

Government Removes Obstacles to Further Advance Regime Revolution**Termination of Gatekeepers and Dangerous Politicization of Legal Counsels**

On 17 November 2024, the government announced its intention to advance a resolution limiting to seven years the tenure of legal counsels in government ministries.¹ Ostensibly, the proposal is based on the recommendations dating back to 2008 of an interministerial team set up to examine the issue² and on Government Resolution No. 4528 from 2009 that adopted those recommendations.³ However, the planned resolution includes new clauses that allow for the automatic termination of tenure, with only a limited say of the professional oversight bodies.

The explanation attached to the draft resolution claims that the purpose is to deal with "burnout and stagnation" among legal counsels and to allow greater managerial flexibility in government ministries. However, it is clearly an integral part of the government's ceaseless efforts to advance the regime revolution and is designed to do away with legal counsels doing their job as professional and independent gatekeepers. If adopted, the proposed legislation will severely infringe on the independence of ministerial legal advisers. It will not only undermine the rule of law and proper administration, but will also be used as a tool to promote political interests at the expense of democratic principles and public accountability. In this respect, it is yet another step in the government's effort to restructure the Israeli regime and encroach on the status of professional and independent oversight mechanisms.

As indicated in the letter sent by three Deputy Attorney Generals, the resolution would immediately and unilaterally terminate the tenure of many legal counsels, including in key ministries dealing with sensitive and complex legal issues that would continue to operate with temporary replacements, thereby creating dysfunction and severely harming the mechanism upholding the rule of law. The three also note the flawed process leading to

§ All references are in Hebrew.

¹ [Government Resolution No. 2431: Finalizing Implementation of Interministerial Team's Recommendations on Ministerial Legal Counsels - Formulation of Financial Arrangement for Legal Counsels Ending Tenure](#), Prime Minister's Office, 17 November 2024.

² [Report of Interministerial Team Reviewing Questions Pertaining to Legal Counsels of Government Ministries](#) ("The Abramovich Committee Report"), Prime Minister's Office, 10 September 2008.

³ [Government Resolution No. 4528: Recommendations of Interministerial Team Reviewing Questions Pertaining to Legal Counsels of Government Ministries - Implementation](#), Prime Minister's Office, 1 March 2009.

the formulation of the draft resolution: it was drafted by an unauthorized entity, lacked sufficient factual basis, and sidestepped the relevant professional authorities. Furthermore, the draft resolution ignores the importance of upholding the rule of law and the state's obligations as an employer, and therefore fails to meet standards of reasonableness and proper administration.⁴

Zulat's Proposal

Netanyahu's governments have for years tried to weaken the institution of legal counseling as part of a general goal to undermine democratic control and oversight mechanisms. Legal counsels in government ministries are critical "gatekeepers," charged with ensuring the legality of state actions and protecting the public interest from abuse. Over the years, however, governments took steps to chip away at their independence, ranging from efforts to shift their nomination to the political echelon through laws limiting their tenure or even to remove the binding authority of their legal opinions.

In addition, legal counsels have been the target of unprecedented public incitement, and have often been portrayed as policy-makers rather than defenders of the rule of law. This trend is a central element in the effort to restructure the regime in an authoritarian direction uninhibited by any control or oversight.

In response to the draft resolution, which combines the limitation of the tenure of legal counsels with their immediate and automatic termination, and in order to halt the weakening of their role as gatekeepers and subsequent harm to the rule of law and democratic balances in the country, Zulat proposes a comprehensive amendment to the Government Law aimed at upholding the independence of legal counsels and prevent the politicization of their critical role (the proposed legislation is attached to this position paper as Appendix A).

Following are the highlights of Zulat's proposal:

1. **Appointment Through Professional Tender:** Legal counsels will be appointed by the Attorney General following a professional tender process and in accordance with eligibility criteria established in collaboration with the Civil Service Commissioner. This

⁴ Letter of Deputy Attorney Generals to Cabinet Secretary, [Draft Resolution on Termination of Legal Counsels of Government Ministries](#), Ministry of Justice's Office of Legal Counsel and Legislative Affairs, 17 November 2024.

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- approach will do away with even the slightest semblance of politicization in the appointment process and will strengthen their independence and impartiality.
2. **Definition of the Role:** The duties of legal counsels in government ministries will follow their definition in the reports of the Shamgar and Abramovich Committees⁵ and longstanding practice.⁶ Legal counsels will assist with the formulation of the policies of ministers and ministries in keeping with the rule of law, integrity, and human rights. Their legal opinions will remain binding unless determined otherwise by the Attorney General or a court.
 3. **Restrictions on Termination of Tenure:** The tenure of legal counsels will be set at seven years. However, their dismissal will not be allowed less than one year from the date the law is published, and will be subject to the Attorney General's approval. Explicit grounds for termination will be established in order to safeguard their independence, similar to those applicable to the Knesset's legal counsel.⁷
 4. **Restrictions on Unregulated External Legal Counsel:** The use of external advisers will be permitted only in cases of unique professional necessity, subject to oversight by the legal counsel of the relevant government ministry.

Zulat's proposal is intended to ensure the autonomy of legal counsels, prevent political dependence, and restore legal counsels to their erstwhile role as key gatekeepers in the government system in order to uphold the principles of the rule of law and proper administration. As stated, our proposal is not only a response to the problems arising from the government's draft resolution but a path that ensures independent, professional, and apolitical legal counseling for the sake of the stability and resilience of Israeli democracy.

Summary

Ministerial legal counsels constitute the first line of defense in the preservation of the rule of law and democratic principles. An infringement on their autonomy and professional status could cause disproportionate violations of civil rights, whereas upholding their

⁵ [Report of Public Committee Reviewing Appointment of Attorney General and Issues Pertaining to His Tenure](#), Ministry of Justice's Legal Counseling and Legislation Department, 1998; [Report of Interministerial Team Reviewing Questions Pertaining to Legal Counsels of Government Ministries](#), Prime Minister's Office, 10 September 2008.

⁶ [Minutes No. 7 of Meeting of Knesset Constitution, Law, and Justice Committee: Deputy Attorney General Dr. Gil Liman's Remarks](#), Knesset, 16 January 2023.

⁷ [Knesset Law-1994](#), Nevo, last updated 8 July 2024.

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independence will strengthen the people's trust in state institutions and ensure the government's compliance with international legal standards.

Zulat opposes the government's draft resolution, and calls for the adoption of the bill attached to this position paper as Appendix A, which will strengthen the status of legal counseling in Israel as part of a commitment to the rule of law and democracy.

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