



Composition of the Ethics and Discipline Commission

The Prosecutor General is again the main actor and decision-maker in terms of bringing prosecutors to disciplinary liability. The Ethics Commission also plays a certain role in bringing prosecutors to disciplinary liability.

Article 57 of the RA Law on Prosecutor's Office establishes the regulation of the functioning of the Ethics Commission. In addition to the invoked Article of the Law, there is also the regulation established by the RA Prosecutor General's Decree of 5 June 2018 regarding instituting proceedings against a prosecutor.¹

Safeguards of the activity of bodies involved in the Commission play an important role for the effective implementation of the functions established by the law and the regulation, and the disciplinary liability. The procedure of the formation and the composition of the Ethics and Discipline Commission are particularly important in this regard.

According to Article 23 of the RA Law on Prosecutor's Office,

1. Ethics Commission, and Qualification Commission shall operate adjunct to the Prosecutor General.

2. The Ethics Commission shall comprise seven members. The Ethics Commission shall include one Deputy Prosecutor General appointed by the Prosecutor General, three legal scholars, and three prosecutors chosen by the majority of votes of the Prosecutor General, deputies of the Prosecutor General that are not members of the Ethics Commission, heads of structural subdivisions of the Prosecutor General's Office, Prosecutor of the city of Yerevan, prosecutors of the regions, prosecutors of administrative districts of the city of Yerevan, and military prosecutors of garrisons. The Ethics Commission is headed by the Deputy Prosecutor General.

3. The Qualification Commission shall comprise nine members, while in case of an open competition held to fill up the list of candidate prosecutors implementing functions established under the RA Law on Confiscation of Property of Illegal Origin (hereinafter referred to as functions aimed at confiscating property of illegal origin), the Commission shall comprise eleven members. The Qualification Commission includes the rector of the Academy of Justice, one Deputy Prosecutor General appointed by the Prosecutor General, four prosecutors and three legal scholars; while in case of the open competition held to fill up the list of candidate prosecutors implementing functions aimed at confiscating property of illegal origin, the Commission shall also include two experts appointed by the Prosecutor

¹<https://www.prosecutor.am/myfiles/files/decrees/kargapahakan-Karg.pdf>



General. The experts should have at least three years of experience in academic or practical work in the field of illegal asset recovery or investigation of corruption crimes.

The Qualification Commission is headed by the Deputy Prosecutor General.

4. Members of the Commission established by this Article are independent. Any interference with their activity shall be prohibited.

5. Each prosecutor can be a member to only one Commission established under this Article. Commission members are appointed for a term of three years, except the two experts, who are appointed for a term of one year.

6. Appointment of new members in the commissions is done the day after termination of the powers of the acting members, in a manner prescribed by this Article.

7. The Prosecutor General establishes the regulation of the activity of the commissions established under this Article, as well as the procedure of selecting prosecutor members.

It can be seen that the formation of the Discipline and Ethics Commission is done by the Prosecutor General alone, who also has a central role in terms of bringing prosecutors to disciplinary liability.

Moreover, the law does not establish criteria for the selection of members, and the requirements for members are not specified, either.

Formation of the commission with such a procedure indicates the lack of independence guarantees, and thus also the low level of trust in their activity. Attaching importance to objectivity and effectiveness of bringing prosecutors to disciplinary liability, there should initially be safeguards established to ensure independence of the bodies involved therein starting from the point of their formation.

Thus, we recommend reviewing the composition and procedure of formation of the Ethics Commission established under the RA Law on Prosecutor's Office.

Selection of members of the Ethics Commission should be done through a Competition Commission based on clear standards established by law and objective requirements.

Prosecutors, legal scholars and civil society organizations are involved in the Commission. The Prosecutor General and deputies of the Prosecutor General shall not be members of the Commission.

Recommended changes

Article 23

1. Ethics, and Qualification Commissions shall operate adjunct to the Prosecutor General.



2. *The Ethics Commission shall comprise seven members. The Ethics Commission shall include one Deputy Prosecutor General appointed by the Prosecutor General, three legal scholars, and three prosecutors chosen by the majority of votes of the Prosecutor General, deputies of the Prosecutor General that are not members of the Ethics Commission, heads of structural subdivisions of the Prosecutor General's Office, Prosecutor of the city of Yerevan, prosecutors of the regions, prosecutors of administrative districts of the city of Yerevan, and military prosecutors of garrisons. The Ethics Commission is headed by the Deputy Prosecutor General.*

3. *The Qualification Commission shall comprise nine members, while in case of an open competition held to fill up the list of candidate prosecutors implementing functions established under the RA Law on Confiscation of Property of Illegal Origin (hereinafter referred to as functions aimed at confiscating property of illegal origin), the Commission shall comprise eleven members. The Qualification Commission includes the rector of the Academy of Justice, one Deputy Prosecutor General appointed by the Prosecutor General, four prosecutors and three legal scholars; while in case of the open competition held to fill up the list of candidate prosecutors implementing functions aimed at confiscating property of illegal origin, the Commission shall also include two experts appointed by the Prosecutor General. The experts should have at least three years of experience in academic or practical work in the field of illegal asset recovery or investigation of corruption crimes. The Qualification Commission is headed by the Deputy Prosecutor General.*

4. *Members of the Commission established by this Article are independent. Any interference with their activity shall be prohibited.*

5. *Each prosecutor can be a member to only one Commission established under this Article. Commission members are appointed for a term of three years, except the two experts, who are appointed for a term of one year.*

6. *Appointment of new members in the commissions is done the day after termination of the powers of the acting members, in a manner prescribed by this Article.*

7. *The Prosecutor General establishes the regulation of the activity of the commissions established under this Article, as well as the procedure of selecting prosecutor members.*

Recognize invalid point 2 of the Article.

Formulate part 2 of the Article the following way:



The Ethics Commission comprises eight members. The Ethics Commission includes four prosecutors and four legal scholars selected by the Competition Commission established under point 2.2 of this Article.

Add point 2.1 with the following formulation:

All the members of the Ethics Commission undergo an integrity check in a manner prescribed by law.

Prosecutor members of the Ethics Commission should have at least ten years of work experience in the system of procuracy, as well as high professional qualities and competencies.

Legal scholar member of the Ethics Commission can only be those legal scholars or reputable lawyers who have citizenship of only the Republic of Armenia, the right to vote, possess high professional qualities, and have at least eight years of experience of professional work.

Add point 2.2 to the Article:

A Competition Commission shall be formed to choose members of the Ethics Commission. The Competition Commission shall comprise two prosecutors, two legal scholars and one civil society representative.

Formulate point 5 of the Article the following way:

Each prosecutor can be a member to only one commission established under this Article. Commission members are appointed for a term of two years.

Formulate point 7 of the Article the following way:

The regulation of the activity of the commissions established under this Article, as well as the procedure for choosing new members are established by law.