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

**DRAFT LAW**

**MAKING CHANGES  
TO THE LAW ON DISCIPLINARY LIABILITY  
AND DISCIPLINARY PROCEEDINGS OF JUDGES  
OF GENERAL COURTS**

**OF GEORGIA**

**(AND CURRENT WORDING OF THE ARTICLES TO BE AMENDED)**

**Draft**

**Law of Georgia on**  
**Making Changes to the Law of Georgia on Disciplinary Liability and Disciplinary**  
**Proceedings of Judges of General Courts of Georgia**

**Article 1-** The following change shall be made to the Law of Georgia on Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia (Legislative Herald of Georgia, N8, 2000, Art. 12):

1. Article 5 shall be modified as follows:

“Article 5 - Confidentiality of Disciplinary Proceedings

1. The process of disciplinary proceedings shall be confidential unless the Judge demands to make it public. Respectively authorised officials, public servants and their auxiliary personnel shall be obliged to observe confidentiality of all information they became aware of in disciplinary proceedings except as provided for by this Law.

2. The decision by an authorised body to arraign a Judge on disciplinary charges, terminate or suspend disciplinary prosecution against a Judge, apply to a Judge with a private letter of reprimand, as well as the decision under Article 48(1) of this Law shall be forwarded to the issuer of a complaint (application/notification) if the case disciplinary proceedings were conducted for is not considered in a general court any more.”.

2. Article 6(1)(e) shall be deleted.

3. Article 7 shall be modified as follows:

“Article 7 - Authority to initiate disciplinary proceedings

The High Council of Justice of Georgia may initiate disciplinary proceedings against Judges of General Courts of Georgia.”.

4. Article 9 shall be modified as follows:

“Article 9 - Assessment of grounds for initiation of disciplinary prosecutions

1. Secretary of the High Council of Justice of Georgia/ other member of the Council shall submit the preliminary inspection results to the High Council of Justice of Georgia who shall assess the grounds for initiating disciplinary prosecution and, with majority of two thirds of total number of votes, shall make a decision to require explanation from a Judge. If the High Council of Justice of Georgia fails to make the decision, disciplinary proceedings shall be terminated.

2. If the decision on requiring explanation from a Judge is made, the grounds for initiating disciplinary prosecution must be indicated in the decision with reference to the appropriate sub-paragraph of Article 2(2) of this Law.”.

5. Article 11 shall be modified as follows:

“Article 11 - Unification of disciplinary cases into one proceeding

The High Council of Justice of Georgia may, by own decision, unify two or more disciplinary cases on various grounds against one Judge into one proceeding.”.

6. Article 12(1) shall be modified as follows:

“1. Examination of a disciplinary case must be completed within two months after the decision on requiring explanation from the Judge. If required, this time period may be prolonged by no more than one month.”.

7. Article 13(1)(b) shall be modified as follows:

“b) any objective complication or obstacle emerged during examination of a disciplinary case (illness of the Judge against whom the disciplinary prosecution is conducted, or other event) that temporarily makes examination of the case impossible. In this event, the High Council of Justice of Georgia, by own decision, shall suspend disciplinary proceedings. If the grounds for the suspension of disciplinary proceedings are eliminated, the High Council of Justice of Georgia shall be obliged to resume the proceedings.”.

8. Articles 14 and 15 shall be modified as follows:

“Article 14 - Termination of disciplinary proceedings

The High Council of Justice of Georgia shall make the decision to terminate disciplinary proceedings against a Judge if:

- a) a disciplinary offence under this Law or its culpable commitment by the Judge is not confirmed as a result of examination of a disciplinary case;
- b) a time frame for arraigning the Judge on disciplinary charges or for imposing disciplinary liability and penalty on him/her is expired;
- c) criminal prosecution against the Judge is initiated on the basis of materials forwarded;
- d) there is a decision by the body conducting disciplinary proceedings made against the same Judge on the same grounds;
- e) powers of the judge are terminated.

Article 15 - Arraignment of judges on disciplinary charges or termination of disciplinary prosecution

After completing examination of a disciplinary case, the High Council of Justice of Georgia, with majority of two thirds of total number of votes, shall make the decision to arraign a Judge on disciplinary charges. If the High Council of Justice of Georgia fails to make the above decision, the disciplinary proceedings shall be terminated.”.

9. In Article 17:

a) the first paragraph shall be modified as follows:

“1. The High Council of Justice of Georgia shall make decisions on disciplinary issues under this Law, Organic Law of Georgia on General Courts, and as determined by the rules of procedure of the High Council of Justice of Georgia.”;

b) the fifth paragraph shall be modified as follows:

“5. At the session of the High Council of Justice of Georgia, it shall consider the issue of termination of disciplinary proceedings against a judge, and the issue of arraignment of a judge on disciplinary charges and related materials. The High Council of Justice of Georgia shall be obliged to invite the Judge to the session. If the High Council of Justice of Georgia considers it necessary, the issuer of the complaint (application) may be invited to the session. The High Council of Justice of Georgia shall be obliged to hear the information and explanations of invited persons.

10. Article 19(1) shall be modified as follows:

“1. if preliminary inspection of grounds for initiating disciplinary proceedings, or examination of a disciplinary case authentically evidences that a Judge has committed a disciplinary offence for which arraignment of the Judge on disciplinary charges shall be considered inappropriate, the High Council of Justice of Georgia may terminate disciplinary proceedings and apply to the Judge with a private letter of reprimand.”.

11. Article 30(4) shall be modified as follows:

“4. Sessions of the Disciplinary Board shall be closed; and the information related to disciplinary hearings shall be confidential except as provided for in Article 5 of this Law. A Disciplinary Board member and the person submitting the disciplinary charges shall be obliged to maintain confidentiality of this information.”.

12. Article 31 shall be modified as follows:

“Article 31 - Time frame for disciplinary hearings

The Disciplinary Board shall consider disciplinary cases no later than three months from their receipt.”.

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

“2. A member of the Disciplinary Board shall be obliged to refuse to consider a disciplinary case if a court judgment or order, or a private judgment or a report made by, or with participation of the member served as a basis for initiating disciplinary prosecution against a judge.”.

14. Article 35(1) shall be modified as follows:

“1. A Judge arraigned on disciplinary charges, as well as a representative of the High Council of Justice of Georgia may challenge a member of the Disciplinary Board or a full composition of the Board. He/she shall be obliged to specify and substantiate the motive for a challenge. A judge arraigned on disciplinary charges may also challenge the representative of the High Council of Justice of Georgia appointed to support the disciplinary charges in the judge’s case.”.

15. Article 36(2) shall be modified as follows:

“2. If the time frame for imposing disciplinary liability on a Judge is expired, the Disciplinary Board shall be obliged to immediately make a decision to terminate disciplinary proceedings and to notify the decision to the High Council of Justice of Georgia and the Judge against whom the disciplinary prosecution is initiated.”.

16. Article 37(2) shall be modified as follows:

“2. If elements of offence in the action of Judge are obvious according to disciplinary case materials, the Disciplinary Board shall not commence the hearing, it shall suspend disciplinary proceedings, forward the case materials to an appropriate body and notify about it to the judge against whom the disciplinary prosecution is initiated and the High Council of Justice of Georgia.”.

17. Article 38(2) shall be modified as follows:

“2. The Disciplinary Board shall timely notify the place, date and time of the hearing to the High Council of Justice of Georgia and its representative, as well as to the judge against whom a disciplinary case is initiated.”.

18. Article 39(4) shall be modified as follows:

“4. After the report, the parties shall be given the floor. The first to speak shall be a representative of the High Council of Justice of Georgia for bringing a disciplinary charge. The next to speak shall be the Judge called to disciplinary account for respond to the charge brought against. The judge called to disciplinary account shall have the right to defence. He/she may invite a counsel, any judge or other representative for defence.”.

19. In Article 41:

a) the first paragraph shall be modified as follows:

“1. At a disciplinary hearing, participation of a judge called to disciplinary account and a representative of the High Council of Justice of Georgia in a Disciplinary Board session shall be mandatory. If either of the parties fails to appear at the Disciplinary Board session, the Board shall be obliged to postpone the hearing by no more than two weeks. This time shall not be counted in a three-month period for the Disciplinary Board to conduct the hearing.”;

b) The third paragraph shall be modified as follows:

“3. If the judge called to disciplinary account fails to appear at a Disciplinary Board session due to a severe illness or other force majeure circumstance, the Board may, by decision, suspend the disciplinary proceedings by up to four months period. This time shall not be counted in a one-year period of disciplinary liability, however it shall be taken into account in a five-year period of disciplinary liability determined by this Law. If the grounds for suspension of proceedings are not eliminated within this period of time, the Disciplinary Board may conduct a hearing without the presence of the judge.”

20. Article 42(1) shall be modified as follows:

“1. The representative of the High Council of Justice of Georgia may, at any stage of reviewing the disciplinary case (before leaving for the deliberation room), drop the disciplinary charges against the judge. In this event, the Disciplinary Board shall be obliged to terminate reviewing the case and the disciplinary proceedings in the case, irrespective of the stage of consideration.”.

21. Article 43(4) shall be modified as follows:

“4. The period of the temporary suspension of the case shall not be included in the three-month period during which the case is reviewed by the Disciplinary Board.”.

22. Article 45 shall be modified as follows:

“Article 45. Making decisions on the merits of the case

The Disciplinary Panel shall ascertain whether the judge has committed the action, resulting in the disciplinary charges, and whether that action is a disciplinary offence. The Disciplinary Board shall also ascertain whether the judge is to be blamed for committing the disciplinary offence. The Disciplinary Board is authorized to make the decision on declaring the judge guilty and impose on him/her the disciplinary liability and penalty only if all of the three circumstances exist.”.

23. Article 46 shall be deleted.

24.

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

“2. The decisions specified in the sub-paragraphs “c”, “d” and “e” of the first paragraph of this article shall be adopted upon the completion of the consideration of the substantive issues of the disciplinary case, except for the cases under Article 42(2) of this Law.”.

26. The paragraph one of the Article 49:

a) Sub-paragraph “b” shall be modified as follows::

“b) the High Council of Justice of Georgia has dropped the disciplinary charges against the judge;”;

b) Sub-paragraph “d” shall be modified as follows:

“d) criminal proceedings have been initiated against the judge on the basis of the material submitted by the Disciplinary Board, or criminal proceedings have not been initiated due to the failure to establish the guilt of the judge or the facts serving as the basis for disciplinary charges.”.

27. Article 51 (2,3) shall be modified as follows:

“2. A private letter of reprimand is a letter sent by the Disciplinary Board to the judge who has committed the disciplinary offence, and in which the fact of disciplinary offence of the judge is assessed negatively. The letter also contains of the Disciplinary Board recommendations on eliminating the offences, the difficulties regarding the implementation of judicial duties, as well as on the ways and means of resolving problems.

3. The content of the private letter of reprimand is confidential. The letter shall be submitted only to the judge committing the disciplinary offence and the author of the complaint (application). The author of the complaint (application) shall sign the document on non-disclosure of the content of the letter of reprimand. A copy of the private letter of reprimand may not be sent to other authority or official. The copy of the letter shall be attached to the disciplinary case in a sealed envelope. It may be opened only in the event of a repeated disciplinary offence by the judge during the consideration of the case in the Disciplinary Board.”.

28. Article 56(1) shall be modified as follows :

“1. The Disciplinary Board shall take into account that the dismissing a judge is the extreme measure and it shall be applied in special cases. The Disciplinary Board shall make the decision on dismissing a judge if it considers that it is inappropriate for the judge to continue exercising judicial powers, taking into account the gravity and the number of specific disciplinary offences, as well as the disciplinary offence committed in the past.”.

29. The sub-paragraph “e” of Article 57 shall be modified as follows:

“e) the title of the body arraigning judges on disciplinary charges;”;

30. Article 58(1) shall be modified as follows:

“1. The copies of the decision on the disciplinary case made by the Disciplinary Board shall be sent to the judge with respect to whom the decision was adopted, within five days of adopting the decision. The decision shall also be sent to the High Council of Justice of Georgia, the Conference of Judges of Georgia and the author of the complaint (application).”.

31. Article 60(2 and 3) shall be modified as follows:

“2. The decision of the Disciplinary Board shall be appealed to to the Disciplinary Board within 30 days. This term may not be Extended (restored) and shall commence from the moment of delivering the decision of the Disciplinary Board to the party. Handing the copy of the decision to the party in the Disciplinary Board or sending it by mail shall be considered as the moment of delivering the decision.

3. The High Council of Justice of Georgia shall decide whether to appeal the decision the decision of the Disciplinary Board with 2/3 votes of the full composition of the Board. The High Council of Justice of Georgia shall appeal the decision of the Disciplinary Board through its representative.”.

32. Article 63(2) shall be modified as follows:

“2. During the review of the case by the Disciplinary Chamber the complaint may be withdrawn before the Disciplinary Chamber adopts the decision. If the party withdraws the complaint, it forfeits the right to re-appeal the decision.”.

33. Article 64(1) shall be modified as follows:

“1. The Disciplinary Chamber shall review the disciplinary case within the three months of receiving the complaint. If there are objective circumstances, the case review may be extended by one month by the Chairperson of the Supreme Court of Georgia.”.

34. Article 74(2) shall be modified as follows:

“2. The copy of the decision of the Disciplinary chamber shall be forwarded to the High Council of Justice of Georgia, the parties to the proceedings, their representatives and the author of the complaint (application).”.

35. Article 80(3) shall be modified as follows:

“3. State compensation, prescribed under the law of Georgia On Common Courts may not be granted to the person dismissed from the position of the judge in accordance with this Law for committing a disciplinary offence”.

36. Article 82(1) shall be modified as follows:

“1. Members of the Disciplinary Chamber and Disciplinary Board shall be obliged to observe the confidentiality of the information related to the disciplinary case and secrecy of the deliberation.”.

37. Article 85 shall be modified as follows:

“Article 85. Restricting the promotion of judges

1. The promotion right of the judge against whom disciplinary proceedings have been instituted under the decision of the High Council of Justice of Georgia or against whom the disciplinary penalty has not been annulled, shall be restricted.
2. The relevant bodies or officials may not appoint a judge to the superior court if disciplinary proceedings have been instituted against him/her under the decision of the High Council of Justice of Georgia or if against him/her the disciplinary penalty has not been annulled.”.

**Article 2.** The cases of disciplinary proceedings commenced before the enactment of this Law, shall be completed under the rule existing before the enactment of this Law.

**Article 3.** This Law shall be enacted on the 30<sup>th</sup> day upon promulgation.

**The President of Georgia**

**G. Margvelashvili**

**The full edition of the Articles of the Law of Georgia On Disciplinary Liability and Disciplinary Proceedings of the Judge of the Common Courts of Georgia”, subject to be amended under the represented draft**

**Article 5. Confidentiality of the Disciplinary Proceedings**

1. The process of disciplinary proceedings is confidential. The high officials with the relevant authority, state officials and the assisting personnel thereto shall observe secrecy of all the information they became aware of upon disciplinary proceedings other than the events, prescribed under the hereby law.
2. The decision on arraignment of the high official of the authorized agency to disciplinary proceedings, termination or suspension of disciplinary prosecution towards the judge, address to the judge with the private letter of reprimand, also the decision, prescribed under the paragraph one of the Article 48 of the hereby law, shall be submitted to the author of the complaint (application/notification), if case is no longer under consideration in the Common Court, in regards with the disciplinary proceedings have been conducted.

**Article 6. The ground for disciplinary proceedings**

1. The following may serve as the ground for onset of the disciplinary proceedings towards the judge:
  - a) The complaint or application of any person except the anonymous complaint or application;
  - b) The report by other judge, the staff member of the court or the High Council of Justice of Georgia on commitment of disciplinary misconduct by the judge;
  - c) The notification by the investigation agency;
  - d) The information aired in media on commitment of the deed by the judge, which may be considered as disciplinary misconduct;
  - e) The submission by the Disciplinary Board on bringing the disciplinary prosecution in action towards the judge on the basis of a new ground.
2. The complaint (application), provided in the sub-paragraph “a” of the paragraph one of the hereby Article shall meet the sample, endorsed by the High Council of Justice of Georgia and shall be composed in printed form as a rule. It may be as well submitted via e-mail.

**Article 7. The authority to onset disciplinary proceedings**

1. The disciplinary proceedings towards the judge may be onset by:
  - a) The Chairperson of the Supreme Court of Georgia (or the acting Chairperson) – towards the judges of the Supreme Court of Georgia, the Court of Appeals of Georgia, the District (City) Court of Georgia;
  - b) The Chairperson of the Court of Appeals (or the acting Chairperson) – towards the judge of the relevant Court of Appeals, also towards the judge of the District (City) Court functioning on the territory of the Court of Appeals;
  - c) The High Council of Justice of Georgia – towards all the judges of the Common Courts of Georgia.
2. In the events, prescribed under sub-paragraphs “a” and “b” of the paragraph one of the hereby Article, the subject, authorized to onset disciplinary proceedings, in order to ensure the further course of the disciplinary prosecution, shall submit the relevant material to the High Council of Justice of Georgia.



### **Article 9. Evaluation of the grounds for onset of disciplinary prosecution**

1. The Secretary of the High Council of Justice of Georgia, as a result of the preliminary inspection, shall evaluate the grounds for onset of disciplinary prosecution and make the decision on termination of the disciplinary prosecution or obtaining the explanation by the judge.
2. In the event of decision-making on obtaining explanation by the judge, the decision shall provide the ground for disciplinary prosecution with reference to the relevant subparagraph of the paragraph two of the Article 2 of the hereby law.
3. The decision by the Secretary of the High Council of Justice of Georgia on termination of the disciplinary prosecution shall be submitted to the High Council of Justice for consideration. In the event of failure of the High Council of Justice to endorse the decision, the Secretary of the High Council of Justice shall resume disciplinary prosecution and make the decision on obtainment of explanations from the judge.

### **Article 11. Unification of disciplinary cases as one proceeding**

The relevant agency or high official is authorized, with the decision thereof, to unify in one proceeding two or more disciplinary cases, procedure towards one judge with various grounds.

### **Article 12. Study of disciplinary case**

1. Study of disciplinary case shall be accomplished within one month upon making the decision on obtaining explanations from the judge. If necessary, the term may be extended with no longer than two weeks.
2. Explanation shall be obtained from the judge under the disciplinary prosecution. The High Council of Justice of Georgia is authorized to obtain explanations from the author of the complaint (application). The body, conducting disciplinary proceedings is authorized to inquire all information, documents and material, related to the fact of disciplinary misconduct, summon other persons and hear the information. It shall consider the petition of the judge under disciplinary prosecution, and in the event of demand thereof, obtain explanation therefrom.
3. The Secretary of the High Council of Justice of Georgia is empowered to inquire the relevant legal case from the common courts except the case under consideration.
4. Verification of legality of the legal act, passed by the judge is forbidden upon consideration of disciplinary proceedings.

### **Article 13. Suspension of disciplinary proceedings**

1. Disciplinary proceedings shall be suspended if:
  - a) The material of study of disciplinary case evidently indicates to commitment of offence by the judge. In this event, the material of disciplinary case shall be submitted to the investigation agency;
  - b) In the course of study of disciplinary case the objective obstacle or impediment emerges (disease of the judge under disciplinary prosecution or any other event), making it temporarily impossible to study the case. In this event, the relevant authorized body or high official, with the decision shall suspend the disciplinary proceedings. In the event of elimination of the ground for suspension of disciplinary proceedings, the relevant authorized body or high official is authorized to resume proceedings;
  - c) (Excluded - 27.03.2012, №5922).
2. The period of suspension of disciplinary proceedings shall not be considered included in the term, prescribed under the hereby law for study of the case, also in the one-year term of imposition of disciplinary liability, however, it shall be considered included in the five-year term, prescribed under the hereby law for imposition of the disciplinary liability.

**Article 14. Termination of disciplinary proceedings**

The relevant body or high official shall make the decision on termination of disciplinary proceedings towards the judge if:

- a) As a result of study of the disciplinary case, the fact of commitment of disciplinary misconduct by the judge, prescribed under the hereby law, or his/her culpable action have been confirmed;
- b) The term of arraignment of the judge to the disciplinary liability or the term of imposition of the disciplinary penalty thereto has been expired;
- c) The criminal prosecution has been onset towards the judge on the basis of the material submitted;
- d) There is the decision of the body (official), implementing disciplinary proceedings, made towards the same judge with the same ground;
- e) The judicial authority has been ceased to the judge.

**Article 15. Arraignment of the judge to disciplinary liability or termination of disciplinary prosecution**

1. As a result of inspection of grounds of disciplinary prosecution after accomplishment of study of disciplinary case, the Secretary of the High Council of Justice of Georgia shall appeals the High Council of Justice of Georgia on arraignment of the judge to disciplinary liability or termination of disciplinary prosecution thereto.
2. The body, arraigning the judge to disciplinary liability is authorized not to agree with the results of preliminary inspection on arraignment of the judge to disciplinary liability or termination of disciplinary proceedings thereto and make the opposite decision. It is as well authorized not to agree with the legal evaluations of inspection and taking the actual material obtained into account, to change the ground for arraignment of the judge to disciplinary liability.

**Article 17. Decision-making by the High Council of Justice of Georgia on disciplinary issues**

1. The High Council of Justice of Georgia shall make the decision on disciplinary issues in accordance with the rule, prescribed under the organic law of Georgia on "Common Courts of Georgia" and the Rules of Procedure of the High Council of Justice of Georgia.
2. The sitting, upon consideration of disciplinary issues, shall be chaired by the Chairperson of the Supreme Court of Georgia.
3. (Excluded - 01.05.2013, №581).
4. In view of consideration of disciplinary issues, the sitting of the High Council of Justice of Georgia shall be convened by the Secretary of the High Council of Justice of Georgia.
5. The High Council of Justice of Georgia, at the sitting, shall consider the issue of termination of disciplinary proceedings towards the judge, also the issue of arraignment of the judge to disciplinary liability and the related material. It is authorized to invite the judge, the author of the complaint (application) to the sitting and hear their information and explanations.

**Article 19. Address to the judge with the private letter of reprimand**

1. In the event, if upon preliminary inspection of grounds for onset of disciplinary proceedings, or upon study of disciplinary case the commitment of the disciplinary misconduct by the judge is authentically defined, for which arraignment of the judge to disciplinary liability is considered inexpedient, the relevant body or high official is

empowered to terminate disciplinary proceedings and address the judge with the private letter of reprimand.

2. The content and the text of the private letter of reprimand are confidential.
3. The private letter of reprimand shall be signed by the Secretary of the High Council of Justice of Georgia.

### **Article 30. The principles of activity of the Disciplinary Board**

1. The Disciplinary Board, upon case consideration, shall act in capacity of the court (declared void) [the decision of June 28, 2004 of the First Board of the Constitutional Court of Georgia №1/3/209, 276-SSMIV, №31, 06.07.2004, page 2).
2. The disciplinary case shall be considered in the Disciplinary Board collectively. The Disciplinary Board is authorized in the event, if attended by at least 3 members of the Board.
3. The Disciplinary Board shall consider the disciplinary case in impartial and unbiased manner, on the basis of the principle of competitiveness and equality of the parties.
4. The Disciplinary Board shall hold the sittings in camera, and the information related to consideration of disciplinary case is confidential. The member of the Disciplinary Board and the person, filing the disciplinary charges shall observe confidentiality of the information.

### **Article 31. The term of consideration of the disciplinary case**

The Disciplinary Board shall consider the disciplinary case within the term of no later than two months upon reception.

### **Article 34. Discharge of the member of the Disciplinary Board from the disciplinary case**

1. The member of the Disciplinary Board shall be discharged from consideration of the disciplinary case if the circumstances exist, hindering him/her in impartial and unbiased consideration of the case.
2. The member of the Disciplinary Board shall be discharged from consideration of the disciplinary case if the court judgment, made by or with participation of him/her, the resolution, private judgment, submission by the Disciplinary Board or the report thereof has served as the ground for bringing the disciplinary prosecution in action towards the judge.

### **Article 35. Recall of the Disciplinary Board**

1. The judge under the disciplinary liability, also the representative of the body, arraigning the judge to disciplinary liability is authorized to recall the member of the Disciplinary Board or the full composition of the Board. He/she shall name and motivate the ground. The judge under disciplinary liability is as well empowered to recall the representative of the body, arraigning thereof to disciplinary liability, which is appointed as the supporter of disciplinary charges on his/her case.
2. The petition on recall of the Disciplinary Board, the member thereof or the representative, appointed as the supporter of the charges shall be considered by the Disciplinary Board in the conference hall.
3. The petition on recall shall be satisfied if the doubts in impartiality of the member of the Disciplinary Board, the full composition of the Board or the representative thereof to support the charges are grounded.
4. Annulment or modification of the court decision made by the judge under the disciplinary liability arraigned in the past by the member of the Disciplinary Board or the representative thereof appointed to support the charges shall not be considered as the

ground for partiality or recall of the member of the Disciplinary Board and the representative thereof appointed to support the disciplinary charges.

5. The petition on recall of the member of the Disciplinary Board shall be satisfied if any circumstances exist prescribed under the paragraph two of the Article 34 of the hereby law.
6. In the event of satisfaction of the petition on recall, the Disciplinary Board proceeds consideration of the case without the member of the Board recalled.
7. In the event of recall of the Disciplinary Board or the representative appointed to support the disciplinary charges, the term of postponement of case consideration shall not be considered included in the term for imposition of the disciplinary penalty, prescribed under the law.
8. In the event of failure to satisfy the petition on recall, the Disciplinary Board resumes case consideration at the same sitting.

**Article 36. Termination of the disciplinary proceedings due to expiration of the term, established under the law**

1. The Disciplinary Board, upon receipt of the disciplinary case, shall prior to consideration thereof, verify expiration of the term, established under the law for imposition of disciplinary liability on the judge.
2. In the event, if the term of imposition of disciplinary liability on the judge is expired, the Disciplinary Board shall immediately make the decision on termination of the disciplinary proceedings and notify the body, arraigning the judge to disciplinary liability, also the judge under disciplinary prosecution of this decision.

**Article 37. Termination of disciplinary proceedings due to availability of the signs of offence**

1. The Disciplinary Board, upon receipt of the disciplinary case, shall prior to consideration thereof, verify availability of the signs of offence in the action, serving as the ground for arraignment of the judge to disciplinary liability.
2. In the event, if on the basis of the material of disciplinary case, the signs of crime are evident in the action of the judge, the Disciplinary Board shall not onset consideration of the case, shall suspend disciplinary proceedings, submit the case material to the relevant body and notify the judge under disciplinary prosecution, also the body, arraigning the judge to disciplinary liability.
3. In the event, if the criminal case is not brought against the judge for offensive action thereof or the case brought in action is terminated, the Disciplinary Board, having received the relevant information, shall resume the suspended disciplinary proceedings if the term of imposition of disciplinary liability is not expired.

**Article 38. Preparation of disciplinary case for consideration**

1. The Disciplinary Board, assigned to consider the disciplinary case, shall preliminarily study the case and appoint the date of case consideration.
2. The Disciplinary Board shall promptly notify the judge under disciplinary liability, the body, arraigning the judge to disciplinary liability and the representative thereof of the venue, date and time of case consideration.
3. The Disciplinary Board shall summon the witnesses and other persons for participation in case consideration and notify them of the venue, date and time of case consideration.

**Article 39. Consideration of disciplinary case by the Disciplinary Board**

1. The Disciplinary Board shall consider the disciplinary case at the sitting of the Disciplinary Board. The sitting shall be chaired by the Chairperson of the Disciplinary Board and in the event of absence of thereof – the reporting member thereof.
2. The sitting of the Disciplinary Board shall be open by the Chair of the sitting.
3. Consideration of disciplinary case shall start with the report by one of the members of the Board, providing the chronology of the stages of disciplinary proceedings and the relevant actual circumstances.
4. The first floor after the report shall be given to the parties, first to the representative of the body, arraigning the judge to disciplinary liability for filing the disciplinary charges followed by the judge under disciplinary liability to respond to the disciplinary charges. The judge under disciplinary liability is entitled to enjoy the defender. He/she is empowered to invite the lawyer, any judge or other representatives in capacity of the defender.
5. The parties are empowered to completely express and properly defend own positions, ask the questions, represent the written or other forms of evidences, bring the petitions on promulgation of various documents, material or information, on hearing the information by various invitees, on inquiry of additional documents or summon of additional persons and hearing their information, in inquiry of the relevant court case, they are also entitled to implement other actions. The petitions shall be considered by the Disciplinary Board.
6. The Disciplinary Board is authorized to ask the questions to the parties or the invitees for participation in case consideration, to inquire additional documents, material or information, additionally invite other persons to hear their information, postpone case consideration with the term no longer than two weeks and implement other actions.
7. The person, filing the disciplinary charges, shall be restricted with filing the disciplinary charges solely and predicate. He/she shall not demand imposition of concrete disciplinary penalty to the judge and sentencing of concrete disciplinary remedy thereto.
8. The protocol shall be composed at the sitting of the Disciplinary Board.

**Article 41. Mandatory participation of parties in consideration of the disciplinary case**

1. Participation of the judge under disciplinary liability and the body, arraigning the judge to disciplinary liability in consideration of the disciplinary case and the sitting of the Disciplinary Board is mandatory. In the event of failure of any of the parties to attend the sitting of the Disciplinary Board, the Board shall postpone case consideration with the term no longer than two weeks. This term shall not be considered included in the two-month term of case consideration by the Disciplinary Board.
2. In the event, if the fact is confirmed that the judge under disciplinary liability evades from and with the unreasonable excuse is absent at the sitting of the Disciplinary Board, the Disciplinary Board is authorized to hold the absentee case consideration, in the event of availability of the relevant ground, to declare him/her guilty and impose the disciplinary liability and penalty thereto by default.
3. In the event, if the judge under disciplinary liability fails to attend the sitting of the Disciplinary Board due to grave disease or other force majeure, the Board is authorized, with the decision, to suspend disciplinary proceedings with the term of up to three months. This term shall not be considered included in the three-year term of imposition of disciplinary liability. In the event, if the reasons of suspension of proceedings are not eliminated within this term, the Disciplinary Board is authorized to hold the absentee case consideration.

**Article 42. The decision of the Disciplinary Board in the event of exculpation of disciplinary charges from the judge or avowal of guilt by the judge**

1. The representative of the body, arraigning the judge to disciplinary liability, is empowered, at any stage of consideration of disciplinary case (prior to leave for the conference hall of the Board), to exculpate the disciplinary charges, filed to the judge. In this event, the Disciplinary Board shall, despite the stage of consideration, terminate case consideration and correspondingly – the disciplinary case.
2. The judge under disciplinary liability is entitled, prior to onset of case consideration, to fully vow the disciplinary charges and appeal to the Disciplinary Board to make the decision on avowal of guilt without essential consideration of the disciplinary case and imposition of disciplinary liability and penalty thereto. The Disciplinary Board shall satisfy the petition of the judge and make the decision.

**Article 43. Temporary suspension of case consideration in the Disciplinary Board**

1. In the event, if the Disciplinary Board, prior to accomplishment of consideration of the disciplinary case, receives another disciplinary case, brought against the same judge, the Disciplinary Board shall temporarily suspend consideration of initial case, unify the disciplinary cases, simultaneously consider them and in the event of conviction for two or more misconduct and imposition of disciplinary liability, shall impose one of the penalties to the judge, prescribed under the hereby law.
2. In the event, if the Disciplinary Board becomes aware that the disciplinary prosecution is brought in action towards the same judge with another charges, it is authorized to temporarily suspend consideration of disciplinary case and wait for solution of the issue.
3. (Excluded).
4. Temporal suspension of case consideration in the Disciplinary Board shall be implemented in other events, prescribed under the hereby law.
5. The term of temporal suspension of case consideration shall not be considered included in the two-month term for case consideration by the Disciplinary Board.
6. In the event of elimination of the ground for temporal suspension of consideration of the disciplinary case, the Disciplinary Board shall resume case consideration.

**Article 45. Essential Decision-making on the case**

The Disciplinary Board shall define, whether the judge committed the action, for which the disciplinary charges are filed thereto, and in accordance with the hereby law, whether this action is the disciplinary misconduct. The Disciplinary Board shall as well define, whether the judge is blamed for disciplinary misconduct. In the event of availability of all three circumstances solely, the Disciplinary Board is authorized to make the decision on convicting the judge and imposing the disciplinary liability and disciplinary penalty thereto. The Disciplinary Board is authorized to alter the qualification of the action by the judge with any of the disciplinary misconducts, prescribed under the Article 2 of the hereby law.

**Article 46. Submission of the Disciplinary Board with the new charges to onset new disciplinary proceedings**

In the event, if upon consideration of the disciplinary case the grounded doubt emerges in the Disciplinary Board about other disciplinary misconduct committed by the judge, the Disciplinary Board shall submit to the relevant body or high official to onset new disciplinary proceedings towards the judge with the new charges.

The Disciplinary Board, if considers necessary, is authorized to suspend disciplinary proceedings with the current charges before solution of the issue of arraigning the judge to disciplinary liability for other disciplinary misconduct. Under consideration.

**Article 48. The types of decisions by the Disciplinary Board**

1. The Disciplinary Board is authorized to make one of the following decisions:
  - a) On suspension of disciplinary proceedings;
  - b) On termination of disciplinary proceedings;
  - c) On conviction of the judge for disciplinary misconduct and imposition of disciplinary liability and disciplinary penalty thereto;
  - d) On conviction of the judge for disciplinary misconduct, imposition of disciplinary liability and address to the judge with the private letter of reprimand;
  - e) On acquittal of the judge.
2. The decisions, prescribed under sub-paragraphs “c”, “d” and “e” of the paragraph one of the hereby Article, shall be made solely after accomplishment of essential consideration of the disciplinary case.

**Article 49. The decision of the Disciplinary Board on termination of consideration of disciplinary case**

1. The Disciplinary Board shall make the decision on termination of consideration of disciplinary case if:
  - a) The term of imposition of the disciplinary penalty to the judge has expired;
  - b) The body, arraigning the judge to disciplinary liability, exculpated the judge from disciplinary charges;
  - c) The judge under the disciplinary prosecution, retires prior to accomplishment of consideration of disciplinary case or the judicial authority thereof expires;
  - d) On the basis of the material, submitted by the Disciplinary Board, the criminal case has been brought in action against the judge, or has not been brought in action due to failure to prove the charges to the judge or the facts, serving as the ground for disciplinary charges.
2. The Disciplinary Board is empowered to make the decision on termination of disciplinary proceedings prior to essential consideration of the case solely, prior to leave to the conference hall of the Disciplinary Board.

**Article 51. The decision of the Disciplinary Board on conviction of the judge for commitment of the disciplinary misconduct, imposition of disciplinary liability thereto and address thereto with the private letter of reprimand**

1. The Disciplinary Board shall make the decision on conviction of the judge for commitment of disciplinary misconduct, imposition of disciplinary liability thereto address thereto with the private letter of reprimand. In the event, if the disciplinary misconduct, prescribed under the hereby law, is confirmed to be committed by the judge upon consideration of case consideration in the Disciplinary Board, but due to the minor importance of the offence, the minor degree of the charges or with some other motive (due to delicacy of the issue or any other ground, taking the personality of the judge into account), the Disciplinary Board shall consider imposition of disciplinary penalty to the judge as inexpedient and consider address thereto with the private letter of reprimand as sufficient remedy.
2. The private letter of reprimand is the letter by the Disciplinary Board to the judge, committing the disciplinary offence, giving the negative evaluation to the fact of disciplinary misconduct committed by the hereby judge. The letter as well provides the recommendation and advice by the Disciplinary Board on suppression of offences, ways and means of solution of difficulties and problems, related to implementation of duties by the judge.
3. The content of the private letter of reprimand is confidential. The letter shall be submitted to the judge solely, committing the disciplinary misconduct. The copy of the

letter shall not be submitted to other body or high official. The copy of the letter shall be attached to the disciplinary case in the sealed envelope. It shall be open by the judge solely in the event of repetition of disciplinary misconduct upon consideration of the case in the Disciplinary Board.

#### **Article 56. The decision of the Disciplinary Board on dismissal of the judge**

1. The Disciplinary Board shall make the decision on dismissal of the judge in the event if it, taking the gravity of concrete disciplinary misconduct, quantity thereof, also the disciplinary misconduct, committed in the past into account, considers continuation of judicial authority by the judge as inexpedient.
2. In the event, if the judge has been imposed with the disciplinary penalty – severe reprimand for disciplinary misconduct, committed in the past – independently or along with disciplinary impact remedy, prescribed under the hereby law, and this penalty is not annulled, upon selection of disciplinary penalty for the new disciplinary misconduct, the Disciplinary Board discusses the issue of dismissal of the judge.
3. The judge, upon making of the decision by the Disciplinary Board on dismissal of the judge, shall be discharged from case consideration according to the rule, established under the hereby law, and from implementation of other official duties.

#### **Article 57. The content of the decision by the Disciplinary Board**

The decision of the Disciplinary Board shall provide:

- a) The title of the Disciplinary Board;
- b) The composition of the Disciplinary Board;
- c) Time of consideration of the disciplinary case;
- d) The name, last name and the position of the judge under disciplinary liability;
- e) The person, onsetting the disciplinary proceedings and arraigning the judge to disciplinary liability or the title of the body with the relevant authority;
- f) The dates of onset of the disciplinary proceedings and arraignment to disciplinary liability;
- g) The circumstances of the disciplinary case;
- h) The content of the disciplinary charges and explanation by the judge;
- i) Actual and legal grounds of the decision made, the content and the motivation of the decision;
- j) The type of the disciplinary misconduct, for which the judge is imposed with the disciplinary liability and the types of disciplinary penalty and the disciplinary impact remedies;
- k) The ground for submission on termination of the disciplinary proceedings, acquittal of the judge, address to the judge with the private letter of reprimand or dismissal thereof.

#### **Article 58. Submission of the copy of the decision of the Disciplinary Board**

1. The copies of the decisions by the Disciplinary Board on disciplinary case shall, within the term of five days upon making, submitted to the judge to whom it is made, the High Council of Justice of Georgia and the Conference of Judges of Georgia.
2. The copy of the decision by the Disciplinary Board shall be attached to the court personal record.

#### **Article 60. Appeal of the decision of the Disciplinary Board**

1. The decision of the Disciplinary Board may be revised in the Disciplinary Chamber of the Supreme Court of Georgia (hereinafter referred to as “Disciplinary Chamber”) with appeal. The decisions solely, prescribed under the sub-paragraphs “b” – “e” of the



paragraph one of the Article 48 of the hereby law shall be subject to appeal. The parties of the disciplinary case are authorized to appeal the decision.

2. The complaint on the decision of the Disciplinary Board shall be submitted to the Disciplinary Board within the term of ten days. Extension (restoration) of this term is inadmissible, and it shall start upon the moment of delivery of the decision of the Disciplinary Board to the party. Delivery of the copy of the decision to the party shall be considered as the moment of submission of the decision peculiarly in the Disciplinary Board or by email.
3. The High Council of Justice of Georgia shall make the decision on appeal of the decision by the Disciplinary Board at the sitting of the High Council of Justice. The High Council of Justice of Georgia shall appeal the decision of the Disciplinary Board by means of representative thereof.
4. The judge imposed with the disciplinary liability, shall appeal the decision of the Disciplinary Board personally or by means of defender or other representative thereof.
5. The Chairperson of the Disciplinary Board, within five days upon receipt of the complaint by one or both parties of the disciplinary case, shall submit the disciplinary case along with the received complaints to the Disciplinary Chamber and notifies the parties of the disciplinary case.
6. The state levy shall not be paid for complaint on the decision of the Disciplinary Board.

**Article 63. Waiver from the appeal of the decision and the complaint**

1. In the event, if the party, after declaration of the decision, in writing waives from the appeal of the decision in the Disciplinary Board, the complaint shall not be admitted.
2. Waiver from the complaint is admissible prior to decision-making. In the event of waiver from the complaint, the party shall be deprived of the right to re-appeal the decision.

**Article 64. The term of case consideration, appointment of case consideration**

1. The Disciplinary Chamber shall consider the disciplinary case within the term of one month upon receipt of the proceeding of the complaint. In the event of availability of the objective circumstances, the Chairperson of the Supreme Court of Georgia may extend case consideration with the term of one month.
2. The Disciplinary Chamber, with the judgment on receipt of the complaint for consideration, shall define the time of oral consideration of the case, and the parties shall be notified thereby within three days upon making the hereby judgment.
3. The Disciplinary Chamber shall provide invitation of the parties/participants to participate in the sitting of the Disciplinary Chamber.

**Article 74. The form of the decision of the Disciplinary Chamber**

1. The decision of the Disciplinary Chamber on the disciplinary case shall be composed in writing. It shall be signed by the members of the Disciplinary Chamber.
2. The copy of the decision of the Disciplinary Chamber shall be submitted to the High Council of Justice of Georgia, the parties of the process and the protocol shall be submitted to the protocol to the representatives thereof.

**Article 80. Dismissal of the judge**

1. The Parliament of Georgia, upon receipt of the relevant submission on dismissal of the judge, shall dismiss the judge of the Supreme Court of Georgia. All other judges shall be dismissed by the High Council of Justice of Georgia.
2. The high Council of Justice of Georgia shall consider the decision on dismissal of the judge of the Disciplinary Board or Disciplinary Chamber, entered into force on the basis

of the relevant submission by the Disciplinary Board or Disciplinary Chamber and shall make the relevant decision within ten days upon receipt of the submission.

3. The person, dismissed from the position of judge for the disciplinary misconduct, prescribed under the hereby law, shall be deprived of the right of the state compensation, prescribed under the paragraph three of the Article 82 of the hereby law.

**Article 83. Obligation to observe confidentiality of the information by the member of the Disciplinary Chamber of the member of the Disciplinary Board, related to the disciplinary case**

1. The member of the Disciplinary Board and the member of the Disciplinary Chamber shall observe confidentiality of the information, related to disciplinary case, shall not disclose the ground of disciplinary liability of the judge and secrecy of the conference.
2. Failure to observe the rule, prescribed under the paragraph one of the hereby Article shall be considered as the disciplinary misconduct, prescribed under the sub-paragraph "f" of the paragraph two of the Article 2 of the hereby law and shall serve as the ground for dismissal of the judge from the composition of the Disciplinary Board or Disciplinary Chamber, also may serve as the ground for imposition of the disciplinary liability thereto.

**Article 85. Restriction of promotion of the judge**

1. The judge, if the disciplinary penalty thereto is not annulled, shall be restricted with promotion or ranking.
2. The relevant body or high official shall not render the new class rank or dispatch the judge to the superior instance Court if the disciplinary penalty is not annulled thereto.