



Protection of Rights
without Borders



RESEARCH

EVALUATION OF ACTIVITIES OF PROSECUTERS

In the context of raising the quality of justice sector, the international organizations attach utmost importance to the efficiency of performance of prosecution. This improvement significantly influences public confidence in the judiciary¹.

Through this approach, evaluation of the performance of state institutions allows for the advancement of institution's objectives. It also facilitates the identification of areas for improvement in both individual and collective functions.

The evaluation of justice institutions, such as the prosecution system and prosecutors, should be performed in a manner that preserves the independence of the judiciary and prosecutors, preventing the evaluation to be used as a tool of undue interference. In this regard, it is crucial to have well-defined, objective, and transparent criteria established beforehand for the evaluation process. The entire procedure should be structured to minimize political interventions and influence.

As reiterated, the primary aim of evaluating prosecutors' performance is to enhance the quality and effectiveness of their work, fostering their professional growth and development as well.

In this process, the applied criteria play a crucial role, which should be ultimately objective and transparent and enable to carry out both quantitative and qualitative evaluation. The entity responsible for conducting the evaluation also holds a significant role in this process, which ideally should be self-governing within the prosecution system or an internally independent body. Additionally, the body should guarantee the opportunity to challenge the evaluation results.

Various countries employ different systems in this regard, with some nations actively working to enhance their existing frameworks.

In the Republic of Armenia, the evaluation of prosecutors occurs within the framework of attestation, wherein the assessment submitted by the superior prosecutor holds significant role. However, despite containing crucial data, the regulations do not explicitly specify the criteria subject to evaluation. Furthermore, the methodology for gathering both quantitative and qualitative data, as well as their summarization and utilization during the attestation process, remains unspecified.

Since the process of attestation is not transparent and the individual decisions are not publicized, it is not clear based on what kind of information the Commission adopts them and to what extent they are justified.

The Law of Prosecution provides exceptions from attestation, particularly to the Prosecutor General, his/her deputies and other high-ranking prosecutors, which are concerning. The absence of reasonable

justifications for such exceptions raises concerns. Additionally, individuals covered by these exceptions should undergo assessment following the standard procedure, taking into account the significance of their roles and the level of responsibility they hold. This issue was also noted in the OECD 5th monitoring report for the Republic of Armenia².

Another critical aspect to consider is the entity responsible for conducting the attestation process. According to domestic regulations, the Qualification Commission plays a pivotal role in this regard. However, it is noteworthy that this commission is not considered a self-governing body within the prosecution system. Moreover, taking into consideration the composition and the procedure of engaging member thereof, in which the Prosecutor General individually has central role, the latter cannot be considered as an independent body, which is formulated based on objective criteria.

While the possibility to appeal the attestation results may be viewed as a positive aspect, lack of data on its practical implementation, it is impossible to assess the effectiveness of the appeal. In summary, due to the absence of public decisions, it is challenging to assess the extent to which the attestation procedure fulfills its objectives.

Therefore, there is a need to review the criteria for attestation and the composition of the Qualification Commission. Additionally, the lack of transparency of decisions on attestation should be addressed, as both decisions and assessment are inaccessible.

RECOMMENDATIONS

- ✓ Establish a self-governing body within the Prosecution system, namely the Prosecution Council.
- ✓ Review the composition of the Qualification Commission and revise the selection procedure for its members. Ensure independence of the Qualification Commission from the Prosecutor General.
- ✓ At the legislative level, introduce an evaluation mechanism for prosecutors' activities, including clear and objective qualitative and quantitative criteria for assessment, defined evaluation scales for measuring performance, requirement for making justified decisions based on the outcome of the activity evaluation.
- ✓ Create a systematic approach for collecting data that adheres closely to the evaluation criteria set for prosecutors' activities. This method should minimize the discretionary power of the superior prosecutor while making decisions about the evaluation of prosecutors undergoing attestation.

- ✓ Eliminate the exceptions of prosecutors subject to evaluation (attestation) providing that all prosecutors, including the activities of the Prosecutor General, are subject to evaluation by a self-governing body that meets the independence criteria.
- ✓ Ensure that legislation provides for the transparency of decisions on evaluation (attestation) of prosecutors' activities and procedure for appeal before an independent self-governing body.