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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAW

ON THE PROSECUTION SERVICE

IN THE REPUBLIC OF GEORGIA

Chapter I **General Provisions**

Article 1

The Prosecution Service of Georgia

1. The Prosecution Service of Georgia (*hereinafter – the Prosecution Service*) is the state authority within the system of the Ministry of Justice of Georgia which exercises its powers in compliance with the legislation of Georgia.
2. The establishment of special or extraordinary *Prosecution Service* is prohibited.
3. The Minister of Justice of Georgia has a power to set up *ad hoc* specialized Prosecution Service within the common jurisdiction determined by the Georgian legislation and under the rule established by law define its powers and the term of activities.

Article 2

Definition of Terms

The terms referred to in this law shall have the following meanings:

- a) Prosecutor – the Minister of Justice of Georgia, the Chief Prosecutor of Georgia (*hereinafter the Chief Prosecutor*), Deputy Chief Prosecutors, the Prosecutors of the Autonomous Republics of Adjara and Abkhazia, the Prosecutor of Tbilisi, District Prosecutor, Regional Prosecutor, Prosecutor of Specialized Prosecution Service, the Prosecutor of Extraordinary Cases, Senior Prosecutor, Prosecutor, Criminalist Prosecutor, Intern-Prosecutor, the Heads and Deputy Heads of the Departments, Units, Divisions and other structural units equal to them which directly fulfill the functions envisaged by the Criminal Procedure Legislation, also in certain cases the employee of the Prosecution Service who directly does not fulfill the functions envisaged by the Criminal Procedure Legislation but he/she has passed the certification exam for the staff of Prosecution Service and under the decision of the Minister of Justice the authorization of the prosecutor is granted to the person;
- b) The Investigator of the Prosecution Service – Senior Investigator of Extraordinary Cases, Investigator of Extraordinary Cases, Senior Investigator, Investigator, Intern-Investigator;
- c) The employee of the Prosecution Service – Prosecutor, the Investigator of the Prosecution Service, the Legal Advisor of the Prosecution Service, the Intern of the Prosecution Service, the Assistant Employee of the Prosecution Service, the Supernumerary Officer of the Prosecution Service;
- d) The Intern of the Prosecution Service – the person with higher legal education who has already passed the certification exam for the employees of the Prosecution Service and he/she is appointed at the position of Prosecutor, Senior Investigator, Investigator of Structural Unit or having one of the aforesaid positions at the Office of the Chief Prosecutor of Georgia, the Prosecution Services of the Autonomous Republics of Adjara and Abkhazia, Tbilisi Prosecution Service, the District, Regional and Specialized Prosecution Services pursuant to the rule established by the Minister of Justice of Georgia;
- e) The Legal Advisor of the Prosecution Service – a person who is appointed at the position envisaged by the staff of the Department, Unit, Division and the Structural Unit equal to them and whose function is not to carry out the competencies provided for in the Criminal Procedure Legislation. The Legal Advisor has not the same functions as carried out by the assistant employee or supernumerary officer;

- f) The Assistant Employee of the Prosecution Service – technical employee who is hired with the labor contract to the position of assistant employee of the Prosecution Service envisaged by the staff;
- g) The Supernumerary Officer – the person who is received for a certain period by appointment or labor contract to the Prosecution Service in order to fulfill inconstant tasks.

Article 3 Tasks of the Prosecution Service

1. In accordance with the rule established by the law the Prosecution Service:
 - a) Carries out prosecution;
 - b) In order to exercise prosecution carries out procedural supervision at the stage of preliminary investigation;
 - c) Conducts full preliminary investigation in the cases envisaged by law;
 - d) Supervises the precise and homogenous observance of the legal requirements in the work of the operative-intelligence agencies;
 - e) Verifies the facts of the violation of the rights of the persons who are deprived of their liberty and carries out procedural duties at the places of detention, pre-trial detention and also where the freedom is restricted and at other institutions executing the penitentiary functions or any other punishment measure imposed by court;
 - f) Participates in the court hearings of the criminal case as a party and supports state prosecution;
 - g) Coordinates the fight against criminality;
 - h) In the name of the State participates as a plaintiff in the discussion of the cases to be examined under the rules of civil litigation concerning the racketeering group, racketeer, official, the member of the realm of thief-in-law, human trafficker, the promoter of drug diffusion, also regarding the submission of illegal, ungrounded and racketeering property of the person convicted under Article 194 §3 (c) of the Criminal Code of Georgia to the State;
 - i) Implements operative-criminal activities under the rules established by the legislation of Georgia.
2. The obligations which are not envisaged by the Constitution, the given law or other legislative acts shall not be imposed on the Prosecution Service.

Article 4 Principles of the Activities of the Prosecution Service

The principals of the activities of the Prosecution Service are:

- a) legality;
- b) the protection and respect of the rights and freedoms of natural entity and the rights of legal person;
- c) professionalism and competency;
- d) objectivity and impartiality;
- e) unity and centralizations, the submission of subordinate prosecutor and other employees of the Prosecution Service to the Minister of Justice of Georgia;
- f) political neutrality;

Article 5 Legal Basis of the Activities of the Prosecution Service

The legal bases of the activities of the Prosecution Service are: the Constitution of Georgia, the International Treaties and Agreements of Georgia, the given law and other legal acts.

Article 6
the International Obligations of the Prosecution Service

The Prosecution Service participates in the decision-making process of the issues within its competency which are in conformity with the International Treaties and Agreements of Georgia

Chapter II
The System and Organization of the Prosecution Service

Article 7
System of the Prosecution Service

1. system of the Prosecution Service is made of: the Chief Prosecution Office of Georgia (*Chief Prosecutor*) the Prosecution Services of the Autonomous Republics of Adjara and Abkhazia, Tbilisi Prosecution Service, District Prosecution Services, Regional Prosecution Services, also Specialized Prosecution Services envisaged by Article 1 §3 of the same law. The term of the authorization of the Prosecutors of the Specialized Prosecution Service is determined by the term of the authorization of the Specialized Prosecution Service.

2. structure of the Prosecution Agencies and the positions of staff members are affirmed by the Minister of Justice of Georgia under the rule established by law.

Article 8
Minister of Justice of Georgia

1. For the end of this law the Minister of Justice of Georgia (*the Minister of Justice*):
 - a) Creates and abolishes Prosecution Agencies, determines the territory of their activities and establishes the competency of structural units within his competency;
 - b) Appoints and dismisses Deputy Chief Prosecutors, the Prosecutors of the Autonomous Republics of Adjara and Abkhazia, Tbilisi and District Prosecutors under the nomination of the Chief Prosecutor;
 - c) in case of commission of crime conducts prosecution against the President of Georgia, the Member of Parliament of Georgia, the Chairperson of the Supreme Court of Georgia, the Judge of Common Courts of Georgia, the Member of the Government of Georgia, the Public Defender of Georgia, the Chamber of Control of Georgia, the member and President of the Council of National Bank of Georgia, the Ambassador and Envoy Extraordinary and Plenipotentiary of Georgia, Prosecutor, the Investigator of the Prosecution Service, the Advisor of the Prosecution Service, Military Top or High Special Rank Officer or the person equal to them under the rule established by law;
 - d) Approves the prime principles of the Criminal Law Policy;
 - e) Works out proposals on financing and providing the Prosecution Service with material-technical assistance under the introduction of Chief Prosecutor;
 - f) Asserts the structure of Prosecution Agencies, the number of position of staff members and the amount of salary of the employees of the Prosecution Service within the allocated wage fund and under the introduction of the Chief Prosecutor;
 - g) Grants and deprives state special ranks to the employees of the Prosecution Service within his/her competency under the rule established by law;
 - h) Represents Prosecution Service to the Supreme State Authorities of Georgia, International Organizations and also in relation with the Law Enforcement Agencies of other countries;

- i) Under the introduction of the Chief Prosecutor decides the application of disciplinary punishment against Deputy Chief Prosecutors, the Prosecutors of the Autonomous Republics of Adjara and Abkhazia, Tbilisi and District Prosecutors;
- j) On the basis of the law and for its accomplishment issues normative and individual legal acts – orders, instructions and directives;
- k) abolishes the illegal orders, instructions and directives of the subordinated prosecutors;
- l) Approves the regulations of the Prosecution Service and its Structural Units and the rules of internship in the Prosecution Agencies;
- m) Affirms the Code of Ethics of the employees of the Prosecution Service;
- n) Establishes consultative councils in order to promote the activities of the Prosecution Service;
- o) Exercises other authorizations granted by the legislation of Georgia;

2. In absence of the Minister of Justice or in case of suspending his/her authorization the Chief Prosecutor performs the authorization envisaged by this Article §1 and in absence of the Chief Prosecutor or suspension of his/her authorization one of the Deputy Chief Prosecutors fulfill the aforesaid authority;

3. The prime principles of the Criminal Law Policy approved by the Minister of Justice are codified. The realization of the aforesaid principles is obligatory for all subordinate prosecutors. The disclosure of the content of the prime principles of the Criminal Law Policy by the employee of the Prosecution Service will result in the disciplinary responsibility envisaged by this law;

4. The order or other acts issued by the Minister of Justice may be appealed at the court in case of its irrelevance to the Constitution or Law of Georgia.

Article 9

Office of the Chief Prosecutor

- 1. The Office of the Chief Prosecutor is headed by the Chief Prosecutor, who is appointed and dismissed
- 2. by the President of Georgia upon the nomination of the Minister of Justice.
- 3. The Chief Prosecutor has deputies. Deputy Chief Prosecutors are appointed and dismissed by the Minister of Justice upon the nomination of the Chief Prosecutor.
- 4. In case of rejection of the candidacy of the Deputy Chief Prosecutor by the Minister of Justice it is not allowed to introduce the same candidacy before the Minister of Justice within the year.
- 5. The Chief Prosecutor:
 - a) organizes and leads the activities of the Prosecution Service under the rule established by law;
 - b) introduces the candidacy of the Deputy Chief Prosecutors, the Prosecutors of the Autonomous Republics of Adjara and Abkhazia, Tbilisi and District Prosecutors to the Minister of Justice;
 - c) applies to the Minister of Justice in order to dismiss the Deputy Chief Prosecutors, the Prosecutors of the Autonomous Republics of Adjara and Abkhazia, Tbilisi and District Prosecutors;
 - d) appoints and dismisses subordinate prosecutors, investigators and other employees of the Prosecution Service besides the persons envisaged by the Article 8 §1 (b) of this law;

- e) appoints the prosecutor with the special authorization who examines the motions of the Special Service of the Counter Intelligence and Antiterrorist Centre of the Ministry of Internal Affairs of Georgia concerning the implementation of the operative-technical measures pursuant to the Law of Georgia on the Counter Intelligence Service;
- f) appoints the prosecutor with the special authorization who applies the court in order to identify the organization as a terrorist organization;
- g) in case of the commission of crime conducts prosecution against the Minister of Justice under the rule established by law;
- h) files the appeal to the court with the request to deteriorate the conditions of the convicted person;
- i) provides statistical reports , organizes the generalization and improvement of the prosecution and investigation practices, the diffusion of foremost advanced material-technical means and the implementation of advanced experience in practice;
- j) makes proposals to the Minister of Justice on financing the Prosecution Service and providing it with material-technical aid;
- k) submits to the Minister of Justice the structure of Prosecution Services considering the allocated salary fund, the number of positions of staff and the salary of the employees of the Prosecution Service for approval;
- l) determines the functional duties of his/her deputies, Prosecution Services and their structural units as well;
- m) decides the matters of disciplinary punishment against the employees of the Prosecution Service excepts for the persons envisaged by Article 8 §1 (e) of this law;
- n) makes proposals to the Minister of Justice concerning the disciplinary punishment against the persons envisaged by Article 8 §1 (e) of this law;
- o) on the basis of the law and for its implementation issues normative and individual legal acts – orders, instructions, directives;
- p) abolishes the illegal orders, instructions and directives of the subordinated prosecutors;
- q) examines the complaints and announcements of the citizens;
- r) exercises other authorizations granted by the legislation of Georgia;
- s) in case of absence of the Chief Prosecutor or suspension of his/her tenure one of the Deputy Chief Prosecutors will perform his/her duties;
- t) the order or other act of the Chief Prosecutor may be appealed to the Minister of Justice or to the Court due to its incompliance to the Constitution or the Law of Georgia;
- u) the Office of the Chief Prosecutor includes the following structural Units: Departments, Units and other Units (Sub-Units) which have heads and may have deputy heads of Structural Divisions (subdivisions), the prosecutors of extraordinary cases, senior prosecutors, criminalist-prosecutors, prosecutors, senior investigators of extraordinary cases, the investigators of extraordinary cases, advisors and special employees.

Article 10

The Prosecution Services of the Autonomous Republics of Adjara and Abkhazia

1. The Prosecution Services of the Autonomous Republics of Adjara and Abkhazia are headed by the Prosecutors of the Autonomous Republics of Adjara and Abkhazia respectively who are appointed and dismissed by the Minister of Justice upon the nomination of the Chief Prosecutor.

2. In case of rejection the candidacy the Prosecutors of the Autonomous Republics of Adjara and Abkhazia by the Minister of Justice it is not allowed to introduce the same candidacy before the Minister of Justice within the year.

3. The Prosecutors of the Autonomous Republics of Adjara and Abkhazia have their deputies who are appointed and dismissed by the Chief Prosecutor.

4. The Autonomous Republics of Adjara and Abkhazia include the following structural units: Departments and other structural divisions which have heads and may have deputy heads of the structural divisions, senior prosecutors, criminalist-prosecutors, prosecutors, senior investigators, investigators, advisors and special employees.

5. The Heads of the Departments and other Structural Divisions of the Autonomous Republics of Adjara and Abkhazia and its Deputy Heads, the Heads of Investigative Units and its Deputy Heads, the Prosecutors of Investigative Units, Criminalist-Prosecutors, the Senior Prosecutors and Prosecutors of the Departments and other Structural Divisions, advisors, special employees, Regional Prosecutors and Deputy Prosecutors of the Autonomous Republics of Adjara and Abkhazia, prosecutors, senior investigators, advisors and special employees of District Prosecution Service located at the territory under the jurisdiction of the Autonomous Republics of Adjara and Abkhazia are appointed and dismissed by the Chief Prosecutor.

6. The Prosecutors of the Autonomous Republics of Adjara and Abkhazia issue individual legal acts – orders within their competencies and the execution of those acts by the subordinate prosecutors and other employees of the Prosecution Service is obligatory.

Article 11

Tbilisi Prosecution Service and Regional Prosecution Services

1. Tbilisi Prosecution Service and Regional Prosecution Service are headed respectively by Tbilisi Prosecutor and the Regional Prosecutor who are appointed and dismissed by the Minister of Justice upon the nomination of the Chief Prosecutor.

2. In case of rejection the candidacy of Tbilisi and Regional Prosecutors by the Minister of Justice it is not allowed to introduce the same candidacy before the Minister of Justice within the year.

3. Regional Prosecution Service is established due to the territorial units. The territory under the jurisdiction of the Regional Prosecution Service shall be determined by the Minister of Justice.

4. Tbilisi and Regional Prosecutors shall have their deputy prosecutors who shall be appointed and dismissed by the Minister of Justice.

5. Tbilisi Prosecution Service and Regional Prosecution Service shall include the Departments and other structural divisions which shall have heads and may also have deputy heads of the structural divisions, senior prosecutors, criminalist-prosecutors, prosecutors, senior investigators, investigators, advisors and specialists.

6. The employees of the Tbilisi and Regional Prosecution Services except for the persons envisaged by the same Article §1 shall be appointed and dismissed by the Minister of Justice.

7. Tbilisi Prosecutor and Regional Prosecutors shall issue individual legal acts – orders within their competency and the execution of which by the subordinate employees of the respective Prosecution Service shall be obligatory.

Article 12
District Prosecution Services

1. District Prosecution Services are headed by the District Prosecutors who shall be appointed and dismissed by the Chief Prosecutor.
2. The District Prosecution Services shall be established due to the territorial units. The territory under the jurisdiction of the District Prosecution Service shall be determined by the Minister of Justice.
3. The District Prosecutors may have their deputies who shall be appointed and dismissed by the Chief Prosecutor.
4. The District Prosecution Services shall have prosecutors, office managers and may have special employees who are appointed and dismissed by the Chief Prosecutor.
5. The District Prosecutors within its competency shall issue individual legal acts – orders that shall be executed by the subordinate employees of the respective Prosecution Service.

Article 13
Forms of Subordination of the Subordinate Prosecutor to the Supervising Prosecutor

1. The subordination of the subordinate prosecutor to the supervising prosecutor shall have the following meanings:
 - a) The compulsiveness of the execution of supervising prosecutor's instructions given to the subordinated prosecutor concerning the organization of the Prosecution Service and regarding the issues related to its activities;
 - b) The duty of the subordinated prosecutor to report to the supervising prosecutor in the course of performing their office duties;
 - c) In case of necessity the fulfillment of the duties of the subordinated prosecutor by the supervising prosecutor or imposing his/her certain authorizations on the subordinated prosecutor;
 - d) The supervising prosecutor shall abolish and amend the acts and decisions of the subordinated prosecutor or replace them with other decisions and acts;
 - e) The supervising prosecutor shall examine the appeals on the decisions and acts of the subordinated prosecutor;
 - f) The subordinated prosecutor shall submit the report on his/her activities, information, cases and materials to the supervising prosecutor;
2. The Minister of Justice had the right to establish other forms of the subordination of the subordinated prosecutor to the supervising prosecutor pursuant to the Constitution and this law;
3. The subordinated prosecutor and other employees of the Prosecution Service are obliged to fulfill all lawful requirements and instruction of the supervising prosecutor.

Chapter III
The Trends of the Activities of the Prosecution Service

Article 14
the implementation of prosecution

1. The Prosecution Service implements the prosecution according to the rules and within the frames established by the Legislation of the Criminal Procedure Law.

2. The Prosecution Service in order to provide prosecution does procedural supervision at the stage of the preliminary investigation;

Article 15 **The Preliminary Investigation**

The Prosecution Service carries out comprehensively preliminary investigation and may conduct operative-criminal activities in the cases envisaged by the Procedure Legislation and within the established rules concerning criminal and other illegal acts.

Article 16 **Supervision over the precise and homogenous realization of the activities of the Operative Counter Criminal Agencies**

1. The prosecutor during the activities of the Operative Counter Criminal Agencies supervises over the operative counter criminal measures taken by the Operative Counter Criminal Agencies and the legality of their decisions within this process in order to provide the precise and homogenous realization of the requirements set by the Legislation on the Activities of the Operative Counter Criminal Agencies.

2. The legitimacy and validity of the order issued by the judge concerning the authorization, continuation and suspension of the operative counter criminal measures are not the subject of the prosecutor's surveillance.

3. The data of the person who renders and rendered classified assistance to the Operative Counter Criminal Agency, cooperates or cooperated with it, also the tactic of obtaining operative counter criminal information, organization, operative processing and the classified part of the operative counter criminal registration of the cases are not the subject of the prosecutor's surveillance.

4. The operative processing of the case and the right to get familiarized with the classified materials of the operative counter criminal registration of the cases have the following persons: the Minister of Justice, Chief Prosecutor, Deputy Chief Prosecutors, the Heads of the Structural Divisions of the Prosecution Service and its Deputy Heads, the Prosecutors and Deputy Prosecutors of the Autonomous Republics of Adjara and Abkhazia, District Prosecutors and their Deputy Prosecutors, Tbilisi Prosecutor and his/her Deputy Prosecutors and Regional Prosecutors according to the territories of their jurisdiction; also other Prosecutors who are determined by the Minister of Justice, Chief Prosecutor and Deputy Chief Prosecutors, the Prosecutors of the Autonomous Republic of Adjara and Abkhazia, District Prosecutors, Tbilisi Prosecutor and Regional Prosecutors.

Article 17 **Protection of Individual Rights and Performing Procedural Duties at the institutions executing arrest, pre-trial detention, deprivation or the restriction of liberty**

1. Prosecutor shall have the following powers:

- a) In order to comply with the law to inspect the institutions executing arrest, pre-trial detention, deprivation or the restriction of liberty and other penitentiaries where the penalties and constraining measures of the court are executed;
- b) In order to exercise the authorizations envisaged by this Article (a) to enter the appropriate institutions at any time;
- c) To inquire the persons who are detained, arrested, convicted and the ones sentenced constraining measures;

- d) To get familiarized with the documents under which the persons are detained and arrested, serve sentence or constraining measures are applied against them;
 - e) To take immediate measure in order to release the person who is illegally detained, arrested or being under the constraining measures;
2. The Prosecutor exercises other authorizations envisaged by the legislation of Georgia.

Article 18

Prosecutor Prosecuting on behalf of State

1. Prosecutor shall appear before the court of first instance on behalf of state. He/She is obliged to prove accusation.
2. Prosecutor shall have the right to reject accusation completely or partially if the obtained evidences fail to prove the charge. The rejection of the prosecutor on the accusation shall be grounded.
3. Prosecutor can exercise the following rights at the stage of court discussion of the case: to file motion and challenge; submit evidences; participate in the discussion concerning the permissibility of the evidences, on the suspension of the prosecution or/and preliminary investigation, discontinuing prosecution, returning case additionally to the investigation, directing the case in the court and other issues.
4. Prosecutor is obliged to take part in the discussion of the case related to the public accusation to the court of the first instance and at the stage of appellate processing. He/She can exercise the following rights: to file motion and challenge; submit evidences; participate in the examination of the evidences represented by the defense party; express his/her opinion regarding the questions arisen during the court discussion; take part in the debate of the parties and introduce his/her attitude to the court concerning the affirmation of accusation, the criminal qualification of the act, liability of the convicted person, the form of penalty, appointment of measure, criminal responsibility and releasing from the punishment.
5. Prosecutor supports his/her complaint or expresses his/her opinion as a party concerning the complaints filed by other parties of the litigation at the stage of the cassation.

Article 19

Coordination of the Fight against Criminality

1. Prosecution Service coordinates the fight against criminality and mutual cooperation of the law enforcement agencies in order to reveal crime timely, investigate, open, constrain and avoid the offence, also evade the development of the criminal situation, eradicate the causes and facilitating conditions of crime.
2. The rule of coordination of the fight against criminality shall be determined by the regulations approved by the President of Georgia.

Article 20

Civil Action of the Prosecutor on the submission of illegal, undocumented and racketeering property to the State

3. Pursuant to the rules established by the Civil Procedure Legislation and within its frames Prosecutor files the civil action against the racketeering group, racketeer, official, the member of the realm of thief-in-law, human trafficker, the promoter of drug diffusion, also concerning the submission of illegal, undocumented and racketeering property of the person convicted under Article 194 §3 (c) of the Criminal Code of Georgia to the State.

Chapter IV **Prosecutorial Acts**

Article 21 **The System of Prosecutorial Acts**

Prosecutor during the execution of his/her duties issues the following acts under the rules established by the legislation of Georgia and within his/her competency: request, submission, objection, decree, consent, instruction, complaint, information.

Article 22 **Request**

1. Prosecutor shall have the power to request:
 - a) The inspection of financial-commercial activities of the enterprise, organization, institution in the criminal case;
 - b) The allocation of specialist in order to solve the questions arisen during the exercise of the duties envisaged by law;
 - c) The introduction of the documents, materials, case files, data and other information in order to conduct supervision or procedural supervision.
2. The requested information shall be submitted to the Prosecutor within 10 days despite the particularity of this information.
3. The documents and other information can be checked upon the request of the prosecutor at their location by the prosecutor or by the specialist, expert or any other person under the commission of the prosecutor.
4. The document and other information shall be submitted to the place indicated by the prosecutor under his/her request.
5. Prosecutor is obliged to protect State or any other classified data contained by the requested information in the cases envisaged by the legislation of Georgia.
6. The interference in the competency of the court and request of any materials or case file are forbidden beside the cases envisaged by the Criminal Procedure Legislation.

Article 23 **Submission**

1. Prosecutor within his/her competency under the rules established by the legislation of Georgia shall submit the information concerning the violation of laws in order to eradicate the reasons and facilitating conditions to the participants of the legal relations indicated in Articles 14-17 of this law who are obliged to inform the Prosecutor within 10 days about the measures taken.
2. Prosecutor shall be informed about the date of the examination of the submission . He/she shall have the right to participate in the examination.

Article 24

Objection

1. Prosecutor submits written objection concerning the incompliance of legal acts and conducts of the persons indicated in Articles 16-17 of this law.
2. Prosecutor may request the following under objection:
 - a) The complete or partial abolishment of illegal act or ensuring the compliance of it with the law;
 - b) The suspension of illegal act;
 - c) The restoration of violated right;
 - d) The imposition of proper responsibility measures against the wrongdoer;
3. Prosecutor submits the objection concerning the illegal act to the body which issued the act or supervising agency. The illegal act of the official shall be appealed in the same way.
4. The objection of the prosecutor shall be examined within 10 days after its receipt. The prosecutor shall be informed immediately about the outcomes of the consideration.
5. Prosecutor shall be notified regarding the date of examination of the objection.
6. The objection may be withdrawn by the initiating prosecutor or supervising prosecutor.
7. The supervising prosecutor shall have the power to make amendments to the objection before its examination or replace it with the new one.

Article 25

Decree

1. According to the nature of the violation of the Georgian legislation by the individual or official within the competency and rules established by law the prosecutor issues decree in the cases envisaged by the legislation of Criminal Procedure, also concerning the prosecution against administrative offence or initiating disciplinary prosecution.
2. The decree of the Prosecutor on the prosecution against administrative offence or initiating disciplinary prosecution shall be examined within 10 days after its issuance by the authorized body or official. The prosecutor shall be informed about the outcomes of the discussion.

Article 26

Consent

Prosecutor shall give written consent on the behaviors of the governmental authorities and officials in the cases envisaged by law.

Article 27

Instruction

1. Prosecutor shall have the right to give written instruction to the preliminary investigation authorities in the cases envisaged by law.
2. The instruction of the prosecutor concerning the issues of preliminary investigation shall be obligatory to be executed.

Article 28 Complaint

1. Prosecutor shall have the following powers pursuant to the rules established by the legislation of Criminal Procedure:
 - a. To appeal against the decision of the court in the criminal case not being in force at higher court and participate in the case hearing as a party;
 - b. To appeal against the decision of the court already being in force due to the newly found or revealed circumstances and participate in the case hearing as a party.
2. The complaint may be withdrawn until the court hearing of the case is started by the initiator or supervising prosecutor.

Article 29 Information

1. Prosecutor shall inform the appropriate governmental or local self-government authorities within his/her competency concerning the legality, law and order.

Article 30 The Appeal against the Prosecutorial Acts

1. The submission, objection, decree, instruction of the prosecutor may be appealed to the court pursuant to the rule established by law or appealed once only to the supervising prosecutor within 10 days.
2. The appeal will not suspend the implementation of the prosecutorial acts except for the cases envisaged by the legislation of Criminal Procedure.

Chapter V The Staff of the Prosecution Service

Article 31 The Requirements to be met by the candidate to hold the position of Prosecutor and Investigator of the Prosecution Service

1. The citizen of Georgia shall be appointed as prosecutor or investigator of the Prosecution Service, who has higher legal education, commands the language of legal proceedings, have passed the internship from six months to one year at the Prosecution Services and certification exam in the following fields: Constitutional Law, Criminal Law, Criminal Procedure Law, Penitentiary Law and the Basics of Operative-Intelligence Activities, being the sworn employee of the Prosecution Service, with hard-working and moral characteristics and the condition of his/her health enables him/her to fulfill the duties of prosecutor or investigator of the Prosecution Service.
2. The following persons are released from passing the certification exam of the employee of the Prosecution Service: the Minister of Justice, the Chief Prosecutor, the Deputy Chief Prosecutors or the person who passed the certification exam of the judge or bar exams. If the prosecutors of the Autonomous Republics of Adjara and Abkhazia have not passed the certification exam of judge or bar exam they should have passed the aforesaid exams within a year.

3. The person who meets the one of the following requirements is released from the traineeship at the Prosecution Service:
 - a) Has at least a year experience of working as a judge, investigator or defense counsel;
 - b) Has passed certification exam for judges;
 - c) Has practiced law for at least 3 years.
4. The person who meets the requirements set by the 3rd Paragraph of this Article in order to be released from the traineeship he/she may pass the traineeship at the Prosecution Service voluntarily.
5. The certification exam of the employee of the Prosecution Service shall be hold in the form of multiple choice tests. The High Council of Justice of Georgia provides to release the exam tests in advance. The rule how to conduct the certification exam, the periodicity and program of the exam, the regulations of the examining board and the composition of the examining board are approved by the President of Georgia upon the submission of the High Council of Justice of Georgia. The President of Georgia shall have the authorized to appoint additional certification exam at the request of the Chief Prosecutor.
6. Tbilisi Prosecutor and his/her Deputies, District Prosecutors and his/her Deputies, Regional and District Prosecutors and the Prosecutors of Specialized Prosecution Services shall have at least 3 years legal practice in order to be appointed at their positions. In particular cases the Minister of Justice shall have the right to reduce the term of office of Tbilisi Prosecutor and his/her Deputies, District Prosecutors and his/her Deputies by 18 months upon the reasonable decision. The Chief Prosecutor can reduce the aforesaid term of District Prosecutors and the Prosecutors of Specialized Prosecution Services by 12 months under his/her reasonable decision.
7. The employees of the Prosecution Service shall pass the certification every three years. The rule of certification shall be determined by the Minister of Justice.
8. The advisors of the Prosecution Service, auxiliary personnel and supernumerary employees of the Prosecution Service shall be appointed and dismissed by the Chief Prosecutor under the rule established by the Law of Georgia on Public Service.
9. The position of the employee of the Prosecution Service shall not be compatible with any position of state and local self-government, also with entrepreneur or paid job except for the scientific and pedagogical activities. The employee of the Prosecution Service shall have the right to perform other paid job or/and hold other position simultaneously at the Prosecution Service.
10. The employee of the Prosecution Service cannot be a member of political union or involved in the political activities.
11. The employee of the Prosecution Service shall not be allowed to organize strikes or participate in it.

Article 32

The Oath of the Employee of the Prosecution Service

1. The employee of the Prosecution Service gives an oath before the Minister of Justice while he/she starts working at the Prosecution Agencies: "I (name, surname) solemnly swear before the God and the Nation to perform the duties of the employee of the Prosecution Service fairly in strict compliance with the Constitution of Georgia and the law."

2. To give an oath of the employee of the Prosecution Service may be held without religious vow. The text of the oath is signed by the person who gives an oath and it is kept in his/her personal file.

Article 33

Basis for denial to recruit the person to the Prosecution Service

The following persons cannot be recruited to the Prosecution Service:

- d) Having criminal records;
- e) Alcoholic, drug addicted, solvent abuser, ill with psychical and other serious chronic disease;
- f) recognized as an incapable or with limited capacity by the court;
- g) The person who was fired from another job due to the commission of the act against the generally accepted morals.

Article 34

Discharging the employee of the Prosecution Service from the Office

The employee of the Prosecution Service may be discharged due to:

- a) personal statement;
- b) deterioration of health condition, mutilation or in case of chronic illness that disables him/her to perform office duties;
- c) Expiration of the term envisaged by the contract;
- d) Non-fulfillment or improper performance of office duties;
- e) Non-fulfillment or improper performance of the requirements envisaged by the contract;
- f) Office incompatibility;
- g) Violation of office discipline roughly or systematically;
- h) Staff reduction;
- i) In case of election or appointment at legislative, executive, judicial branches of authority or local self-government and in other cases of office incompatibility;
- j) In case of breaking the oath, revealing professional secret or committing a behavior improper to the employee of the Prosecution Service;
- k) On the basis of the conviction being in force;
- l) In cases envisaged by Article 33 (a, c) of this law;
- m) In case of losing the citizenship of Georgia;
- n) Breaking the requirements needed to recruit at an office;
- o) Retiring age.

Chapter VI

Legal Protection of the employees of the Prosecution Service

Article 35

the Legal Protection of the Employee of the Prosecution Service

1. In his/her activities the employee of the Prosecution Service shall be independent. He/she cannot be resigned or dismissed from the position apart from the cases envisaged by this law and established rules.

2. The encroachment on the employee of the Prosecution Service during the performance of office duties, humiliation of his/her dignity, threat against him/her, resistance, violence, infringement of life, health and property of the employee of the Prosecution Service results in the responsibility envisaged by law. In case of receiving announcement or information on the encroachment of health or property of the employee of the Prosecution Office or his/her family

member the State bodies are obliged to take measures envisaged by law in order to protect their personal and estate security.

3. The employee of the Prosecution Service has the right to carry and retain firearms also special means of individual defense under the rules established by law.

Article 36

The Inadmissibility to interfere in the Activities of the Employee of the Prosecution Service

The interference in the activities of the employee of the Prosecution Service by the officials, social and political unions, their representatives or other persons who are not entitled under the law to interfere in the activities of the employee of the Prosecution Service or influence him/her by any form, also impeding the activities of the employee of the Prosecution Service is punishable by law.

Article 37

The Right to the Court Defense of the Employee of the Prosecution Service

The Employee of the Prosecution Service has the right to apply to the court in order to defend his/her rights and freedoms.

Article 38

The Responsibility of the Employee of the Prosecution Service

1. The employee of the Prosecution Service will be responsible for the commission of the crime and administrative infraction in compliance with the general rules.

2. The detained, arrested or convicted employee of the Prosecution Service is placed or serves sentence in isolation with special inmates.

3. Only the Minister of Justice is entitled to initiate prosecution against the crime committed by the employee of the Prosecution Service. Only Chief Prosecution Service investigates the crime committed by the employee of the Prosecution Service.

4. In the course of the investigation of the case and before taking final decision the Minister of Justice or Chief Prosecutor are respectively entitled to resign the employee of the Prosecution Service from the position under the established rules.

5. If the employee of the Prosecution Service breaks the oath, violates working discipline, commits the act improper to the employee of the Prosecution Service or/and fails to perform or executes improperly imposed obligations the following disciplinary punishment will be used against him/her:

- a) remark;
- b) rebuke;
- c) lowering his/her official position;
- d) dismissal from the position;
- e) dismissal from the Prosecution Service;

6. The disciplinary punishment is used in case of ascertaining the fact of disciplinary violation no later than a year. The aforesaid term does not include the time of being on leave or the period when the employee of the Prosecution Service is ill. The disciplinary punishment cannot be applied if 3 years are passed since the commission of disciplinary violation. The employee of the Prosecution Service is fired from the Prosecution Service in case of intentional offence despite the term passed after its commission. If the employee of the Prosecution

Service commits the crime negligently the question regarding his/her dismissal from the Prosecution Service is determined by the authorized person despite the term passed after its commission and beside the cases envisaged by the legislation of Georgia.

7. The Minister of Justice and Chief Prosecutor shall have the power within their competency to apply any disciplinary punishment envisaged by 5th paragraph of this Article against the employee of the Prosecution Service.

8. The Prosecutors of the Autonomous Republics of Adjara and Abkhazia shall have the power to apply only the following punishments: remark or rebuke

9. If the application of disciplinary punishment, imposed only by the Chief Prosecutor, is necessary due to the violation committed by the employee of the Prosecution Service the Head of the respective agency of the Prosecution Service makes proposal to the Chief Prosecutor concerning the application of disciplinary punishment against the persons envisaged by Article 9 §4 (m).

10. Only one disciplinary punishment may be applied against the same violation committed by the employee of the Prosecution Service.

11. The Minister of Justice or Chief Prosecutor shall have the power to abolish, mitigate or aggravate the disciplinary punishment used by the person envisaged by 8th paragraph of this Article against the employee of the Prosecution Service.

12. The disciplinary punishment shall be applied based on the order of the prosecutor. The employee of the Prosecution Service against whom disciplinary punishment was applied shall be familiarized with the order. The order concerning the application of disciplinary punishment shall be kept in the personal file of the employee of the Prosecution Service.

13. The employee of the Prosecution Service shall not be considered as having disciplinary punishment if one year is passed after the application of disciplinary punishment and also new disciplinary punishment was not applied against him/her.

14. The disciplinary punishment may be annulled earlier in the cases envisaged by Article 39 of this law. The disciplinary punishment is annulled under the appropriate order that shall be introduced to the employee of the Prosecution Service against whom disciplinary punishment was applied. The order concerning the earlier abolishment of disciplinary punishment shall be kept in the personal file of the employee of the Prosecution Service.

15. The order issued by the prosecutor concerning the application of disciplinary punishment against the employee of the Prosecution Service may be appealed to the supervising prosecutor or to the court within 30 days.

17. The appeal against the disciplinary punishment cannot suspend the application of the disciplinary punishment against the employee of the Prosecution Service.

Article 39

Promotion of the employee of the Prosecution Service

In order to promote the employee of the Prosecution Service for success, excellent performance of office duties and other achievements the following measures shall be applied:

- a) express gratitude;
- b) give premium or award with valuable gift;
- c) give additional paid leave amounting to 10 calendar days;
- d) grant earlier the following special state rank;

- e) grant the title of respectable officer of the Prosecution Service and award with respective breastplate;
- f) nominate for the state award.

Chapter VII **Social Care of the Employee of the Prosecution Service**

Article 40

Social Care of the Employee of the Prosecution Service

1. The Social Care of the employee of the Prosecution Service is guaranteed by the Constitution of Georgia, this law and with other legal acts of Georgia. The State provides the social care of the employee of the Prosecution Service.
2. The employee of the Prosecution Service is subject to the compulsory state insurance on behalf of the state budget. The damage from which the employee of the Prosecution Service or his/her family members suffered in the course of performance of office duties completely will be compensated from the state budget under the rules established by law.
3. The employee of the Prosecution Service shall have the right to demand the compensation envisaged by 2nd paragraph of this Article within a year since the person has suffered damage.
4. In case of attack on the employee of the Prosecution Service during the performance of the office duties that resulted in his/her death 10 000 GEL shall be given only once to his/her family members as a kind of assistance.
5. The employee of the Prosecution Service who was attacked during the performance of the office duties that caused him/her to injure the body under which the employee was identified as a person of limited capacities he/she will receive no more than 7 000 GEL only once from the state budget as a kind of assistance.
6. The employee of the Prosecution Service may have annual paid leave amounting to 30 calendar days.
7. The prosecutor, investigator and advisor of the Prosecution Service are exercising the same privileges as the judges of the court of respective instance and the Minister of Justice, Chief Prosecutor and Deputy Prosecutors are granted the same advantages as the Chairperson of the Supreme Court of Georgia and his/her Deputies.

Article 41

Salary of the Employee of the Prosecution Service

1. The salary of the employee of the Prosecution Service is contained of official salary, premium and other bonuses envisaged by the legislation of Georgia.
2. The official salary of the prosecutor and investigator of the Chief Prosecution Service shall be no less than 500 GEL. The prosecutors and investigators of the Prosecution Services of the Autonomous Republics of Adjara and Abkhazia, Tbilisi Prosecution Service, District Prosecution Services, Regional Prosecution Services and Specialized Prosecution Services envisaged by Article 1 §3 of this law shall have no less than 400 GEL as a salary.

Article 42

Special State Ranks of the Employees of the Prosecution Service

1. The prosecutor, investigator and advisor of the Prosecution Service are to be granted special state ranks for his/her position, scientific degree, qualification, length of service and excellent performance of the office duties.
2. The rule of granting and seizing special state ranks is determined by the legislation of Georgia.
3. The special state ranks of the prosecutor and investigator of the Prosecution Service are equal to those special ranks which are established by the legislation of Georgia for the employees of the Military Forces and the Ministry of Internal Affairs of Georgia.

Chapter VIII

Procurement and Financing of the Prosecution Service

Article 43

Procurement and Financing of the Prosecution Service

1. The Prosecution Service is financed by the funds assigned from the State Budget. The expenses of the Prosecution Service shall be envisaged in the State Budget with the separate organizational code pursuant to the rule established by the legislation of Georgia.
2. Procurement of the Prosecution Service is centralized.
3. The plot, building and equipments being under the ownership and possession of the Prosecution Service, the movable or estate property purchased on behalf of the state budget shall be considered as the State property.
4. In order to compensate the state damage the sums seized by the Prosecution Service shall be directed to the State Budget.
5. The representative expenses of the Prosecution Service are compensated under the rules established by the Georgian legislation.

Chapter IX

**Other Issues Concerning Activities and Organization
of the Prosecution Service**

Article 44

Raising the Level of Skills of the Employees of the Prosecution Service

1. Employees of the Prosecution Service raise the level of their skills at specific scientific and learning establishments.
2. Based on the occasions foreseen in international agreements and treaties and also various international programs, the employees of the Prosecution Service may raise the level of their skills at the learning establishments of other countries, law enforcement institutions and scientific-research centers.

Article 45.

Stamp, Personal Identification Card, Uniform and Distinctive Signs

1. The Chief Office of Public Prosecutor and other organs of the Prosecution Service have a round stamp with Georgian state emblem and name of the Office of Public Prosecutor.
2. The President of Georgia provides the Minister of Justice and the Chief Prosecutor with approved personal identification cards.
3. The Chief Prosecutor or Deputy Chief Prosecutor provides the employees of the Prosecution Service with personal identification cards.
4. The employee of the Prosecution Service that has a special state title shall wear an approved type of uniform. The type of uniform and distinctive signs are proposed by the Minister of Justice and approved by the President of Georgia.

Article 46.

Statistical Reports

The Prosecution Service, along with other institutions elaborates united registration forms of statistical data and establishes general rule for composing statistical data in the Prosecution Services agencies.

Article 47.

International Relations of the Prosecution Service

The Prosecution Service has a right to collaborate with agencies of other countries and international organizations based on Georgian legislation.

Article 48.

Review of Applications and Complaints at the Prosecution Service

1. The Prosecution Service, based on the legislation, reviews specific applications and complaints that fall under its competence. The Prosecution Service also conducts the process of the receipt of citizens.
2. The applications and complaints concerning offences are reviewed immediately.

Chapter X

**Control over the Activities of the Prosecution Services
and its Utilization of State Budget and Expenditure**

Article 49.

Parliamentary Control

Parliamentary control over the activities of the Prosecution Services is executed based on the information provided by the Minister of Justice. This information shall not contain issues connected with criminal proceedings, except for the cases directly foreseen in Georgian legislation, and international agreements and treaties.

**Article 50.
Presidential Control**

The President of Georgia, as the head of the state, periodically considers the information provided by the Minister of Justice or Chief Prosecutor. This information shall not contain issues connected with criminal proceedings, except for the cases directly foreseen in Georgian legislation, and international agreements and treaties.

**Article 51.
Judicial Control**

The conduct of such procedural and investigative activities by the Prosecution Services that limit human rights and freedoms defined in the Constitution of Georgia, are allowed based on the reasoned decision of the court according to Georgian legislation.

**Article 52.
Control over the Usage of State Funds and Expenditure**

The Chamber of Control of Georgia monitors the expenditure and usage of state funds and other material values of state issued for the Prosecution Services.

**Chapter XI
Transitional Provisions**

Article 53

1. The Office of Public Prosecutor shall be reorganized and formed as an institution in the system of the Ministry of Justice.
2. The Prosecution Service of Georgia as an institution within the jurisdiction of the Ministry of Justice of Georgia is a successor of the Office of Public Prosecutor of Georgia.
3. The Prosecution Service of Georgia as an institution within the jurisdiction of the Ministry of Justice of Georgia shall secure the completion of the cases initiated by the Office of Public Prosecution based on the provisions of the Code of Criminal Procedure of Georgia.
4. The Ministry of Justice of Georgia shall provide conformity of adequate legislative acts.
5. Normative acts issued by Chief Prosecutor of Georgia shall maintain their force until the activities provided in sub-paragraph 4 of the present article are implemented.
6. The government of Georgia shall ensure transmission of the banknotes issued for the Office of Public Prosecutor to the Prosecution Service of Georgia as an institution within the jurisdiction of the Ministry of Justice of Georgia for the day of entering into force of the current law.
7. The Ministry of Economic Development shall ensure the assignation of necessary property for functioning of (including the property placed on the balance of the Office of Public Prosecutor) the Prosecution Service of Georgia as an institution within the jurisdiction of the Ministry of Justice of Georgia based on the Georgian legislation.

8. Until March 1, 2009 the Ministry of Justice of Georgia shall ensure the elaboration of legislation that will define the place of the legal entity of public law - Legal Aid Service in the system of state organs, which is currently under the jurisdiction of the Ministry of Justice of Georgia.

Chapter XII
Concluding Provisions

Article 54.
Entry into Force of the Law

1. This legislation shall enter into force after 15 days of its publication, except for the sub-paragraphs 6 and 7 of article 53.
2. Subparagraphs 6 and 7 of article 53 and sub-paragraph 7 of article 54 shall enter into force on the day of the publication.

Tbilisi,
21 October, 2008