence. According to their explanation (which can also be seen in the information provided by the Parliament of Georgia), not a single organization or opposition party has shown an initiative regarding this issue and has not presented a candidate for the membership of the Prosecutorial Council to the Parliament of Georgia.



VI. ACCOUNTABILITY BEFORE THE PUBLIC

According to the Council of Europe recommendation on the „Role of public prosecution in the criminal justice system“ transparency is crucial for the Prosecutor’s Office. The Prosecutor’s Office shall report periodically to the public directly through the media or by publishing a report or submitting it to the Elected Assembly.⁵³ A similar approach is developed by the Organization for Economic Cooperation and Development (OECD).⁵⁴ According to the opinion of the Consultative Council of European Prosecutors (CCPE) on „Independence, Accountability, and Ethics of Prosecutors“, despite independence, „prosecutors are responsible and accountable for their actions before public and media. Prosecutors must explain their actions and proactively provide detailed information to the public, especially when there is a high public interest.“⁵⁵

According to the legislation and practice of many countries, accountability of the Prosecutor’s Office to the public and informing the public is defined as one of the most important goals of the Prosecutor’s Office accountability. Prosecution reports from a number of countries (discussed in Chapter IV) emphasize the aims of building public trust and increasing public involvement in prosecution work (for example, a report from the Prosecution Service in England and Wales states: „The more people understand what, why and how we do it, the more we will be valued and will have our trust. Over the past year we have had a more consistent public communication strategy and have covered more and more audiences“⁵⁶).

⁵³ See. *The role of public prosecution in the criminal justice system, recommendation Rec (2000)19, 06.10.2000*, <https://rm.coe.int/16804be55a>

⁵⁴ See. *Study on „Independence of prosecutors in Eastern Europe, Central Asia and Asia-Pacific“, P.55, Para 1.5.*, <https://www.oecd.org/corruption/The-Independence-of-Prosecutors-in-Eastern-Europe-Central-Asia-and-Asia-Pacific.pdf>

⁵⁵ See. *CCPE Opinion No 3(2018) of the CCPE: „Independence, Accountability, and Ethics of Prosecutors“, 23.11.2018*, [http://www.ejtn.eu/Documents/About%20EJTN/RoL%20Project/RoL_2019_02_Brussels/OPINION%2013%20CCPE\(2018\)2E.pdf](http://www.ejtn.eu/Documents/About%20EJTN/RoL%20Project/RoL_2019_02_Brussels/OPINION%2013%20CCPE(2018)2E.pdf)

⁵⁶ See. *2021-2022 activity Reports of England and Wales*, https://www.cps.gov.uk/sites/default/files/documents/publications/CPS%20Annual%20Report%20and%20Accounts%202021-22_2.pdf

The Prosecutor's Office of Georgia communicates with the public through various means along with submitting a report to the Parliament of Georgia and the Prosecutorial Council (which, among other things, serves the purpose of accountability to the public).

According to the 2022 activity report of the Prosecutor's Office of Georgia, the Prosecutor's Office of Georgia: issued 334 press releases, conducted 14 briefings and made 27 video comments/video clips in 2020; In 2021, issued 365 press releases, held 16 briefings, made 59 video comments/video clips and distributed 42 video materials; In 2022, it distributed 490 press releases, 86 video comments, 91 video materials and held 14 briefings.

The Prosecutor's Office actively uses the official website and Facebook page to inform the public. It is through them that the Prosecutor's Office publishes information about its activities. For the purposes of the research, the information posted on the website of the Prosecutor's Office in 2022 (the number of which is 500) was studied in detail.

The results of the study reveal that the official website contains a large amount of information about the training of the Prosecutor's Office employees and the awareness raising campaigns conducted by the Prosecutor's Office. Active involvement of employees in awareness-raising campaigns within the framework of which prosecutors have direct communication with the public, should be considered a good practice of communication with the public.

As for the prosecutorial work, webpage of the Prosecutor's Office contains information on statistical data, launching of criminal prosecution, application of restrictive measures, court judgments and appeals.

The public is mainly informed about the initiation of criminal prosecution and the judgments of the Court based on the evidence presented by the prosecution. In most cases, this concerns crimes against life (mainly murder, attempted murder) and crimes against health. Information on initiation of criminal prosecution is published (including briefings) on high-profile criminal cases (in which there is high public interest), however, information is also disseminated on ordinary cases.

It should be noted that, as a rule, the Prosecutor's Office does not disseminate information about the initiation of investigation, refusal to initiate investigation, investigation progress on cases under its investigative jurisdiction, including high-profile criminal cases.

As for the judgments of the Court, the Prosecutor's Office only publishes information on convictions. The Prosecutor's Office publishes information on acquittals only when the case is high-profile. Also, it is indicated in the information that the Prosecutor's Office disagrees with the decision and will appeal it to the Court of Appeals.

The Prosecutor's Office periodically submits reports on individual crimes with the participation of other state agencies and the non-governmental sector (during the interviews conducted as part of the study, the representatives of the non-governmental sector noted that the reports submitted to them mainly talk about statistical data), however, the Prosecutor's Office has not implemented a report of its activities for the media or/and the practice of presenting to civil society.

Webpage of the Prosecutor's Office does not practically contain information on results of the criminal justice policy carried out by the Prosecutor's Office (what is the influence of such policy on criminogenic situation in the Country), evaluation of the criminogenic situation in the Country, activities conducted for the protection of human rights in the country (in investigative agencies, penitentiary and etc). Also, Prosecutor's Office does not publicly speak about challenges in the system and shortcomings in the course of its work.

It is also worth noting the role of the General Prosecutor in the process of communication with the public. Voluminous information about the official meetings held by the General Prosecutor within the country or outside the country is posted on the website and Facebook page of the Prosecutor's Office. It also participates in such events as: presentation of manuals, opening or closing events of information campaigns, appointment of interns, awarding of prosecutors and investigators, etc. It should be noted that all meetings with his participation are held in the office of the Prosecutor's Office. He does not attend public events. Given that the General Prosecutor did not present his report to the Parliament of Georgia, and journalists are not present at the session of the Prosecutorial Council, the media does not have the opportunity to ask him questions. His interviews published in the media are always recorded in the premises of the Prosecutor's Office (most likely with the resources of the Public Relations Service of the Prosecutor's Office, and the recording is provided to the media). The General Prosecutor does not make statements on the criminogenic situation of the Country, on the criminal justice policy implemented by the Prosecutor's Office, on the facts of human rights violations, on criminal cases of high public interest.

One of the most important expressions of accountability to the public is the provision of information about its activities by the Prosecutor's Office to interested

persons. The reports reflecting the activity of the Prosecutor's Office show that the rate of providing public information by the Prosecutor's Office is high, however, all respondents of the interviews conducted within the framework of the study noted that the content of the answer given by the Prosecutor's Office to their request almost never completely answers the questions they asked.



VII. RECOMMENDATIONS

In order to ensure the real accountability of the Prosecutor's Office, it is necessary to take steps in both the legislative and practical direction, for which recommendations have been developed.

To the Parliament of Georgia

- The Parliament of Georgia should consider the report of the activities of the Prosecutor's Office every year at the spring session and ensure that the report is presented by the General Prosecutor at the parliamentary committees and plenary sessions;
- The Parliament of Georgia should evaluate annually the state of fulfillment of the assignments to the Prosecutor's Office based on the Public Defender's report on the state of human rights and freedoms protection;
- The Parliament of Georgia should implement changes in the Rules of Procedure of the Parliament of Georgia and strictly prescribe the obligation to hear the activity report of the Prosecutor's Office at the spring session;
- The Parliament of Georgia should make changes in the Rules of Procedure of the Parliament of Georgia and the „Organic Law on the Prosecutor's Office“, which will expand the list of issues presented in the report of the activities of the Prosecutor's Office;
- The Parliament of Georgia should start working/discussing the legislative changes to be implemented in order to improve the composition and formation of the Prosecutorial Council;
- The Parliament of Georgia should ensure the strengthening of the capacities of the members of the Parliament of Georgia regarding the activities of the Prosecutor's Office and the issues related to the activities of the Prosecutor's Office;

- The representatives of the parliamentary opposition should intensify their efforts to discuss the activities of the Prosecutor's Office in the Parliament of Georgia and implement the necessary legislative changes.

To the Prosecutorial Council

- The Prosecutorial Council shall review the report of the activities of the Prosecutor's Office once every six months;
- The Prosecutorial Council, in coordination with the Parliament of Georgia and the civil sector, should start work/discussion on the legislative changes to be implemented in order to improve the composition and formation of the Prosecutorial Council;
- The Prosecutorial Council should ensure that the public is informed about the holding of the session of the Prosecutorial Council in a reasonable period of time;
- The Prosecutorial Council should ensure that amendments are made to the Prosecutorial Council's regulations in order to promote the transparency and openness of the Prosecutorial Council meetings, in accordance with the findings indicated in the report;
- In order to prepare for the meetings of the Council, the Prosecutorial Council should implement an effective coordination mechanism between the members of the Council before the session of the Prosecutorial Council;
- The Prosecutorial Council should ensure compliance of the questions asked at the session of the Council with the challenges specified in the report on the activities of the Prosecutor's Office;
- The Prosecutorial Council should ensure discussion on recommendations without the presence of the General Prosecutor and his deputies;
- The Prosecutorial Council should ensure compliance of the issued recommendations with the challenges specified in the report on the activities of the Prosecutor's Office.

To the Prosecutor's Office of Georgia

- The Prosecutor's Office of Georgia should develop a unified methodology for the production of statistics on the activities assigned to its competence and ensure its public availability;
- The Prosecutor's Office of Georgia should ensure that the report of its activities is perfected, taking into account the findings of this study and international practices;
- The Prosecutor's Office of Georgia, in coordination with the Parliament of Georgia and the civil sector, should start work/discussion on the legislative changes to be implemented in order to improve the composition and formation of the Prosecutorial Council;
- The General Prosecutor of Georgia should ensure that the report on the activities of the Prosecutor's Office is delivered to the members of the Prosecutorial Council in a reasonable time before the session of the Prosecutorial Council;
- The Prosecutor's Office of Georgia should ensure the availability of complete information reflecting the activities of the Prosecutorial Council on the website of the Prosecutorial Council;
- The Prosecutor's Office of Georgia should implement the practice of presenting the activity report to the civil sector;
- The Prosecutor's Office of Georgia should provide complete answers to the information requested in writing (including by members of the Parliament and representatives of the civil sector);
- The Prosecutor's Office of Georgia should periodically provide information to the public about the criminogenic situation in the country, widespread crimes, the criminal justice policy implemented on them and the steps taken to prevent them.

Non-governmental sector

- Representatives of the non-governmental sector should activate their role in order to increase the accountability of the Prosecutor's Office of Georgia;
- Representatives of the non-governmental sector should activate their role in the process of electing members of the Prosecutorial Council.



APPENDIX - THE POSITION OF THE PROSECUTOR'S OFFICE AND THE PROSECUTORIAL COUNCIL OF GEORGIA ON THE STUDY

The study was sent to the Prosecutor's Office of Georgia, the Prosecutorial Council and the Parliament of Georgia by the „Rule of Law Centre“ in order to present their opinions. The Parliament of Georgia did not present any opinions. Opinions were presented by the Prosecutor's Office and the Prosecutorial Council of Georgia.

Some of the opinions of the Prosecutor's Office of Georgia are taken into consideration, while the comments provided by the Prosecutorial Council are not taken into account. Below are the opinions not taken into account (the opinions are shortened, keeping the content).

Opinions of the Prosecutor's Office of Georgia:

- The opinion that the report should contain more comprehensive analytics is wrong. The reports reflect the results of the implementation of the criminal justice policy in numbers, which include the general response to the criminogenic situation. The activities of the Prosecutor's Office cover a number of directions, therefore, the report can not present all areas;
- Presentation of statistics from different years is related to legislative or criminal justice policy changes;
- Issues named by the study (information on termination of investigation/criminal prosecution, written directives, refusal to charge by the Prosecutor's Office, annulment of the decision of the subordinate prosecutor and the investigator by the superior prosecutor, release from arrest) cannot be considered as

issues of the scale that can provide the public with information about the main directions and policies of the Prosecutor's Office;

- A part of the data on the investigative and procedural activities restricting human rights and freedoms is processed for internal use - for prosecutors and investigators. Since most of them relate to procedures and are not related to progress or reforms in a specific direction, they should not be reflected in the report;
- Due to the variety of crimes, it is also impossible to inform the public about the methods of their commission. It is also beyond the format of the report;
- The number of members of the initiative group presenting a member of the Prosecutorial Council is a correct international practice. Based on the staffing system of the Prosecutor's Office, the existence of a 30-member initiative group gives the candidate the opportunity to represent the joint desire of not one but different structures, which translates into the trust of more people. Based on the minimum number of members of the initiative group, the influence of the manager of one structure is excluded. At the same time, the prosecutor is independent and has the leverage to initiate his/her candidate for the board membership independently of the manager;
- The absence of restrictions on the experience of members of the Prosecutorial Council provides more opportunities for the Council to be staffed by people with diverse experience;
- The hearing of the prosecutor's report is public in the Parliament. The report is also public. Accordingly, the Prosecutor's Office does not share the opinion that the system has not implemented the practice of presenting the report to the media and/or civil society.

Opinions of the Prosecutorial Council:

- The Prosecutorial Council performs its functions decently. The General Prosecutor takes accountability before the Council with high responsibility. The Council actively monitors the implementation of its recommendations on its turn;
- Problematic issues raised in relation to the Prosecutorial Council by the authors of the study, are of a hypothetical nature. The named „problems“ represent the assumptions of the authors and the subsequent baseless critical opinions;

- The opinion of the authors of the study, that the procedure for staffing the Prosecutorial Council limits the prosecutor/investigator's ability to participate in the elections, does not correspond to reality (and is not supported by real fact(s)). The number of Prosecutorial Council elections already conducted is a clear example - the candidates willing to participate were given the opportunity to participate in the elections. In addition, taking into account the standards of the election process, the candidate should be supported by at least a minimum number of employees so that his/her legitimacy and the legitimacy of the election process in general are not questioned;
- The number and content of the questions asked at the meetings indicate that the members of the Council participate in the discussion and ask relevant questions;
- Opinions of the authors of the study on establishing a uniform standard of experience for all members of the Prosecutorial Council are subjective. It is not clear why the authors of the study believe that only the number of questions asked at the meetings determine the work of the Council member. Also, it is not clear why the fact that the non-prosecutor members do not ask questions during the Council meeting, means that they lack experience and are ineffective;
- The researchers do not consider the pandemic as a sufficient reason for not holding Council meetings. In addition, the researchers cannot indicate what was the damage in terms of accountability of not holding a meeting once in 6 months, while the Council has heard the activity report of each period;
- The content of the questions asked by the council members in the study, as well as the main challenges the Prosecutor's Office faces, are subjectively evaluated;
- Council members are not limited to only one session - to submit recommendations. They have the right to express their opinions through e-mail or other means of communication, which they use quite actively. Therefore, the emphasis on the fact that the members of the Council need more time to prepare for hearing the report and develop recommendations is wrong. Also, it is not clear to assess the presence of the General Prosecutor at the session during the discussion on the recommendations as a hindering circumstance, while the session is being broadcast live and the General Prosecutor of Georgia can also watch it;

- The problematic nature of the existing provisions in the Statute of the Prosecutorial Council regarding the publicity of the session, while all the sessions were broadcasted live via Facebook, is illogical. Moreover, the Council also discusses the issues of disciplinary responsibility, and the personal data of the members of the Council, which the person may not want to disclose.

