



The role and composition of the Qualification Commission

The Prosecutor General appoints prosecutors in the Prosecutor's Office, and the Qualification Commission also plays an important role in this process.

The RA Law on Prosecutor's Office establishes regulations of the activity and formation of the Qualification Commission.

In particular, according to Article 23 of the Law, Ethics Commission, and Qualification Commission shall operate adjunct to the Prosecutor General.

The invoked article also establishes the composition of the Qualification Commission. In particular, *the 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.

The law also states that the Prosecutor General establishes the regulation of the activity of the commissions, as well as the procedure of choosing prosecutor members.

The above-mentioned complex regulations show that there is no external expert participation in the appointment of the Prosecutor General, as well as appointment of prosecutors by the Prosecutor General.¹

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Though the Qualification Commission participates in the appointment of prosecutors, it mostly comprises prosecutors. Moreover, both the prosecutors and legal scholars are appointed by the Prosecutor General. This means that despite the existence of the Commission, the Prosecutor General is the main decision-maker and all the decisions are taken by him.²

There are also no principles or criteria established by law or other legal acts based on which the Commission's prosecutor members and legal scholars are chosen. This means that the Prosecutor General is the main actor in the formation and selection of members of the Qualification Commission. Such regulations and formation procedure affect the independence and activity of the Commission.

It is noteworthy that the Decree of 26.04.2021 on approving the composition of the Qualification Commission adjunct to the Prosecutor (available in the official webpage of the RA Prosecutor General's Office) establishes the composition of the Commission, the terms of membership, and the decree execution oversight by the Prosecutor General.³ There is no other information as to the principles and criteria based on which legal scholars were involved, and this indicates that the formation of the composition is left to the discretion of the Prosecutor General.

Thus, the Prosecutor General is the main actor in the appointment of incumbents in the Prosecutor's Office, as he is responsible for appointments on the one hand, and formation of the Qualification Commission involved in the appointment process, on the other hand.

It is necessary to review the composition of the Qualification Commission, the formation procedure, as well as the requirements presented to its members, in order to increase public trust in appointments in the system and to ensure effective functioning.

First, it is necessary to eliminate the unlimited powers and monopoly of the Prosecutor General, and for this purpose, a Competition Commission should be formed to select the members of the Qualification Commission. The Competition Commission shall comprise:

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² Ibid.

³[https://www.prosecutor.am/myfiles/files/%D5%80%D6%80%D5%A1%D5%B4%D5%A1%D5%B6%D5%B6%D5%A5%D6%80%202020/hraman%2042%20\(1\).pdf](https://www.prosecutor.am/myfiles/files/%D5%80%D6%80%D5%A1%D5%B4%D5%A1%D5%B6%D5%B6%D5%A5%D6%80%202020/hraman%2042%20(1).pdf)



- Two representatives of the Prosecutor General's Office
- 2 legal scholars
- 2 civil society representatives

The Competition Commission shall choose the members of the Qualification Commission based on the principles of publicity, transparency and objectivity, and the main criterion shall be the candidates' professional competencies and abilities.

The Qualification Commission formed by the Competition Commission shall comprise 9 members:

- Four prosecutors
- Rector of the Academy of Justice
- Three legal scholars
- One civil society representative

All the commission members must undergo an integrity check.

The requirements set for the Commission members are clearly enshrined at legislative level.

Necessary changes

Article 23. Ethics Commission and Qualification Commission adjunct to the Prosecutor General

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 comprise one Deputy Prosecutor General appointed by the Prosecutor General, three legal scholars, and three prosecutors elected 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 the following regulation established under part 3 of Article 23: *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.*

Recognize invalid the following regulation established under point 3: *The Qualification Commission is headed by the Deputy Prosecutor General.*

Recognize invalid the following part of point 5: *except the two experts, who are appointed for a term of one year.*



Edit point 3 of the Article the following way:

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 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.

3.1 The Qualification Commission members are selected through a competition by the Competition Commission formed for this purpose.

The Qualification Commission comprises four representatives of the RA Prosecutor General, rector of the Academy of Justice, three legal scholars and one civil society representative.

All the members of the Qualification Commission undergo an integrity check in a manner prescribed by law. Prosecutor members of the Qualification Commission shall have at least ten years of experience in the system of the Prosecutor's Office, shall have high professional qualities and competencies.

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

From among civil society, a representative of a non-governmental organization functioning in the sphere can be chosen as a member of the Qualification Commission, provided that he/she has at least five years of professional activity related to the Prosecutor's Office.

3.2 A Competition Commission shall be formed to choose members of the Qualification Commission. The competition commission shall comprise two prosecutors, two legal scholars and two civil society representative.

Add point 3.3 to the Article:

The Qualification Commission chooses the Chairperson of the Commission from its members. The Chairperson is elected through a confidential voting with the simple majority of votes of the Commission members.



The Chairperson of the Qualification Commission is elected for a term of two years without the right to re-election.

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 of choosing the members are established by law.

Recognize invalid the Decree of 26.04.2021 on approving the composition of the Qualification Commission adjunct to the RA Prosecutor General.