



Regarding conducting a closed competition in the procuracy system

The procedure of selecting and appointing prosecutors in the procuracy system of the Republic of Armenia is established by the RA Law on Prosecutor's Office, and the procedure of conducting an open competition for replenishing the list of candidate prosecutors approved by the RA Prosecutor General's Office, and the procedure of compiling the list of candidate prosecutors.¹

According to point 3, points 4-5, point 6 of Article 37 of the RA Law on the Prosecutor's Office, the Prosecutor General appoints incumbents - to the positions established in the Prosecutor's Office – from among the promotion lists established by law.

Promotion lists are made at the end of and based on the summary of the results of the study in the RA Academy of Justice.

According to the law and the invoked procedure, the list of candidate prosecutors is replenished through open and closed competitions.

The open competition is held by the Qualification Commission of the Prosecutor's Office, as a rule, once a year, in January. A snap open competition can be held, if necessary, as assigned by the Prosecutor General. As assigned by the Prosecutor General, a closed competition of contenders can be held during the year in order to replenish the list of candidate prosecutors.

The open competition held with the acting regulations meet the standards of publicity and transparency, in particular, the Qualification Commission publishes an announcement regarding the date, place, and the documents required for the open competition held in order to replenish the list of candidate prosecutors- at least a month before the competition - in a press with a circulation of 3000 and the webpage of the Prosecutor's Office. With regard to

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https://www.prosecutor.am/am/%D4%B1%D5%B7%D5%AD%D5%A1%D5%BF%D5%A1%D5%B6%D6%84%D5%AB-%D5%A8%D5%B6%D5%A4%D5%B8%D6%82%D5%B6%D5%BE%D5%A5%D5%AC%D5%B8%D6%82-%D5%AF%D5%A1%D6%80%D5%A3/?fbclid=IwAR3ZP-IP_YZCALOJoqyOMpbgnB-kyVLrOfkWQHH2LthTWzKVYoyucnNfmag



the closed competition, it is accompanied with a number of problems in terms of its nature and organization procedure.

Thus, the RA Law on the Prosecutor's Office and the Regulation establish that as assigned by the Prosecutor General, a closed competition of contenders can be held during the year in order to replenish the list of candidate prosecutors. As compared to the open competition, in case of the closed one, there are lower requirements in terms of publicity, and a lower level of publicity in practice. In particular, no announcement is made in the press and the webpage of the Prosecutor's Office regarding the competition, and the contenders learn about the competition through a written or oral invitation.

It should be recorded that the procedure of the closed competition is more problematic not only in terms of the lack of publicity safeguards, but also because the criteria and requirements of the procedure are not visible and do not reflect assessment of the candidates' abilities. In particular, the choice is not made as a result of thoroughly checking and evaluating professional competencies, and personal qualities. Instead, priority may be given to, for example, some academic status, which may not stem from and be enough for the implementation of the functions stemming from the prosecutor's position.²

Based on the aforementioned, we can claim that the appointments made in the system of the Prosecutor's Office through closed competition held with the acting regulations enhance the public mistrust in the system and do not meet the important principles of transparency and publicity, which are one of the keys to ensuring effective functioning of the system.

Taking into account the aforementioned, **we recommend the following:**

Recognize invalid the regulations of the closed competition established under the RA Law on the Prosecutor's Office, and thus also eliminate appointments in the system through closed competitions.

² <https://prwb.am/wp-content/uploads/2022/05/%D4%B6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81.%D4%B4%D5%A1%D5%BF%D5%A1%D5%AD%D5%A1%D5%A6%D5%B8%D6%82%D5%A9%D5%B5%D5%A1%D5%B6-%D5%B0%D5%A1%D5%B4%D5%A1%D5%AF%D5%A1%D6%80%D5%A3%D5%B8%D6%82%D5%B4%D5%BA%D5%A1%D5%B7%D5%BF%D5%B8%D5%B6%D5%AB-%D5%B6%D5%B7%D5%A1%D5%B6%D5%A1%D5%AF%D5%B4%D5%A1%D5%B6-%D5%AF%D5%A1%D6%80%D5%A3%D5%A8.pdf>



Article 38. Compiling the list of candidates for prosecutors

1. The list of candidates for prosecutors shall be filled up through open ~~and closed~~ competitions. The open competition is held once a year, as a rule, in January of each year, by the Qualification Commission of the Prosecutor's Office. Upon the assignment of the Prosecutor General, a snap open competition may be held. ~~A closed competition of contenders may be carried out during the year, as assigned by the Prosecutor General, with a view to making additions to the list of candidate prosecutors.~~³ The procedure of conducting the open ~~and closed~~ competitions is established by the order of the Prosecutor General.

Recognize invalid the regulations adopted by the RA Prosecutor General regarding conducting an open competition to fill up the list of candidate prosecutors and compiling the list of candidate prosecutors.⁴

V. CLOSED COMPETITION

~~31. A closed competition of contenders may be held during the year, as assigned by the Prosecutor General, to replenish the list of candidate prosecutors.~~

~~32. No announcement is made in the press and the webpage of the Prosecutor's Office regarding the closed competition, the contenders are informed about the competition through written _____ or _____ oral _____ invitations.~~

~~33. After submitting the relevant documents, those who have applied to participate in the closed competition (including electronically) are notified about the day, time and place of the competition.~~

~~34. Below are listed those who have the right to participate in the closed competition held to replenish _____ the _____ list _____ of _____ candidate _____ prosecutors:~~

³ The parts deleted with track change are the ones we recommend removing.

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https://www.prosecutor.am/am/%D4%B1%D5%B7%D5%AD%D5%A1%D5%BF%D5%A1%D5%B6%D6%84%D5%AB-%D5%A8%D5%B6%D5%A4%D5%B8%D6%82%D5%B6%D5%BE%D5%A5%D5%AC%D5%B8%D6%82-%D5%AF%D5%A1%D6%80%D5%A3/?fbclid=IwAR3ZP-IP_YZCALOJoqyOMpbgnB-kyVLrOfkWQHH2LthTWzKVYoyucnNfmag



~~1) the Republic of Armenia citizens mentioned in part 1 of Article 38 of the Law, who meet the requirements— established by law and other legal acts— in place for being appointed as a prosecutor;~~

~~2) contenders who have judicially appealed the rejection of their application by the Qualification Commission in a manner prescribed by part 6 of Article 38 of the Law, if the Court recognized accepting the application illegal and the relevant open competition has finished.~~

~~35. If the applicant is a candidate of legal sciences or a doctor of legal sciences and has at least four years of experience in academic activity, then the Commission only checks the compliance of the applicant's documents with the requirements set by law, personal qualities and virtues in order to evaluate the qualities necessary for holding the relevant position (self-control, etiquette, ability to listen, communications skills, analytical abilities, presentation of their position regarding one brief legal issue in the relevant sphere of specialization).~~

~~36. The rules established for the open competition apply to the call for the closed competition of contender prosecutors, holding the competition, the interview, summary of the competition results, decision-making.~~

Based on the revised RA Law on the Prosecutor's Office, adopt a new regulation regarding conducting an open competition held to fill up the list of candidate prosecutors and compiling the list of candidate prosecutors.