

Organic Law of Georgia

Amendments and Changes to the Organic Law on the Public Defender of Georgia

Article 1.

The following amendments and additions shall be made to the Organic Law of Georgia on “Public Defender” (Parlamentis Utskebani, June, # 13, 1996):

1. Article 3¹ to be added to the Law:

“Article 3¹

1. The Public Defender of Georgia carries out functions of a National Preventive Mechanism, envisioned by the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
2. The Public Defender of Georgia shall be provided with the appropriate material, technical and financial resources necessary for the accomplishment of the functions mentioned in the first sub-paragraph of the present article.
3. Based on the objectives of the National Preventive Mechanism, the Public Defender of Georgia shall collaborate with the respective bodies and mechanisms of the United Nations Organization, and also with international, regional and national institutions or such organizations whose field of activities include securing the protection of individuals held in custody, pre-trial detention and other places where their liberty might be restricted, from torture and other cruel, inhuman or degrading treatment or punishment.”

2. *Article 19* to be formed with the following editions:

“Article 19

1. The Public Defender of Georgia or a member of a Special Preventive Group shall examine the situation with regard to the protection of human rights and freedoms in custody and pre-trial detention facilities, as well as in other places of restriction of liberty.
2. For the purpose of regularly examining the treatment of persons held in custody, pre-trial detention and other places of restriction of liberty and also for their protection from torture and other cruel, inhuman, degrading treatment or punishment, the Public Defender:
 - a) Meets and talks, without witnesses and in person or through an interpreter, with detainees, pre-trial detainees and those whose liberty is otherwise restricted, and convicts, and also with those persons who can provide information on the violation of rights of the mentioned individuals;
 - b) Examines the detention documentation in the places of custody, pre-trial detention and other places of restriction of liberty.
3. The meeting between the Public defender/members of the Special Preventive Group and arrested or detained persons, convicts or other persons whose liberty is restricted, shall be confidential and any kind of eavesdropping (interception) or oversight during the meeting is prohibited.”

4. Article 19¹ with the following content to be added to the law:

“Article 19¹

1. For the purpose of fulfilling the functions of the National Preventive Mechanism, a Special Preventive Group shall be set up at the Public Defender's, which shall regularly examine the situation with regard to the arrested persons, pre-trial detainees and those whose liberty is otherwise restricted and of convicts, as well as their treatment, for the purpose of protecting them from torture and other cruel, inhuman or degrading treatment or punishment.
2. A member of the Special Preventive Group shall be a person who has relevant education and professional experience, and also whose professional and moral qualities allow to fulfill the functions of a National Preventive Mechanism.
3. Member of the Special Preventive Group shall not be affiliated with a political party or engaged in a political activity.
4. While carrying out functions of a National Preventive Mechanism, members of the Special Preventive Group act on the basis of special proxy of the Public Defender and are accountable only to the Public Defender.
5. The members of the Special Preventive Group are entitled to refuse giving a testimony concerning the facts that were revealed to them during the accomplishment of their functions. The members of the Group shall retain the said right also after the termination of their authorities as the members of the Special Preventive Group.
6. The arrest, inspection or seizure of the post-telegraph correspondence of the members of the Special Preventive Group is prohibited.

4. Sub-paragraph 2 of the *Article 20* to be formed with the following edition:

2. The Public Defender of Georgia and also a member of the Special Preventive Group are obliged not to reveal secret and confidentially recognized information, also information about the torture and other cruel, inhuman and degrading treatment applied to a person without the latter's explicit permission

5. *Article 21*, sub-paragraph "a" to be formed with the following edition:

- a) Submit proposals, comments and recommendations with regard to the legislation and draft laws to the Parliament of Georgia or other relevant institution, for the purpose of securing human rights and fundamental freedoms and also improving the conditions and treatment of arrested or detained persons, convicts or other persons whose liberty is otherwise restricted and also for the prevention of torture and other cruel, inhuman or degrading treatment or punishment."

6. Sub-paragraph 1 of the *Article 22* to be formed with the following edition:

1. Twice a year, in March and October, the Public Defender of Georgia submits reports on the situation of human rights and freedoms in the country to the parliament of Georgia also including the report of the Special Preventive Group's activities.

7. *Article 27*, sub-paragraph 1 to be formed with the following edition:

1. "The Deputy Public Defender of Georgia, staff of the Office of the Public Defender of Georgia and members of the Special Preventive Group shall carry out mandate provided for in articles 18 and 19 of the present Law based on the special letter of attorney (proxy) of the Public Defender."

Article 2

This law to come into force upon its publication.

President of Georgia

Mikheil Saakashvili