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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**DRAFT AMENDMENTS  
TO THE ORGANIC LAW ON GENERAL COURTS**

**RELEVANT ARTICLES OF THE ORGANIC LAW ON GENERAL  
COURTS (TO BE AMENDED BY THE DRAFT AMENDMENTS)**

**AND LAW ON DISTRIBUTION OF CASES  
AND ASSIGNMENT OF AUTHORITIES  
TO OTHER JUDGES IN GENERAL COURTS  
(TO BE REPEALED BY THE DRAFT AMENDMENTS)**

**OF GEORGIA**

**Draft**

**Organic Law of Georgia  
On Amendments to Organic Law on General Courts**

**Article 1** The following amendments shall be made to Organic Law of Georgia on General Courts (Georgian Legislative Herald No 41, 8.12.2009, Art. 300):

1. Article 7(1) shall be modified as follows:

“1. Judge shall be independent in his/her activities. Judge shall assess factual circumstances and make decisions exclusively on the basis of Constitution of Georgia, universally recognised principles and norms of international law and other laws, and relying on his/her internal belief. No one shall have the right to demand an account from a judge about any case or, in the process of administration of justice, to give him/her any instructions, beyond the authority under the procedural law, as to what decision to make on a specific case.”

2. Article 15(1) shall be modified as follows:

“1. The Supreme Court shall be composed of at least 28 members. If the workload increases, the Plenum of the Supreme Court shall decide to increase the number of judges to avoid delay in legal proceedings; to fill up vacancies to the required number, the Plenum shall make a justified recommendation to the President of Georgia on the Supreme Court candidates for presenting them to the Parliament of Georgia.”

3. In Article 18:

a) the first paragraph shall be modified as follows:

“1. The Plenum of the Supreme Court shall comprise the Chairperson of the Supreme Court, the First Deputy Chairman and other deputies and the members of the Supreme Court.”;

b) Paragraph 2(b) shall be modified as follows:

“b) Elect members and chairpersons of the chambers of the Supreme Court;”.

4. Article 19(1-3) shall be modified as follows:

“1. The Disciplinary Chamber of the Supreme Court shall be composed of 3 members to be elected for a 3-year term by the Supreme Court Plenum. Candidates for members of the Disciplinary Chamber (including a candidate for the Chairperson of the Chamber) shall be nominated for selection by the Plenum from members of the Supreme Court by any member of the Plenum.

2. A Member of the Disciplinary Chamber shall be dismissed by the Chairman of the Supreme Court with the consent of the Supreme Court Plenum.

3. If the Supreme Court Plenum fails to elect a candidate of the Disciplinary Chamber member nominated by any Supreme Court Plenum member twice in a row, the Chairperson of the Supreme Court may, until the member is duly elected, appoint an acting member of the Disciplinary Chamber from members of the Supreme Court for not more than a six-month period.”.

5. Article 20 (1) shall be modified as follows:

“1. The Chambers of the Supreme Court shall have the chairpersons. A Chairperson of the Chamber (except for the Chairperson of the Disciplinary Chamber) shall be elected from the members of the Chamber by the Supreme Court Plenum for a 5-year term. A Chairperson of the Disciplinary Chamber shall be elected from the members of the Chamber by the Supreme Court Plenum for a 3-year term as determined by Article 19 of this Law. By decision of the Supreme Court Plenum, powers of the Chairperson of the Chamber (except for the Chairperson of the Disciplinary Chamber) may be exercised by the Chairperson of the Supreme Court.”.

6. Article 21(1)(h) shall be modified as follows:

“h) exercise powers under Georgian Law on Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia;”

7. In Article 23:

a) paragraph(4–7) shall be modified as follows:

“4. If necessary, for avoiding delay in administration of justice, the High Council of Justice of Georgia, at the suggestion of the Chairperson of the Court of Appeal of Georgia, may assign a judge to participate in reviewing a case in the other chamber of the same court or investigation panel.

5. Each chamber of the Court of Appeal and investigation panel shall have the chairperson who is appointed from members of a respective chamber and panel for 3-year term and dismissed by the High Council of Justice of Georgia. Unless a judge is appointed for an unlimited term, he/she shall be appointed within the term of his/her authorities.

6. Chairperson of the Court of Appeal and deputy chairperson shall be elected from the judges, including from the chairpersons of court chambers and investigation panel, for a 3-year term by secret ballot by the judges of the same court. Unless a judge is appointed for an unlimited term, he/she shall be appointed as a chairperson/deputy chairperson within the term of his/her authorities. Any judge of the Court of Appeal may nominate a candidate. The candidate having a majority of votes present at the meeting but not less than one third of the votes of full composition of the Court of Appeal shall be deemed elected. If none of the candidates gain required number of votes, re-voting shall be held with participation of the two candidates having had maximal votes. A candidate who gains more votes than the other shall be deemed elected.

7. In the case of premature termination of powers of the chairperson, deputy chairperson, chairperson of a chamber of court or investigation panel, before election of the chairperson and deputy chairperson of the Court of Appeal, or before appointment of the chairperson of a chamber of court or investigation panel, by the decision of the High Council of Justice of Georgia, one of the judges of the same court may be assigned powers of the chairperson of the Court of Appeal (deputy chairperson of the Court of Appeal, or chairperson of a court chamber or investigation panel) for no more than two months. Within this term, the judges of a respective court shall elect the chairperson and the deputy chairperson of the court; and the High Council of Justice of Georgia shall appoint the chairperson of a court chamber or investigation panel. After this the authorities of the persons appointed in under this paragraph shall be terminated. The High Council of Justice of Georgia shall be authorised to terminate authorities of the court chairperson/deputy chairperson/chairperson of a court chamber or investigation panel assigned to a judge before election of the chairperson and deputy chairperson of a court/appointment of the chairperson of a court chamber or investigation panel for disciplinable offence.”;

b) the following paragraph (8-10) shall be added after the seventh paragraph:

“8. Grounds for termination of the authorities of the Chairperson, deputy Chairperson of the Court of Appeal, Chairperson of a court chamber or investigation panel shall be:

- a) personal application;
- b) termination of the authorities of a judge of the Court of Appeals;
- c) dismissal of the chairperson/deputy chairperson of a court/chairperson of a court chamber/investigation panel as a disciplinary measure;
- d) expiry of term of authorities of the chairperson/deputy chairperson of a court/chairperson of a court chamber/investigation panel.
- e)

9. In the presence of the grounds specified in the eighth paragraph of this Article, except as provided for in paragraph (8)(c), authorities of the chairperson or deputy chairperson of the Court of Appeal or chairperson of a court chamber or investigation panel shall be terminated by the decision of the High Council of Justice of Georgia.

10. As provided for in paragraph (8)(c) of this Article, the chairperson or deputy chairperson of the Court of Appeal or chairperson of a court chamber or investigation panel shall be dismissed under Georgian Law on Disciplinary Liability and Disciplinary Proceedings of the Judges of the General Courts of Georgia.”

8. In Article 25:

a) paragraph (1)(a-e) shall be modified as follows:

“a) participate in the consideration of cases;

b) supervise operation of the court system, appoint and dismiss, as determined by the legislation of Georgia, the court manager, head of court guard service, a court guard, a judge assistant and a secretary of a court session; impose disciplinary actions on the court manager and other staff members of the court system;

c) as determined by the legislation of Georgia, generalise citizens’ applications, complaints and proposals and submit the generalised materials to the High Council of Justice of Georgia;

d) submit to the High Council of Justice of Georgia the proposals specified in Article 23(4) of this Law;

e) organise operation of court, study and generalise information related to management of the cases flow, including data on incoming and completing the cases, time frames for record management, reasons for deferring sessions, or delay in proceedings, and provide this information to the judges and High Council of Justice of Georgia; take measures to eliminate the systemic reasons for delay in proceedings within the competence”;

b) the following third paragraph shall be added after the second paragraph: “3. The Chairman of Court of Appeal shall be at the same time a member or chairman of one of the court chambers/investigation panel.”.

9. In Article 26:

a) in the first paragraph:

a.a) paragraph (1)(b) shall be deleted;

a.b) paragraph (1)(e) shall be modified as follows:

“e) as determined by the legislation of Georgia, generalise citizens’ applications, complaints and proposals and submit the generalised materials to the chairperson of court;”;

b) the following third paragraph shall be added after the second paragraph:

“3. Deputy chairperson of the Court of Appeal shall be at the same time a member or chairperson of one of the court chambers or investigation panel.”.

10. Article 30(4-5) shall be modified as follows:

“4. The Court Panel shall have the chairperson who is appointed for a 3-year term from the members of the Panel and dismissed by the High Council of Justice of Georgia. Unless the judge is appointed for an unlimited term, he/she shall be appointed as the chairman within the term of his/her authority.

5. If required, for avoiding delay in administration of justice, the High Council of Justice of Georgia, at the suggestion of the chairperson of court, may assign a judge to consider a case within the other court with specialised composition (court panel), as well as to exercise authorities of a magistrate judge, and may assign a magistrate judge to consider a case beyond his/her jurisdiction, at a district (city) court.”.

11. Article 32 shall be modified as follows:

“Article 32 - Chairperson of District (City) Court

1. Chairperson of a district (city) court shall be elected for a 3-year term from among the judges of the court, and in the courts where court panels are created, also from among the chairpersons of the panels, , by the judges of the same court by secret ballot. Unless a judge is appointed for an unlimited term, he/she shall be appointed as a chairperson within the term of his/her authorities. Any judge of a district (city) court may nominate a candidate. The candidate having a majority of votes present at the meeting but not less than one third of votes of full

composition of the district (city) court shall be deemed elected. If none of the candidates gain required number of votes, re-voting shall be held with participation of the two candidates having had maximal votes. A candidate who gains more votes than the other shall be deemed elected.

2. In the district (city) court having less than 5 judges, any judge of the district (city) court may nominate a candidate for the court chairperson. The Chairperson of the court shall be elected by ballot from among the nominated candidates.

3. Chairperson of a district (city) court shall:

a) consider e cases personally;

b) supervise operation of the court system, appoint and dismiss, as determined by the legislation of Georgia, the court manager, head of court guard service, a court guard, a judge assistant and a secretary of a court session; impose disciplinary actions on the court manager and other staff members of the court system;

c) organise operation of court, study and generalise information related to management of the cases flow, including data on incoming and completing the cases, time frames for record management, reasons for deferring sessions, or delay in proceedings, and provide this information to the judges and High Council of Justice of Georgia; take measures to eliminate the systemic reasons for delay in proceedings within the competence;

d) as determined by the legislation of Georgia, generalise citizens' applications, complaints and proposals and submit the generalised materials to the High Council of Justice of Georgia;

e) submit to the High Council of Justice of Georgia a proposal under Article 30(5) of this Law;

f) ensure observance of order in court; be authorised, for ensuring security at the court sessions, to instruct that, before initiating a session, participants to proceedings and attending persons are inspected and taking specific items into the court building or a session hall is forbidden; also be authorised, based on the size of a session hall, to limit the number of attending persons at the court session;

g) In the case of disorder in court, showing disregard of a court or disturbing normal functioning of a court, be authorised to apply measures against an offender as determined by the procedural legislation of Georgia. Procedure for issuing orders by the court chairperson and appealing them shall be established by the procedural legislation of Georgia;

h) fulfil other obligations provided for by the legislation of Georgia.

4. In the district (city) courts where the court panels are created the court chairperson shall be at the same time a member or chairperson of one of the court panels.

5. In the case of premature termination of powers of a district (city) court chairperson, and of a court panel chairperson in courts where court panels are created, before election of the district (city) court chairperson/appointment of the court panel chairperson, by the decision of the High Council of Justice of Georgia, one of the judges of the same court may be assigned powers of the chairperson of the district (city) court (court panel) for no more than two months. Within this term, the judges of a respective court shall elect the chairperson of the court; and the High Council of Justice of Georgia shall appoint the chairperson of the court panel. After this the authorities of the persons appointed under this paragraph shall be terminated. The High Council of Justice of Georgia shall be authorised to terminate authorities of the court chairperson/ chairperson of the court panel assigned to the judge before election of the chairperson of the court/appointment of the chairperson of the court panel for disciplinable offence.

6. Grounds for termination of authorities of a district (city) court chairperson/a chairperson of a court panel shall be:

a) personal application;

b) termination of authorities of a judge of a district (city) court;

c) dismissal of a court chairperson/a chairperson of a court panel as a disciplinary measure;

d) expiry of term of authorities of a court chairperson/a chairperson of a court panel.

7. In the presence of the grounds specified in the sixth paragraph of this Article, except as provided for in paragraph (6)(c), authorities of the chairperson of a district (city) court/ chairperson of a court panel shall be terminated by the decision of the High Council of Justice of Georgia.

8. As provided for in paragraph (6)(c) of this Article, the chairperson of a court or a court panel shall be dismissed under Georgian Law on Disciplinary Liability and Disciplinary Proceedings of the Judges of the General Courts of Georgia.”.

12. Article 34(2) shall be modified as follows:

“2. No person with a criminal record, nor a person dismissed from a judge’s position on any grounds under Article (43)(1)(b, h) may be appointed (elected) as a judge.”

13. Article 35 shall be modified as follows:

“Article 35 - Procedure for Taking a Judge’s Office

1. In the case of a vacancy of a judge at a district (city) court and the Court of Appeal, the High Council of Justice of Georgia shall announce a competition through the official gazette of Georgia.

2. Any person complying with the requirements of Article 34(1-3) of this Law may participate in the competition. These persons shall be regarded as candidates for the judges’ office after submitting applications to the High Council of Justice of Georgia.

3. When announcing the competition, the High Council of Justice of Georgia shall define the time frame for candidates for the judges to submit applications for registration. The time frame must not be less than 10 calendar days. The competition shall be conducted after expiry of the time frame for registration of candidates.

4. In an application for participation in the competition submitted by a candidate for the judges, a person must consent that the High Council of Justice of Georgia shall verify/search for information, including personal details, under the procedure determined by Article 35<sup>1</sup> of this Law.

5. Applicants for participation in the competition may submit their applications for one or more vacancies of their choice, and may prioritise each vacancy.

6. Within seven days from submitting applications, candidates for judge’s office shall submit to the High Council of Justice of Georgia a certificate issued under the legislation of Georgia on submission of statement on property status to the public service office. Members of the High Council of Justice of Georgia shall be authorised to become familiar with the statement on property status submitted by the candidates and to consider the data in the statement into when making decisions.

7. The High Council of Justice of Georgia shall review the applications and attached documents of the candidates participating in competition. If the documents comply with the requirements under law, the candidates for judges shall be interviewed in the High Council of Justice of Georgia. Before interviews, brief curriculum vitae of the candidates to be interviewed shall be posted on the web page of the High Council of Justice of Georgia.

8. When making a decision on appointing a person on the qualification list of school of justice students as a judge, his/her number on the qualification list and assessment of the independent council of the High School of Justice shall be taken into account.

9. The competition must be conducted in full compliance with the principles of objectivity and equality. During the competition, equality of candidates for judges shall be ensured irrespective of their race, gender, religion, political and other views, their social status, as well as their national, ethnical and social background and other circumstances.

10. Candidates for judges shall be notified of the decision on the appointment by the High Council of Justice of Georgia no later than the fifth working day.

11. If the candidate (candidates) for judge is not selected by competition, the High Council of Justice of Georgia shall announce a new competition within three months from announcement of the competition results as determined by this Article.

12. Conditions of a competition and the selection criteria of judges, as well as a special questionnaire, and a standard form of a recommendation to be used in searching for information on candidates for judges shall be determined by decision of the High Council of Justice of Georgia.

14. The following Articles (35<sup>1</sup>-35<sup>3</sup>) shall be added to the Law:

“Article 35<sup>1</sup> – Search for information on candidates for judges

1. After verifying that applications of candidates for judges and the enclosed documents comply with the requirements of law, and for objective and complete assessment of candidates for judges, an appropriate structural unit of the High Council of Justice of Georgia shall, before conducting interviews, begin to search for information on the candidates under this article.

2. During the information search process, the authorised structural unit of the High Council of Justice of Georgia shall thoroughly study the professional reputation and activities of candidates; shall verify the accuracy of information submitted by them; also the information on candidates' criminal/disciplinary prosecution, and/or administrative proceedings in the past, and their financial status.

3. Information on candidates for judges under this article shall be used exclusively by members of the High Council of Justice of Georgia for assessing the candidates. A member of the High Council of Justice of Georgia may take the information on a candidate into account during the assessment process.

4. Details of the candidates acquired as a result of information search shall be confidential, and shall not be disclosed in any form.

5. During searching information on candidates for judges, an appropriate structural unit of the High Council of Justice of Georgia may contact referees of the candidates, their former employers and colleagues, administration and professors of their institutes, banking and other financial institutions; also the agencies that might keep the information on previous conviction, administrative and disciplinary offences, and disputes of the candidates. To acquire information, an authorised structural unit of the High Council of Justice of Georgia shall be obliged to submit to a respective person a written consent of a candidate that his/her personal details are accessible.

6. To search for information, an authorised structural unit of the High Council of Justice of Georgia shall use a standard form of a recommendation, and a special questionnaire. In exceptional cases, the authorised structural unit may address additional questions to the source of information, and/or use oral form of communication for acquiring information. This must be evidenced in writing, and confirmed by signature of the information source.

7. Any action performed to search for information, and/or communication must be evidenced in a unified summary protocol.

8. Information on candidates of judges acquired in violation of the procedure under this article shall not be taken into account when making a respective decision.

9. An appropriate structural unit of the High Council of Justice of Georgia shall submit the information search results to members of the High Council of Justice of Georgia no later than 30 working days from beginning search for information on candidates for judges.

10. Candidates for judges may obtain the information on them available at the High Council of Justice of Georgia at least five days before their interviews. The source of information shall be confidential. Candidates shall review this information in a place designated by the High Council of Justice of Georgia for this purpose.

11. After the candidates have finished reviewing the searched information on them under the tenth paragraph of this article, they may apply to the High Council of Justice of Georgia in writing, submit additional information, and/or in proper manner cancel the information acquired about them.

12. Information on candidates acquired shall be sealed, and stored in a secure place designated by the High Council of Justice of Georgia for this purpose for no less than five years.

13. Each member of the High Council of Justice of Georgia shall be obliged to thoroughly study the information and documents on a candidate within ten working days from submitting information to him/her.

Article 35<sup>2</sup> – Conflict of interest

1. During competition, a candidate for judges may, on substantiated application, demand to challenge any member of the High Council of Justice of Georgia if there is a conflict of interest, in particular, a circumstance which casts doubt on objectivity, independence and/or impartiality of this member.
2. If there is a conflict of interest, a member the High Council of Justice of Georgia shall be obliged to declare about it in advance, and not to participate in making a decision on the appointment of a respective candidate to a judge's position.
3. The High Council of Justice of Georgia shall make a decision on challenging a member of the High Council of Justice of Georgia by the majority of votes. The person whose challenge is under review shall not participate in voting.

## Article 353 – Appeal of decision by the High Council of Justice of Georgia

An interested person may appeal in court against the decision by the High Council of Justice of Georgia on refusing appointment to a judge's position as determined under the Administrative Procedure Code of Georgia.”

15. Article 36(5) shall be modified as follows:

“5. If a judge who participated in initiation of a proceeding has attained the age of 65 before conclusion of the proceeding, or if his/her tenure under the first paragraph, or paragraph 4<sup>1</sup> of this article has expired, the High Council of Justice of Georgia may decide to prolong powers of this judge in relation to that proceeding until the time when this judge, or the chamber of court (panel) he/she is a member of, makes a final decision. If, at the same time, this person is a chairperson of court, or a deputy chairperson, or a chairperson of panel or chamber, after he/she reaches the age of 65, or his/her tenure expires, regardless of powers of a judge being prolonged, his/her powers of chairperson of court/ deputy chairperson/chairperson of panel/chamber shall be terminated.”

16. Article 37 shall be modified as follows:

“Article 37 - Procedure for appointment of judges as judges of other courts without competition

1. In the case of a vacancy, a judge appointed to an office may, on his/her own consent, be appointed as judge of a court of the same or a superior instance without competition . Unless a judge is appointed for an unlimited term, he/she shall be appointed as judge of a court of the same or a superior instance within the term of his/her authority.
2. A judge shall be appointed to a court of a superior instance without competition, if he/she complies with the requirements of Article 41 of this Law.”

17. The following Article 37<sup>1</sup> shall be added to the Law:

“Article 37<sup>1</sup> - Procedure for vesting of authorities in other judges/ sending on mission

1. In the absence of a judge in a district (city) court or in the case of drastic growth of pending cases, the High Council of Justice of Georgia shall make an offer to a judge/judges placed in reserve under Article 44 of this Law to exercise judge's authorities. In the case of a written refusal by the judges in reserve, the High Council of Justice of Georgia shall make the same offer to judges of the same instance courts. Information about consent/refusal to the offer shall be forwarded to the High Council of Justice of Georgia within seven days of receiving the offer.
2. If so provided for in the first paragraph of this Article, for vesting authorities in the other judge, a judge may be sent on mission to other court on grounded decision of the Council, by the



judge's consent, for up to one year. If the grounds under the first paragraph of this Article are eliminated, the mission shall be terminated before the set time frame.

3. If necessary, and if it is in the interests of justice, the High Council of Justice of Georgia may make a grounded decision without judge's consent on sending the judge on mission to a court who exercises his/her authorities in the court located nearby. The Council's decision shall contain the specific circumstances evidencing presence of the interests of justice. The High Council of Justice of Georgia shall identify the judge to be sent on mission to other court bylot. The judge identified by lot shall be given opportunity to express in writing his/her opinion on mission to be annexed to decision by the High Council of Justice of Georgia on judge's mission.

4. One and the same judge may be sent on mission without his/her consent only twice. A judge may not be sent on mission to the same or other court within three years from the mission expiry

5. Term of vesting authorities in other judge may be prolonged for no more than one year which requires the judge's consent..

6. If required, the judge sent on mission to other court shall, at the same time, exercise his/her authorities of judge in the court he/she is appointed as determined by law.

7. Judges in reserve shall exercise authorities of judge until the grounds under the first paragraph of this Article are eliminated.

8. In the presence of grounds under the first paragraph of this Article, and in the case of a vacancy in a relevant court, the High Council of Justice of Georgia shall perform actions provided for in this Article, and at the same time, shall announce, in a reasonable time period, a competition for the judge's vacancy, as determined by legislation.”.

.18. Article 41(1) shall be modified as follows:

“1. A judge of a district (city) court may be appointed to the Court of Appeal if he/she has exercised authorities of a judge in a district (city) court for at least five years. Promotion criteria for the judge shall be developed by the High Council of Justice of Georgia.”

19. Article 43(1)(c) shall be deleted.

20. Article 44(2-3) shall be modified as follows:

“2. If a judge refuses to exercise the judge's authorities or if the judge is not assigned to exercise authorities of a judge of other court on the grounds under and as determined by the first paragraph of this Article, the judge shall be dismissed from office and, based on his/her own prior written consent, shall be placed in reserve for 3 years, as determined by the legislation of Georgia. If a judge is appointed to office for a definite term, he/she shall be placed in reserve before his/her term of authorities of a judge expires.

3. A judge dismissed from office under the second paragraph of this Article and has not withdrawn from reserve, shall receive a specific amount of pay determined by the legislation of Georgia during his/her period in reserve.. The above judge, with his/her prior written consent, may be assigned to exercise authorities of a judge of a general court at any time under the legislation of Georgia. In this case, the judge shall be considered removed from reserve for the time of assignment of the judge's authorities to him/her. If a judge is appointed to office for a definite time period, he/she may be assigned to exercise authorities of a judge only within his/her term of authorities of a judge.”

21. Article 48(2) shall be modified as follows:

“2. A member of the High Council of Justice of Georgia shall be dismissed from office by the Parliament of Georgia, Conference of the judges of Georgia or the President of Georgia, respectively. In the presence of any circumstances specified in paragraph (1)(a-g) of this Article, the Parliament of Georgia or Conference of judges of Georgia shall receive the information about the presence of such circumstances as a notice, without making any decision; but in the presence of any circumstances specified in paragraph (1)(h-k), the Parliament of Georgia or Conference of judges of Georgia shall vote for a decision on

terminating authorities of a member of the High Council of Justice of Georgia. The Parliament of Georgia shall make the decision by secret ballot, by majority of votes of full composition.”

22. the following paragraph (1)(j<sup>1</sup>-j<sup>2</sup>) shall be added to Article 49:

“j<sup>1</sup>) provide posting of the information about decisions made, changes to the Council composition and other information about its activities, as well as information about a competition announced to fill a vacancy of a judge, and its results on a Council’s web page; j<sup>2</sup>), provide posting of information about the date of a Council’s session and agenda on the Council’s web page no less than two days before the session;”

23. Article 56(2) shall be modified as follows:

“2. The court manager shall provide organisational management of the court system under the legislation of Georgia, and, if required, within the authorities defined by the chairperson of court. Court Manager shall appoint and dismiss employees of the court system under the legislation of Georgia (except for the head of court guard service, court guard, and assistant to judge and secretary of a court session).”

24. Article 57(6) shall be modified as follows:

“6. An employee of the court system whose functions are not directly connected with conducting proceedings in court, and auxiliary and temporary personnel shall be appointed and dismissed under Law of Georgia on Public Service.

25. the following Article 58<sup>1</sup> shall be added to the Law:

“Article 58<sup>1</sup> - Distribution of cases between judges

1. Cases between judges in district (city) courts and the Court of Appeal shall be distributed automatically, through electronic system, in sequential order, meaning distribution of cases based on the sequence of incoming cases and sequence of judges.

2. If the electronic system is temporarily inaccessible, cases may be distributed without electronic system by the chairperson of court, in a sequential order under the first paragraph of this Article.”

26. Article 70(1) shall be modified as follows:

“1. A Supreme Court judge shall be granted a state compensation of GEL 1 200 upon expiry of his/her tenure, or upon reaching the age of 65.”

## **Article 2**

1. Within one month from enactment of this Law, appropriate measures shall be implemented to fill up vacancies to the required number for election of the Supreme Court members.

2. Within one month from enactment of this Law, judges of district (city) courts and Courts of Appeal shall ensure election of chairpersons of respective district (city) courts and Courts of Appeal and deputy chairpersons of Courts of Appeal as determined by this Law

3. Upon enactment of this Law, authorities of chairpersons of district (city) courts and Courts of Appeal and deputy chairpersons of Courts of Appeal shall be terminated and they shall be assigned to exercise authorities of chairpersons/deputy chairpersons of respective courts before electing new chairpersons of district (city) courts and Courts of Appeal/deputy chairpersons of Courts of Appeal.

4. Upon enactment of this Law, authorities of chairpersons of court chambers/court panels/investigation panels shall be terminated and they shall be assigned to exercise authorities of chairpersons of respective court chambers/court panels/investigation panels before electing new chairpersons.

5. Within one month from enactment of this Law, the court managers shall provide re-appointment of acting employees of the court system under this Law to their relevant offices.
6. Within two months from enactment of this Law, the High Council of Justice of Georgia shall ensure compliance of the relevant legal acts with this Law.
7. Before 1 September 2014, the High Council of Justice of Georgia shall ensure development of the electronic system for distribution of cases under Article 1(21) of this Law and launching of the system in district (city) courts and Courts of Appeal. Before 1 September 2014, cases shall be distributed in general courts as determined before enactment of this Law.
8. Within two months from enactment of this Law, the High Council of Justice of Georgia shall ensure establishment of a structural unit under Article 1(14) of this Law, and resolution of personnel and organisational issues related to the unit activities.

**Article 3**

Upon enactment of this Law, Law of Georgia on Distribution of Cases and Assignment of Authorities to Other Judges in General Courts shall be invalidated.

**Article 4**

1. This Law, except for Article 1(25) shall be enacted on the 30<sup>th</sup> day of its publication.
2. Article 1(25) shall be enacted as from 1 September 2014.

**President of Georgia**

***G. Margvelashvili***

## **1. Full Wording of the Articles of Organic Law on Courts of Common Law of Georgia to Be Amended by Presented Draft Law**

### **Article 7. Independence of Judges**

1. Judge shall be independent in his/her activities. Judge shall assess the factual circumstances and make decisions on the basis of Constitution of Georgia, universally recognized principles and norms of international law and other laws, relying on his internal belief. No one shall have right to demand account from the judge or, in the process of administration of justice, make instructions on his/her decisions with respect of specific case, beyond the authorities provided for the procedural legislation.

2. Removal of a judge from consideration of cases, early termination of his/her authorities or moving to the other position is unacceptable with the exception of cases specified by the law.

3. If, the common court, in the course of consideration of case, concludes that there is sufficient basis to regard that one or another law or any other normative act, to be applied by the court for making decision on the said case could be regarded as partially or wholly incompliant with the Constitution of Georgia, consideration of case shall be suspended and application shall be made to the constitutional court of Georgia. Consideration of case shall be resumed upon decision of this issue by the Constitutional Court of Georgia.

4. If a court considering the case regards that a normative act examination of which is beyond the competence of the constitutional court of Georgia is incompliant with the Constitution of Georgia the court shall make decision in accordance with the Constitution of Georgia.

### **Article 15. Structure of the Supreme Court**

1. Number of the judges of the Supreme Court shall be stated by the Plenum of Supreme Court
2. Supreme Court is composed of:
  - a) Department of Civil Cases;
  - b) Department of Administrative Cases;
  - c) Department of Criminal Cases;
  - d) Grand Chamber;
  - e) Plenum;
  - f) Disciplinary Department

### **Article 18. Plenum of Supreme Court**

1. Plenum of the Supreme Court consists of the chairman of the Supreme Court, first deputy chairman and deputies and members of the Supreme Court.

2. Plenum is authorized to:

- a) Elect membership of grand chamber upon nomination by the chairman of Supreme Court;
- b) Elect composition of chambers of the Supreme Court and the chairmen thereof;
- c) Appoint 3 members of constitutional court of Georgia;
- d) In accordance with Subsection "a", Section 1, of Article 89 of Constitution of Georgia, in relation with consideration of specific case and generalization of judicial practice, submit proposal to the constitutional court of Georgia on alignment of the normative act with the Constitution of Georgia;
- e) Issue conclusion on impeachment case to the Parliament of Georgia on presence or absence of the signs of crime in actions of the official. In its conclusion the plenum shall be limited to the legal assessment of the action regarded as established by the parliament members initiating the issue of impeachment;
- f) Submit to the President of Georgia the recommendations on the issues within the competence of Supreme Court on joining to international agreements;

- g) Hear and assess information from the chairpersons of chambers of the Supreme Court, reports of the heads of structural subdivisions of the Supreme Court system, discuss proposals related to improvement of their activities;
- h) Establish official gazette of Supreme Court, appoint editor and editorial board thereof, upon nomination by the chairperson of Supreme Court;
- i) Establish scientific-advisory board of the Supreme Court, approve its charter, composition and its academic secretary;
- j) Within the scopes of funding provided by state budget of Georgia for Supreme Court, determine the amount of monthly addition to the office salaries of the Supreme Court member;
- k) Upon proposal by the chairman of Supreme Court, approve internal regulations of Supreme Court system, rates of remuneration of the officers and other personnel;
- k<sup>1</sup>) Upon proposal of the chairman of Supreme Court, approve the rules of traineeship at the Supreme Court and rules for assessment of the staff members of Supreme Court;
- l) Prepare and publish annual report on the situation in juridical system of Georgia;
- m) Exercise other authorities provided by constitutional functions of judicial power and Georgian legislation.

3. Plenum shall:

- a) Protect and strengthen institutional independence of one of the equal branches of the state government – judicial power, ensure independence of judges;
- b) Provide improvement of peoples trust and confidence in judicial power within the scopes of its competence.

4. Plenum shall be authorized to consider the issue of no less than two thirds of plenum members attend the session. Decision shall be deemed passed if no less than two thirds of the session participants support it.

5. Plenum shall be convened as required but no less than once per year. Plenary session shall be appointed by the chairman of Supreme Court, at his/her incentive or upon request of no less than one fifth of members.

6. Relevant professionals and other persons may be invited to the plenary session.

### **Article 19. Disciplinary Chamber of Supreme Court**

1. Disciplinary Chamber of the Supreme Court composed of 3 members is elected for 3-year term by Supreme Court plenum. Candidates of the members of disciplinary chamber (including the candidate of the chamber chairman) from the number of members of Supreme Court for election by plenum shall be nominated by any member of plenum.

2. Member of disciplinary chamber shall be dismissed by the chairman of Supreme Court with the consent of Supreme Court plenum.

3. If the Supreme Court plenum fails to elect the candidate of disciplinary chamber member nominated by the Supreme Court plenum two times, chairman of Supreme Court shall have the right, for no more than 6 months before his/her election, assign acting member of the disciplinary chamber from the number of members of Supreme Court.

4. Chairman of Supreme Court shall be authorized to remove a member of chamber from the consideration of specific case by the disciplinary chamber for the period of consideration of the said case, if such member has basis for challenge provided for by procedural legislation of Georgia. In such case the chairman of Supreme Court appoints acting member of disciplinary chamber from the number of Supreme Court members.

5. Member of disciplinary chamber fully exercises authorities of a judge of Supreme Court.

6. Disciplinary chamber considers complaints on decisions of disciplinary departments of judges of common law courts of Georgia in accordance with Georgian Law on Disciplinary Responsibility and Disciplinary Administration of Judges of Common Law Courts of Georgia.

### **Article 20. Chairpersons of the Chambers of Supreme Court**

1. Chambers of Supreme Court have the chairmen. Chairman of the chamber (with the exception of the disciplinary chamber) is elected from the composition of the said chamber for

5-year period by the plenary session of Supreme Court. Chairman of disciplinary chamber is elected from the composition of the said chamber for 3-year term by the Supreme Court plenary session in accordance with the rule established by Article 19 of this Law. On the basis of decision by Supreme Court plenary session, authorities of chamber chairman (with the exception of disciplinary chamber) may be exercised by the chairman of Supreme Court.

2. Chairpersons of Supreme Court chambers (with the exception of the chairpersons of disciplinary chambers) simultaneously are deputy chairpersons of Supreme Court.

3. First deputy chairman of Supreme Court shall be elected from chairpersons of the Supreme Court chambers (with the exception of disciplinary chamber) by the plenary session of Supreme Court.

### **Article 21. Chairman of Supreme Court**

1. Chairman of Supreme Court:

a) Provides general governance of the activities of Supreme Court;

b) May be a chairman of one of the chambers; chairs sessions of supreme court plenary session and sessions of grand chamber, if required, chairs sessions of the chambers of supreme court,

c) (Omitted – 01.05.2013 No 580);

d) In relation with general issues of situation with respect of justice in Georgia, guides relations with the other branches of state government, mass media and population on behalf of judicial power exercising justice;

e) Provides governance of operation of Supreme Court system;

f) Appoints and dismisses the officers and other personnel of the Supreme Court system;

g) Identifies the judge with relevant authorities who issues the orders on performing relevant operative-technical measures provided by Georgian Law on Counter-intelligence Activities;

h) Initiates disciplinary pursuit against the judge and exercises other disciplinary authorities;

i) Makes decisions on criminal responsibility of judges, their detainment or arrest, search of their residence, car, work place or personal search;

j) Performs other activities provided for by Georgian legislation.

2. In case of absence of the chairperson of Supreme Court, his/her authorities shall be exercised by first deputy chairman. In case of temporary absence of the chairman and first deputy chairman of Supreme Court he authorities of the chairman, upon his/her order shall ne exercised by one of the deputy chairmen.

### **Article 23. Composition of Court of Appeal**

1. High Council of Justice of Georgia determines the number of judges of court of appeal.

2. Court of appeal establishes:

a) Chamber of civil cases;

b) Chamber of administrative cases;

c) Chamber of criminal cases;

d) Investigation department.

3. High Council of Justice of Georgia sets number of judges and their composition in the chambers and investigation department of court of appeal.

4. In case of necessity, to avoid delay in administration of justice, the High Council of Justice of Georgia, on the basis of suggestion from the chairman of court of appeal of Georgia, may instruct a judge to take part in legal investigation of the other chamber of the same court or investigation department.

5. Each chamber of the court of appeal and investigation department has the chairmen to be appointed from the staff of the relevant chamber and department for 3-year term and dismissed from the position by the High Council of Justice of Georgia. If a judge is appointed for unlimited term, he/she shall be appointed within the term of his/her authorities.

6. Chairman of the court and deputy chairman shall be elected from the number of judges, including chairmen of the chambers and investigation department through secret ballot by the

judges of the same court. If a judge is appointed for the unlimited term, he/she shall take position of chairman/deputy chairman within the term of his/her authorities. Any judge of the court of appeal may nominate the candidate. Candidate who collects majority of votes of members attending the meeting but no less than one third of votes of full composition of the court of appeal shall be deemed elected. If no one of the candidates gains required number of votes, new voting to elect among two candidates with maximal votes shall be held. Candidate, who gains greater number of votes than the other candidate, shall be deemed elected.

7. In case of early termination of authorities of the chairman, deputy chairman, chairman of the chamber of court or investigation department, before election of the chairman and deputy chairman of court of appeal or appointment of the chamber of court or investigation department, by the decision of the High Council of Justice of Georgia, one of the judges of the same court may be assigned authorities of the chairman of court of appeal (deputy chairman, chairman of the court chamber or investigation department) for no more than two months. For this term the judges of relevant court shall ensure election of the chairman and deputy chairman of relevant court and the High Council of Justice of Georgia – appointment of the chairman of court chamber or investigation department whereupon the authorities of the persons appointed in accordance with this Section shall be terminated. High Council of Justice of Georgia shall be entitled to terminate authorities of court chairman/deputy chairman/chairman of court chamber or investigation department assigned to the judge before election of the chairman and deputy chairman of the court/appointment of the chairman of court chambers or investigation department for disciplinable offence.

#### **Article 25. Authorities of the Chairman of Court of Appeal**

1. Chairman of Court of appeal:

- a) Chairs one of the chambers of investigation department of the court;
- b) Governs and supervises operation of the court system, appoints and dismisses the court manager, head of court guard service, appoints disciplinary measures against court guard, judge assistant and secretary of court session, other staff members of the court system, in accordance with the rules established by Georgian legislation;
- c) Provides generalization of the citizens' applications, complaints and proposals in accordance with the rules established by Georgian legislation and submits generalized materials to the High Council of Justice of Georgia;
- d) In cases specified in Section 4 of Article 23 of this Law instructs the judge of court of appeal to participate in consideration of case at the other chamber or investigation department;
- e) In accordance with the rules established by Georgian legislation, distributes the cases submitted to the court and other materials;
- f) Ensures order at court; to ensure safety of the court sessions, he/she is authorized to resolve inspection of the process participants and attendants before commencement of session and prohibit carrying of certain subjects into the court building or session hall; he/she is also authorized, regarding the size of hall, limit the number of attendants at the court session;
- g) In case of disorder at court, contempt of a court or disturb normal functioning of a court, he/she is authorized to apply measures established by Georgian procedural legislation against the violator. Rules of receiving of instructions from the court chairman and appealing are established by Georgian procedural legislation;
- h) Fulfils other obligations provided for by Georgian legislation.

2. In case of temporary absence of the chairman of court of appeal deputy chairman shall perform his/her obligations.

#### **Article 26. Authorities of Deputy Chairman of Court of Appeal**

1. Deputy Chairman of court of appeal:

- a) Participates in consideration of cases;
- b) Chairs one of the chambers of investigation department;

- c) Supervises operation of the court system upon instructions of chairman of court of appeal, submits to the chairman proposals on imposing disciplinary measures on officers of court system for gross violations of internal regulations or other disciplinary offences;
  - d) Upon instruction of the court chairman, for organizational support of justice, implements relevant measures;
  - e) Provides generalization of judicial practices, citizens' applications and complaints and submits materials of such generalization to the court chairman in accordance with the rules established by the law;
  - f) In case of absence of the chairman of court of appeal performs his/her obligations;
  - g) Exercises other authorities provided for by Georgian legislation.
2. In case of temporary absence of the deputy chairman of court of appeal the obligations of deputy chairman shall be performed by the chairman of one of the chambers or investigation department.

### **Article 30. Specialization of Judges**

1. At the district (city) court, where there are two judges, one of them considers the criminal cases and the other – civil and other categories of cases, with the exception of cases specified by procedure legislation of Georgia. Specialization of judges shall be provided on the basis of decision of High Council of Justice of Georgia.
2. At the district (city) courts with particular extensiveness of judicial activities, where there are more than two judges, by the decision of High Council of Justice of Georgia, more specific specialization of judges may be provided or special departments (hereinafter referred to as court departments) may be established.
3. Number of judges within the court departments, as well as their composition shall be determined by High Council of Justice of Georgia.
4. Court chamber has the chairman appointed from the composition of chamber for 5-year term but for no more than the term of judicial authorities and dismissed by the High Council of Justice of Georgia.
5. If required, to avoid delay in administration of justice, High Council of Justice of Georgia, on the basis of suggestion from the chairman of court, may instruct a judge to consider the case with the other, specialized composition of court (court department), as well as execution of authorities of the magistrate judge and instruct the magistrate judge to consider the case beyond the territory of his/her action, at district (city) court.

### **Article 32. Chairman of District (City) Court**

1. Chairman of the district (city) court shall be appointed from the number of judges of the said court and in the courts where the court departments are created, from the chairmen of the departments, for the 5-year term though for no more than the term of their judicial authorities. Chairman is appointed and dismissed by the High Council of Justice of Georgia.
2. Chairman of the district (city) court:
  - a) Considers the cases personally;
  - b) In accordance with the rules established by Georgian legislation, supervises operation of the court system, appoints and dismisses the court manager, head of court guard service, appoints disciplinary measures against staff members of the court system;
  - c) Organizes operation of the court, studies and generalizes information related to management of the cases flow, including data of incoming and completion of cases, terms of records management, reasons of deferring of sessions, delay in proceedings and provides this information to the judges and High Council of Justice of Georgia; takes measures to eliminate the systemic reasons of proceedings delay within his competence;
  - c) In accordance with the rules established by the law, distributes the cases within the jurisdiction of district (city) courts for consideration;
  - d) Organizes operation of the court;
  - e) Omitted;



- f) Provides generalization of the citizens' applications, complaints and proposals in accordance with the rules established by Georgian legislation and submits generalized materials to the High Council of Justice of Georgia;
  - g) Submits to the High Council of Justice of Georgia the proposals specified in Section 5 of Article 30 of this Law;
  - h) Studies the reasons of delay of consideration of cases at court and submits relevant materials to the High Council of Justice of Georgia;
  - i) Ensures order at court; to ensure safety of the court sessions, he/she is authorized to resolve inspection of the process participants and attendants before commencement of session and prohibit carrying of certain subjects into the court building or session hall; he/she is also authorized, regarding the size of hall, limit the number of attendants at the court session;
  - j) In case of disorder at court, contempt of a court or disturb normal functioning of a court, he/she is authorized to apply measures established by Georgian procedural legislation against the violator. Rules of receiving of instructions from the court chairman and appealing are established by Georgian procedural legislation;
  - k) Fulfills other obligations provided for by Georgian legislation.
3. Before appointment of the chairman of district (city) court and in courts where court departments are established – before appointment of the chairmen of court departments, upon decision by High Council of Justice of Georgia, authorities of chairman of district (city) court (court department) may be vested in one of the judges of the same court. High Council of Justice of Georgia is authorized to terminate chairman's authority vested in judge.

#### **Article 34. Requirements to the Candidates to Judges**

1. Any effective citizen of Georgia over 28 may be appointed (elected) as a judge, if he/she has higher education in law, has at least 5 years of work experience in his/her profession, is fluent in the state language, has passed the judges' qualification examination, has completed full education course of High School of Justice and is included into the qualification list of the auditors of justice.
2. No person with criminal record, as well as a person dismissed from the judge's position on any of the basis specified in Subsections "b" and "h", Section 1, Article 43 may be appointed (elected) as a judge.
3. Person nominated as a candidate to the office of judge of Supreme Court shall be exempted from the requirement of studying at the High School of Justice, as well as the former judge who has passed judges' qualification examination, was appointed to the office of judge at the Supreme Court or district (city) court or court of appeal through competition and has 18 months' experience of work as a judge. Person who has passed full course of the Higher School and was included into the qualification list of the justice auditors, shall be exempted from studying at the High School of Justice to take the office of judge, irrespective of the term of his/her being at the office of the judge or, whether he/she was appointed to this office upon graduation from the High School of Justice.
4. President of Georgia is authorized to nominate to the Parliament of Georgia a candidate for election as a member of Supreme Court without passing of qualification examination of judges whose professional experience shall be adequate for the high status of Supreme Court member. Persons nominated for election as a chairman of Supreme Court shall be exempted from this examination as well.
6. Former judges of common law courts of Georgia before expiry of 7 years from the date of termination of judges' authorities shall be exempted from the qualification examination of judges.
6. Current and former members of the constitutional court of Georgia shall be exempted from the qualification examination of judges and study at the High School of Justice.

**Article 35. Rule of Taking of a Judge's Office**

1. Person complying with the requirements of Sections 1 and 2 of Article 34 shall be regarded as candidates to the office of judge, upon submission of applications to the High Council of Justice of Georgia. In making decision on appointment of a person his/her number in the qualification list of auditors of justice and independent assessment of the higher school of justice shall be taken into consideration. By the decision of High Council of Justice of Georgia the candidate to the office of judge shall be invited to the session.
2. A person who, upon including into the qualification list of auditors of justice, rejects the office of judge has no right to submit application for the judge vacancy to the High Council of Justice of Georgia for 5 years from the date of approval of the list. In the exceptional cases High Council of Justice of Georgia considers the issue of assuming of such person to the competition.
3. A person exempted from study at the High School of Justice shall take the office of judge through competition. Such person shall be deemed as candidate for judge's office upon submission of application for participation in competition announced by High Council of Justice of Georgia. High Council of Justice of Georgia makes announcement on competition through official gazette of Georgia in case of vacate offices of judges at the district (city) court and court of appeal. Term of registration of the candidates to the judge's office shall be determined by the High Council of Justice of Georgia, at a time of announcement of competition. Competition shall be held upon expiry of the term of registration of the candidates. Terms and conditions of competitions and criteria for selection of the candidates shall be determined by the decision of the High Council of Justice of Georgia.
4. Within 7 days from the date of application the candidates for judge's office shall submit to the High Council of Justice of Georgia the certificate on submission of statement on property status to the public service office.
5. If the candidate(s) for judge's office cannot be selected on the basis of competition High Council of Justice of Georgia shall announce new competition within 3 months from the date of announcement of the results of competition, in accordance with this Article.

**Article 36 – Appointment (election) of judges**

1. The Chairman and members of the Supreme Court shall be elected, upon recommendation of the President of Georgia, for a term of 10 years, by the Parliament of Georgia by a majority of full list.
2. The Chairman of the Supreme Court may present to the President of Georgia a candidate for a judicial position of the Supreme Court, and the President of Georgia shall be entitled to present for election to the Parliament of Georgia any candidate that meets the requirements under this Law and the Constitution of Georgia.
3. The same candidate for election to a judicial position of the Supreme Court may be presented to the Parliament of Georgia only twice.
4. Judges of the Court of Appeals and of district (city) courts shall be appointed by the High Council of Justice of Georgia.
  - 4<sup>1</sup>. The judges of the Court of Appeals and of district (city) courts shall be appointed for three years. The High Council of Justice of Georgia, not earlier than two months and not later than one month before expiry of this term, shall discuss the results of monitoring referred to in paragraph 4<sup>2</sup> of this article, and shall make a decision whether to appoint the judge for an indefinite term until he/she reaches the age determined by law. If a judge is not appointed for an indefinite term, his/her judicial powers shall be terminated under this Law after expiry of his/her three-year tenure.
  - 4<sup>2</sup>. To monitor the activity of a judge appointed for three years, after one year and after two years of his/her appointment, also four months before expiry of the judge's three-year tenure, the High Council of Justice of Georgia shall select, by lot, a member of the Council who has to assess the judge's activity in the respective period. In addition, all three monitoring activities shall be carried out by different members of the Council. Each monitoring report shall be

presented to the judge whose activity was assessed by the given monitoring, and shall be attached to his/her personal record in a sealed form. The reports shall be submitted to members of the High Council of Justice of Georgia three months before expiry of the judge's three-year tenure for examination within one month.

4<sup>3</sup>. If the High Council of Justice of Georgia makes a decision on appointment of a judge for an indefinite term, the judge shall be appointed for an indefinite term until he/she reaches the age determined by law. If the High Council of Justice of Georgia makes no decision on appointment of a judge for an indefinite term, the Council shall announce a competition to fill the vacancy of a judge under Article 35 of this Law. If the High Council of Justice of Georgia made no decision on appointment of a judge for an indefinite term, the judge shall not be able to participate in a competition announced to fill the vacancy of a judge for the next three years.

5. If a judge who participated in initiation of a proceeding has attained pension age before conclusion of the proceeding, or if his/her tenure under the first paragraph, or paragraph 4<sup>1</sup> of this article has expired, the High Council of Justice of Georgia may decide to prolong powers of this judge in relation to that proceeding until the time when this judge, or the chamber of court (panel) he/she is a member of, makes a final decision.

6. If a judge is assigned to another court, before he/she starts to exercise his/her judicial powers in a new position, the judge may not be removed from proceedings he/she was conducting at the time of his/her assignment to another court.

### **Article 37. Rule of Appointing of a Judge as a Judge of the Other Court**

In case of vacancy, a judge appointed to an office, upon his/her consent, within the term of his/her authorities, may be appointed as a judge of the court of the lower or higher instance without competition.

### **Article 41 Promotion of Judges**

1. Judge of district (city) court may be appointed to the court if appeal if he/she exercised authorities of judge at district (city) court for at least 2 years. Criteria of promotion of judges are developed by the High Council of Justice of Georgia.

2. A judge may be promoted before the term specified in Section 1 of this Article if he/she has particular merits in development of law, formation of uniform judicial practices and administration of justice promptly and effectively, as well as if, in the period of exercising of the judge's authorities, revealed highly qualified judicial skills.

3. Assessment of the judge against the criteria for promotion shall be provided by the High Council of Justice of Georgia.

### **Article 43 Bases for Dismissal of the Judge, Termination of Authorities of the Chairman of Supreme Court and Member of Supreme Court**

1. Bases for Dismissal of the Judge, Termination of Authorities of the Chairman of Supreme Court and Member of Supreme Court include:

- a) Personal application;
- b) Disciplinary offence;
- c) Accepting of position incompatible with the status of judge or unacceptable activities;
- d) Recognition as incapable or with limited capability by the court;
- e) Termination of citizenship of Georgia;
- f) Final entry into legal force of the verdict against him/her;
- g) Achievement of age of 65;
- h) Committing of the corruptive action as provided by Article 20 of Georgian Law on Non-compatibility of Interests and Corruption at Public Service;
- i) Decease;
- j) Liquidation of a court, staff reduction;
- k) Appointment (election) to the other court;

- l) Appointment or election to the other office;
- m) Expiry of term of authority.

2. In case specified in Subsection “b” of Section 1 of this Article, nomination by the disciplinary chamber is required,

3. High Council of Justice of Georgia is authorized to dismiss the judge from his/her office if, for last 12 months, he/she was not able to exercise his/her authorities and there is a relevant medical report stating that he/she will not be able to exercise his/her authorities in the future.

#### **Article 44. Assigning of a Judge to the Other Judicial Office and His/Her Dismissal in Case of Liquidation of the Court and Reduction of the Judge’s Office**

1. In case of liquidation, as well as reduction of the judge’s office, with the judge’s written consent and in accordance with the rules established by Georgian legislation, the judge may be charged to exercise authorities of judge of the same or lower instance court within the term of his/her judicial authorities.

2. On the basis and in a manner specified in Section 1 of this Article, in case of refusal to exercise the judicial authorities by the judge or non-granting of the authorities of the judge at the other court the mentioned judge shall be dismissed from his/her position no later than within 3 months from the date of reduction of the his/her office and with prior written consent, in accordance with the rules established by Georgian legislation, shall be included into the reserve for 3-year term but for no further than expiry of the term of his/her judicial authorities.

3. A judge dismissed from his/her position, in accordance with Section 2 of this Article not withdrawn from the reserve, shall receive the fees for his/her position, in amount specified by Georgian legislation. With his/her prior written consent, according to the rules established by Georgian legislation, he/she may be at any time assigned judge’s authorities at the other court, within the term of his/her judicial authorities. In such case the judge shall be deemed withdrawn from the reserve for the term of assignment of the authorities.

#### **Article 48. Bases for Termination of Authorities of the Member of High Council of Justice of Georgia**

1. Bases for termination of the authorities of member of High Council of Justice of Georgia are as follows:

- a) Personal application;
- b) Transfer to the other position upon his/her consent;
- c) Recognition as incapable or with limited capability by the court;
- d) Final entry into legal force of the verdict against him/her;
- e) Termination of citizenship of Georgia;
- f) Expiry of term of authorities specified by this Law;
- g) Decease;
- h) Inability to exercise his/her authorities for more than 4 months per year;
- i) Recurrent non-fulfilment or improper fulfilment of his/her obligations;
- j) Non-compatible position or non-compatible activities;
- k) Election as a member or appointment by the unauthorized body or in breach of the regulations provided for by this Law.

2. Member of High Council of Justice of Georgia is dismissed by the Parliament of Georgia or Conference of Judges of Georgia. In any of cases specified in Subsections “a” – “g” of Section 1 of this Article Parliament of Georgia and Conference of Judges of Georgia takes such information as a note only, without making any decision while in cases specified in Subsections “h” – “k” – votes on the issue of termination of the authorities of the member of the High Council of Justice of Georgia. Parliament of Georgia makes such decision through secret ballot, with the majority of votes of full composition.”

3. In addition to the bases specified in Section 1 of this Article, member of of High Council of Justice of Georgia may be dismissed from his/her office is early retirement from the judge’s office (dismissal).

## **Article 49 Authorities of the High Council of Justice of Georgia**

### 1. High Council of Justice of Georgia

- a) Appoints and dismisses the judges of common law courts of Georgia (with the exception of the chairperson and members of Supreme Court);
  - b) Determines composition of the qualification examination commission;
  - c) Determines specialization of the judges of district (city) courts;
  - d) Approves the staff schedule and structure of the office of High Council of Justice of Georgia, remuneration of the members of High Council of Justice of Georgia, wages and salaries of the officers and auxiliary staff and positions of High Council of Justice of Georgia, as well as structure and staff of the common law courts of Georgia (with the exception of Supreme Court).
  - d<sup>1</sup>) Specifies the procedures of compensation of business travels for the members of High Council of Justice of Georgia elected by the Parliament of Georgia;
  - e) Develops and approves the procedures of organizational work of the common law courts of Georgia;
  - e<sup>1</sup>) Approves the regulations for traineeship at the High Council of Justice of Georgia and district (city) courts and courts of appeal;
  - e<sup>2</sup>) Approves the rules of evaluation of the officers of the High Council of Justice of Georgia, district (city) courts and courts of appeal;
  - f) Considers the materials of judicial statistical analysis;
  - g) In accordance with the rules established by the law, within the scopes of its authorities, executes disciplinary measures against the judges of common law courts of Georgia;
  - h) Listens to the report of chairman of the department of common law courts;
  - i) Makes decision on stimulation of judges in accordance with the rules established by the law;
  - j) Develops proposals on the issues of judicial reform;
  - k) Exercises other authorities provided by Georgian legislation.
2. Activities of the High Council of Justice of Georgia are governed by the regulations approved by the High Council of Justice of Georgia with 2/3 majority of full composition.
3. For organizational-technical provisioning of the activities of High Council of Justice of Georgia office of High Council of Justice of Georgia was established.

## **Article 56. Court office, Court Manager**

1. Court offices operate at Georgian common law courts for the purpose undelayed administration of justice, study and generalization of judicial practice, judicial statistical analysis, as well as for providing of the other activities of the court.
2. Organizational management of the court office is provided by court manager, in accordance with the rules established by Georgian legislation, also, if required, within the authorities determined by the chairman of the court.
3. Structure of the office of Supreme Court and operation of the structural subdivisions thereof is determined by the regulations of Supreme Court office to be approved by the plenum of Supreme Court.
4. Structure of the offices of court of appeal and district (city) courts and activities of their structural subdivisions are determined by the charter to be approved by the High Council of Justice of Georgia.
5. Staff members of the court offices are the state servants. Officers of the court office and auxiliary personnel enjoy all social guarantees due to the officers and auxiliary personnel of the legislative and executive governments,

## **Article 57 Requirements to the Staff of the Court Office at Appointment**

1. A citizen of Georgia, normally, with higher education in law, fluent in the language of administration of justice, who passed one-year paid traineeship at the common law court and special education course at the Higher School of Justice, may be appointed as an officer of the

court office, with the functions directly related to administration of justice at the courts, in accordance with the rules established by the High Council of Justice of Georgia/plenum of Supreme Court.

2. For paid traineeship a person is appointed to the relevant position of court office. Any person complying with the key requirements established by Georgian Law on Public Service shall be eligible for paid traineeship.

3. Upon appointment as an officer of court office, a person shall be exempted from the paid traineeship and/or special education course specified in Section 1 of this Article, if he/she complies with one of the following requirements:

a) Has at least 1-year experience of work as a judge, prosecutor, investigator or lawyer;

b) Has passed the qualification examination for judges;

c) Has no less than 2 years of experience of work in the sphere of law;

d) Has no less than 1-year professional experience of work at the court.

4. A person shall be exempted from the requirement of special education course specified in Section 1 of this Article if he/she has passed special education course for the assistant of judge at the higher school of justice.

5. A person complying with the requirements for exempting from the paid traineeship specified in Section 3 of this Article may pass the traineeship at the common law court.

6. Officer of the court office, whose functions are not directly related to the administration of justice may be appointed to the position of auxiliary or part-time staff and dismissed by the chairman of the court in accordance with the rules established by Georgian Law on Public Service.

#### **Article 70 - Procedure of granting state compensation to judges of General Court of Georgia**

1. A Supreme Court judge shall be granted a state compensation of GEL 1 200 upon expiry of his/her tenure or upon reaching pension age.

2. A General Court judge (except for Supreme Court judge) who has been appointed to judge's position under Article 35 of this Law, shall be granted a state compensation under the procedure and in the amount determined by the Law of Georgia on State Compensation and Academic Scholarship.

## **2. Law of Georgia on Distribution of Cases and Assignment of Authorities to Other Judges in General Courts to be Declared Invalidated by the Presented Draft**

### **Law of Georgia on Distribution of Cases and Assignment of Authorities to Other Judges in General Courts**

#### **Chapter I. General Provisions**

##### **Article 1**

This Law established the rules for distribution of cases and vesting of authorities in the other judges at the district (city) courts, courts of appeal and supreme courts of appeal of the autonomous republics.

##### **Article 2**

Goals of the Law include:

- a) Ensure strengthening of the legal mechanisms for effective protection of human rights and freedoms recognized by the principles and norms of international law, as well as Georgian legislation, by the common law courts;
- b) Promotion of effective and un-delayed administration of justice through organizational improvement of the activities of common law courts.

##### **Article 3**

Rules of for distribution of cases and vesting of authorities in the other judges are established by Georgian Organic Law on Common Law Courts, Criminal Procedure Code and Civil Procedure Code, this Law and the other legislative acts.

#### **Chapter II. Distribution of Cases**

##### **Article 4**

1. At the district (city) courts, courts of appeal and supreme courts of appeal of the autonomous republics the cases are distributed in sequential order.
2. At the district (city) courts, the cases are distributed between the magistrate judges by locations of the magistrate judges.
3. Order of sequence implies distribution of cases by the sequence of incoming of cases and sequence of the judges.

##### **Article 5**

1. For the purpose of distribution of cases between the judges the chairman of court determines the sequence of judges by the first letter of the surname and in case of their identity, by the following letter. First number in sequence is given to the judge the first letter of whose surname and in case of identity, the following letter is first in the alphabet.
2. Sequence of judges with the same surnames is determined by the first letters of their names and in case of their identity by the following letters. In case of similar names, the sequence of judges is determined by drawing.

##### **Article 6**

In case of change of the judges' number the chairman of the court shall re-determine the sequence of judges in accordance with Article 5 of this Law.

##### **Article 7**

1. At the district (city) courts the sequence of judges is determined by the chairman of the court.

2. At the courts of appeal and supreme courts of appeal of the autonomous republic, for the purpose of distribution of cases the chairman of the court determines the sequence of judges at the chambers and departments.

3. At the chambers and departments of district (city) courts, courts of appeal and supreme courts of autonomous republic the cases are distributed by the chairmen of the relevant chambers and departments according to the sequence established by the chairman of the court.

#### **Article 8**

1. Criminal, civil and administrative cases and other materials shall be distributed between the judges by the sequence of incoming of the cases.

2. Each following incoming case shall be transferred to the following judge in the sequence.

#### **Article 9**

At the supreme court of appeal of the autonomous republic, courts of appeal and district (city) courts, where there are more than two judges, if it is impossible to consider the cases by the reason of accumulation of cases at each of them or any other reason, regarding workload of the judges, the cases shall be redistributed by the chairman of relevant court or deputy chairman upon chairman's instructions and/or the chairman of relevant chamber of department.

#### **Article 10 (Omitted)**

#### **Article 11 (Omitted)**

#### **Article 12**

At the district (city) court the order on conducting of the investigation and operative actions related to the restriction of constitutional rights and freedoms of the citizens shall be issued by the magistrate judge and in the local-territorial unit, where no magistrate judge operates – judge considering the criminal cases of this court by the sequence approved in advance by the district (city) court.

### **Chapter III. Rule of Assignment of Authorities to the Other Judge**

#### **Article 13**

1. In case of absence of a judge at the district (city) court or in case of drastic growth of number of pending cases, High Council of Justice of Georgia is authorized to assign to the mentioned court, for exercising of the judge's authorities a judge of the court of appeal, or the other district (city) court, who, if required, simultaneously exercised judicial authorities at the court where he/she is appointed in accordance with the rules established by the law.

2. In case of absence of a judge at the court of appeal or in case of drastic growth of number of pending cases, High Council of Justice of Georgia is authorized to assign to the mentioned court, for exercising of the judge's authorities a judge of the other court of appeal, or the district (city) court, who, if required, simultaneously exercised judicial authorities at the court where he/she is appointed in accordance with the rules established by the law.

2<sup>1</sup>. In cases specified in Section 1 and 2 of this Article, in making decision on vesting of the authorities in the other judge, assignment of a judge to the other court may be provided with his/her consent, for the term up to 1 year. If needed, if the interests of justice require this, the High Council of Justice of Georgia is authorized to make the decision on assignment to the other court without relevant judge's consent, if more than half of the listed members of the High Council of Justice of Georgia support such decision. Term of assignment of the authorities to the other judge may be extended for no more than 1 year and consent of judge shall be obtained in such case.

3. In cases specified in Sections 1 and 2 of this Article assignment of the authorities to the other judge shall be provided before 1<sup>st</sup> January 2015.



### **Chapter III<sup>1</sup> Transition Provisions**

#### **Article 13<sup>1</sup>**

1. Before 1<sup>st</sup> October 2005 order on conducting of the investigation and operative actions related to the restriction of constitutional rights and freedoms of the citizens shall be issued by the judge of criminal department, according to the sequence approved by the chairman of court in advance.

2. Provisions of this Law dealing with the courts of appeal and supreme courts of appeal of the autonomous republic shall be applicable to the regional courts and supreme courts of appeal of the autonomous republic up to 1<sup>st</sup> November 2005.

### **Chapter IV. Final Provision**

#### **Article 14**

This Law shall be effective upon entry of the new criminal procedural and civil procedural codes into force.

President of Georgia

Eduard Shevardnadze