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

**GEORGIA**

**PROVISIONS ON THE HIGH COUNCIL OF JUSTICE**  
**IN THE ORGANIC LAW ON GENERAL COURTS**

## ORGANIC LAW OF GEORGIA ON GENERAL COURTS

### Chapter I - General Provisions

#### Article 1 - Judiciary power

1. The judicial power is independent from other branches of state power and is administered only by courts.

2. Justice is one of the forms of administration of judicial power and is administered by general courts through civil, administrative and criminal proceedings.

3. This Law defines a system and organization of Common Courts of Georgia, a legal status of judges, a procedure for their recruitment, appointment (election) and discharge, guarantees for social and legal protection of judges, also the grounds for disciplinary liability of Georgian Common Courts judges, types of disciplinary action, disciplinary proceedings and the procedure for imposing disciplinary liability upon them, the procedure for reviewing disciplinary issues in Common Courts of Georgia and making decisions on them.

~~This Law defines a system and organisation of general courts of Georgia, a legal status of judges, a procedure for their recruitment, appointment (election) and discharge, and also guarantees for social and legal protection of judges.~~

[3. This Law defines a system and organization of Common Courts of Georgia, a legal status of judges, a procedure for their recruitment, appointment (election) and discharge, guarantees for social and legal protection of judges, the rule of communication of participants to the proceedings, interested persons, public servants, state employees, state political officials and political officials with judges of the Common Courts of Georgia and their liability for the breach of this rule, also the grounds for disciplinary liability of Georgian Common Courts judges, types of disciplinary action, disciplinary proceedings and the procedure for imposing disciplinary liability upon them, the procedure for reviewing disciplinary issues in Common Courts of Georgia and making decisions on them. (shall become effective after next presidential elections when newly elected president will take an oath)]

Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018

Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018

#### [Article 1<sup>1</sup>. Definition of terms

The terms used in chapter XII<sup>1</sup> of this Law shall have the following meanings:

a) communication with a judge – any form of relationship with judges of the Common Courts, including correspondence, phone conversation or communication using other technical means;

b) participant to the proceedings – a prosecutor, an investigator, an advocate, a representative, a party, a third person, also other persons participating in the consideration of a criminal, civil or administrative proceeding;

c) interested person – a person who is interested in the outcome of a case under consideration, and for this purpose, is willing to establish communication with a judge;

d) public servant – persons defined under Article 3 (d) of the Law of Georgia on Public Service;

e) state employee – persons defined under Article 3(b) of the Law of Georgia on Public Service;

e) state political official – persons defined under Article 3(h) of the Law of Georgia on Public Service/ persons defined under Article 3(i) of the Law of Georgia on Public Service. (shall become effective after next presidential elections when newly elected president will take an oath)]

Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018

#### **Article 2 - General court system of Georgia**

1. The General courts of Georgia are district (city) courts, courts of appeals and the Supreme Court of Georgia.

2. The general court system of Georgia shall be uniform.

[2<sup>1</sup>. Specialized courts may be established only within the system of the Common Courts (shall become effective after next presidential elections when newly elected president will take an oath)].

3. Military courts may be created during periods of martial law and only within the general court system. The procedure for creating military courts and the scope of their authority shall be defined by law.

4. Extraordinary or special courts shall not be created.

[3. A military court may be established only within the system of the Common Courts, during periods of martial law, to review criminal cases related to martial law, based on the decree of the President of Georgia. The composition of the military court, its jurisdiction and the procedure of review of cases by it, shall be defined on the basis of the same decree. This decree shall enter into force from the moment of its issue.

4. Extraordinary courts may not be established (shall become effective after next presidential elections when newly elected president will take an oath)].

Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018

#### **Article 3 - Defending the rights through court**

1. Everyone shall have the right to apply directly to court in person or through his/her representative for defending his/her rights and freedoms.

2. Everyone shall be judged only by the court, within the jurisdiction of which his/her case falls.

#### **Article 4 - Binding force of court decisions**

1. A judicial act as well as a court request and order for exercising its power shall be binding on all natural and legal persons, government and local self- government bodies throughout the territory of Georgia.

2. A court decision may be repealed, modified or suspended only by a court according to the procedure defined by law.

3. Failure to fulfil a court decision or hinder from its fulfilment shall give rise to liability as determined by law.

~~Failure to fulfil a court decision shall give rise to liability as determined by law.~~

Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018

**Article 5 - Delivering decisions on behalf of Georgia**

A general court of Georgia shall deliver decisions on behalf of Georgia.

**Article 6 - Principles of justice and trial**

1. Justice shall be administered as equality before law and court of all persons involved in the case, as well as by the principles of transparency and non- substitution and independence of judges.

2. Trials shall be conducted with respect to the equality of parties and in adversary proceedings.

**Article 7 - Independence of judges**

1. A judge shall be independent in his/her activity. The judge shall assess facts and make decisions only according to the Constitution of Georgia, universally accepted principles and standards of international law, other laws and by his/her inner conviction. A judge may not be requested to report, or instructed as to which decision to make on a particular case.

2. Removal of a judge from a trial or the termination of his/her powers or his/her transfer to another position, except as provided for by law, shall not be permitted.

[\[2. Removal of a judge from a trial or the termination of his/her powers or his/her transfer to another position shall be permitted only as provided for by this Law \(shall become effective after next presidential elections when newly elected president will take an oath\)\].](#)

3. If during the hearing of a particular case the court infers that there is a sufficient basis to believe that a law or any other normative act to be applied by the court in deciding the case may be deemed incompatible, in full or in part, with the Constitution of Georgia, it shall suspend the hearing and apply to the Constitutional Court of Georgia. The hearing shall be resumed after the Constitutional Court of Georgia has made a decision on the matter.

4. If the court of trial finds that a normative act, the examination of which does not fall within the scope of authority of the Constitutional Court of Georgia, is incompatible with the Constitution of Georgia, the court shall deliver a decision according to the Constitution of Georgia.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018](#)

**Article 8 - No interference in the activity of courts**

1. A government or local self-government body, agency, public or political association, official, legal or natural person shall be prohibited from encroaching upon the independence of the judiciary.

2. Any pressure upon a judge or any interference in his/her activity to influence the decision shall be prohibited and punished by law.

**Article 9 - Liability for contempt of court**

Any act on the part of the parties, other persons involved in the case or any other person attending the hearing or present in the court that conveys contempt of or disrespect for court shall carry the liability provided by law.

**Article 10 - Language of proceedings**

Proceedings shall be conducted in the official language. Persons having no command of the official language shall be assigned an interpreter. Interpreter services shall be paid from the State Budget of Georgia.

**Article 11 - Making a decision**

An individual judge shall make a decision solely and multiple judges – as a panel. A panel of judges shall make a decision by a majority of votes. No judge may abstain from voting.

**Article 12 - (Deleted)**

Organic Law of Georgia No 4952 of 24 June 2011 – website, 6.7.2011

**Article 13 - Publicity of trials**

1. Every case in court shall be tried at an open session.

2. Trial in chambers may be held only if so provided for by law.

3. A court decision shall be pronounced publicly in every case.

3<sup>1</sup>. A court decision made at an open session as a result of hearing a case on the merits shall be fully published on the website of the court, and if a court decision is made at a closed session as a result of hearing a case on the merits, only the resolution part of the decision shall be published on the website of the court. The issue of disclosing personal data of a person that are included in the court decisions shall be resolved in accordance with law.

4. (Deleted – 6.3.2013, No 260)

5. A photo may be taken and cinematographic or video recording may be performed in court, as well as in a courtroom, according to procedures determined by this Law.

Organic Law of Georgia No 260 of 6 March 2013 – website, 20.3.2013

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

**Article 13<sup>1</sup> - Airing a court session by the media**

1. A court shall provide for audio and video recording of a trial. The court shall make audio, video records available to the parties upon request. If the court rules to close the session in part or in whole, the parties shall sign an undertaking of non-disclosure of the audio-, video-records.

2. A public broadcaster may perform taking of photos, cinematographic, video and audio recording of a trial, without limitation, except where the court has ruled to close the session in part or in whole. The public broadcaster shall release the record to any other media upon request.

3. If the public broadcaster fails to exercise the right under paragraph 2 of this article, such right may be exercised by another general over-the-air broadcaster by submitting a written application to a trial judge before the session. If such an application is submitted by more than one general over-the-air broadcaster, the judge shall select an authorised person by casting lots. The person exercising the right under paragraph 2 of this article shall carry the obligation defined by the same paragraph.

4. Taking of photos, cinematographic and video recording in a courtroom may be performed from a place designated in advance by the court. Any person present in the courtroom may perform the audio recording of a session from the place designated in advance by the court. In performing such acts, no one shall be permitted to move or make a noise in the courtroom or use lights or any other emission that may interrupt the normal process of administration of justice. If this rule is violated, the judge (court) may take the actions provided in the criminal procedure and civil procedure legislation of Georgia.

5. If the session proceeds with participation of jurors, taking of photos, cinematographic, video and audio recording of a session shall be performed without photographing such jurors or disclosing their identity, appearance and/or other personal details.

6. If the interests of a victim and/or a witness so require, based on a substantiated motion of a party, the court may prohibit the photographing of the victim and/or the witness and the disclosure of their identity, appearance and/or other personal details.

7. Taking of photos, cinematographic, video and audio recording in a court yard and a building corridor may be performed and aired without any limitation. A person having entered the court building under procedures determined by the court shall not be deprived of his/her personal effects, including a mobile phone, a computer, a photo, cinematographic or video camera and/or an audio recording device.

Organic Law of Georgia No 260 of 6 March 2013 – website, 20.3.2013

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

Organic Law of Georgia No 3696 of 12 June 2015 – website, 15.6.2015

## **Chapter II - Supreme Court of Georgia**

### **Article 14 - Supreme Court of Georgia**

1. The Supreme Court of Georgia ('the Supreme Court') is the court of highest review and final instance in the administration of justice throughout Georgia.

2. The Supreme Court shall oversee the administration of justice in the general courts of Georgia and exercise other powers under Articles 88(2) and 90(1) of the Constitution of Georgia and this Law in the established procedural form.

3. The number of members – judges of the Supreme Court of Georgia shall not be less than 16. When necessary, the Plenum of the Supreme Court of Georgia shall make a decision to increase the number of members of the Supreme Court of Georgia. The plenum of the Supreme Court of Georgia shall forward this decision to the President of Georgia in order for him/her to submit to the Parliament of Georgia the nominees for membership according to the increased number of members of the Supreme Court of Georgia.

[\[3. The Supreme Court shall be composed of 28 judges \(shall become effective after next presidential elections when newly elected president will take an oath\)\].](#)

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018](#)

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

1. (Deleted – 8.2.2017, No 255).

2. The following shall be formed within the Supreme Court:

- a) Chamber of Civil Cases;
- b) Chamber of Administrative Cases;
- c) Chamber of Criminal Cases;
- d) Grand Chamber;
- e) Plenum;
- f) Chamber of Disciplinary Cases;
- g) Chamber of Qualification.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

### **Article 16 - Chamber of the Supreme Court**

1. Any Chamber of the Supreme Court (other than the Chamber of Disciplinary Cases and the Chamber of Qualification) is a court of review examining, under procedures defined by procedural law of Georgia, appeals of the decisions of courts of appeals, also examining, where provided and under procedures determined by law, any other cases falling within its jurisdiction, further examining applications in connection with the Restitution and Compensation Commission decisions involving the violations of the procedures determined by the Law of Georgia on Proprietary Restitution and Compensation to Those Aggrieved in the Territory of Georgia as a Result of the Conflict in the Former Autonomous District of South Ossetia.

2. Any Chamber of the Supreme Court (other than the Grand Chamber) shall review a case by panels composed of three judges.

3. Based on a substantiated ruling, the court reviewing a case under cassation procedure may refer the case for examination to the Grand Chamber of the Supreme Court if:

- a) in terms of its contents, the case is a rare legal problem;
- b) the Grand Chamber does not concur with the earlier legal assessment (interpretation of a norm) of another chamber of review;
- c) (deleted).

Organic Law of Georgia No 3620 of 24 September 2010 – LHG I, No 52, 30.9.2010, Art. 334

Organic Law of Georgia No 3959 of 10 December 2010 – LHG I, No 73, 23.12.2010, Art. 439

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

### **Article 17 - Grand Chamber of the Supreme Court**

1. The Grand Chamber of the Supreme Court is a court of review examining, under procedures determined by the procedural legislation of Georgia, especially complex cases defined in Articles 16(3) and 17(5) of this Law.

2. The Grand Chamber is composed of the Chairperson of the Supreme Court, the chairpersons of other chambers and at least 12 judges elected by the Plenum from among the members of Supreme Court chambers for a term of two years.

3. The Grand Chamber shall review a case by a panel composed of 9 judges. The panel shall be composed of judges having originally tried the case regardless of whether they are concurrently the members of the Grand Chamber.

4. The Chairperson of the Supreme Court or by his/her instruction – the chairperson of one of the chambers shall preside over the review of a case by the Grand Chamber.

5. Legal interpretations (interpretation of a norm) by the Grand Chamber of the Supreme Court shall be binding upon the general courts of all instances. Based on a substantiated ruling, the court reviewing a case under a cassation procedure shall refer a case for examination to the Grand Chamber of the Supreme Court if the reviewing chamber does not concur with the earlier legal interpretation (interpretation of a norm) of the Grand Chamber.

Organic Law of Georgia No 3959 of 10 December 2010 – LHG I, No 73, 23.12.2010, Art. 439

#### **Article 18 – The Plenum of the Supreme Court**

1. The Plenum of the Supreme Court shall be composed of the Chairperson of the Supreme Court, the First Deputy Chairperson and the Deputy Chairpersons of the Supreme Court, the members of the Supreme Court and the chairpersons of courts of appeals.

2. The Plenum may:

a) elect members of the Grand Chamber on the recommendation of the Chairperson of the Supreme Court;

b) elect the composition of the Supreme Court chambers and their chairpersons upon recommendation of a member of the Plenum of the Supreme Court;

b<sup>1</sup>) (Deleted – 8.2.2017, No 255);

c) appoint three members of the Constitutional Court of Georgia;

d) under Article 89(1)(a) of the Constitution of Georgia, in connection with the examination of a particular case and generalisation of precedents, submit a recommendation to the Constitutional Court of Georgia on the compatibility of a normative act with the Constitution of Georgia;

e) (Deleted – 1.11.2013, No 1489);

f) submit a recommendation to the President of Georgia or the Government of Georgia regarding signing international agreements on matters falling within the scope of authority of the Supreme Court;

g) hear and assess briefs from chairpersons of the Supreme Court chambers, reports from the heads of the structural units of the Office of the Supreme Court, and consider proposals to improve their activity;

h) create an official gazette of the Supreme Court and appoint, on the recommendation of the Chairperson of the Supreme Court, its editor and editorial board;

i) form a research-advisory board of the Supreme Court, approve its regulations, composition and academic secretary;

j) within funds allocated from for the Supreme Court from the State Budget of Georgia, determine the amount of a monthly bonus to the official salary of a member of the Supreme Court;

k) approve, on the recommendation of the Chairperson of the Supreme Court, Regulations of the Office of the Supreme Court, and the rates of official salaries to employees and other workers;



- k<sup>1</sup>) approve, on the recommendation of the Chairperson of the Supreme Court, the Supreme Court Internship Procedure and the Procedure for Assessment of Servants of the Office of the Supreme Court;
- l) prepare and publish annual reports on the condition of justice in Georgia;
- m) exercise other rights arising out of the constitutional functions of the judiciary and provided by the legislation of Georgia.

3. The Plenum shall:

- a) protect and strengthen institutional independence of the judiciary as one of the branches of state authority and an equal branch of state authority, and ensure the independence of judges;
- b) help build people's trust and confidence in the judiciary within the scope of its authority.

4. The Plenum shall be duly constituted if at least two thirds of the members of the Plenum are present at a session. Decisions shall be deemed passed if voted for by at least two thirds of the members present at the session.

5. The Plenum shall convene as necessary, but at least once a year. The plenary session shall be called by the Chairperson of the Supreme Court on his/her initiative or by request of at least one fifth of Plenum members.

6. Relevant specialists and other persons may be invited to plenary sessions.

7. A session of the Plenum of the Supreme Court shall be public, as a rule.

Organic Law of Georgia No 5529 of 20 December 2011 – website, 28.12.2011

Organic Law of Georgia No 5920 of 27 March 2012 – website, 19.4.2012

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

#### **Article 19 - Chamber of Disciplinary Cases of the Supreme Court**

1. The Chamber of Disciplinary Cases of the Supreme Court, composed of 3 members, shall be elected by the Plenum of the Supreme Court for a three- year term. In order to elect members of the Chamber of Disciplinary Cases of the Supreme Court, candidates for membership, including a candidate for the Chairperson of the Chamber of Disciplinary Cases, shall be nominated to the Plenum of the Supreme Court from among the Supreme Court members by a member of the Plenum.

2. (Deleted – 8.2.2017, No 255);

3. If the Plenum of the Supreme Court fails to elect, twice in a row, a candidate for membership of the Chamber of Disciplinary Cases nominated by a member of the Plenum of the Supreme Court as a member of the Chamber of Disciplinary Cases of the Supreme Court, the Chairperson of the Supreme Court may appoint an acting member of the Chamber of Disciplinary Cases from among members of the Supreme Court for not more than a six-month term until electing this candidate.

4. The Chairperson of the Supreme Court may be recused from examination, for the period of examination of a particular application in the Chamber of Disciplinary Cases, by a Chamber member who has grounds for recusal under the procedural legislation of Georgia

in connection with the application. In such case, the Chairperson of the Supreme Court shall appoint an acting member of the Chamber of Disciplinary Cases from among Supreme Court members.

5. A member of the Chamber of Disciplinary Cases shall effectively exercise the powers of a judge of the Supreme Court.

6. The Chamber of Disciplinary Cases of the Supreme Court shall review appeals from the decisions of the Disciplinary Panel of Judges of Common Courts of Georgia under procedures determined by chapter XIII<sup>1</sup> of this Law, and from decisions of the Ethics Committee of Georgian Bar Association under procedures determined by chapter XIII<sup>1</sup> of this Law and the Law of Georgia "On lawyers".

~~The Chamber of Disciplinary Cases shall review appeals from the decisions of the Disciplinary Panel of Judges of General Courts of Georgia under procedures determined by the Law of Georgia on Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia.~~

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)

[Organic Law of Georgia No 2267 of 4 May 2018 – website, 21.05.2018](#)

#### **Article 19<sup>1</sup> - The Chamber of Qualification of the Supreme Court**

1. The Chamber of Qualification of the Supreme Court shall, under the procedure established by Articles 35<sup>4</sup>, 36<sup>5</sup> and 36<sup>6</sup> of this Law, review appeals of the decisions of the High Council of Justice of Georgia on refusing to appoint a judge to office for a three-year or indefinite term.

2. The Chamber of Qualification of the Supreme Court composed of three members shall be elected by the Plenum of the Supreme Court for a three- year term. A member of the Chamber of Qualification of the Supreme Court may not be a judge of the Supreme Court who, at the same time, is a member of the High Council of Justice of Georgia.

3. Any member of the Plenum of the Supreme Court may present to the Plenum candidates for membership in the Chamber of Qualification (including a candidate for chairperson of the Chamber of Qualification) which are to be elected from among the Supreme Court members. If the Plenum of the Supreme Court twice fails to elect the nominated candidates, the Chairperson of the Supreme Court may appoint one of the members of the Supreme Court as an acting member of the Chamber of Qualification, for not more than six months, until a member of the Chamber of Qualification is elected.

4. A member of the Chamber of Qualification shall be discharged by the Chairperson of the Supreme Court, with the consent of the Plenum of the Supreme Court.

5. A member of the Chamber of Qualification shall be obliged to withdraw from a case hearing for the period required to review a specific appeal, provided he/she has grounds for recusal in relation to this appeal under the procedural legislation of Georgia. In this case, the Chairperson of the Supreme Court shall appoint an acting member of the Chamber of Qualification from among the Supreme Court members for the period required to review the appeal.

6. A member of the Chamber of Qualification of the Supreme Court shall fully exercise powers of a judge of the Supreme Court.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

#### **Article 20 - Chairpersons of the Supreme Court chambers**

1. The Supreme Court chambers have chairpersons. The chairperson of a chamber (except for Chairpersons of the Chamber of Disciplinary Cases and the Chamber of Qualification) shall be elected by the Plenum of the Supreme Court from among members of the chamber for a five-year term. Chairpersons of the Chamber of Disciplinary Cases and the Chamber of Qualification shall be elected by the Plenum of the Supreme Court from among members of the chambers for a three-year term under the procedure established by Articles 19 and 19<sup>1</sup> of this Law. By decision of the Plenum of the Supreme Court, powers of the chairperson of a chamber (except for Chairpersons of the Chamber of Disciplinary Cases and the Chamber of Qualification) may be exercised by the Chairperson of the Supreme Court.

2. The chairpersons of Supreme Court chambers (other than the Chairpersons of the Chamber of Disciplinary Cases and the Chamber of Qualification) shall concurrently serve as Deputy Chairpersons of the Supreme Court.

3. The First Deputy Chairperson of the Supreme Court shall be elected by the Plenum of the Supreme Court from among the chairpersons of Supreme Court chambers (other than the Chairpersons of the Chamber of Disciplinary Cases and the Chamber of Qualification).

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

#### **Article 21 - Chairperson of the Supreme Court**

1. The Chairperson of the Supreme Court:

- a) provides overall management of the activity of the Supreme Court;
- b) may serve as the chairperson of one of the chambers; presides over the sessions of the Plenum and the Grand Chamber of the Supreme Court and, if necessary, the sessions of the chambers of the Supreme Court;
- c) (deleted – 1.5.2013, No 580);
- d) in connection with general issues of justice in Georgia, interacts, on behalf of the judiciary in the administration of justice, with other branches of state authority, the media and the population;
- e) manages the operation of the Office of the Supreme Court;
- f) makes decisions on the appointment to the post (recruitment) and discharging from the post (dismissal from office) of public servants of the Office of the Supreme Court;
- g) designates a judge with relevant powers to issue orders for conducting operational-technical measures under the Law of Georgia on Counter- Intelligence Activities;
- h) [exercises powers under chapter XIII<sup>1</sup> of this Law:](#)  
~~[exercises powers under the Law of Georgia on Disciplinary Liability of Judges of General Courts of Georgia and Disciplinary Proceedings;](#)~~
- i) makes decisions on arraignment, detention or arrest of a judge, search of his/her apartment, car, workplace or of his/her person;  
~~[\[i\] deleted \(shall become effective after next presidential elections when newly elected president will take an oath\)\].](#)~~
- j) exercises other powers provided by the legislation of Georgia.

2. If the Chairperson of the Supreme Court is temporarily absent, his/her powers shall be exercised by the First Deputy Chairperson. If the Chairperson and the First Deputy Chairperson of the Supreme Court are absent, the powers of the Chairperson shall be exercised by one of the Deputy Chairpersons by the Chairperson's order.

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)

[Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018](#)

### **Chapter III - Court of Appeals**

#### **Article 22 - Court of appeals**

A court of appeals shall be created and its jurisdiction shall be defined by decision of the High Council of Justice of Georgia.

#### **Article 23 - Composition of a court of appeals**

1. The High Council of Justice of Georgia shall define the number of the judges of a court of appeals.

2. The following shall be established within the court of appeals:

- a) the Chamber of Civil Cases;
- b) the Chamber of Administrative Cases;
- c) the Chamber of Criminal Cases;
- d) the Investigation Panel.

[2<sup>1</sup>. A narrower specialization of judges may be conducted in the Court of Appeals by the decision of High Council of Justice of Georgia.](#)

3. The High Council of Justice of Georgia shall define the number of judges in the chambers and Investigation Panel of the court of appeals.

4. If necessary, in order to avoid delay in the administration of justice, the chairperson of the Court of Appeals may assign a judge selected under the procedure established by Article 58<sup>1</sup> of this Law, with his/her consent, to participate in a hearing at another chamber or the Investigation Panel of the same court.

5. Each chamber and the Investigation Panel of the Court of Appeals shall have chairpersons. Chairpersons of the chambers and the Investigation Panel of the Court of Appeals shall be appointed for a five-year term from the composition of the respective chamber and the Panel by the High Council of Justice of Georgia. A judge assigned to the position for a three-year term may not be appointed as chairperson of a chamber, or chairperson of the Investigation Panel of the Court of Appeals, except when he/she has at least five years' experience of working as a judge. A judge assigned to the position for a three-year term may be appointed as chairperson of a chamber, or chairperson of the Investigation Panel of the Court of Appeals within his/her tenure.

6. The chairperson and the deputy chairperson of the Court of Appeals shall be appointed from among judges of the Court of Appeals for a five-year term by the High Council of Justice of Georgia. A judge assigned to the position for a three-year term may not be appointed as chairperson, or deputy chairperson of the Court of Appeals, except when he/she has at least five years' experience of working as a judge. A judge assigned to the position for a three-year term may be appointed as chairperson, or deputy chairperson of the Court of Appeals within his/her tenure.

7. Until the chairperson of the Court of Appeals, deputy chairperson of the Court of Appeals, chairperson of the chamber or Investigation Panel is appointed, by the decision of the High Council of Justice of Georgia, his/her powers may be delegated to one of the judges of the same court. The High Council of Justice of Georgia may terminate the chairperson's powers delegated to the judge.

~~Until the chairperson of the court of appeals, its chamber or Investigation Panel is appointed, by decision of the High Council of Justice of Georgia, his/her powers may be delegated to one of the judges of the same court. The High Council of Justice of Georgia may terminate the chairperson's powers delegated to the judge.~~

8. Grounds for terminating powers of the chairperson of the Court of Appeals, deputy chairperson of the Court of Appeals, chairperson of a chamber, or chairperson of the Investigation Panel of the Court of Appeals shall be as follows:

a) a personal application;  
b) termination of powers of a judge of the Court of Appeals;  
c) as a disciplinary measure, discharging of the chairperson of the Court of Appeals, a deputy chairperson of the Court of Appeals, the chairperson of a chamber, or the chairperson of the Investigation Panel of the Court of Appeals;

d) expiry of the tenure of the chairperson of the Court of Appeals, a deputy chairperson of the Court of Appeals, the chairperson of a chamber, or the chairperson of the Investigation Panel of the Court of Appeals.

9. If any of the grounds under paragraph 8 of this article is present (except for the case under subparagraph c) of the same paragraph), the termination of powers of the chairperson of the Court of Appeals, a deputy chairperson of the Court of Appeals, the chairperson of a chamber, or the chairperson of the Investigation Panel of the Court of Appeals shall be formalised by decision of the High Council of Justice of Georgia.

10. In the case under paragraph 8(c) of this article, the chairperson of the Court of Appeals, a deputy chairperson of the Court of Appeals, the chairperson of the Chamber of the Court of Appeals or the chairperson of the Investigation Panel shall be discharged from the post according to chapter XIII<sup>1</sup> of this Law.

~~In the case under paragraph 8(c) of this article, the chairperson of the Court of Appeals, a deputy chairperson of the Court of Appeals, the chairperson of a chamber, or the chairperson of the Investigation Panel of the Court of Appeals shall be discharged from the post according to the Law of Georgia on Disciplinary Liability of Judges of General Courts of Georgia and Disciplinary Proceedings.~~

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 2034 of 7 March 2018 – website, 29.03.2018](#)

[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)

#### **Article 24 - Powers of the court of appeals**

1. The court of appeals, in panels of 3 judges, shall examine petitions for appeal of decisions of district (city) courts) under procedures determined by procedural law. Petitions for appeal on a certain category of cases may be examined by an individual judge under procedures determined by procedural law.

2. The court of appeals shall also exercise powers under the Law of Georgia on Arbitration.

3. A judge of the Investigation Panel of the court of appeals shall solely examine appeals, where so provided for by the legislation of criminal procedure.

#### **Article 25 - Powers of the chairperson of the court of appeals**

1. The chairperson of the court of appeals shall:

a) personally hear cases;

b) ~~oversee the operation of the Court office, make decisions on the appointment to the post (recruitment) and discharging from the post (dismissal from office) of the court manager, head of the Bailiff's Office, a court bailiff, assistant to the judge and a secretary of the court session under the procedure determined by the legislation of Georgia; impose measures of disciplinary liability under the Law of Georgia "On Public Service" on the court manager and other public employees of the Court Office; supervise the operation of the court staff, appoint and discharge the court manager, head of the Bailiffs Office, a court bailiff, assistant to the judge and a secretary of the court session under the procedure determined by the legislation of Georgia; impose disciplinary penalties on the court manager and other employees of the Court Office;~~

c) under the procedure determined by the legislation of Georgia, ensure generalisation of applications, complaints and proposals of the citizens, and submit materials of the generalisation to the High Council of Justice of Georgia;

d) exercise the power under Article 23(4) of this Law;

e) organise the operation of the court, examine and generalise information on the case-flow management (including the indicators of filing and closing of cases, time limits of the proceedings, reasons for adjourning of the sessions and impeding of the proceedings), and submit, at least annually, this information to judges and the High Council of Justice of Georgia; within the scope of its competence, take measures for eliminating the systemic reasons that impede the proceedings;

f) provide for the observance of order in the court, have the right to introduce rules for checking participants and attendees of the process before the beginning of a session and to prohibit the admission of certain items into the court building or courtroom to ensure the safety of the session; also have the right to limit the number of attendees of a session depending on the courtroom space;

g) if order in the court is violated, any contempt of court is expressed or the normal operation of the court is interrupted, have the right to subject the offender to the measures provided by the procedural legislation of Georgia. The procedure for issuing an order on the above matter by the chairperson of the court and appealing such order shall be determined by the procedural legislation of Georgia;

h) exercise other powers provided by the legislation of Georgia.

2. While the chairperson of the Court of Appeals is temporarily absent, the duties of the chairperson shall be discharged by the deputy chairperson of the Court of Appeals, and if the deputy chairperson of the Court of Appeals is absent, his/her duties shall be discharged by the chairperson of one of the chambers of the Court of Appeals or the chairperson of the Investigation Panel by the instruction of the chairperson of the Court of Appeals.

~~While the chairperson of the court of appeals is temporarily absent, the duties of the chairperson shall be discharged by the deputy chairperson.~~

3. The Chairperson of the Court of Appeals shall at the same time be a member of a chamber/the Investigation Panel of the Court, and may be the Chairperson of a chamber/the Investigation Panel of the Court.

Organic Law of Georgia No 3523 of 21 July 2010 – LHG I, No 46, 4.8.2010, Art. 286

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 1050 of 16 June 2017 – website, 22.06.2017](#)

[Organic Law of Georgia No 2034 of 7 March 2018 – website, 29.03.2018](#)

#### **Article 26 - Powers of the deputy chairperson of the court of appeals**

1. The deputy chairperson of the court of appeals shall:

a) participate in the examination of cases;

b) (Deleted – 8.2.2017, No 255);

c) by assignment from the chairperson of the court of appeals, oversee the operation of the court staff, submit proposals to the chairperson of the court of appeals for imposing disciplinary liability upon court employees for a gross violation of labour discipline or other disciplinary misconduct;

d) by assignment from the chairperson of the court of appeals, implement relevant actions to provide organisational support to the administration of justice;

e) under the procedure determined by the legislation of Georgia, ensure generalisation of applications, complaints and proposals of the citizens, and submit materials of the generalisation to the Chairperson of the Court of Appeals;

f) [discharge duties of the chairperson of the Court of Appeals in cases provided for by this Law;](#)

~~discharge duties of the chairperson of the court of appeals when he/she is absent;~~

g) exercise other powers provided by the legislation of Georgia.

2. [While the deputy chairperson of the Court of Appeals is temporarily absent, the duties of the deputy chairperson of the Court of Appeals shall be discharged by the chairperson of one of the chambers of the Court of Appeals or the chairperson of the Investigation Panel by the instruction of the chairperson of the Court of Appeals.](#)

~~While the deputy chairperson of the court of appeals is temporarily absent, the duties of the deputy chairperson shall be discharged by the chairperson of one of the chambers or the Investigation Panel of the court.~~

3. The deputy Chairperson of the Court of Appeals shall at the same time be a member of a chamber/the Investigation Panel of the Court, and may be the Chairperson of a chamber/the Investigation Panel of the Court.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 2034 of 7 March 2018 – website, 29.03.2018](#)

## **Chapter IV - District (City) Court**

### **Article 27 - Creation of a district (city) court**

1. A district (city) court shall be created and its jurisdictional area shall be defined by decision of the High Council of Justice of Georgia.
2. A district court shall be created in a municipality (municipalities).
3. A city court shall be created in a self-governing city. The jurisdictional area of a city court may include a self-governing city as well as a municipality (municipalities).

### **Article 28 - Number of judges in a district (city) court**

1. A district (city) court shall be composed of at least 2 judges.
2. The High Council of Justice of Georgia shall define the number of the judges of a district (city) court according to procedures determined by the legislation of Georgia.
3. The composition of a district (city) court may include magistrate judges. A magistrate judge shall be the judge of a district (city) court who practices in an administrative-territorial unit within the jurisdictional area of the district (city) court. The jurisdictional area and the number of magistrate judges shall be determined by decision of the High Council of Justice of Georgia. The composition of magistrate judges in a district (city) court shall be determined by the High Council of Justice of Georgia.

### **Article 29 - Trial in a district (city) court**

1. The district (city) court is the court of first instance that examines cases falling within its jurisdiction according to procedures determined by the procedural legislation of Georgia by an individual judge or, as determined by law, in a panel of 3 judges.
2. An individual magistrate judge shall examine cases unless otherwise provided by law.

### **Article 30 - Specialisation of judges**

1. In a district (city) court composed of 2 judges, 1 judge shall examine criminal cases and the other judge shall examine civil and other categories of cases, except as determined in the procedural legislation of Georgia. Judges shall be specialised based on a decision of the High Council of Justice of Georgia.
2. In a district (city) court of special caseload composed of more than 2 judges, a narrower specialisation of judges may be conducted or specialized judicial panels ('the judicial panels') may be set up by decision of the High Council of Justice of Georgia.
3. The number of judges in the Panels and the composition of the Panels shall be determined by the High Council of Justice of Georgia.
4. A judicial panel shall have a chairperson. The Chairperson of a judicial panel shall be appointed from among the panel composition for a five-year term by the High Council of Justice of Georgia. A judge assigned to the position for a three-year term may not be appointed as chairperson of a judicial panel, except when he/she has at least five years' experience of working as a judge. A judge assigned to the position for a three-year term may be appointed as chairperson of the judicial panel within his/her tenure.



5. If necessary, in order to avoid delay in the administration of justice, the chairperson of the court may assign a judge selected under the procedure established by Article 58<sup>1</sup> of this Law, with his/her consent, to hear a case in another specialised composition (judicial panel) of the same court, as well as to act as a magistrate judge, and may assign a magistrate judge to hear a case outside his/her jurisdiction, in a district (city) court.

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

#### **Article 31 - Jurisdiction of a district (city) court**

The jurisdiction of a district (city) court as well as that of a magistrate judge shall be determined by law.

#### **Article 32 - Chairperson of a district (city) court**

1. The chairperson of a district (city) court shall be appointed from among the judges of a respective court, and the chairperson of a court in which judicial panels are set up – including from among chairpersons of the judicial panels for a five-year term by the High Council of Justice of Georgia. A judge assigned to the position for a three-year term may not be appointed as chairperson of a district (city) court, except when he/she has at least five years' experience of working as a judge. A judge assigned to the position for a three-year term may be appointed as chairperson a district (city) court within his/her tenure.

2. The chairperson of a district (city) court shall:

a) personally hear cases;

b) oversee the operation of the Court office, make decisions on the appointment to the post (recruitment) and discharging from the post (dismissal from office) of the court manager, head of the Bailiff's Office, a court bailiff, assistant to the judge and a secretary of the court session under the procedure determined by the legislation of Georgia; impose measures of disciplinary liability under the Law of Georgia "On Public Service" on the court manager and other public employees of the Court Office; supervise the operation of the Court Office, appoint and discharge the court manager, head of the Bailiff's Office, a court bailiff, assistant to the judge and a secretary of the court session under the procedure determined by the legislation of Georgia; impose disciplinary penalties on the court manager and other employees of the Court Office;

c) organise the operation of the court, examine and generalise information on the case-flow management (including the indicators of filing and closing of cases, time limits of the proceedings, reasons for adjourning of the sessions and impeding of the proceedings), and submit, at least annually, this information to judges and the High Council of Justice of Georgia; within the scope of its competence, take measures for eliminating the systemic reasons that impede the proceedings;

d) under the procedure determined by the legislation of Georgia, ensure generalisation of applications, complaints and proposals of the citizens, and submit materials of the generalisation to the High Council of Justice of Georgia;

d<sup>1</sup>) exercise the power under Article 30(5) of this Law;

e) deleted;

f) provide for the observance of order in the court; be authorised to establish a pre-session checking of parties to the proceeding and persons attending the session, and prohibition of carrying individual items into the court building or the courtroom to ensure safety at the court session; and be authorised, depending on a courtroom space, to limit the number of persons attending the session;

g) be authorised, in case order in the court is violated, any contempt of court is expressed or the normal operation of the court is interrupted, to subject the offender to the measures

provided for by the procedural legislation of Georgia. The procedure for issuing a writ on this matter by the chairperson of a district (city) court and appealing the writ shall be determined by the procedural legislation of Georgia;

h) discharge other duties provided for by the legislation of Georgia. i) (Deleted – 8.2.2017, No 255).

j) (Deleted – 8.2.2017, No 255). k) (Deleted – 8.2.2017, No 255).

3. Until the chairperson of a district (city) court is appointed, and in a court having Panels – until the chairperson of the Panel is appointed, by decision of the High Council of Justice of Georgia, the powers of the chairperson of district (city) court (Panel) may be delegated to one of the judges of the same court. The High Council of Justice of Georgia may terminate the chairperson's powers delegated to the judge.

4. The chairperson of a district (city) court, in which judicial panels are set up, shall at the same time be a member of a panel of this court, and may be the chairperson of the panel.

5. Grounds for terminating powers of the chairperson of a district (city) court/chairperson of a judicial panel shall be as follows:

a) a personal application;

b) termination of powers of a judge of the district (city) court;

c) as a disciplinary action, discharging of the chairperson of the district (city) court/chairperson of the judicial panel;

d) expiry of the tenure of the chairperson of the district (city) court/chairperson of the judicial panel.

6. If any of the grounds under paragraph 5 of this article is present (except for the case under subparagraph c) of the same paragraph), the termination of powers of the chairperson of the district (city) court/chairperson of the judicial panel shall be formalised by decision of the High Council of Justice of Georgia.

7. [In the case under paragraph 5\(c\) of this article, the chairperson of the district \(city\) court/chairperson of the judicial panel shall be discharged according to chapter XIII1 of this Law.](#)

~~[In the case under paragraph 5\(c\) of this article, the chairperson of the district \(city\) court/chairperson of the judicial panel shall be discharged according to the Law of Georgia on Disciplinary Liability of Judges of General Courts of Georgia and Disciplinary Proceedings.](#)~~

Organic Law of Georgia No 3523 of 21 July 2010 – LHG I, No 46, 4.8.2010, Art. 286

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 1050 of 16 June 2017 – website, 22.06.2017](#)

[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)

**Article 33 - Discharging the duties of the chairperson of a district (city) court**

1. In a district (city) court composed of more than 2 judges, while the chairperson of the court is temporarily absent, his/her duties shall be discharged, on the chairperson's assignment, by one of the judges of the court, and in a court having Panels, on the assignment by the chairperson of the court, by the chairperson of one of the Panels. If there is no assignment from the chairperson of the court, the duties of the chairperson shall be discharged by the judge or the chairperson of the Panel who has a longer tenure as a judge.

2. While the chairperson of the Panel is temporarily absent, on assignment by the chairperson of the court, his/her duties shall be discharged by one of the judges of the court or if there is no such assignment from the chairperson of the court – by the judge who has a longer tenure as a judge.

3. In a district (city) court composed of two judges, while the chairperson of the court is temporarily absent, his/her duties shall be discharged by the other judge of the court.

## **Chapter V - Appointment (Election) and Promotion of Judges**

### **Article 34 - Requirements set to candidates for judge**

1. A competent citizen of Georgia of 30 years of age who has a higher legal education with at least a master's or equal academic degree/higher education diploma, at least five years of working experience in the specialty, has the command of the official language, has passed a judge's qualification exam, has completed a full training course of the High School of Justice and is entered on the Justice Trainee Qualifications List may be appointed (elected) as a judge.

2. A person with previous conviction, or a person who has been discharged from the position of a judge on the ground provided for in Article 43(1)(b) of this Law (except when the provision of chapter XIII<sup>1</sup> of this Law on the basis of which the person was discharged from the position of a judge ceased to exist), or on the ground provided for in subparagraph "h" of the same paragraph of the same article may not be appointed/elected to the position of a judge.

~~A person with previous conviction, or a person who has been discharged from the position of a judge on the ground provided for in Article 43(1)(b) of this Law (except when the provision of the Law of Georgia on Disciplinary Liability of Judges of General Courts of Georgia and Disciplinary Proceedings on the basis of which the person was discharged from the position of a judge ceased to exist), or on the ground provided for in paragraph 4(h) of the same article may not be appointed/elected to the position of a judge.~~

3. A person nominated for election to the office of a Supreme Court judge as well as a former judge who has passed a judge's qualification exam, who has been appointed to the office of a judge in the Supreme Court or a district (city) court and/or a court of appeals by competition and who has at least 18 months of working experience as a judge shall not be required to attend the High School of Justice training to hold the office of a judge. The person who completed a full training course of the High School of Justice and who has been entered on the Justice Trainee Qualifications List shall not be required to attend the High School of Justice training to hold the office of a judge regardless of what period he/she held the office of a judge or whether he/she has been appointed to the office since graduation from the High School of Justice.

4. The President of Georgia may nominate to the Parliament of Georgia for holding the office of member of the Supreme Court of Georgia without passing a judge's qualification exam a candidate whose professional experience must suit the high status of a member of the Supreme Court of Georgia. A person nominated for election to the office of the chairperson of the Supreme Court of Georgia shall also be released from the exam.

[4. The High Council of Justice of Georgia may nominate to the Parliament of Georgia for holding the office of member of the Supreme Court of Georgia without passing a judge's qualification exam a candidate whose professional experience must suit the high status of a member of the Supreme Court of Georgia. A person nominated for election to the office of the chairperson of the Supreme Court of Georgia shall also be released from the exam (shall become effective after next presidential elections when newly elected president will take an oath)].

5. A former judge of general courts of Georgia shall be released from the judge's qualification exam until seven years have passed after the powers of the judge are terminated.

6. Both current and former members of the Constitutional Court and Supreme Court of Georgia shall be released from taking the judge's qualification exam and studying at the High School of Justice.

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 2651 of 1 August 2014 – website, 12.8.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018

Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018

#### **Article 35 - Procedure for holding the position of a judge**

1. If there is a vacancy in the position of a judge at a district (city) court and a court of appeals, the High Council of Justice of Georgia shall announce a competition through the official gazette of Georgia.

2. A person who meets the conditions under Article 34(1-3) of this Law shall be eligible for participation in the competition. Such a person shall be considered a candidate for judge after he/she submits an appropriate application to the High Council of Justice of Georgia.

3. The High Council of Justice of Georgia shall determine the period of applying for registration of candidates for judge. This period shall not be less than 15 calendar days. The competition shall be conducted after the period of registration of candidates for judge expires.

4. An application of a person submitted for participation in the competition must include his/her consent for searching/verification of the information on this person (including his/her personal data) by the High Council of Justice of Georgia under the procedure established by Article 35<sup>2</sup> of this Law.

5. For participation in the competition, a person shall be entitled to submit an application for one or several vacancies for a judge of his/her choice, and to give a respective priority to each vacancy. Giving the priority to a vacancy of a judge by a candidate for judge shall not oblige the High Council of Justice of Georgia to put to vote the candidate for judge for assigning him/her to this position in the first place.

6. A candidate for judge shall, within a period of seven days after submitting the application, submit to the High Council of Justice of Georgia a certificate of filing the

Property Status Declaration for Officials issued under the legislation of Georgia with the Civil Service Bureau.

7. The competition must be conducted in full compliance with the principles of objectivity and equality. During the competition, equality of candidates for judge must be guaranteed regardless of race, gender, religion, political and other opinions, their status within the society, national, ethnic and social affiliation and other circumstances.

8. The High Council of Justice of Georgia shall review the applications of candidates for judge participating in the competition, and the attached documents within five working days. Immediately after the review process is over, brief background information of those candidates for judge whose documents comply with the requirements established under the legislation of Georgia shall be published on the website of the High Council of Justice of Georgia.

9. Candidates for judge shall be evaluated according to the criteria determined in Article 35<sup>1</sup> of this Law, based on interviews conducted with them, and information acquired under Article 35<sup>2</sup> of this Law. Current and former judges who have at least 3 years of experience of judicial activity, shall be evaluated based on study of files defined by Article 36<sup>1</sup> (1) and Article 36<sup>1</sup> (2), Article 36<sup>2</sup>, Article 36<sup>3</sup>, Article 36<sup>4</sup> of this Law, the system of evaluation with scores and interview on the basis of forms independently filled in by members of the High Council of Justice of Georgia. The evaluation system determined for judges who have been appointed for a term of 3 years shall not apply on current and former members of the Constitutional Court or the Supreme Court of Georgia. These judges shall be assigned for an indefinite term by the decision of the High Council of Justice of Georgia, according to the criteria and procedure for assigning judges.

~~Candidates for judge shall be evaluated according to the criteria determined in Article 35<sup>1</sup> of this Law, based on interviews conducted with them, and information acquired under Article 35<sup>2</sup> of this Law.~~

10. Within a period of five working days after the interview is finished, each member of the High Council of Justice of Georgia shall complete the evaluation sheet of each candidate for judge, in which results of the evaluation of a candidate for judge according to the criteria determined in Article 35<sup>1</sup> of this Law will be entered. The form of the evaluation sheet of a candidate for judge shall be approved by the High Council of Justice of Georgia.

11. The information entered in the evaluation sheets of candidates for judge shall be summarised by a respective organisational unit of the High Council of Justice of Georgia within a period of three days, then subsequently it shall submit the evaluation results to the High Council of Justice of Georgia. Within a period of two days after the evaluation results are submitted, the High Council of Justice of Georgia shall put to vote the assigning of a candidate for judge to a vacancy of a judge.

12. Only a candidate for judge to be assigned to a vacancy of a judge shall be voted for, when evaluating of whom according to a good faith criterion, more than a half of the full composition of the High Council of Justice of Georgia considers that the candidate for judge complies or fully complies with the good faith criterion, and when evaluating according to the competence criterion, the sum of points obtained by a candidate for judge according to the characteristics of this criterion is at least 70 % of the maximum number of points.

13. When making a decision on appointing a person included on the Justice Students Qualifications List to the position of a judge, his/her serial number on the Justice Students Qualifications List and the evaluation by the Independent Board of the High School of Justice shall be taken into consideration.

14. The decision of the High Council of Justice of Georgia to assign a candidate for judge to the position of a judge, or to refuse to assign him/her to the position of a judge shall be forwarded to the candidate for judge no later than the fifth working day after the decision is made.

15. If not all vacancies of a judge were occupied on the basis of competition, the High Council of Justice of Georgia shall, within a period of three months after the competition results are announced, announce another competition under the procedure established by this article.

16. Conditions for conducting the competition, as well as a standard form of recommendation to be used when acquiring information on a candidate for judge, and a special questionnaire shall be approved by the High Council of Justice of Georgia.

17. When a candidate for judge is assigned to the position of a judge, the evaluation sheet of a candidate for judge under paragraphs 10 and 11 of this article, and the summary results of the information contained therein shall be public information. Any person shall have the right to ask for, and receive its copies as determined by law.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 1052 of 16 June 2017 – website, 27.06.2017](#)

### **Article 35<sup>1</sup> – Criteria for selecting a candidate for judge, and their characteristics**

1. A candidate for judge shall be selected on the basis of two basic criteria – good faith and competence.

2. Good faith and competence of a candidate for judge without judicial experience shall be evaluated according to paragraphs 3-16 of this article, and Good faith and competence of a candidate for judge with judicial experience – according to Article 36<sup>3</sup> and Article 36<sup>4</sup>(7-8) of this Law. Further, when evaluating a candidate for judge with judicial experience (except for a current or former member of the Constitutional Court or Supreme Court of Georgia), five cases considered by him/her with summary/final judgments delivered on which have become legally effective (including at least two cases (if any) with summary/final judgments delivered on which have been revoked/partially revoked by a superior court) must be evaluated. Cases to be evaluated shall be picked by adhering to the principle of random selection. The purpose of examining a case/judgement shall be to evaluate the level of knowledge of a candidate for judge in substantive and procedural laws, the human rights law (including the European Court of Human Rights' case law), correct application of appropriate legal norms in the judgement delivered by him/her, reasonableness and certainty of the judgement, the ability of a judge to think analytically, the ability to express an opinion clearly and explicitly, to judge and analyse logically. When examining a case/judgement, the character and graveness of a legal error made in the judgement revoked/partially revoked by a superior court shall also be evaluated.

3. The characteristics of a good faith criterion shall be as follows:

- a) personal good faith, and professional conscience;
- b) independence, impartiality and fairness;
- c) personal and professional behaviour;
- d) personal and professional reputation.

4. The characteristics of a competence criterion shall be as follows:

- a) knowledge of legal norms;
- b) ability of legal substantiation and competence;
- c) writing and verbal communication skills;
- d) professional qualities;
- e) academic achievements and professional training;
- f) professional activity.

5. When evaluating a candidate for judge by the characteristic of personal good faith and professional conscience, consideration shall be given to his/her, as a citizen's honesty, good faith, consciousness corresponding to duties and responsibility, transparency, accuracy and precision when performing official or other duties, financial or other obligations (for example, when completing the property status declaration, paying a bank or other debts, paying utility or other fees, paying a fine for violating traffic regulations), etc.

6. When evaluating a candidate for judge by the characteristic of independence, impartiality and fairness, consideration shall be given to his/her adherence to principles, independent decision-making skills and resistance to influence, firmness, inviolability, etc.

7. When evaluating a candidate for judge by the characteristic of personal and professional behaviour, consideration shall be given to his/her ethics in interacting with colleagues and other people, self-possession, ability to manage own emotions, disputes in a court to which he/she has been a party, whether there is a criminal charge against him/her, etc.

8. When evaluating a candidate for judge by the characteristic of personal and professional reputation, consideration shall be given to his/her business and moral reputation and authority among legal professionals and community, the character of interacting with legal professionals, etc.

9. When evaluating a candidate for judge by the characteristic of knowledge of legal norms, consideration shall be given to his/her level of knowledge in substantive and procedural laws, the human rights law (including the European Court of Human Rights' case law). In order to evaluate a candidate for judge by this characteristic, the High Council of Justice of Georgia may make a request for the results of a judicial qualification examination passed by the candidate for judge, and the evaluation by the Independent Board of the High School of Justice.

10. When evaluating a candidate for judge by the characteristic of ability of legal substantiation and competence, consideration shall be given to his/her ability to think analytically and professional experience.

11. When evaluating a candidate for judge by the characteristic of writing and verbal communication skills, consideration shall be given to his/her ability to convey an opinion in writing clearly and explicitly, to judge and analyse logically, to speak coherently, openness, ability to listen to a dissenting opinion, etc.

12. When evaluating a candidate for judge by the characteristic of professional qualities, consideration shall be given to his/her punctuality, diligence, ability to think independently, ability to work in a stressful situation, purposefulness, managerial skills, etc.

13. When evaluating a candidate for judge by the characteristic of academic achievements and professional training, consideration shall be given to his/her openness to novelties, self-development skills, office work culture, interest in obtaining new knowledge

and skills, participation in professional training programmes, application of the knowledge and skills obtained in practical activities, etc.

14. When evaluating a candidate for judge by the characteristic of professional activity, consideration shall be given to his/her ability to take initiative, suggesting ideas and making proposals, his/her scientific and other publications, merits to the legal profession and community, etc.

15. When evaluating a candidate for judge by the good faith criterion, consideration shall be given to the characteristics of the good faith criterion under this article. By analysing and collating these characteristics, the High Council of Justice of Georgia shall make one of the following decisions:

- a) the candidate for judge fails to meet the criterion of good faith;
- b) the candidate for judge meets the criterion of good faith;
- c) the candidate for judge fully meets the criterion of good faith.

16. Evaluation of a candidate for judge by the criterion of competence shall be performed with the use of points, according to the characteristics of the competence criterion under this article. Based on the importance of the characteristics of the competence criterion, the maximum points to be earned for each characteristic shall be:

- a) knowledge of legal norms – 25 points;
- b) ability of legal substantiation and competence – 25 points;
- c) writing and verbal communication skills – 20 points;
- d) professional qualities – 15 points;
- e) academic achievements and professional training – 10 points;
- f) professional activity – 5 points.

17. A candidate for judge without judicial experience evaluated under paragraphs 15 and 16 of this article, and a candidate for judge with judicial experience evaluated under Article 36<sup>4</sup>(7-8) of this Law shall only be put to vote for assigning them to a vacancy of a judge if they meet the requirements determined by Article 35(12) of this Law.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

### **Article 35<sup>2</sup> – Acquiring information about candidates for judge**

1. After compliance of the applications of candidates for judge and the attached documents with the requirements under the legislation of Georgia is determined, a respective structural unit of the High Council of Justice of Georgia provided for in Article 36<sup>4</sup>(5) of this Law shall, before conducting an interview, in order to evaluate the candidates for judge objectively and comprehensively, begin acquiring trustworthy information about them under the procedure established by this article.

2. When acquiring information about the candidates for judge, the respective structural unit of the High Council of Justice of Georgia shall thoroughly examine their professional reputation and activity, verify the accuracy of information they have submitted, as well as the information on any previous criminal/disciplinary prosecution, and/or administrative proceedings against the candidates for judge.

3. The information about the candidates for judge acquired under this article shall be used solely for evaluating the candidates for judge by the members of the High Council of Justice of Georgia. When evaluating the candidate for judge, a member of the High Council of



Justice of Georgia shall have the right to consider the information acquired about the candidate for judge.

4. The data of a candidate for judge obtained as a result of acquiring the information shall be confidential and may not be disclosed in any form.

5. When acquiring information about a candidate for judge, a respective structural unit of the High Council of Justice of Georgia may contact the endorsers of the candidate for judge, his/her previous employers and colleagues, the administration of an appropriate educational institution and teachers, as well as the agencies that may retain the information about any previous convictions of the candidate for judge, his/her administrative and disciplinary disputes and committing any violations. To obtain the information, an authorised structural unit of the High Council of Justice of Georgia shall submit to an appropriate person a written consent of the candidate for judge to acquiring/verification of his/her personal data.

6. To acquire information about a candidate for judge, an authorised structural unit of the High Council of Justice of Georgia shall use a standard form of recommendation, and a special questionnaire. An authorised structural unit of the High Council of Justice of Georgia may, as an exception, apply to the information provider with additional questions, and/or use verbal communication with the information provider for obtaining information, which must be formalised in writing and approved by the information provider with a signature.

7. Any action and/or communication performed to acquire information about a candidate for judge shall be reflected in a general summary protocol.

8. Information about a candidate for judge acquired in violation of the procedure established by 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, not later than one month from beginning to acquire information, submit the results of acquiring the information to the members of the High Council of Justice of Georgia.

10. The High Council of Justice of Georgia shall, not less than five working days earlier before conducting an interview with a candidate for judge, provide access for the candidate for judge to the information available at the High Council of Justice of Georgia about him/her. A candidate for judge shall also be entitled to familiarise himself/herself with this information at any time after the interview. The source of information shall be confidential. The candidate for judge shall familiarise himself/herself with this information at a place designated by the High Council of Justice of Georgia for this purpose.

11. A candidate for judge shall have the right, after he/she has familiarised himself/herself with the information acquired under the procedure established by paragraph 10 of this article, to apply in writing to the High Council of Justice of Georgia, submit additional information and/or in an appropriate manner cancel the acquired data about him/her.

12. The acquired information about a candidate of judge shall be retained sealed in a secured place designated by the High Council of Justice of Georgia for at least three years.

13. Each member of the High Council of Justice of Georgia shall, within a period of one month after the information about the candidates of judge have been submitted to him/her, thoroughly examine the information and relevant documents. After the information and

relevant documents are examined, the High Council of Justice of Georgia shall set up an interview with the candidates for judge.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

### **Article 35<sup>3</sup> – Conflicts of interest**

1. At the time of conducting a competition for holding a vacancy of a judge, a candidate for judge may, based on a substantiated motion, make a request for challenging a member of the High Council of Justice of Georgia if there is a conflict of interest, in particular a circumstance that casts doubts on the objectivity, independence and impartiality of this member of the Council.

2. If there is a conflict of interest, a member of the High Council of Justice of Georgia shall make a statement about it in advance, and shall refuse to participate in making a decision on the issue of appointing a respective candidate for judge to the position of a judge.

3. A member of the High Council of Justice of Georgia may not participate in the procedures of a competition for holding a vacancy of a judge as a member of the High Council of Justice of Georgia if he/she himself/herself participates in the competition for holding this vacancy of a judge.

4. Decision on challenging a member of the High Council of Justice of Georgia shall be made by the High Council of Justice of Georgia by the majority of votes. A member of the Council the issue of challenging of whom is being considered shall not be put to vote.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

### **Article 35<sup>4</sup> – Appealing against a decision of the High Council of Justice of Georgia**

1. A candidate for judge may appeal the decision of the High Council of Justice of Georgia on refusing to assign the candidate for judge to the position of a judge to the Chamber of Qualification of the Supreme Court if he/she considers that:

a) a member of the High Council of Justice of Georgia was biased during the competition;

b) the attitude of a member of the High Council of Justice of Georgia was discriminatory;

c) a member of the High Council of Justice of Georgia exceeded his/her powers under the legislation of Georgia, which resulted in violation of rights of the candidate for judge, or threatening the independence of the judiciary;

d) the information that served as a basis for this decision is substantially false, in proof of which the candidate for judge has presented the appropriate evidence;

e) the competition was conducted in violation of the procedure established by the legislation of Georgia, which could substantially affect the final result.

2. The appeal shall be submitted to the High Council of Justice of Georgia within a period of two weeks after the appropriate decision of the High Council of Justice of Georgia is forwarded to the candidate for judge. The High Council of Justice of Georgia shall forward the received appeal along with the attached materials within a period of three days to the Chamber of Qualification of the Supreme Court.

3. After hearing the case, the Chamber of Qualification of the Supreme Court shall deliver one of the following decisions:

- a) to uphold the decision of the High Council of Justice of Georgia on refusing to assign the candidate for judge to the position of a judge;
- b) to revoke the decision of the High Council of Justice of Georgia on refusing to assign the candidate for judge to the position of a judge, and remit the case for a new investigation.

4. Establishment of the basis under paragraph 1 of this article by the Chamber of Qualification of the Supreme Court may only become the ground for revocation of an appropriate decision of the High Council of Justice of Georgia if, in the opinion of the Chamber of Qualification of the Supreme Court, a respective violation has affected the final result, and caused the High Council of Justice of Georgia to make a substantially wrong decision.

5. If the Chamber of Qualification of the Supreme Court delivers the decision to revoke the decision of the High Council of Justice of Georgia, and remit the case for a new investigation, the High Council of Justice of Georgia shall, taking the decision of the Chamber of Qualification of the Supreme Court into account, reconsider the issue of assigning a candidate for judge to the position of a judge, and make the decision to either assign the candidate for judge to the position of a judge, or to refuse to assign him/her to the position of a judge.

6. If, after reconsidering the issue of assigning the candidate for judge to the position of a judge, the High Council of Justice of Georgia makes the decision to assign the candidate for judge to the position of a judge and the respective position is still vacant as a result of the competition, the candidate for judge shall be assigned to this vacant position.

7. If, after reconsidering the issue of assigning the candidate for judge to the position of a judge, the High Council of Justice of Georgia makes the decision to assign the candidate for judge to the position of a judge and another judge is already assigned to the respective position as a result of the competition, the High Council of Justice of Georgia shall ensure that the candidate for judge be appointed in the same or another court.

8. The decision on refusing to assign a candidate for judge to the position of a judge delivered by the High Council of Justice of Georgia for the second time shall be appealed under the procedure established by this article.

9. If the position of a judge is still vacant as a result of competition, and when the decision of the High Council of Justice of Georgia on refusing to assign a candidate for judge to the position of a judge is appealed, a competition for holding this position shall be announced after the Chamber of Qualification of the Supreme Court upholds the respective decision of the High Council of Justice of Georgia; and when the respective decision of the High Council of Justice of Georgia is revoked by the Chamber of Qualification of the Supreme Court, and the case is remitted for a new investigation, a competition for holding this position shall be announced after the decision on refusing to assign a candidate for judge to the position of a judge is delivered by the High Council of Justice of Georgia for the second time.

10. When an appeal against the decision of the High Council of Justice of Georgia on refusing to assign a candidate for judge to the position of a judge is filed, when the case is considered and the decision is delivered by the Chamber of Qualification of the Supreme Court, Articles 36<sup>5</sup> and 36<sup>6</sup> of this Law shall apply, unless otherwise provided for by this article.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

**Article 36 - Appointing (electing) a judge to office**

1. The chairperson and members of the Supreme Court shall be elected for a term of 10 years by the Parliament of Georgia by a majority of full membership on the recommendation of the President of Georgia.

2. The chairperson of the Supreme Court may nominate to the President of Georgia a candidate to be elected as a judge and the President of Georgia may nominate for election to the Parliament of Georgia any person who meets the requirements provided for by the Constitution of Georgia and this Law.

[1. The chairperson of the Supreme Court shall be elected for a term of 10 years by the Parliament of Georgia from among the judges of the Supreme Court by a majority of full membership on the recommendation of the High Council of Justice of Georgia. One and the same person may not be re-elected as a chairperson of the Supreme Court.

2. The chairperson of the Supreme Court shall be elected by the Parliament of Georgia by majority of its membership on the recommendation of the High Council of Justice of Georgia for an indefinite term until he/she reaches the statutory age limit (shall become effective after next presidential elections when newly elected president will take an oath)].

3. The same candidate may be nominated to the Parliament of Georgia for election to the office of member of the Supreme Court only twice.

4. The judge of a district (city) court and a court of appeals shall be appointed to office by the High Council of Justice of Georgia.

4<sup>1</sup>. A judge of a district (city) court or the Court of Appeals shall be assigned to the position for a three- year term, on the basis of a competition. Not earlier than two months before and not later than one month after this term expires, by analyzing the monitoring results under paragraph 4<sup>4</sup> of this article, the High Council of Justice of Georgia shall discuss and make a decision on whether to assign the judge to the position indefinitely. The three-year term of assignment of a judge to the position shall not apply to a current or former member of the Constitutional Court or the Supreme Court of Georgia, to a current or former judge of the Court of Appeals or a district (city) court if he/she has at least three years' experience of working as a judge and 10 years have not passed since termination of the judicial powers of the former judge. These judges shall be assigned to the position indefinitely, provided they pass the relevant competition successfully and receive the required number of votes (not less than 2/3 of the full list of members of the High Council of Justice of Georgia) of the High Council of Justice of Georgia by secret ballot. If a current judge, who has been assigned to the position for a term of 10 years, is refused to be assigned to the position indefinitely, he/she will exercise the powers within the remaining term of office.

~~A judge of a district (city) court or the Court of Appeals shall be assigned to the position for a three- year term. Not earlier than two months before and not later than one month after this term expires, by analysing the monitoring results under paragraph 4<sup>4</sup> of this article, the High Council of Justice of Georgia shall discuss and make a decision on whether to assign the judge to the position indefinitely. The three-year term of assignment of a judge to the position shall not apply to a current or former member of the Constitutional Court or the Supreme Court of Georgia if he/she has at least three years' experience of working as a judge of the Constitutional Court or the Supreme Court of Georgia.~~

(The normative content of paragraph 4<sup>1</sup>, which provides for assigning a person to the position of a judge of a court of appeals and a district (city) court for a three-year term, who is a current or a former judge and has at least three years' experience of judicial activity shall be invalidated from 1 July 2017)

– Judgement No 3/1/659 of the Constitutional Court of Georgia of 15 February 2017 – website, 21.2.2017

4<sup>2</sup>. If the High Council of Justice of Georgia makes a decision to appoint a judge to office indefinitely, the judge shall be appointed to office indefinitely until he/she reaches the statutory age limit.

4<sup>3</sup>. Unless the High Council of Justice of Georgia makes a decision to appoint a judge to office indefinitely, it shall announce, according to Article 36<sup>7</sup>(4) of this Law, a competition for the vacant position of a judge. Unless the High Council of Justice of Georgia makes a decision to appoint a judge to office indefinitely, the judge's powers shall be ceased after the three-year term of office expires as determined by this Law. The judge may not, within the next three years, participate in a competition for vacant position of a judge.

4<sup>4</sup>. In order to evaluate the activity of a judge assigned to the position for a three-year term, after one year and after two years of his/her assignment to the position, also four months before expiration of the three-year term of office of a judge, the High Council of Justice of Georgia shall select, by lot, one judge member and one non-judge member of the High Council of Justice of Georgia ("the evaluators"). The evaluators shall evaluate the activity of the judge for the given period within two months, independently from each other. After the drawing of lots, the judge to be assessed shall be immediately notified of the identity of the evaluators. The above six assessments shall be performed by different Evaluators. The judge to be assessed shall have access to the reports of each period of assessment as prescribed under Article 36<sup>4</sup>(9). These reports shall be submitted for examination to members of the High Council of Justice of Georgia two months before the three-year term of office of the judge expires.

4<sup>5</sup>. A judge may request in a substantiated motion that the evaluator(s) tasked with the assessment of his/her activity for the given period be recused on the grounds of conflict of interest, in particular, if there are grounds for questioning the objectivity, independence and/or impartiality of this/these evaluator(s). The High Council of Justice of Georgia shall make a decision on the recusal of the evaluator by a majority of votes. The evaluator whose recusal is under discussion may not participate in the voting. If there is a conflict of interest, the evaluator shall be obliged to recuse himself/herself and shall not participate in the assessment.

5. If the judge reaches the age defined in Article 43(1)(g) of this Law or his/her tenure expires before a trial commenced with the participation of the judge completes, the judge's powers, under decision of the High Council of Justice of Georgia, may be prolonged until the judge or the judicial panel or the chamber, of which the judge is a member, makes the final decision on the case. During the period of prolongation of the judge's powers, he/she may not be appointed (elected) as the chairperson/acting chairperson of a court, deputy chairperson/acting deputy chairperson of a court, chairperson/acting chairperson of a judicial panel or chamber. If the judge, whose powers have been prolonged, is the chairperson/acting chairperson of a court, deputy chairperson/acting deputy chairperson of a court, chairperson/acting chairperson of a judicial panel or chamber at the time of reaching the age defined in Article 43(1)(g) of this Law or expiring his/her tenure, the powers of the chairperson/acting chairperson of a court, deputy chairperson/acting deputy chairperson of a court, chairperson/acting chairperson of a judicial panel or chamber shall be ceased after the judge reaches the above age or his/her tenure expires, despite the prolongation of the judge's powers

6. If the judge is appointed to office in another court, until his/her powers as a judge in the new office commence, he/she may not be recused from hearing a case that was tried by him/her when he/she was appointed to another court.

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

Organic Law of Georgia No 2726 of 30 October 2014 – website, 6.11.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

Judgement No 3/1/659 of the Constitutional Court of Georgia of 15 February 2017 – website, 21.2.2017

[Organic Law of Georgia No 1052 of 16 June 2017 – website, 27.06.2017](#)

[Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018](#)

### **Article 36<sup>1</sup> - Purpose and principles for assessing a judge's activity**

1. The purpose of the assessment of a judge's activity is to ensure the exercise of independent and qualified justice by means of selecting a worthy, qualified and honest candidate to be appointed indefinitely as a judge.

2. The activity of a judge shall be assessed in an objective, honest and unbiased manner.

3. Upon taking a three-year term of office, the judge shall be notified of the assessment procedure and the circumstances that shall be taken into consideration when assessing the judge based on individual criteria, and when making a decision on his/her indefinite appointment as a judge.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

### **Article 36<sup>2</sup> - Criteria for assessing a judge's activity**

The activity of a judge shall be assessed based on two main criteria – integrity and competence.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

### **Article 36<sup>3</sup> - Assessment criteria of a judge's activity**

1. Integrity criteria shall be:

- a) personal honesty and professional integrity
- b) independence, impartiality and fairness
- c) personal and professional conduct
- d) personal and professional reputation
- e) financial obligations.

2. Competence criteria shall be:

- a) knowledge of legal norms
- b) ability and competence to provide legal arguments
- c) writing skills
- d) oral communication skills

e) professional qualities, including conduct in a courtroom f) academic achievements and professional training

g) professional activities.

3. When assessing a judge based on personal honesty and professional integrity, the following qualities of a person, as a judge and a citizen, shall be taken into consideration: integrity, honesty, appropriate awareness of one's duties and responsibility, love of truth, transparency, civility and accuracy when performing official and other duties and fulfilling financial and other obligations (e.g. when completing a declaration of property, paying bank or other loans, utility bills or other charges, or a traffic fine), etc.

4. When assessing a judge based on independence, impartiality and fairness, account shall be taken of his/her adherence to principles, ability to independently make a decision, and resistance to influence, personal steadfastness and firmness, political or other type of impartiality, fairness, etc.

5. When assessing a judge based on personal and professional conduct, account shall be taken of his/her adherence to judicial ethics, civility with regard to colleagues and other persons, conduct and image appropriate for a judge's high rank, restraint, the ability to manage one's emotions, appropriate conduct during disciplinary proceedings against him/her, in litigation to which the judge is a party, existence of criminal charges against the judge, etc.

6. When assessing a judge based on personal and professional reputation, account shall be taken of his/her business and moral reputation and authority in legal circles and society, the nature and quality of relations with legal circles.

7. When assessing a judge based on financial obligations, account shall be taken of information on his/her source of income, assets, property owned and/or used, and on debts and liabilities related to this property and income. Examination of financial obligations is intended to establish whether there are grounds for a conflict of interest between a judge's material interests and the interest of justice, which may compromise a judge's impartiality.

8. When assessing a judge based on knowledge of legal norms, account shall be taken of the level of knowledge of substantive and procedural legislation, human rights law, including case law of the European Court of Human Rights. To assess a judge based on this characteristic, the evaluator shall consider the correctness of application of legal norms, including the case law of the European Court of Human Rights with respect to decisions made by the judge on the cases reviewed. To assess a judge based on the above characteristic, the evaluator shall also request and obtain the results of the judicial qualification exams taken by the judge, and the assessment of the Independent Council of the High School of Justice.

9. When assessing a judge based on competence and the ability to provide legal arguments, account shall be taken of the substantiation and cogency of the decisions made by the judge with respect to cases reviewed, the judge's ability to think analytically, and professional experience.

10. When assessing a judge based on writing skills, account shall be taken of his/her ability to convey an idea clearly and in an understandable manner, as well as the ability of logical reasoning and analysis.

11. When assessing a judge based on oral communication skills, account shall be taken of his/her ability to speak fluently, the ability to listen to other people's opinion with patience, his/her openness, and ability to tolerate different viewpoints, etc.

12. When assessing a judge based on professional qualities, including conduct in a courtroom, account shall be taken of his/her punctuality, preparation of a case with due care and responsibility, conduct in a courtroom and the ability to preside over a court sitting in an appropriate manner, conduct in the relationship with the parties, diligence and industriousness, the ability to make a decision without assistance, and to think independently, the ability to work under stress, purposefulness, efficiency and speed, adherence to procedural time frames, managerial skills, etc.

13. When assessing a judge based on academic achievements and professional training, account shall be taken of his/her openness to novelties, ability for self-development, office culture, interest in gaining new knowledge and skills, participation in professional training programmes, practical application of the knowledge and skills gained, etc.

14. When assessing a judge based on professional activity, account shall be taken of his/her participation in discussions, meetings and workshops of various formats dedicated to legal systems and justice, open and free expression of his/her attitudes and views, ability to take initiative, put forward ideas and proposals, to scientific and other publications, contribution to the legal profession and society, etc.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

#### **Article 36<sup>4</sup> - Procedure for assessing a judge's activity**

1. The evaluators shall assess the activity of a judge concurrently and independently from each other. The evaluators may not disclose to each other the information and assessment results obtained during the assessment.

2. The evaluator may carry out appropriate judicial assessment activities based on the criteria determined by law at any time within the two-months period provided for the evaluation of the activity of a judge; he/she may examine cases, attend court hearings chaired by the judge to be assessed, upon request obtain audio and video recordings of the court hearings conducted both during and before the assessment period, search for necessary information in the manner prescribed by Law, apply to representatives of legal circles for legal consultation, personally meet the judge to be assessed, and other persons, and interview them in order to obtain information on specific issues. The evaluator may not ask the judge such questions that by their content can be considered as equivalent to requesting a report on an individual case. Information not related to the assessment of a judge based on the criteria determined by this Law may not be sought for. The information obtained may only be used for purposes defined under this Law. The method of obtaining information shall not interfere with the independence of the judge to be assessed.

3. When assessing a judge's activity for a given period, the evaluators shall, concurrently and independently from each other, examine one and the same at least five cases reviewed by the judge, on which summary/final decisions have entered into force, including, at least, two cases on which the summary/final decisions have been overturned/modified (if any) by a higher instance court (if any). The cases to be examined shall be selected randomly. The purpose of the examination of a case/decision is to assess the level of knowledge of substantive and procedural legislation, human rights law, including case law of the European Court of Human Rights, the correctness of application of appropriate legal norms with respect to the decisions made by the judge, the



substantiation and cogency of court decisions, analytical skills of the judge, ability to communicate his/her ideas clearly and lucidly, ability of logical reasoning and analysis. When assessing a case/decision, the nature and gravity of legal errors made in the decision overturned/modified by a higher instance court shall also be evaluated.

4. The result of the assessment of the cases specified in the third paragraph of this article may not serve as grounds for revising the decisions made by the judge in those cases, and for instituting disciplinary proceedings against the judge.

5. To facilitate complete performance of the procedure for evaluating a judge, a relevant structural unit shall be established at the High Council of Justice of Georgia. The personnel of this structural unit shall provide technical assistance to an evaluator and carry out some of his/her assignments in order to obtain the information required for assessing a judge based on a specific criterion. This structural unit shall also exercise other powers provided for by this Law.

6. A judge whose activity is being assessed may notify in writing the High Council of Justice of Georgia of an alleged abuse of power by the evaluator. If, after having studied the circumstances of the case, the High Council of Justice of Georgia concludes that the evaluator exceeded his/her powers provided by the legislation of Georgia, it shall assign, by lot, the duty of assessment to another member of the High Council of Justice of Georgia, or take other actions in order to eliminate and prevent the abuse of power.

7. When assessing a judge based on honesty criteria, account shall be taken of the characteristics of honesty criteria specified in Article 36<sup>3</sup> of this Law. Based on an analysis and summing up of those characteristics, the evaluator shall make one of the following conclusions:

- a) the judge fails to meet honesty criteria;
- b) the judge meets honesty criteria;
- c) the judge fully meets honesty criteria.

8. Using competence criteria, a judge shall be assessed based on the characteristics of the competence criteria specified in Article 36<sup>3</sup> of this Law. Due to the significance of the characteristics of the competence criteria, the maximum number of points to be gained for each of these characteristics is different and they shall be determined in the following manner:

- a) knowledge of legal norms – 20 points;
- b) ability to provide legal arguments, and competence – 20 points;
- c) writing skills – 20 points;
- d) oral communication skills – 15 points;
- e) professional qualities, including conduct in a courtroom – 15 points;
- f) academic achievements and professional training – 5 points;
- g) professional activity – 5 points.

9. Upon completion of each period of assessment, a judicial assessment report shall be submitted to the High Council of Justice of Georgia in a sealed format. To analyse the results of the assessment provided in these reports, the judge under evaluation, may, once each period of assessment is over, read the reports at the location designated for this purpose by the High Council of Justice of Georgia. The materials may not be removed from

the premises. After the judge reads the reports, they shall be sealed and enclosed in his/her personal files.

10. A judicial assessment report shall include:

- a) a conclusion that provides an appropriate description of and grounds for the results obtained on the basis of each characteristic of both assessment criteria;
- b) a form completed according to a sample approved by the High Council of Justice of Georgia that incorporates the conclusions drawn, according to the seventh paragraph of this article, from the assessment of a judge based on the honesty criteria, and the number of the points gained by a judge for each characteristic of the competence criteria;
- c) all written documents and other materials which were used for the assessment of a judge's activity for the given period.

11. The assessment data on a judge shall be confidential until his/her three-year term of office expires. None of the members of the High Council of Justice of Georgia or employees of the respective structural unit may disclose the assessment results.

12. The High Council of Justice of Georgia shall analyse the results of all assessments it has performed during the three-year term of office of a judge. To sum up the assessment points gained by a judge with respect to the competence criteria, calculation shall be made of the total sum of the points gained by the judge in the six evaluations held during three periods of assessment based on the characteristics of the competence criteria, after which a calculation shall be made of the percentage of this sum in relation to the maximum available points determined for the competence criteria.

13. If, when assessing a judge based on the honesty criteria, more than half of the evaluators consider that the judge fails to meet the honesty criteria, and/or the sum of the points gained by the judge based on competence criteria does not make up 70% of the maximally available points, the Chairperson of the High Council of Justice of Georgia shall issue a legal act on the refusal by the High Council of Justice of Georgia to review the indefinite appointment of the judge to office. This act may be appealed to the High Council of Justice of Georgia on the grounds provided in Article 36<sup>5</sup>(1)(a-e) of this Law within one week after its submission to the judge.

14. Following the review of the appeal specified in paragraph 13 of this article, the High Council of Justice of Georgia shall, by an open ballot, and by the two-thirds majority of the full composition, make the decision to revoke the legal act of the Chairperson of the High Council of Justice of Georgia and conduct an interview with the judge.

15. The establishment of the grounds under Article 36<sup>5</sup>(1) of this Article by the High Council of Justice of Georgia may serve as the basis for cancelling a legal act of the Chairperson of the High Council of Justice of Georgia only if the High Council of Justice of Georgia considers that the infringement in question affected the final result of the assessment and resulted in a substantively wrong decision.

16. If the High Council of Justice of Georgia fails to make the decision under paragraph 14 of this article, an appealed legal act shall not be appealed again.

17. If the High Council of Justice of Georgia makes the decision under paragraph 14 of this article, it shall conduct an interview with the judge and make the decision under the procedure established by paragraphs 19 and 20 of this article. If, following an interview with the judge, the High Council of Justice of Georgia makes the decision to refuse to

assign the judge to the position indefinitely, this decision shall be appealed under the procedure established by Article 36<sup>5</sup> of this Law.

18. A judge who was refused to be appointed to office indefinitely may request that the results of the assessment are not made public. In this case, the results of the assessment shall be sealed and enclosed in the personal files of the judge, and shall be opened only during the competition in which the judge participates, in the manner established by law, in order to reassume judicial office.

19. If, when assessing a judge based on the honesty criteria, three or more evaluators consider that the judge meets or fully meets honesty criteria, and the sum of the points gained by the judge based on the competence criteria is at least 70% of the maximally available points, the High Council of Justice of Georgia shall interview the judge and listen to his/her opinion on the results of the assessment. The judge may submit to the High Council of Justice of Georgia his/her opinion on the results of the assessment also in writing, as well as submit an oral and/or written self-assessment, which means that the judge shall submit to the High Council of Justice of Georgia the analysis of, what he/she considers to be the most successful and most unsuccessful decision(s), as well as mistakes made when adopting decisions over the past three years of judicial activity. To obtain information on the issues related to the assessment, the High Council of Justice of Georgia shall hear the evaluators.

20. Based on the analysis of the assessment results and the interview with the judge, the High Council of Justice of Georgia shall hold a discussion under Article 36(4<sup>1</sup>) of this Law and make a decision with at least two-thirds of the full membership and by an open ballot on the appointment of the judge to office indefinitely before he/she attains the age determined by law. A member of the High Council of Justice of Georgia who disagrees with this decision, may record his/her dissenting opinion in writing, which will be enclosed in the case file. If less than two-thirds of the full membership of the High Council of Justice of Georgia votes for the indefinite appointment of a judge to office, the High Council of Justice of Georgia shall refuse to appoint the judge to office indefinitely. Within five days, this decision shall be supported by substantiations provided by each member of the High Council of Justice of Georgia participating in the voting, explaining their reasons for voting for or against the indefinite appointment of the judge to office. Immediately after the decision is made, a copy of the decision of the High Council of Justice of Georgia on the appointment of/refusal to appoint a judge to office indefinitely, along with a dissenting opinion or substantiations of the members of the High Council of Justice of Georgia shall be submitted to the judge concerned.

21. If a judge is indefinitely appointed to office, the judicial assessment reports shall be made public and any person may request them under Chapter III of the General Administrative Code of Georgia.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

### **Article 36<sup>5</sup> - Appealing decisions of the High Council of Justice of Georgia**

1. A judge may appeal the decision of the High Council of Justice of Georgia on the refusal to appoint him/her to office indefinitely to the Chamber of Qualification of the Supreme Court, if he/she considers that:

a) the evaluator, during the assessment, or a member (members) of the High Council of Justice of Georgia, during the interview, was (were) biased;

b) the attitude of the evaluator during the assessment or of a member (members) of the High Council of Justice of Georgia during the interview was discriminatory;

c) the evaluator exceeded his/her powers granted under the legislation of Georgia that violated the rights of the judge to be assessed, or put the independence of the court at risk;

d) the information upon which the assessment was based, is substantively wrong, which can be proven by appropriate evidence provided by the judge under evaluation;

e) the assessment was not performed in compliance with the procedure determined by the legislation of Georgia, which could have substantively affected the final result.

2. The appeal shall be filed with the High Council of Justice of Georgia within two weeks after the decision of the High Council of Justice of Georgia has been delivered to the judge. Within three days after receiving the appeal, the High Council of Justice of Georgia shall forward the appeal to the Chamber of Qualification of the Supreme Court along with enclosed materials.

3. The judge shall appeal the decision of the High Council of Justice of Georgia in person or through his/her advocate or other representative.

4. State fees shall not be imposed on the appeal filed against a decision of the High Council of Justice of Georgia on the refusal to appoint a judge to office indefinitely.

5. The appeal shall include:

a) title of the Chamber of Qualification

b) name and address of the appellant, and name and address of the opposing party

c) exact title of the decision appealed, and name of the body which made the decision

d) reference to the grounds for appeal specified in the first paragraph of this article, also to the facts and evidence that prove the existence of those grounds

e) a list of written materials enclosed with the appeal f) signature of the appellant.

6. All evidence referred to in the appeal shall be enclosed with the appeal. If an appeal has been filed by a representative, a power of attorney confirming the authority of the representative to file the appeal shall be enclosed with the appeal.

7. Within five days after receiving the appeal, the Chamber of Qualification of the Supreme Court shall check whether it has been filed pursuant to the requirements of the fifth and sixth paragraphs of this article. If the appeal meets the requirements of the fifth and sixth paragraphs of this article, the Chamber of Qualification shall admit it for hearing. If the appeal fails to meet the requirements of the fifth and sixth paragraphs of this article, the Chamber of Qualification shall instruct the applicant to correct the deficiency and shall allow a reasonable period for this purpose, but not more than five days. If the deficiency has not been corrected within this period, or the deadline determined by law for filing an appeal has not been met, the appeal shall be dismissed without hearing. The Chamber of Qualification shall decide on the admissibility of the appeal without an oral hearing.

8. After the appeal has been admitted for hearing, copies of the appeal and of the enclosed materials shall be furnished to the opposing party. The Chamber of Qualification may set a time for the opposing party to respond to the appeal in writing.

9. The Chamber of Qualification of the Supreme Court shall review the appeal within one month after admitting it for hearing. The Chamber of Qualification shall determine the time for an oral hearing of the case in the ruling on admitting the appeal for hearing. It shall notify the parties about it within three days after the ruling has been made. The Chamber of Qualification shall make arrangements for inviting the parties/participants to participate in the sitting of the Chamber of Qualification.

10. The High Council of Justice of Georgia shall appoint its representative to participate in the hearing of the appeal at the Chamber of Qualification of the Supreme Court.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

**Article 36<sup>6</sup> - Hearing and decision of a case by the Chamber of Qualification of the Supreme Court**

1. An appeal shall be heard orally at an open hearing of the Chamber of Qualification of the Supreme Court. Judicial assessment reports shall be public during the review of the appeal.

2. The sitting of the Chamber of Qualification shall be presided over by the Chairperson of the Chamber of Qualification or by a member of the Chamber of Qualification designated by the Chairperson.

3. The chairperson of the hearing of the Chamber of Qualification shall open the hearing and announce the case to be reviewed. The secretary of the Chamber of Qualification shall report to the members of the hearing on who, from the invited persons, appeared for the hearing, also on whether the persons who failed to appear were notified of the hearing, and on the reasons for their absence. The Chamber of Qualification shall ascertain the identity of the attendees and verify the powers of the representatives.

4. The Chairperson of the Chamber of Qualification shall explain to the parties and their representatives their rights and obligations. The chairperson of the hearing shall announce the composition of the Chamber of Qualification, the secretary of the hearing, and explain to the parties that they may ask for recusal if there are grounds for recusal under the procedural legislation of Georgia.

5. The Chairperson of the Chamber of Qualification shall ask the parties whether they intend to file a motion, or make an announcement that they were not able to do before the hearing.

6. Participants of the trial shall be obliged to keep order and obey the instructions of the chairperson of the hearing of the Chamber of Qualification. If the order is violated, the chairperson of the hearing shall give a warning to the violator.

7. A case hearing shall start with a report on the case by the chairperson of the hearing of the Chamber of Qualification that must be based on the case materials. After the chairperson of the hearing finishes the report, he/she shall give the floor to the parties to provide statements.

8. The appellant/his/her representative shall be the first to provide statements. In particular, he/she shall specify his/her claims, the circumstances upon which those claims are based, the evidence supporting those circumstances, whether or not he/she still supports those claims, and whether or not he/she intends to withdraw the appeal, etc.

9. After listening to the appellant/his/her representative, the Chamber of Qualification shall hear the statements of the opposing party/his/her representative on whether or not he/she acknowledges the appeal, etc.

10. If only one party appears at the hearing of the Chamber of Qualification, the Chamber shall hear statements from that party.

11. With the permission of the chairperson of the hearing of the Chamber of Qualification, each party may put questions to the opposing party and its representative. If a question is not relevant to the subject of the hearing and does not tend to examine and establish the details of the case, the chairperson of the hearing may disallow this question at the request of the party or on his/her own initiative.

12. A member of the Chamber of Qualification may put questions to the parties that will help completely and clearly establish the circumstances that are essential to the solution of the case, and determine the validity of those circumstances.

13. Oral arguments shall consist of statements by the parties and their representatives. The floor shall be given first to the appellant and his/her representative, then to the opposing party and his/her representative.

14. After hearing each participant of the oral arguments, the chairperson of the hearing of the Chamber of Qualification shall allow the parties to present their rebuttal arguments.

15. After oral arguments are over, the Chamber of Qualification shall retire to the deliberation room to make a decision, notifying the parties accordingly.

16. After returning from the deliberation room, the chairperson of the hearing of the Chamber of Qualification shall announce the decision made and explain its grounds, and then declare the sitting closed.

17. Minutes shall be drawn up at the hearing of the Chamber of Qualification that shall be signed by the chairperson and secretary of the hearing.

18. The Chamber of Qualification shall make a decision by a majority of votes. Members of the Chamber of Qualification may not refrain from voting during the decision-making process.

19. The decision of the Chamber of Qualification shall include the contents of the decision of the High Council of Justice of Georgia, the contents of the appeal filed, results of the review of the case at the Chamber of Qualification, and the essence and justification of the decision made by the Chamber of Qualification.

20. The Chamber of Qualification shall make one of the following decisions:

- a) not to modify the decision of the High Council of Justice of Georgia on the refusal to appoint a judge to office indefinitely;
- b) to overturn the decision of the High Council of Justice of Georgia on the refusal to appoint a judge to office indefinitely; it shall also make a decision on resubmitting the case for a repeat hearing.

21. The establishment of the grounds provided for in Article 36<sup>5</sup>(1) of this Law by the Chamber of Qualification may become a basis for overturning the decision of the High Council of Justice of Georgia only if the Chamber of Qualification considers that the

infringement affected the final outcome and resulted in the High Council of Justice of Georgia making a substantively wrong decision.

22. A decision made by the Chamber of Qualification shall be drawn up in writing and shall be signed by the members of the Chamber of Qualification. A copy of the decision shall be furnished to the parties.

23. A decision of the Chamber of Qualification of the Supreme Court shall be final and may not be appealed.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

**Article 36<sup>7</sup> - Consequences of the decision of the Chamber of Qualification of the Supreme Court**

1. If the Chamber of Qualification of the Supreme Court overturns the decision of the High Council of Justice of Georgia and makes a decision to resubmit the case for a repeat hearing, the High Council of Justice of Georgia shall, taking into consideration the decision of the Chamber of Qualification, reconsider the appointment of the judge to office indefinitely, and within two weeks of receiving the copy of the Chamber of Qualification's decision shall make a decision, under Article 36<sup>4</sup>(20) of this Law, on whether to appoint the judge to office indefinitely.

2. A repeat decision of the High Council of Justice of Georgia on the refusal to appoint a judge to office indefinitely shall be appealed in compliance with the procedure determined by this Law for the appeal of the decision of the High Council of Justice of Georgia on the refusal to appoint a judge to office indefinitely.

3. If the High Council of Justice of Georgia makes a decision to appoint a judge to office indefinitely, the judge shall be deemed appointed to office indefinitely as soon as the High Council of Justice of Georgia makes this decision.

4. If a decision of the High Council of Justice of Georgia on the refusal to appoint a judge to office indefinitely is appealed, the position of the judge shall be considered vacant and a competition will be announced to fill the position after the Chamber of Qualification of the Supreme Court leaves the decision of the High Council of Justice of Georgia unmodified or after the High Council of Justice of Georgia issues a repeat decision on the refusal to appoint a judge to office indefinitely in the case where the Chamber of Qualification of the Supreme Court overturns the decision of the High Council of Justice of Georgia or makes a decision on resubmitting the case for a repeat hearing.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

**Article 36<sup>8</sup> - Liability for unlawful interference in the activities of evaluators**

Unlawful interference in the activities of evaluators shall not be allowed and it shall incur penalties as determined under the Criminal Code of Georgia.

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

**Article 37 - Procedure for appointing a judge as a judge of another court without competition**

1. When there is a vacancy, a judge appointed to the position may be appointed with his/her consent as a judge of a respective or superior court without competition. If a judge has not been appointed indefinitely, he/she shall be appointed without competition as a judge of a respective or superior court within his/her tenure.

2. A judge shall be appointed without competition as a judge of a superior court if he/she meets the requirements under Article 41 of this Law.

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

**Article 37<sup>1</sup> - Procedure for imposing powers on another judge/sending a judge on secondment to another court**

1. In case a judge is absent in a district (city) court or the Court of Appeals, or the number of cases to be considered dramatically increases, the High Council of Justice of Georgia shall make a proposal to a judge/judges enrolled in reserve under Article 44 of this Law to exercise judicial powers. If the High Council of Justice of Georgia receives a written refusal from a judge/judges enrolled in reserve, it shall, in the first place, make this proposal to judges of the same instance courts located nearby, and if the High Council of Justice of Georgia receives a written refusal from them, it shall make this proposal to judges of other courts of the same instance. Both judges enrolled in reserve and current judges shall communicate information on accepting/refusing this proposal to the High Council of Justice of Georgia within a period of seven days after receiving the proposal.

2. For imposing judicial powers on another judge in the case under paragraph 1 of this article, a judge may be sent on secondment to another court by the substantiated decision of the High Council of Justice of Georgia, with the consent of the judge, for a period of up to one year. The period of secondment may be extended by a maximum of one year, for which purpose consent of the judge is necessary. When appropriate grounds under paragraph 1 of this article are eliminated, the secondment shall be prematurely terminated.

3. If a judge cannot be selected under the procedure established by paragraph 1 of this article, when it is necessary in the interests of justice, the High Council of Justice of Georgia shall have the right to make a substantiated decision, without consent of a judge, to primarily send a judge on secondment to the court who exercises his/her powers in a court located nearby. A judge of the Court of Appeals may not be sent on secondment to a district (city) court without his/her consent. Specific circumstances evidencing presence of the interests of justice shall be indicated in the decision of the High Council of Justice of Georgia. A judge to be sent on secondment to another court shall be identified by the High Council of Justice of Georgia as a result of drawing lots. The judge identified as a result of drawing lots shall be given an opportunity to submit a substantiated opinion on the secondment to another court verbally and/or in writing. The High Council of Justice of Georgia shall review the opinion of the judge on the secondment and, if it deems that there are circumstances because of which the secondment of the judge to another court is inappropriate, it shall hold another lot drawing under the procedure established by this paragraph.

4. One and the same judge may be sent on secondment to another court without his/her consent only once during ten years. A judge may be sent on secondment without his/her consent for a period up to one year. After appropriate grounds are eliminated, the secondment shall be prematurely terminated.

5. A judge enrolled in reserve shall exercise powers of a judge until the grounds under paragraph 1 of this article are eliminated.

6. If a ground under paragraph 1 of this article is present, and there is a vacancy in a respective court, the High Council of Justice of Georgia shall perform actions under this



article and shall, at the same time, within a reasonable period, announce a competition for holding a vacancy of a judge under the procedure established by the legislation of Georgia.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

**Article 38 - Oath of a judge**

1. Before starting to exercise his/her powers, the chairperson of the Supreme Court or a member of the Supreme Court, if elected to the office of judge for the first time or his/her powers as a judge had been terminated before he/she was elected to the office of Supreme Court judge, also the judges of a court of appeals and district (city) court being appointed to office for the first time, shall take a solemn oath before holding the office.

2. The chairperson of the Supreme Court and members of the Supreme Court shall take an oath before the Parliament of Georgia and judges of a court of appeals and district (city) court – before the High Council of Justice of Georgia.

3. The text of the oath of a judge shall be approved by the High Council of Justice of Georgia.

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

**Article 39 - Incompatibility with the judge's office**

A judge's office shall be incompatible with any office and paid activity except as determined by the Constitution of Georgia. A judge cannot be a member of a political association or engage in political activity.

**Article 40 - Immunity of judges**

1. No one has the right to arrest, detain, or bring criminal proceedings against a judge, search his/her apartment, car, workplace, or conduct a personal search without the consent of the chairperson of the Supreme Court of Georgia, and in the case of the chairperson and judges of the Supreme Court – without the consent of the Parliament of Georgia, except when he/she is caught at the scene of crime, in which case the chairperson of the Supreme Court of Georgia or the Parliament of Georgia shall immediately be notified. Unless the chairperson of the Supreme Court of Georgia or the Parliament of Georgia gives his/her consent, the arrested or detained judge shall immediately be released.

[\[1. No one has the right to arrest, detain, or bring criminal proceedings against a judge, search his/her apartment, car, workplace, or conduct a personal search without the consent of the chairperson of the High Council of Justice of Georgia, except when he/she is caught at the scene of crime, in which case the High Council of Justice of Georgia shall immediately be notified. Without the consent of the High Council of Justice of Georgia, a judge deprived of liberty shall be immediately freed. The High Council of Justice shall take a decision on the consent by the majority of two thirds of the full list of members \(shall become effective after next presidential elections when newly elected president will take an oath\)\].](#)

2. The State shall ensure the security of judges and their families.

[Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018](#)

**Article 41 - Promotion of a judge**

1. A judge of a district (city) court may be appointed in the Court of Appeals if he/she has exercised judicial powers in a district (city) court during at least five years. The High Council of Justice of Georgia shall establish criteria for promotion of a judge.

2. (Deleted – 8.2.2017, No 255).

3. Judges shall be assessed against promotion criteria by the High Council of Justice of Georgia.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

## **Chapter VI - Discharging (Terminating the Powers of) Judges; Liability of Judges**

### **Article 42 - Discharging judges**

A Supreme Court judge shall be discharged by impeachment.

2. If the Constitution of Georgia is violated and/or there are signs of crime in an act, at least one third of the full list of members of the Parliament of Georgia may open a proceeding for discharging the chairperson of the Supreme Court. After having received the relevant opinion from the Constitutional Court of Georgia, the Parliament of Georgia may discharge the chairperson of the Supreme Court by a majority of full membership.

3. The powers of Supreme Court member shall be terminated early by the Parliament of Georgia on the recommendation of the High Council of Justice of Georgia on grounds provided in Article 43 of this Law. The Parliament of Georgia shall make a decision on terminating the powers of Supreme Court member by a majority of full membership.

4. Judges of courts of appeals and district (city) courts shall be discharged by the High Council of Justice of Georgia.

[1. The chairperson of the Supreme Court and the judge of the Supreme Court shall be discharged by impeachment.

2. If the Constitution of Georgia is violated and/or there are signs of crime in an act, at least one third of the full list of members of the Parliament of Georgia may open a proceeding for discharging the chairperson of the Supreme Court. After having received the relevant opinion from the Constitutional Court of Georgia, the Parliament of Georgia may discharge the chairperson of the Supreme Court by a majority of full membership.

3. Judges of courts of appeals and district (city) courts shall be discharged by the High Council of Justice of Georgia by majority of two thirds of full membership (shall become effective after next presidential elections when newly elected president will take an oath)].

Organic Law of Georgia No 192 of 28 December 2012 – website, 30.12.2012

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

[Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018](#)

### **Article 43 - Grounds for discharging a judge, chairperson of the Supreme Court and member of the Supreme Court**

1. The grounds for discharging a judge, chairperson of the Supreme Court and member of the Supreme Court shall be:

- a) a personal application;
- b) committing disciplinary misconduct;
- c) (Deleted – 8.2.2017, No 255);
- d) being recognised by court as having limited competence or as a beneficiary of support, unless otherwise determined under court decision;

- e) termination of Georgian citizenship;
- f) entry into force of a final judgment of conviction against him/her;
- g) reaching the age of 65;
- h) committing a corruption offence as determined in Article 20(6) of the Law of Georgia on Conflict of Interests and Corruption at Public Institutions;
- i) death;
- j) liquidation of the court, redundancy of the judge's office;
- k) appointment (election) to another court;
- l) appointment (election) to another agency;
- m) expiration of tenure.

2. The recommendation of the Disciplinary Panel shall be necessary for a case under paragraph 1(b) of this article.

[2<sup>1</sup>. Subparagraphs "b" and "h" of paragraph one of this article may not become the grounds for terminating powers of the chairperson of the Supreme Court and the judge of the Supreme Court.

2<sup>2</sup>. Subparagraph "j" of paragraph one of this Article may not become the grounds for dismissal of a judge, who was appointed for an indefinite term, from the position (shall become effective after next presidential elections when newly elected president will take an oath)].

3. The High Council of Justice of Georgia may discharge a judge if he/she has been unable to discharge his/her duty for more than four months in the last 12 months and there is a relevant medical certificate showing that he/she won't be able to discharge his/her duties in the future, either.

Organic Law of Georgia No 5920 of 27 March 2012 – website, 19.4.2012

Organic Law of Georgia No 3397 of 20 March 2015 – website, 31.3.2015

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018](#)

#### **Article 44 - Appointing a judge to another judicial office and discharging a judge upon liquidation of court or redundancy of the office of the judge**

1. If the court is liquidated or the judge's office is made redundant, a judge may be assigned, by his/her prior written agreement, according to the procedures determined by the legislation of Georgia, to discharge the duty of a corresponding or lower court. If the judge has been appointed to office for a specific term, he/she may be assigned to discharge the duty of the corresponding or lower court only during his/her judicial tenure.

2. If a judge refuses to discharge the duty of a judge on the ground and according to the procedure provided in the first paragraph of this article or if he/she is not assigned the duty of a judge of another court, the judge shall be discharged from office, and by his/her prior written consent and according to the procedure determined by the legislation of Georgia, shall be transferred to the reserve. If the judge has been appointed to office for a specific term, he/she shall be in the reserve until his/her judicial tenure expires.

3. A judge discharged according to the procedure determined by the second paragraph of this article but not removed from the reserve shall receive a salary in an amount determined by the legislation of Georgia while in the reserve. A judge in the reserve shall retain the right to receive a salary for three years after having been transferred to the reserve. The judge may be assigned the duty of a judge of another court with his/her prior written consent and according to the procedures determined by the legislation of Georgia. In such case, the judge shall be deemed to have been removed the reserve during the period of his/her assigned judicial duty. If the judge has been appointed to office for a specific term, he/she may be assigned to discharge the duty of another court only within his/her judicial tenure.

4. A judge shall be struck from the reserve if he/she holds an office incompatible with that of a judge in the period of receiving a salary or by his/her personal application.

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

#### **Article 45 - Recusing a judge from trial or from other official powers**

1. From the moment a judge is prosecuted or the Disciplinary Panel of Georgian General Court Judges makes a decision to discharge the judge to the final resolution of the matter, the judge shall be recused from trials and other official powers.

2. The chairperson of the Supreme Court shall make a decision to recuse a judge from trials based on a relevant recommendation.

3. Recusing a judge from trials shall automatically recuse the judge from other official powers.

4. Until the matter is finally resolved in the cases provided for by the first paragraph of this article, the payment of salary and other material benefits to the judge shall be suspended.

5. If acquitted, the judge shall be entitled to full compensation of any salary and other material benefits not received by him/her.

#### ~~Article 46 - Disciplinary liability of judges~~

~~The grounds for the disciplinary liability of Georgian general court judges, types of disciplinary action, disciplinary proceedings and the procedure for imposing disciplinary liability upon them shall be determined under the Law of Georgia on Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia.~~

~~[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)~~

### **Chapter VII - High Council of Justice of Georgia**

#### **Article 47 - High Council of Justice of Georgia**

1. The High Council of Justice of Georgia shall be created to ensure the independence of courts (judges) and the quality and effectiveness of justice, to appoint and dismiss judges, to organise judicial qualification examinations, to formulate proposals towards implementing a judicial reform, and to accomplish other objectives determined by law.

~~[\[1<sup>1</sup>. The High Council of Justice of Georgia is accountable before the Conference of Judges of Georgia. \(shall become effective after next presidential elections when newly elected president will take an oath\)\]](#)~~

2. The High Council of Justice of Georgia shall consist of 15 members. Eight members of the Council shall be elected by a self-governing body of Georgian general court judges according to procedures prescribed by this Law, five members shall be elected by the Parliament of Georgia and one member shall be appointed by the President of Georgia. The chairperson of the Supreme Court who is a member of the High Council of Justice of Georgia shall preside over the High Council of Justice of Georgia.

[2. The High Council of Justice of Georgia shall consist of 15 members. Eight members of the High Council of Justice of Georgia shall be elected by a self-governing body of Georgian Common Court judges according to procedures prescribed by this Law, five members shall be elected by the Parliament of Georgia and one member shall be appointed by the President of Georgia. By virtue of his/her position, the chairperson of the Supreme Court of Georgia is, at the same time, a member of the High Council of Justice of Georgia

2<sup>1</sup>. The chairperson of the High Council of Justice of Georgia shall be elected by majority of members of the High Council of Justice of Georgia from among judge members of the High Council of Justice of Georgia for a term of 4 years, but no more than the term of his/her office as a member of the High Council of Justice of Georgia, according to procedures prescribed by the Organic Law (shall become effective after next presidential elections when newly elected president will take an oath)]

3. More than half of the members of the High Council of Justice of Georgia shall be the members elected by the self-governing body of Georgian general court judges according to this Law.

4. General courts of Georgia shall be represented in the High Council of Justice of Georgia by the chairperson of the Supreme Court and eight members elected by the Conference of Judges of Georgia, including the Secretary of the High Council of Justice of Georgia. A member elected by the Conference of Judges of Georgia shall only be a general court judge. A member elected by the Conference of Judges of Georgia may not be a judge assigned to the position for a three-year term (except when he/she has at least five years' experience of working as a judge), a member of the Chamber of Disciplinary Cases or the Chamber of Qualification of the Supreme Court. More than a half of the members elected by the Conference of Judges of Georgia may not be the chairperson of a court, his/her first deputy or a deputy, or the chairperson of a judicial panel or a chamber.

5. The Parliament of Georgia shall elect five members of the High Council of Justice of Georgia on a competition basis, by secret ballot, by the majority of full composition, under the procedure established by the Rules of Procedure of the Parliament of Georgia. The Council membership candidates shall be selected from among the professors and scholars working in higher education institutions of Georgia, members of the Bar Association of Georgia and/or the persons nominated by non-entrepreneurial (non-commercial) legal entities of Georgia, upon the recommendation of a collegial management body of the organisation concerned. One of the fields of activity of the above non-entrepreneurial (non-commercial) legal entities shall be, for at least the last two years before the announcement of the competition, participation with representative authority in court proceedings. Each of the organisations mentioned above may present a maximum of three Council nominees to the Parliament of Georgia. No member of the Parliament of Georgia, judge or prosecutor may be nominated for the Council. The procedure and a time-limit for nominating candidates for membership of the Council, determining their compliance with the requirements under this paragraph and paragraph 6 of this article, for reviewing the nominees and presenting them to the plenary session of the Parliament of Georgia shall be determined by the Rules of Procedure of the Parliament of Georgia.

[5. The Parliament of Georgia shall elect five members of the High Council of Justice of Georgia on a competition basis, by secret ballot, by at least 3/5 of majority of full composition, under the procedure established by the Rules of Procedure of the Parliament of Georgia. The Council membership candidates shall be selected from among the professors and scholars working in higher education institutions of Georgia, members of the Bar Association of Georgia and/or the persons nominated by non-entrepreneurial (non-commercial) legal entities of Georgia, upon the recommendation of a collegial management body of the organization concerned. One of the fields of activity of the above non-entrepreneurial (non-commercial) legal entities shall be, for at least the last two years before the announcement of the competition, participation with representative authority in court proceedings. Each of the organizations mentioned above may present a maximum of three Council nominees to the Parliament of Georgia. No member of the Parliament of Georgia, judge or prosecutor may be nominated for the Council. The procedure and a time-limit for nominating candidates for membership of the Council, determining their compliance with the requirements under this paragraph and paragraph 6 of this article, for reviewing the nominees and presenting them to the plenary session of the Parliament of Georgia shall be determined by the Rules of Procedure of the Parliament of Georgia (shall become effective after next presidential elections when newly elected president will take an oath)]

6. The Parliament of Georgia may elect as a member of the High Council of Justice of Georgia a Georgian citizen who has a higher legal education with a master's or equal academic degree/higher education diploma, at least 5 years of working experience in the legal specialty, excellent reputation and who is a recognized specialist in the field of law. A candidate's prior written consent shall be required for his/her election to the High Council of Justice of Georgia

~~The Parliament of Georgia may elect as a member of the High Council of Justice of Georgia a Georgian citizen who has a higher legal education with a master's or equal academic degree/higher education diploma, at least 10 years of working experience in the legal specialty, excellent reputation and who is a recognised specialist in the field of law. A candidate's prior written consent shall be required for his/her election to the High Council of Justice of Georgia.~~

7. According to the Rules of Procedure of the Parliament of Georgia, the candidates nominated to the plenary session of the Parliament of Georgia shall be put to vote separately.

8. The candidates receiving the majority of the full membership of the Parliament of Georgia shall be deemed elected in the first round of voting. If the number of such candidates is higher than the vacancies available, the appropriate number of candidates with the best results shall be deemed elected. If a candidates cannot be elected because several of them received equal number of votes, such candidates shall be put to a repeat vote and the candidate with the best result shall be deemed elected.

9. If not all the vacancies were filled in the first round of voting, a second round of voting shall be held the same day or at the nearest plenary session to put to vote those remaining candidates that have the best results in the first round. The number of those candidates shall not be twice as many as the current vacancy. If the number of the candidates is higher than the number of the vacancies due to a tie in votes, all such candidates shall be put to vote. A candidate receiving the necessary number of votes as determined by paragraph 8 of this article shall be deemed elected.

10. If all the vacancies still cannot be filled in the second round of voting, the third round of voting shall be held after two days to put to vote those remaining candidates that have the best results in the second round. The candidates shall be elected under the ninth paragraph of this article.

11. If the vacancies are still unfilled after three rounds of voting, a repeat vote shall be held within 70 calendar days under paragraphs (5-10) of this article.

11<sup>1</sup>. The President of Georgia appoints a member of the High Council of Justice of Georgia by competition not earlier than one month and not later than one week before the term of office of the relevant member of the High Council of Justice of Georgia expires, and if the powers of the member are terminated – not later than one month after such termination. In the first case, candidates are presented to the President of Georgia within 10 days from the 30<sup>th</sup> day before the expiry of the term of office of the member of the High Council of Justice of Georgia and in the second case – within 10 days after the termination of the powers of such member. The Administration of the President shall publish the information about the competition on the official website and through mass media. The organisation nominating a candidate to the High Council of Justice of Georgia and the candidate shall meet the relevant requirements under the fifth and sixth paragraphs of this article. The organisation may present not more than one nominee to the President of Georgia.

12. The term of office of a member of the High Council of Justice of Georgia shall be four years. The same person may not be elected (appointed) as a member of the High Council of Justice of Georgia twice in a row. A member of the High Council of Justice of Georgia may not discharge his/her duty after the expiry of the term of office. The new member of the High Council of Justice of Georgia shall be elected (appointed) not earlier than 30 calendar days before and not later than seven calendar days after the expiry of the term of office of the relevant member of the High Council of Justice of Georgia, and if the powers of the member are terminated – within not later than one month after such termination. If during the election of the High Council of Justice members by the Parliament of Georgia the above timeframes coincide, in full or in part, with a period between the sessions of the Parliament of Georgia, the term defined by this paragraph for the elections shall be prolonged for the corresponding period of time.

13. A member of the High Council of Justice of Georgia appointed by the President of Georgia/elected by the Parliament of Georgia may not hold any other office in public service or in a local self-government body, engage in business, directly exercise the powers of a member of the permanent management, supervisory, controlling, audit or advisory body of such entity, or engage in any paid activity other than scientific, pedagogical or creative activity. He/she may not be a member of a political association and/or take part in political activity.

14. In order for a judge member of the High Council of Justice of Georgia to effectively discharge his/her duties, the High Council of Justice of Georgia may pay him/her salary increments, while a member of the High Council of Justice of Georgia appointed by the President of Georgia/elected by the Parliament of Georgia shall be paid remuneration in the amount of the salary of a judge of a court of appeals. The measures under this article shall be financed within the limits of the budgetary allocations to the High Council of Justice of Georgia.

15. The chairperson of the Supreme Court or the Secretary of the High Council of Justice of Georgia under the instruction of the former– shall call meetings of the High Council of Justice of Georgia whenever necessary, but at least once every three months. If the chairperson of the Supreme Court is unable to discharge his/her duties or in any other case where there is the necessity provided for by law to call a meeting of the High Council of Justice of Georgia, the Secretary of the High Council of Justice of Georgia calls the meeting of the High Council of Justice of Georgia. The High Council of Justice meeting may also be called by request of 1/3 of its members.

16. The chairperson of the Supreme Court shall preside over meetings of the High Council of Justice of Georgia and where so provided in paragraph fifteen of this article – the Secretary of the High Council of Justice of Georgia.

[\[15. The chairperson of the High Council of Justice of Georgia or the Secretary of the High Council of Justice of Georgia under the instruction of the former– shall call meetings of the High Council of Justice of Georgia whenever necessary, but at least once every three months. If the chairperson of the High Council of Justice of Georgia is unable to discharge his/her duties or in any other case where there is the necessity provided for by law to call a meeting of the High Council of Justice of Georgia, the Secretary of the High Council of Justice of Georgia calls the meeting of the High Council of Justice of Georgia. The High Council of Justice meeting may also be called by request of 1/3 of its members.\]](#)

[\[16. The chairperson of the High Council of Justice of Georgia shall preside over meetings of the High Council of Justice of Georgia and where so provided in paragraph fifteen of this article – the Secretary of the High Council of Justice of Georgia. \(shall become effective after next presidential elections when newly elected president will take an oath\)\]](#)

17. The decisions of the High Council of Justice of Georgia shall be signed by the Secretary of the High Council of Justice of Georgia, except as provided for in paragraph eighteen of this article.

18. The decisions of the High Council of Justice of Georgia on appointing and dismissing judges, assigning the powers to another judge, assigning the powers of the chairperson of a court, judicial panel or chamber, also on assigning the powers of a judge or terminating the assigned powers in connection with the liquidation of a court or redundancy of the office of a judge shall be signed by the chairperson of the Supreme Court or, in his/her absence, by the Secretary of the High Council of Justice of Georgia.

[\[18. The decisions of the High Council of Justice of Georgia on appointing and dismissing judges, assigning the powers to another judge, assigning the powers of the chairperson of a court, judicial panel or chamber, also on assigning the powers of a judge or terminating the assigned powers in connection with the liquidation of a court or redundancy of the office of a judge shall be signed by the chairperson of the High Council of Justice of Georgia or, in his/her absence, by the Secretary of the High Council of Justice of Georgia. \(shall become effective after next presidential elections when newly elected president will take an oath\)\]](#)

Organic Law of Georgia No 5920 of 27 March 2012 – website, 19.4.2012

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 1052 of 16 June 2017 – website, 27.06.2017](#)

[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)

#### **Article 48 - Grounds for terminating the powers of a member of the High Council of Justice of Georgia**

1. The grounds for terminating the powers of a member of the High Council of Justice of Georgia shall be:



- a) personal application;
- b) transfer or election to another office by his/her consent;
- c) recognition by court as having limited competence or as a beneficiary of support, unless otherwise determined under court decision;
- d) entry into force of a final judgment of conviction against him/her;
- e) termination of a Georgian citizenship;
- f) expiry of the term of office determined by this Law;
- g) death;
- h) inability to discharge his/her powers for more than four months a year;
- i) systematic non-fulfilment or improper fulfilment of duty;
- j) holding an incompatible office or engaging in an incompatible activity;
- k) being appointed or elected as a member by an unauthorised body or in violation of the procedure laid down by this Law.

2. A member of the High Council of Justice of Georgia shall be dismissed by the Parliament of Georgia, the Conference of Judges of Georgia, or the President of Georgia, respectively. If any of the circumstances referred to in paragraph 1(a-g) of this article is present, the Parliament of Georgia, the Conference of Judges of Georgia or the President of Georgia shall receive information on those circumstance as a notification, without making a decision; if any of the circumstances referred to in paragraph 1(h-m) of this article is present, the Parliament of Georgia, or the Conference of Judges of Georgia shall put to vote the decision on terminating the powers of a member of the High Council of Justice of Georgia, and the President of Georgia shall make the decision on terminating the powers of the member of the High Council of Justice of Georgia. The Parliament of Georgia shall make this decision by secret ballot, by the majority of the full membership.

3. In addition to the grounds provided in the first paragraph of this article, a judge member of the High Council of Justice of Georgia may be dismissed on the ground of his/her early dismissal (removal) from the office of a judge.

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

Organic Law of Georgia No 3397 of 20 March 2015 – website, 31.3.2015

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

#### **Article 49 - Powers of the High Council of Justice of Georgia**

1. The High Council of Justice of Georgia shall:

- a) appoint and dismiss Georgian general court judges (other than the chairperson and members of the Supreme Court);
- b) determine the composition of the Qualification Examination Commission;
- c) [determines the specialization of judges of the Court of Appeals and district \(city\) court;](#)  
~~determines the specialisation of district (city) court judges;~~
- d) approve the staff list and structure of the personnel of the Office of the High Council of Justice of Georgia, the salary of a member of the High Council of Justice of Georgia, the salaries and job titles of the officials and auxiliary personnel of the High Council of Justice of Georgia, as well as the structure and staff size of the administrative office of Georgian general courts (other than the Supreme Court);
- d<sup>1</sup>) lay down procedure for the payment of business trip expenses of the High Council of Justice members appointed by the President of Georgia/elected by the Parliament of Georgia;

- e) prepare and approve the procedure for the organisational work of Georgian general courts;
- e<sup>1</sup>) approve the procedure for internship in the High Council of Justice of Georgia, district (city) courts and courts of appeals;
- e<sup>2</sup>) approve the procedure for the appraisal of employees of the offices of the High Council of Justice of Georgia, district (city) courts and courts of appeals;
- f) review materials related to judicial statistics analysis;
- g) conduct disciplinary proceedings against Georgian general court judges in the prescribed manner and within the scope of its powers;
- h) hear the report of the chairperson of the Department of General Courts;
- i) make decisions on giving incentives to judges in the manner prescribed by law;
- j) formulate proposals for judicial reform;
- j<sup>1</sup>) elect, under Article 10 of the Law of Georgia on Legal Aid, one member from among its non-judge members to nominate him/her to the Legal Aid Council;
- j<sup>2</sup>) elect, under Article 19(4) of the Law of Georgia on Public Service, two members of the Public Service Council from among the general court judges;
- k) exercise any other powers provided by the legislation of Georgia.

2. The rules of procedure of the High Council of Justice of Georgia shall be determined under regulations approved by a two-thirds majority of the full membership of the High Council of Justice of Georgia.

3. The Office of the High Council of Justice of Georgia shall be formed to provide organisational and technical support to the High Council of Justice of Georgia.

4. Decisions made by the High Council of Justice of Georgia, information on changes in the composition of the Council and other information with regard to its activity, as well as the information about the competition for holding a vacancy of a judge and its results shall be posted on the website of the High Council of Justice of Georgia. Information on the date of holding a meeting and on the agenda shall be published on the website of the Council at least seven days prior to holding the meeting.

Organic Law of Georgia No 4461 of 22 March 2011 – website, 1.4.2011

Organic Law of Georgia No 5529 of 20 December 2011 – website, 28.12.2011

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

Organic Law of Georgia No 1789 of 13 December 2013 – website, 28.12.2013

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 2034 of 7 March 2018 – website, 29.03.2018](#)

## **Article 50 - Decision-making Procedure of the High Council of Justice of Georgia**

1. The High Council of Justice of Georgia may review a matter and make a decision if more than half of the full membership of the Council is present at its meeting.
2. A decision of the High Council of Justice of Georgia shall be deemed to have been adopted if it is supported by a majority of the members present, except as otherwise provided in the legislation of Georgia.
3. A decision on disciplinary matters shall be deemed to have been adopted if it is supported by secret ballot by at least 2/3 of the full membership of the Council.
4. The High Council of Justice of Georgia shall appoint a person as a judge if the candidate receives at least 2/3 of the votes of the full membership of the Council by secret ballot.
5. The High Council of Justice of Georgia shall make decisions by voting.

Organic Law of Georgia No 5920 of 27 March 2012 – website, 19.4.2012

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

#### **Article 50<sup>1</sup> - Procedure for electing members of the Legal Aid Council**

1. The High Council of Justice of Georgia shall elect one member of the Legal Aid Council from among its non-judge members. A member of the High Council of Justice of Georgia who is present at the meeting may nominate a candidate. The member of the High Council of Justice of Georgia for the election of whom the voting is held shall not participate in the voting.
2. If a member of the Legal Aid Council cannot be elected after the voting, the nominated candidates shall be put to a repeat vote. The candidate with the highest number of votes, but at least 1/3 of the votes cast, shall be deemed elected.

Organic Law of Georgia No 1789 of 13 December 2013 – website, 28.12.2013

#### **Article 51 - Secretary of the High Council of Justice of Georgia**

1. The Conference of Judges of Georgia shall elect the Secretary of the High Council of Justice of Georgia for a term of four years from among the judge members of the High Council of Justice of Georgia. The Secretary of the High Council of Justice of Georgia may not concurrently hold the office of the chairperson of a court, the first vice-chairperson or vice-chairperson of a court or the chairperson of the judicial panel or a chamber.

[\[1. The Conference of Judges of Georgia shall elect the Secretary of the High Council of Justice of Georgia for a term of four years from among the members of the High Council of Justice of Georgia elected by it. The Secretary of the High Council of Justice of Georgia may not concurrently hold the office of the chairperson, the first deputy or deputy chairperson of a court, or of the chairperson of the judicial panel or a chamber. \(shall become effective after next presidential elections when newly elected president will take an oath\)\]](#)

2. The Secretary of the High Council of Justice of Georgia shall exercise the powers under the third paragraph of this article in parallel with the judicial powers, free of charge.
3. The Secretary of the High Council of Justice of Georgia shall:
  - a) provide organisational and technical support to the High Council of Justice of Georgia;

- b) administer the Office of the High Council of Justice of Georgia; make decisions on the appointment to the post (recruitment) and discharging from the post (dismissal from office) of public servants of the Office of the High Council of Justice of Georgia;
- c) arrange meetings of the High Council of Justice of Georgia;
- d) sign official documents within the scope of his/her powers;
- e) exercise any other powers provided for by the legislation of Georgia.

Organic Law of Georgia No 5920 of 27 March 2012 – website, 19.4.2012

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)

### **Article 51<sup>1</sup> – The Office of the Independent Inspector of the High Council of Justice of Georgia**

1. For the purpose of performing an objective, impartial and comprehensive investigation and preliminary examination of an alleged disciplinary misconduct of a judge, the Office of the Independent Inspector shall be established at the High Council of Justice of Georgia to be administered by the Independent Inspector.

2. The Independent Inspector shall be elected on competition basis for a five-year term by the majority of the full composition of, and dismissed by the High Council of Justice of Georgia. The procedure for conducting the competition shall be determined by the Regulations of the High Council of Justice of Georgia. The Conference of Judges of Georgia shall be entitled to apply to the High Council of Justice of Georgia, by at least one third of the full composition, when there is an appropriate ground, for dismissing the Independent Inspector.

3. [A citizen of Georgia who has higher legal education, at least 5 years' experience of working in the specialty, and a high reputation may be elected as an independent inspector.](#)  
~~A citizen of Georgia who has higher legal education, at least ten years' experience of working in the specialty, and a high reputation.~~

4. The Independent Inspector may not hold any other office in civil service or a municipality body, conduct entrepreneurial activities, directly exercise powers of a member of an administrative, supervising, controlling, inspecting or consultative standing body, or conduct other paid activities, except for scientific, teaching and/or creative activities. He/she may not be a member of a political union of citizens, and/or participate in the political activity.

5. [Based on the purposes of paragraph 1 of this article, powers of the Independent Inspector of the High Council of Justice of Georgia shall be determined under chapter XIII<sup>1</sup> of this Law.](#)

~~Based on the purposes of paragraph 1 of this article, powers of the Independent Inspector shall be determined under the Law of Georgia on Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia.~~

6. Grounds for terminating powers of the Independent Inspector shall be:

- a) a personal application;
- b) recognition as a person with limited legal capacity, or as a beneficiary of support by court, unless otherwise defined by court judgement;

- c) entry into legal force of the court's final judgement of conviction against him/her;
- d) termination of Georgian citizenship;
- e) expiry of the term of powers under this Law;
- f) death;
- g) inability to exercise this power during more than three months in a year;
- h) systematic failure to fulfil, or improper fulfilment of duty;
- i) gross or systematic impairment of rights of judges;
- j) improper behaviour that discredit the Office of the Independent Inspector;
- k) holding of a position or conducting of an activity incompatible with the position of the Independent Inspector.

7. If any of the circumstances referred to in paragraph 6(a-f) of this article is present, the High Council of Justice of Georgia shall receive information on such a circumstance as a notification, without making a decision, and if any of the circumstances referred to in subparagraphs (g-k) of the same paragraph is present, it shall put to vote the decision on terminating the powers of the Independent Inspector.

8. If any of the circumstances referred to in paragraph 6(g-k) of this article is present, at least one third of members of the High Council of Justice of Georgia shall have the right to request that the issue of dismissing the Independent Inspector be put to vote. Before voting, the High Council of Justice of Georgia shall hear explanations of the Independent Inspector and investigate the appropriate evidence. Members of the High Council of Justice of Georgia may express their opinions regarding the issue.

9. The place of activity of the Independent Inspector shall be the High Council of Justice of Georgia.

10. The Independent Inspector shall appoint employees of the Office of the Independent Inspector on competition basis, and shall dismiss them. The procedure for conducting this competition shall be determined under the Regulations of the High Council of Justice of Georgia.

11. Interference in the activity of the Independent Inspector in order to have an influence on a disciplinary proceeding shall be prohibited. The Independent Inspector shall notify the High Council of Justice of Georgia of such interference.

12. When requested but at least once a year, the Independent Inspector shall submit an activity report the High Council of Justice of Georgia, and the Conference of Judges of Georgia.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 1052 of 16 June 2017 – website, 27.06.2017](#)

[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)

#### **Article 52 - Qualification Examination Commission**

1. To organise and conduct judicial qualification examination, the High Council of Justice of Georgia shall create the Qualification Examination Commission according to procedures contained in the Council regulations and approve the composition and regulations of the Commission.

2. The Qualification Examination Commission shall be created not earlier than 10 days before the judicial qualification examination and its composition may not be announced until the exam is finished.

#### **Article 53 - Judicial qualification examination**

1. Any Georgian citizen who has reached the age of 25 and has a higher legal education may take judicial qualification examination.

2. The High Council of Justice of Georgia shall determine the procedure for holding a judicial qualification examination, the qualification examination programme and the examination participation fee.

3. The qualification examination programme shall state that the exam be conducted in test format. After successfully passing the exam, a person takes a written examination. Tests and the written examination shall be taken in the following subjects:

- a) Constitutional Court of Georgia;
- b) Criminal Law;
- c) Criminal Procedure;
- d) Civil Law;
- e) Civil Procedure;
- f) Administrative Law;
- g) Administrative Procedure;
- h) International human rights acts and treaties and international agreements of Georgia.

4. The results of a judicial qualification examination shall become invalid if a person is not enrolled in the High School of Justice or is not elected to the office of a judge within ten years after passing the exam.

Organic Law of Georgia No 5529 of 20 December 2011 – website, 28.12.2011

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

### **Chapter VIII - Department of General Courts**

#### **Article 54 - Department of General Courts**

1. The Legal Entity under Public Law – Department of General Courts of the High Council of Justice of Georgia ('Department of General Courts') shall provide logistical support to Georgian general courts.

2. The High Council of Justice of Georgia shall exercise state control over the activity of the Department of General Courts.

3. The structure and rules of procedure of the Department of General Courts shall be defined under the Regulations of the Department of General Courts approved by the High Council of Justice of Georgia.

4. Working for the Department of General Courts shall be regarded as public service.

5. The chairperson and vice chairpersons of the Department of General Courts shall be appointed for three years and dismissed by the Secretary of the High Council of Justice of Georgia with the approval of the High Council of Justice of Georgia.

6. Decisions on the appointment to the post (recruitment) and discharging from the post (dismissal from office) of other employees of the Department of General Courts shall be made by the chairperson of the Department of General Courts.

7. The chairperson of the Department of General Courts shall be accountable to the High Council of Justice of Georgia.

8. The cost estimate, staff listing and payroll budget of the Department of General Courts shall be approved by the chairperson of the Department of General Courts in agreement with the High Council of Justice of Georgia.

9. The Department of General Courts shall be financed from the State Budget of Georgia and any other revenues determined by the legislation of Georgia.

10. The Department of General Courts shall have a seal bearing the National Coat of Arms of Georgia and an account with the State Treasury. The Department of General Courts may also have an account with a commercial bank, when so provided by the legislation of Georgia.

Organic Law of Georgia No 5529 of 20 December 2011 – website, 28.12.2011

Organic Law of Georgia No 2943 of 12 December 2014 – website, 24.12.2014

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

#### **Article 55 – Powers of the Department of General Courts**

The Department of General Courts shall:

- a) manage funds to support the activity of courts and their material and technical base;
- b) provide the courts with adequate premises;
- c) provide the courts with normative acts and other materials necessary for their activity;
- d) audit the spending of financial and material resources by courts;
- e) take other measures towards providing logistical support to the activity of the courts.

#### **Chapter IX - Providing organisational support to the activity of courts**

##### **Article 56 – Administrative offices of courts, court managers**

1. Administrative offices of courts shall operate in general courts to administer justice without delay, study and generalise judicial practice, analyse judicial statistics, and support any other activity of courts.

2. A court manager shall manage the administrative office of a court according to the legislation of Georgia, and if necessary, within the scope of powers defined by the chairperson of the court. The court manager shall, under the procedure determined by the legislation of Georgia, appoint and discharge employees of the office of court (except for the head of the Bailiffs Office, a court bailiff, assistant to the judge and a secretary of the court session).

3. The structure of the administrative office and the rules of procedure of the structural units of the Supreme Court shall be determined under the Regulations of the Administrative office of the Supreme Court approved by the Plenum of the Supreme Court.

4. The structure of administrative offices and the rules of procedure of structural units of district (city) courts and courts of appeals shall be determined under Regulations of the Administrative Office of the Supreme Court approved by the High Council of Justice of Georgia.

5. Employees of administrative offices of courts are public servants. Employees and persons employed under labour contracts of the administrative offices of courts shall enjoy all the social guarantees afforded to employees and persons employed under labour contracts of the legislative authority and the executive authority respectively.

Organic Law of Georgia No 3523 of 21 July 2010 – LHG I, No 46, 4.8.2010, Art. 286

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

#### **Article 56<sup>1</sup> – The Department of Court Management of the High Council of Justice of Georgia**

1. Administration of general courts of Georgia and supervision of their management shall be implemented by the Department of Court Management of the High Council of Justice of Georgia.

2. The Department of Court Management of the High Council of Justice of Georgia shall:

a) examine information related to the case-flow management in general courts, case load and case hearing indicators in general courts, the need for sending judges on secondment, information related to the quality of files management and providing service to citizens, and shall submit recommendations to the High Council of Justice of Georgia and the respective general courts;

b) oversee the operation of the electronic files management programme, and shall submit recommendations to the High Council of Justice of Georgia for its improvement;

c) supervise the efficient and targeted use of resources of general courts, and for this purpose, shall coordinate activities of the Department of General Courts and the general courts;

d) study the managerial experience in both private and public sectors, as well as the international experience of court management, facilitate the introduction of managerial culture into general courts, in co-operation with the High School of Justice, contribute to the improvement of managerial skills of the chairpersons of general courts, court managers and other employees of the office of court;

e) submit to the High Council of Justice of Georgia reports and recommendations on the important issues of administration of general courts ;

f) exercise other powers under the legislation of Georgia and the Regulations of the High Council of Justice of Georgia.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

#### **Article 56<sup>2</sup> – Election and dismissal of the chairperson of the Department of Court Management of the High Council of Justice of Georgia. Procedure of staffing and rules of procedure of the Department of Court Management**

1. The chairperson of the Department of Court Management of the High Council of Justice of Georgia shall be elected by the High Council of Justice of Georgia on competition basis, by the majority of its full composition.



2. Procedure for electing and dismissing the chairperson of the Department of Court Management of the High Council of Justice of Georgia, as well as the procedure of staffing and rules of procedure of the Department of Court Management shall be determined by the Regulations of the High Council of Justice of Georgia.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

**Article 57 - Requirements imposed upon employees of administrative offices of courts when appointing them to office**

1. A Georgian citizen, who usually has a higher legal education, knows the language of court proceedings, holds a certificate of public servant defined under the Law of Georgia on Public Service, has completed up to one year of paid internship in a general court and a special training course in the High School of Justice, may be appointed, according to the procedure established by the High Council of Justice of Georgia/Plenum of the Supreme Court, as an employee of the administrative office of a court whose functions are directly related to the administration of proceedings in court.

2. In the case of paid internship, a person shall be appointed to the appropriate position in the administrative office of a court. A person meeting the basic requirements established for employees under the Law of Georgia on Public Service may be appointed as a paid intern.

3. When a person is appointed as an officer of the administrative office of court, he/she shall not be required to take a paid internship and/or a special training course referred to in the first paragraph of this article, if he/she meets one of the following requirements:

- a) has at least one year work experience as a judge, prosecutor, investigator or advocate;
- b) has passed a judicial qualification exam;
- c) has at least two-year work experience in the legal profession;
- d) has at least one-year work experience in his/her speciality in court.

4. A person shall not be required to take the special training course referred to in the first paragraph of this article if he/she has completed a special training course of an assistant judge in the High School of Justice.

5. A person who is not required to take an internship under the third paragraph of this article may take internship in a general court voluntarily.

6. The decisions on the appointment to the post (recruitment) and discharging from the post (dismissal from office) of an employee of the Court Office, whose functions are not directly related to the administration of proceedings in court, as well as of other employees shall be made according to the procedure laid down by the legislation of Georgia. An officer of the office of court whose functions are not directly related to administration of proceedings in court, as well as an auxiliary employee and a non-staff employee shall be appointed and dismissed under the procedure established by the Law of Georgia on Public Service.

Organic Law of Georgia No 5529 of 20 December 2011 – website, 28.12.2011

Organic Law of Georgia No 6092 of 26 April 2012 – website, 10.5.2012

Organic Law of Georgia No 4389 of 27 October 2015 – website, 11.11.2015

Organic Law of Georgia No 169 of 21 December 2016 – website, 28.12.2016

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 1050 of 16 June 2017 – website, 22.06.2017](#)

**Article 58 - Assistant judge and secretary of a court session**

1. An assistant judge shall receive citizens, accept their complaints and applications, prepare cases for hearing at a court session, search for appropriate legal literature and judicial practice materials, draft relevant documents, and discharge other duties relating to the hearing at the instruction of the judge.

2. Cases in court shall be heard with the participation of the secretary of a court session.

Organic Law of Georgia No 5529 of 20 December 2011 – website, 28.12.2011

**Article 58<sup>1</sup> – Distribution of cases between judges**

1. Cases shall be distributed between judges of a district (city) court, a court of appeals and the Supreme Court automatically, with an electronic system, by adhering to the principle of random distribution.

2. The procedure for distributing cases in general courts of Georgia automatically, with an electronic system, shall be approved by the High Council of Justice of Georgia.

3. In case of temporary failure of the electronic system for automatic distribution of cases, cases may be distributed between judges without the electronic system, based on the numerical order meaning that cases will be distributed between judges according to the numerical order of cases received and the alphabetical order of judges.

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

**Chapter X - Bailiff**

**Article 59 – A Bailiff. The Bailiff's Office**

1. A Bailiff's Office may be established within general courts and the High Council of Justice of Georgia. Its purpose shall be to ensure public order and protect the premises of the courts and the High Council of Justice of Georgia, and to perform other functions prescribed by the legislation of Georgia.

2. The chairperson of the Supreme Court shall carry out general administration and monitoring of the Bailiff's Office.

3. A bailiff shall be a public servant who is appointed and dismissed by the chairperson of the court or the Secretary of the High Council of Justice of Georgia.

4. A legally competent Georgian citizen from the age of 22 may be appointed as a bailiff if he/she knows the official language and his/her state of health allows him/her to discharge official duties. The upper age limit for serving as a bailiff shall be 50.

5. A person with a previous conviction may not be appointed as a bailiff.

6. Bailiffs shall wear a uniform and carry a badge when discharging their official duties. The design of the bailiff's uniform and the badge shall be approved by the High Council of Justice of Georgia.

**Article 60 – Head of the Bailiff's Office**

1. The head of the Bailiff's Office shall be appointed and dismissed by the chairperson of a court or the Secretary of the High Council of Justice, respectively.

2. The head of the Bailiff's Office shall meet the requirements of Article 59 of this Law. The head of the Bailiff's Office shall be a person with higher education.

3. The head of the Bailiff's Office shall:

- a) manage the activity of the Bailiff's Office, be responsible for accomplishing the objectives of the Bailiff's Office;
- b) ensure timely and proper fulfilment of the instructions of the chairperson of a court, the secretary of a court session as well as of the Secretary of the High Council of Justice of Georgia;
- c) give bailiffs appropriate instructions with respect to discharging their duties;
- d) exercise other powers provided for by the legislation of Georgia.

#### **Article 61 - Rights and duties of bailiffs**

1. A bailiff shall:

- a) ensure that judges, participants of court proceedings and witnesses are safe and secure;
- b) keep order in the court as well as in the High Council of Justice;
- c) fulfil instructions of the chairperson of a court and a presiding judge as well as of the Secretary of the High Council of Justice of Georgia concerning maintaining order;
- d) guard the administrative buildings of courts and the High Council of Justice;
- e) make sure that the courtroom is ready for a court hearing to commence; on the instructions of a judge, ensure that criminal case materials and physical evidence are brought into the courtroom and kept safe;
- f) eliminate violations of order in court as well as in the High Council of Justice; identify and, if necessary, arrest the wrongdoer to transfer him/her to the police and shall draft an appropriate arrest report, the form of which shall be approved by the High Council of Justice of Georgia;
- g) exercise other powers provided in the legislation of Georgia.

2. When performing official duties, a bailiff may:

- a) use physical force, special equipment and a weapon in the prescribed manner and circumstances;
- b) call the police for help, if necessary.

#### **Article 62 - Circumstances and procedure for the use of physical force, special equipment and weapons by bailiffs**

1. A bailiff may use physical force, special equipment and weapons only if his/her official duties cannot be fulfilled with the use of other less forceful measures.

2. Without prejudice to the first paragraph of this article, a bailiff may use physical force and special equipment in the following circumstances:

- a) when repressing any violation of law and arresting the wrongdoer;
- b) when repelling an attack against a judge, a participant of the proceedings, a witness or any other person in the court;
- c) when a bailiff encounters physical resistance when performing his/her duty;
- d) when handing an arrestee over to the police, where there are sufficient grounds to believe that the arrestee may abscond or injure others nearby.

3. A bailiff may use a weapon in the following circumstances:

- a) when repelling an armed attack or facing armed resistance;
- b) when a judge, a participant of proceedings, a witness or any other person in the court is under an armed attack.

4. When using physical force, special equipment or weapons, a bailiff shall:

- a) warn the person concerned that physical force, special equipment or weapons will be used against him/her and allow him/her sufficient time to comply with the bailiff's demands, except when delay will pose a danger to lives and health of the bailiff or other persons or have other grave consequences, or when advance warning is impossible;
- b) use physical force, special equipment and weapons according to the nature of danger with a view to causing as minimum damage as possible;
- c) inform, in writing, the chairperson of the court (the Secretary of the High Council of Justice) on the use of physical force, special equipment or weapons within 24 hours after the event;
- d) not endanger the lives and health of those nearby when using physical force, special equipment or weapons.

5. Bailiffs may not use physical force, special equipment and weapons against a pregnant woman, a disabled person or a minor; physical force and special equipment may be used against such persons only if the conduct of a pregnant woman, a disabled person or a minor poses clear threat to the lives and health of the bailiff or other persons. Weapons may be used against a pregnant woman, a disabled person or a minor only if they put up armed resistance or carry out an armed attack.

## **Chapter XI - Conference of Judges of Georgia**

### **Article 63 - Conference of Judges of Georgia**

1. The Conference of Judges of Georgia is a self-governing body of Georgian general court judges. The Conference of Judges of Georgia shall consist of the Supreme Court, judges of courts of appeals and district (city) courts.

2. The Conference of Judges of Georgia shall protect and strengthen the independence of the judiciary, promote increased confidence and faith of the people in the courts and enhance reputation of judges.

3. The Conference of Judges of Georgia shall perform its activity according to the Constitution and the legislation of Georgia, the Charter and the Regulations of the Conference of Judges of Georgia. The Charter and the Regulations of the Conference of Judges of Georgia, which define the core principles of its activity, shall be approved by the Conference of Judges of Georgia by a majority of full membership upon the recommendation of the High Council of Justice of Georgia.

### **Article 64 - Organisational structure of Conference of Judges of Georgia**

1. An Administrative Committee shall be set up within the Conference of Judges of Georgia to facilitate performance of the functions defined under Article 63 of this Law.

2. The Administrative Committee of the Conference of Judges of Georgia shall consist of nine members. The Administrative Committee may make decisions and prepare acts in connection with the administration of Georgian general courts; the acts shall be submitted to the Conference of Judges of Georgia for approval.

3. The Conference of Judges of Georgia shall elect the members and chairperson of the Administrative Committee for three years. A member of the Administrative Committee cannot simultaneously be the chairperson, first vice chairperson or vice chairperson of a court or the chairperson of a judicial panel or a chamber.

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

#### **Article 65 - Powers of Conference of Judges of Georgia**

The Conference of Judges of Georgia shall:

- a) elect by a 2/3 majority present at its meeting:
  - a.a) the chairperson and members of the Administrative Committee;
  - a.b) the Secretary and other members of the High Council of Justice of Georgia;
  - a.c) judge members of the judicial disciplinary panel of the general courts of Georgia;
- b) approve the Charter and the Regulations of the Conference of Judges of Georgia;
- c) hear annual reports from the head of the Conference of Judges of Georgia and the chairperson of the Department of General Courts on the work of those bodies;

[\[c\) hear annual reports from the chairperson of the High Council of Justice of Georgia, the Secretary of the High Council of Justice of Georgia, the independent inspector of High Council of Justice of Georgia and the chairperson of the Common Courts department on the work of those bodies; \(shall become effective after next presidential elections when newly elected president will take an oath\)\]](#)

d) exercise other powers provided by law, the Charter and the Regulations of the Conference of Judges of Georgia;

e) approve judicial ethics rules upon the recommendation of the High Council of Justice of Georgia.

2. At the elections referred to in paragraph 1(a) of this article, any judge present at the Conference of Judges of Georgia may nominate a candidate.

3. The Conference of Judges of Georgia shall separately put to vote candidates for membership of the High Council of Justice of Georgia for the position of a member judge that has the right under Article 47(4) of this Law to concurrently hold the position of a member of the Council and of the chairperson of a court, his/her first deputy or a deputy, or the position of the chairperson of a judicial panel or a chamber, and shall separately put to vote candidates for membership of the High Council of Justice of Georgia for the position of a member judge that has no right to concurrently hold any of the above positions. A person who holds the position of a member of the Chamber of Disciplinary Cases and of the Chamber of Qualification of the Supreme Court, or the position of the chairperson of a court, his/her first deputy or a deputy, the position of the chairperson of a judicial panel or a chamber, and runs for the position of a member that has no right to concurrently hold any of the above positions, shall, if elected as a member of the Council, forfeit the right to hold any position that is incompatible with the position of a member of the Council. If the number of applicants for the position of a member that has the right to concurrently hold the position of the chairperson of a court, his/her first deputy or a deputy, or the position of the chairperson of a judicial panel or a chamber is less than the number of persons to be elected, or if, as a result of voting, the necessary number of votes were received by less individuals than the number of persons to be elected, a person that does not hold the position of the chairperson of a court, his/her first deputy or a deputy, or the position of the chairperson of a judicial panel or a chamber may be elected to the vacant position.

4. If at the time of the exercise by the Conference of Judges of Georgia of the powers under paragraph 1(a) of this article more than the required number of candidates receives the necessary number of votes, only the number of the highest scoring candidates that is necessary to fill the vacant positions shall be deemed elected. If two or more candidates receive an equal number of votes, they shall be put to repeat voting. The candidate with the best result who receives at least  $\frac{1}{4}$  of the votes of the full membership of the Conference of Judges of Georgia shall be deemed elected.

5. If at the time of exercise by the Conference of Judges of Georgia of the powers under paragraph 1(a) of this article fewer than the required number of candidates receives the necessary number of votes, the candidates failing to receive the necessary number of votes shall be put to repeat vote. Only the number of the highest scoring candidates that is necessary to fill the vacant positions shall be deemed elected. At the same time, the number of votes received by such candidates shall not be less than  $\frac{1}{4}$  of the votes of the full membership of the Conference of Judges of Georgia.

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

Organic Law of Georgia No 2647 of 1 August 2014 – website, 18.8.2014

Organic Law of Georgia No 255 of 8 February 2017 – website, 13.2.2017

[Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018](#)

#### **Article 66 - Rules of procedure of Conference of Judges of Georgia**

1. The Conference of Judges of Georgia shall be convened at least once each year. An extraordinary conference shall be called on the initiative of the Administrative Committee or by written request of  $\frac{1}{5}$  of Georgian general court judges. The extraordinary conference shall be called when electing, according to law, any judge member(s) of the High Council of Justice of Georgia, judge member(s) of the Disciplinary Panel of Georgian General Court Judges, and member(s) of the Administrative Committee. The extraordinary meeting of the Conference of Judges of Georgia shall be held only with a specific agenda and shall be adjourned when the agenda is exhausted. The agenda of the meeting of the Conference of Judges of Georgia shall be posted on the Supreme Court website not later than seven calendar days before the meeting.

2. The meeting of the Conference of Judges of Georgia shall be open. The Conference of Judges of Georgia may consider a matter and make a decision if more than half of Georgian general court judges are present. Where so provided for in Article 65(1)(a) of this Law, the Conference of Judges of Georgia shall make a decision by secret ballot. In all other cases, decisions shall be made by open vote, by a majority of the members present at the meeting.

3. Any other matters related to the activity of the Conference of Judges of Georgia and its structural units defined by this Law shall be determined by Regulations of the Conference and regulations of the structural units.

Organic Law of Georgia No 580 of 1 May 2013 – website, 20.5.2013

### **Chapter XII - Financing of General Courts; Social and Legal Guarantees of Judges**

#### **Article 67 - Financing of general courts**

1. General courts shall be financed from the State Budget of Georgia. Expenses relating to the organisation and activity of the Supreme Court fall within a separate code of the State Budget of Georgia.
2. The High Council of Justice of Georgia, based on the proposals of the Department of General Courts, shall submit a draft version of the section of the State Budget of Georgia that deals with the financing of general courts (other than the Supreme Court) and the Department of General Courts to the Government of Georgia. Before the Parliament of Georgia hears a revised version of the draft Law on the State Budget, the High Council of Justice of Georgia may submit opinions to the Parliament of Georgia on the draft of the section dealing with the financing of general courts and the Department of General Courts. The chairperson of the Supreme Court shall submit a draft budget for the organisation and activity of the Supreme Court to the Government of Georgia according to the procedures laid down by law.
3. The expenses allocated in the State Budget of Georgia for general courts may be reduced compared to the corresponding amount of the previous year only with a prior approval of the High Council of Justice of Georgia.

Organic Law of Georgia No 5920 of 27 March 2012 – website, 19.4.2012

**Article 68 - Legal and social protection of judges**

1. Legal and social guarantees of judges shall be defined by the Constitution of Georgia, this Law and the legislation of Georgia.
2. To ensure the independence of judges, the State shall create dignified living and working conditions, and protect the safety of judges and their families. If the life or health of a judge is at risk, on the decision of the Prime Minister of Georgia, and based on the application of the judge, the competent state authorities shall ensure the protection of the judge and his/her family members according to rules contained in the legislation of Georgia.
3. The State shall provide the necessary living space or pay the necessary housing expenses for a judge who has no living accommodation in a self-governing city (municipality) where he/she has to exercise judicial powers. The decision to provide the chairperson and members of the Supreme Court with living accommodations shall be made by the chairperson of the Supreme Court. The decision on providing judges of courts of appeals and district (city) courts with living accommodations shall be made by the High Council of Justice of Georgia.
4. While exercising judicial powers, a judge transferred to the reserve of the military forces of Georgia shall not be subject to conscription in times of mobilisation or war declared in the country or to reserve training.
5. Appointing a person as a judge shall not terminate his/her membership in a public association. A person who has been appointed as a judge ceases to be a member of a political association.
6. [A judge shall enjoy an annual leave according to the rule established by Article 62 and Article 64 of the Law of Georgia "On Public Service](#)  
[A judge shall enjoy an annual paid leave of 30 calendar days.](#)
7. The procedure for compensating the business trip expenses of the chairperson, first vice chairperson and chairperson of the Supreme Court, a member of the Supreme Court, the chairperson and vice chairperson of a court of appeals, the chairperson of a district (city)

court and a general court judge shall be approved by the High Council of Justice of Georgia according to the ranking of similar officials established for the government agencies. Organic Law of Georgia No 3523 of 21 July 2010 – LHG I, No 46, 4.8.2010, Art. 286

Organic Law of Georgia No 4461 of 22 March 2011 – website, 1.4.2011

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

[Organic Law of Georgia No 2034 of 7 March 2018 – website, 29.03.2018](#)

#### **Article 69 - Remuneration of judges**

1. A judge's remuneration shall be a salary and salary increment.
2. Monthly salary rates and material benefits of a judge shall be determined by the legislation of Georgia. A judge's salary shall not be reduced throughout the entire term of office of the judge.
3. A salary increment of a judge (other than a Supreme Court judge) shall be determined by the High Council of Justice of Georgia.
4. The amount of a salary increment of a Supreme Court judge shall be determined by the Plenum of the Supreme Court.

#### **Article 69. Remuneration of judges**

1. A judge's remuneration shall be a salary and salary increment.

2. Monthly salary of a judge is as follows:

- a) chairperson of the Supreme Court-GEL 7000;
- b) first deputy chairperson of the Supreme Court-GEL 6500;
- c) deputy chairperson of the Supreme Court-GEL 6300;
- d) judge of the Supreme Court –GEL 6000;
- e) judge of the Court of Appeals-GEL 5800;
- f) deputy chairperson of the Court of Appeals-GEL5600;
- g) chairperson of chamber (panel) of the Court of Appeals-GEL;
- h) judge of the Court of Appeals-GEL 5000;
- i) chairperson of the district (city) court-GEL 4600;
- j) chairperson of the district (city) court panel –GEL 4300;
- k) judge, magistrate judge of the district (city) court-GEL 4000;
- l) judge in the reserve-GEL500.

3. According to this Law, the salary of a judge sent on secondment to another court shall be equal to the amount of salary of a judge of the relevant court, if the amount of the salary exceeds the amount of salary of a judge in the court to which he/she is appointed as prescribed by Law.

4. A judge's salary shall not be reduced throughout the entire term of office of the judge.

5. Material benefits of a judge shall be determined by the legislation of Georgia.

6. A salary increment of a judge (other than a Supreme Court judge) shall be determined by the High Council of Justice of Georgia.



7.The amount of a salary increment of a Supreme Court judge shall be determined by the Plenum of the Supreme Court. (shall become effective after next presidential elections when newly elected president will take an oath)

Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018

**Article 70 - Procedure for awarding a state compensation to general court judges**

1. Upon expiry of the term of office or reaching a retirement age, a Supreme Court judge shall be awarded a state compensation of GEL 1 200.

2. A Georgian general court judge (other than a Supreme Court judge) who has been appointed to the office of a judge under Article 35 of this Law shall be awarded a state compensation in the manner and in the amount determined by the Law of Georgia on State Compensation and State Academic Scholarship.

**Article 71 - Benefits in the case of a judge's death, severe injury or recognition as a person with disability status**

1. If a judge dies while he is serving as a judge, his/her family shall be awarded a lump-sum compensation of GEL 25 000 from the State Budget of Georgia.

2. If while serving as a judge a judge suffers severe injury, a bodily injury or any other aggravation of health as a result of which he/she is recognised as a person with a disability status, he/she shall be awarded a lump-sum compensation of GEL 10 000 from the State Budget of Georgia.

If a judge dies, his/her family member(s) shall be awarded state compensation in the manner and in the amount prescribed by the Law of Georgia on State Compensation and State Academic Scholarship.

**Article 72 - Insurance of judges**

1. Insurance on a judge's life and health shall be mandatory. The insurance cost of the chairperson and members of the Supreme Court shall be paid from the budget of the Supreme Court, while the insurance cost of judges of courts of appeals and district (city) courts shall be paid from the budget of general courts.

2. The mandatory insurance on the chairperson and members of the Supreme Court shall be performed by means of a voucher or under a contract concluded between the Supreme Court and a licensed insurance organisation in the manner prescribed by the legislation of Georgia. The mandatory insurance of judges of courts of appeals and district (city) courts shall be performed under a contract concluded between the Department of General Courts and a licensed insurance organisation according to the procedure laid down by the legislation of Georgia or by means of a voucher.

**Chapter XII<sup>1</sup>. The procedure for communication with judges of the Common Courts of Georgia**

Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018

**Article 72<sup>1</sup>. Inadmissibility of communication with judges**

1. From submission of a case to court until entry of the court ruling on the case into force, also at the stage of a criminal case investigation, participants to the proceedings, interested persons, public servants and state political officials shall be prohibited from establishing any communication with a judge that is related to consideration of a specific

case or an issue, and/or to the presumable outcome of a case, and that violates the principle of independence and impartiality of a court/judge, and the principle of the adversarial nature of proceedings.

2. An action containing elements of a crime under the Criminal Code of Georgia shall not entail liability under this Law.

#### **Article 72<sup>2</sup>. Liability of judges (chairpersons of courts)**

1. If a participant to the proceedings, an interested person, a public servant or a state political official establishes communication under Article 721 (1) of this Law with a judge, the judge shall be obliged to immediately notify in writing a chairperson of a court or the judge authorized by the chairperson, of this fact. If the communication was with a chairperson of a court, the judge shall immediately notify in writing a chairperson of a court of a higher instance or the judge authorized by the chairperson, of this fact. If the communication was with a judge of the Supreme Court of Georgia, the judge shall immediately notify in writing the first deputy chairperson of the Supreme Court of Georgia or the deputy chairperson authorized by the chairperson of the Supreme Court, of this fact. If the communication was with the Chairperson of the Supreme Court of Georgia, the judge shall immediately notify in writing the High Council of Justice of Georgia, of this fact.

2. A judge authorized to consider a written notification of the communication with a judge, also the High Council of Justice of Georgia in cases provided for by this Law, shall be entitled, in the case of communication with a judge under Article 721(1) of this Law, to apply the following measures to a participant to the proceedings, an interested person, a public servant or a state political official:

a) to impose a fine against him/her;

b) in case of a public servant-to recommend to the Secretary of the High Council of Georgia to impose disciplinary liability on him/her.

3. Violation of the requirements under Article 721 (1) and of the first and second paragraphs of this article by a judge (a chairperson of a court) shall entail disciplinary liability under chapter XIII1 of this Law as determined by the same Law.

#### **Article 72<sup>3</sup>. Liability of prosecutors**

Violation of the requirement under Article 721 of this Law by an employee of the Prosecutor's Office shall be considered as indecent behavior for prosecutors, and shall entail disciplinary liability under the Law of Georgia on the Prosecutor's Office and imposition of a fine as determined by this Law.

#### **Article 72<sup>4</sup>. Liability of advocates**

Violation of the requirement under Article 721 of this Law by an advocate shall be considered as violation of the advocates' professional ethical standards, and shall entail disciplinary liability under the Law of Georgia on Advocates and imposition of a fine as determined by this Law.

**Article 72<sup>5</sup>. Liability of investigators**

Violation of the requirement under Article 721 of this Law by an investigator shall entail disciplinary liability under the legislation of Georgia and imposition of a fine as determined by this Law.

**Article 72<sup>6</sup>. Liability of public servants, state servants, state political officials and political officials**

Violation of the requirement under Article 721 of this Law by a public servant, state servant, state political official or political official shall entail imposition of a fine as determined by this chapter, and in the case of a public servant – also a disciplinary liability under the legislation of Georgia.

**Article 72<sup>7</sup>. Imposition of fines on participants to the proceedings, interested persons, public servants, state servants, state political officials and political officials**

1. Violation of the requirements under this chapter by a participant to the proceedings, an interested person and a public servant shall entail imposition of a fine of no more than GEL 5 000.

2. Violation of the requirements under this chapter by a state servant, a state political official, a political official shall entail imposition of a fine of no more than GEL 10 000.

**Article 72<sup>8</sup>. Consideration of prohibited forms of communication with judges**

1. An authorized judge shall consider a written notification of the communication under Article 721 (1) of this Law with a judge within 14 days after its receipt, and shall make a decision on imposing a fine on a participant to the proceedings, an interested person, a public servant, a state employee, a state political official or a political official, and in the case of a public servant – a decision on raising the issue of imposing a disciplinary liability on the public servant before the Secretary of the High Council of Justice of Georgia.

2. A person who, based on written notification of communication, has established the communication under Article 721(1) of this Law with a judge, and his/her advocate (legal representative), as well as the author of the written notification of communication, shall have the right to participate in consideration of the written notification of communication. A judge authorized to consider a written notification of communication shall have the right to summon and question a person whose testimony is of significant importance for consideration of the written notification, and to suggest to the parties to provide documents and other evidence for verification of the information specified in the written notification. The judge authorized to consider a written notification of communication under Article 721 (1) of this Law with a judge may hold an oral hearing involving the parties. Failure of the parties to appear shall not impede the consideration of a written notification of communication. If an oral hearing involves the parties, they shall have the right to provide statements to the judge authorized to consider the notification, and to formulate their opinions. An order imposing a fine must be well-grounded and must include a reference to the violation of the requirements under this Law, and to the circumstances that prove the violation. An order imposing a fine shall immediately be forwarded to the parties and to the Secretary of the High Council of Justice of Georgia.

3. The Secretary of the High Council of Georgia shall consider a written notification of a prohibited form of communication with a judge within one month after its receipt.

4. If the requirements under this chapter are violated, the Secretary of the High Council of Justice of Georgia shall be entitled to:

a) apply with a recommendation to the officials under Article 729 (1–4) of this Law to respond appropriately;

b) forward the case materials to the appropriate investigative bodies according to the jurisdiction, if he/she concludes, following consideration of materials submitted, that the action may contain elements of a crime under the Criminal Code of Georgia.

5. If a judge authorized to consider a written notification of communication fails to consider the written notification of communication under Article 721(1) of this Law with a judge within the period determined under the first paragraph of this article, the judge, who drafted the written notification, shall be entitled to apply to the High Council of Justice of Georgia.

6. The High Council of Justice of Georgia shall consider a written notification of communication under Article 721(1) of this Law with a judge within one month after its receipt, and shall make a decision on imposing a fine on a participant to the proceedings, an interested person, a public servant, a state employee, a state political official or a political official, and in the case of a public servant – a decision on applying to the officials defined under Article 729 (1–4) of this Law to appropriately respond to the issue of imposing a disciplinary liability on the public servant. The High Council of Justice of Georgia shall consider a written notification of communication under Article 721(1) of this Law with a judge under the procedure established by paragraph 2 of this article.

7. If a judge authorized to consider a written notification of communication under Article 721 (1) of this Law or the High Council of Justice of Georgia conclude, following consideration of the materials submitted, that the action may contain elements of a crime under the Criminal Code of Georgia, they shall forward the case materials to the appropriate investigative bodies according to the jurisdiction.

#### **Article 72<sup>9</sup>. Recommendation by the Secretary of the High Council of Georgia on prohibited forms of communication with judges**

1. If an employee of the Prosecutor's Office violates the requirements under this chapter, the Secretary of the High Council of Justice of Georgia shall apply to the Prosecutor General of Georgia with a recommendation to respond, and shall forward appropriate materials to him/her.

2. If an advocate violates the requirements under this chapter, the Secretary of the High Council of Justice of Georgia shall apply to the Chairman of the Bar Association of Georgia with a recommendation to respond, and shall forward appropriate materials to him/her.

3. If an investigator violates the requirements under this chapter, the Secretary of the High Council of Justice of Georgia shall apply to an appropriate official with a recommendation to respond, and shall forward appropriate materials to him/her.

4. If a public servant violates the requirements under this chapter, the Secretary of the High Council of Justice of Georgia shall apply to the appropriate authorized body or official with a recommendation to respond, and shall forward appropriate materials to them.

5. The officials under paragraph (1–4) of this article shall consider the recommendation of the Secretary of the High Council of Justice of Georgia within one month after its receipt, and shall notify the Secretary of the High Council of Justice of Georgia of the decision made. Failure to fulfil this obligation shall be considered to be a decision to refuse to impose disciplinary liability.

6. The Secretary of the High Council of Georgia shall be entitled to appeal the decision on refusal to impose disciplinary liability under the procedures for appealing an individual administrative-legal act as determined by the legislation of Georgia.

#### **Article 72<sup>10</sup>. Appeal of an order to impose a fine**

1. A writ of a judge authorized to consider a written notification of communication with a judge under Article 721 (1) of this Law on imposing a fine on a participant to the proceedings, an interested person, a public servant, a state employee, a state political official or a political official may be appealed within three days only once by the person on whom a fine was imposed, or his/her lawyer (legal representative); also by the judge with whom, as he/she notified, the communication under Article 721 (1) of this Law was established, to the chairperson of a court of a higher instance or his/her authorized judge; and a writ of a deputy Chairperson of the Supreme Court of Georgia may be appealed to the Chairperson of the Supreme Court of Georgia.

2. While considering an appeal, a person considering the appeal shall verify whether the judge entitled to consider a written notification of communication has complied with the requirements under Article 728 of this Law when imposing a fine.

3. The person considering an appeal shall consider an appeal within seven days and shall make one of the following decisions:

a) affirming the appealed order and denying the appeal;

b) reversing or overturning the appealed order, or fully (partially) allowing the appeal;

4. Copies of a resolution following the consideration of an appeal, shall be forwarded to the parties and submitted to the High Council of Justice of Georgia. The resolution shall be final and without appeal.

### **Article 72<sup>11</sup>. Publicity of information on the communications with judges of Common Courts**

1. A judge authorized to consider a written notification of communication under Article 721 (1) of this Law with a judge, shall be obliged to immediately submit the order imposing a fine, as well as any other statistical information on application of this Law, to the Secretary of the High Council of Justice of Georgia.

2. The information on the communication under Article 721 (1) of this Law shall be open, except for the identity of the judge with whom there was a communication, and except for the information on the case on which the communication was established.

3. To ensure publicity of the information on the communication under Article 721(1) of this Law with judges of Common Courts, the High Council of Justice of Georgia shall maintain a unified statistical information database on the application of this Law, under the legislation of Georgia. The unified database shall also include information on the identity of persons fined under this Law.

## **Chapter XIII - Location of the Supreme Court; Symbols of the Judiciary**

### **Article 73 - Location of the Supreme Court**

The location of the Supreme Court shall be the Palace of Justice House of Georgia in Tbilisi.

### **Article 74 - Symbols of the judiciary and the procedure for their approval**

1. The symbols of the judiciary shall be the official insignia of judges designed and approved by the High Council of Justice of Georgia.

2. A judge shall participate in the judicial hearing of a case wearing a special uniform and official insignia approved by the High Council of Justice of Georgia.

3. A judge shall be issued an identity card that certifies his/her position and is signed by the chairperson of the Supreme Court. The identity card certifying the position of the chairperson of the Supreme Court shall be signed by the chairperson of the Parliament of Georgia.

Organic Law of Georgia No 1489 of 1 November 2013 – website, 13.11.2013

### **Article 75 - Court seal**

A court seal shall bear the National Coat of Arms of Georgia and the name of the court.

## **Chapter XIII<sup>1</sup>**

### **Disciplinary liability and disciplinary proceedings of the judges of the Common Courts of Georgia**

Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018

### **Article 75<sup>1</sup>. Grounds for disciplinary liability of a judge and types of disciplinary misconduct**

1. Disciplinary liability and penalties shall be imposed on judges of the Common Courts for committing disciplinary misconduct.

2. Types of disciplinary misconduct shall include:

- a) a corruption offence or misuse of one's official status to the detriment of the interests of justice and the office held. An infringement provided for by the Law of Georgia on Conflicts of Interest and Corruption in Public Service shall constitute a corruption offence unless it entails criminal or administrative liability;
- b) any activity incompatible with the position of a judge, or conflict of interest with duties of a judge;
- c) any action inappropriate for a judge that disgraces the reputation of, or damages the confidence in, a court;
- d) ungrounded delay in proceedings;
- e) failure to fulfil or improper fulfilment of the obligations of a judge;
- f) disclosure of secrecy of deliberations of judges or professional secrecy;
- g) impediment to or disrespect for the activities of bodies having disciplinary powers;
- h) breach of judicial ethics.

3. Incorrect interpretation of the law based on a judge's internal faith shall not constitute disciplinary misconduct and disciplinary liability shall not be imposed.

**Article 75<sup>2</sup>. Time frames for disciplinary proceedings**

Disciplinary liability shall not be imposed on a judge, if five years have passed from the date of committing disciplinary misconduct, and one year from the date of a decision on instituting disciplinary proceedings.

**Article 75<sup>3</sup>. Types of disciplinary penalties and disciplinary measures**

1. Disciplinary penalties shall include:

- a) reproof;
- b) reprimand;
- c) severe reprimand;
- d) dismissal of a judge from the position;
- e) elimination of a judge from the reserve list of judges of Common Courts.

2. Disciplinary measures shall include:

- a) giving a private recommendation letter to a judge;
- b) dismissal of a chairperson, first deputy or deputy chairperson of a court, a chairperson of a judicial panel or chamber.

3. Disciplinary penalties under paragraph (1)(a-c)(e) of this article shall apply to judges enrolled in the reserve list.

**Article 75<sup>4</sup>. Confidentiality of disciplinary proceedings**

1. The process of disciplinary proceedings shall be confidential. A judge against whom the disciplinary proceedings is conducted may demand that meetings of the Disciplinary Board of Judges of Common Courts of Georgia and the Disciplinary Chamber of the Supreme Court of Georgia be public, also a meeting (except for the deliberation and decision-making procedures) held by the High Council of Justice of Georgia to make the decision under Article for making a decision under 7513 of this Law be public. Duly authorized officials and state employees shall respect the confidentiality of any information that has become known to them during disciplinary proceedings, except as provided for by this Law.

2. The decision on terminating, suspending or resuming disciplinary proceedings against a judge, as well as the decision under Article 7541 of this Law shall, within 5 days after it is made, be forwarded to the author of the complaint (application) and the judge in question.

3. The decision on instituting disciplinary prosecution against a judge, and on imposing disciplinary liability on a judge, as well as decisions under subparagraphs “c” and “d” of paragraph one of Article 7541 of this Law shall, within 5 days after they are made, also be forwarded to the author of the complaint (application/notification) if the Common Court has quit hearing the case with regard to which the disciplinary proceeding was conducted.

#### **Article 75<sup>5</sup>. Grounds for initiating disciplinary proceedings**

1. The grounds for initiating disciplinary proceedings against a judge may be:

- a) a complaint or application of any person, other than an anonymous complaint or application;
- b) an explanatory note of another judge, a member or an officer of a court, or of the High Council of Justice of Georgia with regard to committing disciplinary misconduct by a judge;
- c) a notification by an investigative body;
- d) information disseminated by the mass media, as well as information contained in a report and/or proposal of the Public Defender of Georgia about a judge having committed an act that may be considered as a disciplinary misconduct;

2. A complaint (application) under paragraph (1)(a) of this article must comply with a sample form approved by the High Council of Justice of Georgia, and must be drafted in printed form, as a rule. A complaint (application) may also be submitted in an electronic form. Submission of a complaint (application) that fails to comply with the sample form approved by the High Council of Justice of Georgia may not serve as a basis for rejecting to accept (register) it.

3. When the High Council of Justice of Georgia receives a complaint, application or any other information about a judge having committed a disciplinary misconduct, it shall immediately notify the judge in question.

#### **Article 75<sup>6</sup>. Power for initiating disciplinary proceedings against a judge**

Disciplinary proceedings against a judge shall be initiated, as well as a preliminary examination and investigation shall be conducted by an independent inspector of the High Council of Justice of Georgia (“the Independent Inspector”). The Independent Inspector shall submit his/her opinions and views to the High Council of Justice of Georgia.

#### **Article 75<sup>7</sup>. Initiation of disciplinary proceedings and preliminary examination**

1. The Independent Inspector shall, within two months after receiving a complaint, application or any other information about a judge having committed a disciplinary misconduct, perform a preliminary examination of the validity of the complaint, application or information. The period of preliminary examination may be extended by, or suspended for two weeks if the preliminary examination cannot be performed.

2. Imposition of disciplinary liability on a judge may be based on circumstances that have not been specified in the complaint, application or other information on committing disciplinary misconduct by a judge but that were revealed during the preliminary examination.

3. Disciplinary proceedings may not be re-initiated against the same judge on the same grounds that were already used in a disciplinary proceeding.

4. Powers of employees of the Office of the Independent Inspector during disciplinary proceedings shall be defined under this Law and appropriate legal acts of the High Council of Justice of Georgia.



**Article 75<sup>8</sup>. Evaluation of the validity of initiating disciplinary prosecution against a judge**

1. Based on the preliminary examination results, the High Council of Justice of Georgia shall evaluate the validity of initiating disciplinary prosecution against a judge and shall, within the total period determined under Article 757 (1) of this Law for preliminary examination, by two-thirds majority of the full list, make the decision to initiate disciplinary prosecution against the judge and take explanations from the judge. If the High Council of Justice of Georgia fails to make such a decision, disciplinary proceedings against a judge shall be terminated. A member of the High Council of Justice of Georgia that disagrees with the decision may formulate his/her dissenting opinion in writing, which will be attached to the disciplinary case.

2. If the decision to take explanations from a judge is made, the decision of the High Council of Justice of Georgia must include the grounds for disciplinary prosecution with reference to a relevant subparagraph of Article 751 (2) of this Law. Giving explanations is the right of a judge.

**Article 75<sup>9</sup>. Consolidation of disciplinary cases into one proceeding**

The Independent Inspector, as well as the High Council of Justice of Georgia may, by its decision, consolidate two, or more than two disciplinary cases conducted on different grounds against one judge into one proceeding.

**Article 75<sup>10</sup>. Investigation of a disciplinary case. Challenge and recusal of the Independent Inspector**

1. Investigation of a disciplinary case must be completed within two month after the decision to take explanations from a judge is made. When necessary, this period may be extended by not more than two weeks.

2. Written explanations shall be taken from a judge against whom the disciplinary prosecution is pending. The Independent Inspector may take written explanations from the author of a complaint (application). The Independent Inspector may request all necessary information, documents and materials related to the disciplinary misconduct, invite another person to hear his/her information. The Independent Inspector shall review a motion of a judge against whom the disciplinary prosecution is pending, and take additional explanations from the judge if so requested by him/her. A judge shall be entitled to have a defender during investigation of the disciplinary case. He/she may invite a lawyer or another judge, or another representative to be his/her defender.

3. Preliminary examination and investigation of a disciplinary case must be conducted equitably, comprehensively and impartially. Both mitigating and aggravating circumstances of the liability of a judge must be examined.

4. A judge may challenge the Independent Inspector. The challenge must be substantiated. A motion of the judge must be granted if the suspicion about impartiality of the Independent Inspector in a given case is grounded. If there are the same grounds, the Independent Inspector shall recuse himself/herself. The issue of the Independent Inspector's recusal shall be considered by 3-member board of the High Council of Justice of Georgia, which is selected by poll. If the motion of the judge is granted, the disciplinary case shall be investigated by a member of the High Council of Justice of Georgia to be identified according to the procedure established by the Regulation of the High Council of Justice of Georgia. The issue of challenging that member of the High Council of Justice of Georgia shall be decided under this paragraph. A member of the High Council of Justice of Georgia that will exercise the powers conferred on the Independent Inspector under this Law shall not participate in deciding the issue of imposing disciplinary liability on the judge in a given

case. The period used for deciding the issue of challenging the Independent Inspector shall not be included in the period for investigation of the disciplinary case.

5. During disciplinary proceedings, the lawfulness of acts issued by the judge may not be supervised over.

#### **Article 75<sup>11</sup>. Suspension of disciplinary proceedings**

1. Disciplinary proceedings shall be suspended if:

a) the disciplinary case examination materials explicitly indicate a crime committed by a judge. In such a situation, the disciplinary case materials shall be forwarded to an investigative body. If criminal prosecution is not initiated against a judge, and/or a judgment of conviction is not delivered, and if the period for imposing disciplinary liability on the judge is not expired, the High Council of Justice of Georgia shall resume the disciplinary proceedings;

b) any objective difficulty or obstacle (illness of a judge against whom the disciplinary prosecution is pending, or another situation) has arisen during investigation of a disciplinary case that makes it temporarily impossible to continue investigation of the case. In this situation, the Independent Inspector shall suspend the disciplinary proceeding by his/her decision. When the grounds for suspending the disciplinary proceeding are eliminated, the Independent Inspector shall resume the proceeding;

2. The period of suspension of a disciplinary proceeding shall not be included within the time frame determined under this Law for examination of a disciplinary case, nor within a one-year period for imposing a disciplinary liability, but the suspension period will be included within the five-year period determined by this Law for imposing a disciplinary liability.

#### **Article 75<sup>12</sup>. Grounds for terminating disciplinary proceedings against a judge**

1. The High Council of Justice of Georgia shall make a substantiated decision to terminate disciplinary proceedings against a judge if:

a) as a result of the examination of a disciplinary proceeding, the fact of committing a disciplinary misconduct under this Law, or its culpable commission by a judge has not been proven;

b) the period for instituting disciplinary proceedings against, or imposing disciplinary liability and penalties on a judge has expired;

c) there is a decision of a body conducting disciplinary proceedings delivered in relation to the same judge and on the same grounds;

d) the judicial power of a judge has been terminated.

2. The decision of the High Council of Justice of Georgia on terminating disciplinary proceedings against a judge shall be communicated to the judge in question and shall be published on the website of the High Council of Justice of Georgia without the identification data of the judge and other parties to the disciplinary case. If, under Article 754 (1) of this Law, the judge requested that the disciplinary proceedings be made public, the decision of the High Council of Justice of Georgia on terminating disciplinary proceedings against a judge shall be published with the identification data of the judge.

#### **Article 75<sup>13</sup>. Imposing disciplinary liability on a judge, or terminating disciplinary prosecution against him/her**

1. Following the disciplinary case investigation, the High Council of Justice of Georgia shall, within the total period determined under Article 7510 (1) of this Law for investigation of a disciplinary case, by two-thirds majority of the full list, make the decision to impose

disciplinary liability on a judge. If the High Council of Justice of Georgia fails to make such a decision, disciplinary proceedings against the judge shall be terminated. A member of the High Council of Justice of Georgia that disagrees with the decision may formulate his/her dissenting opinion in writing, which will be attached to the disciplinary case.

2. The High Council of Justice of Georgia may also assign the Independent Inspector to conduct additional investigation into the disciplinary proceedings and give him/her relevant instructions. In such a situation, the period for investigation of the disciplinary proceedings shall be extended by two months. This period may not be extended further. After the investigation of the disciplinary case is finished, the issue in question shall again be put to the vote for the High Council of Justice of Georgia to make a decision.

**Article 75<sup>14</sup>. Decision on instituting disciplinary proceedings against a judge**

1. The decision on instituting disciplinary proceedings against a judge must include the content of the disciplinary accusation presented against him/her.

2. By the same decision, the High Council of Justice of Georgia shall appoint its representative to the Disciplinary Board of Judges of Common Courts of Georgia to support the disciplinary accusation at the hearing. The High Council of Justice of Georgia shall be entitled to appoint several representatives to support the disciplinary accusation, or replace its representative at any stage of a disciplinary proceeding.

3. A copy of the decision, along with copies of the case materials, shall be handed to the judge imposed with disciplinary liability within 5 days after the decision was delivered.

4. The judge imposed with disciplinary liability may, within 10 days after receiving a copy of the decision, submit to the High Council of Justice of Georgia a written counter plea with regard to the decision of the High Council of Justice of Georgia on imposing disciplinary liability on him/her, and appropriate evidence. Within three days after the counter plea is submitted by the judge, or after the period set for submitting a counter plea expires, the disciplinary case materials along with the documents submitted by the judge shall be forwarded to the Disciplinary Board of Judges of Common Courts of Georgia.

**Article 75<sup>15</sup>. Making decisions on disciplinary matters by the High Council of Justice of Georgia**

1. The High Council of Justice of Georgia shall make a decision on disciplinary matters under this Law and as determined by the Regulations of the High Council of Justice of Georgia.

2. A session to consider disciplinary matters shall be chaired by the Chairperson of the Supreme Court of Georgia.

[2. While considering disciplinary issue, the meeting shall be presided by the chairperson of the High Council of Justice of Georgia. (shall become effective after next presidential elections when newly elected president will take an oath)]

3. The Secretary of the High Council of Justice of Georgia shall convene a session of the High Council of Justice of Georgia to consider disciplinary matters.

4. The High Council of Justice of Georgia shall, at its session, consider the issue of imposing disciplinary liability on a judge, and the related materials. The High Council of Justice of Georgia shall invite the judge in question to the session. If the High Council of Justice of Georgia deems it necessary, the author of a complaint (application/notification) may also be

invited to the session. The High Council of Justice of Georgia shall hear the information and explanations of the invited persons.

5. If the judge admits the disciplinary guilt, the High Council of Justice of Georgia shall make the decision to impose disciplinary liability on the judge, and shall forward the disciplinary case materials to the Disciplinary Board of Judges of Common Courts of Georgia under the procedure established by Article 7514(4) of this Law.

Organic Law of Georgia No 3262 of 21 July 2018 – website, 10.08.2018

**Article 75<sup>16</sup>. Prohibition of removal of a judge from considering a case and from fulfilling other official duties**

A judge shall not be removed from considering a case and from fulfilling other official duties due to instituting disciplinary proceedings or imposing disciplinary liability or penalties on him/her, except as provided for under Article 7550 (3) of this Law.

**Article 75<sup>17</sup>. The disciplinary hearing body and the legal basis for its activities**

1. The Disciplinary Board of Judges of Common Courts of Georgia ('the Disciplinary Board') shall consider disciplinary proceedings against judges of Common Courts of Georgia.

2. The Disciplinary Board shall carry out activities under this Law and upon recommendation of the Disciplinary Board, according to procedures established by the Conference of Judges of Georgia.

**Article 75<sup>18</sup>. Binding nature of execution of a decision by the Disciplinary Board**

Execution of a decision by the Disciplinary Board shall be binding.

**Article 75<sup>19</sup>. Procedure for establishment of the Disciplinary Board**

1. The Disciplinary Board shall consist of 5 members; three of them are judges of Common Courts of Georgia and two of them are not judges. The Disciplinary Board member judges shall be elected by the Conference of Judges of Georgia. Any judge attending the Conference of Judges of Georgia may nominate at the Conference of Judges a candidate for a member of the Disciplinary Board. The Parliament of Georgia shall elect members of the Disciplinary Board that are not judges by majority of the members on the list. These members shall be selected from among professors and researchers working at higher education institutions, members of the Georgian Bar Association and/or persons nominated by non-entrepreneurial (non-commercial) legal entities of Georgia on recommendation of a collegiate management authority of a respective organization. The non-entrepreneurial (non-commercial) legal entity may nominate a candidate for Disciplinary Board membership if, within at least two years before the competition was announced, one of the candidate's activities has been the exercise of representative powers in judicial proceedings. Each of the entities shall be entitled to present one candidate to the Parliament of Georgia. Members of the Parliament of Georgia, judges and public prosecutors may not be nominated as candidates for Disciplinary Board membership. The procedure and time for presenting candidates to the Parliament of Georgia, establishing compliance with the requirements under this paragraph and the second paragraph of this article, for considering and submitting them to plenary sessions of the Parliament, as well as for electing them as Disciplinary Board members shall be determined by Regulations of the Parliament of Georgia. Disciplinary Board members shall be elected for a two-year term.

2. The Parliament of Georgia may elect as a Disciplinary Board member a citizen of Georgia who has higher legal education, at least 10-year's working experience in the profession, enjoys a good reputation and is a recognized expert in the field of law. The prior written

consent of the candidate for membership shall be required before electing him/her as a Disciplinary Board member.

3. A Disciplinary Board member elected by the Parliament of Georgia may not hold any other official position in public service or a local self-governing body, be engaged in entrepreneurial activities, personally exercise powers of a member of a governing, supervisory, monitoring, auditing or advisory body of an entrepreneurial entity, or be engaged in any paid activity other than scientific, pedagogical or creative activities. He/she may not be a member of any political alliance and/or participate in political activities.

4. A Disciplinary Board member may not be:

a) the Chairperson, the first deputy Chairperson or a deputy Chairperson of the Supreme Court of Georgia; the Chairperson, the first deputy Chairperson or a deputy Chairperson of a court; the chairperson of a Board or Chamber, or a person who has held any of these official positions within the last one year;

b) a member of the High Council of Justice of Georgia.

5. A judge may not be a member of the Disciplinary Board, if disciplinary liability and disciplinary penalties for committing a disciplinary misconduct were imposed on him/her within the past five years.

6. The powers of a Disciplinary Board member may be terminated on the grounds of:

a) personal application;

b) entry into force of the final judgment of conviction against him/her;

c) termination of Georgian citizenship;

d) expiry of term of office;

e) recognizing him/her by court as a person with limited competence or a beneficiary of support, unless otherwise determined under court decision;

f) his/her death;

g) disclosing confidential information of disciplinary proceedings;

h) committing disciplinary misconduct;

i) systematic failure to fulfil his/her obligations or their improper fulfilment;

j) holding an incompatible position or engaging in incompatible activities.

7. Powers of a Disciplinary Board member may be terminated due to the breach of other norms of judicial ethics.

8. A decision on terminating the powers of a Disciplinary Board member shall be made by the Parliament of Georgia by majority of its members, or by the Conference of Judges of Georgia which shall be obliged to examine the validity of the grounds for termination. The Parliament of Georgia or Conference of Judges of Georgia shall be entitled to invite a respective member to the session to hear his/her opinion. Under any of the circumstances specified in paragraph (6)(a-f) of this article, the Parliament of Georgia or the Conference of Judges of Georgia shall accept the information on any circumstance for reference, without making a decision; and under any of the circumstances specified in paragraph (6)(g-j) of this article – they shall vote for the decision on termination of powers of a Disciplinary Board member.

9. The Disciplinary Board shall consider the disciplinary case on its member without participation of the member.

**Article 75<sup>20</sup>. Chairperson of the Disciplinary Board**

The Disciplinary Board shall elect the Chairperson of the Disciplinary Board from among the member judges of the Board. The chairperson of the Disciplinary Board shall chair Board sessions and exercise other powers under the legislation of Georgia.

**Article 75<sup>21</sup>. Remuneration for performance of obligations**

A Disciplinary Board member elected by the Parliament of Georgia shall be remunerated for performance of his/her duties within the budgetary allocations for the Common Courts of Georgia.

**Article 75<sup>22</sup>. Place of performance of the Disciplinary Board**

The place of performance of the Disciplinary Board's functions shall be at the High Council of Justice of Georgia or at a location specially designated for it.

**Article 75<sup>23</sup>. Scope of considering a case by the Disciplinary Board**

The Disciplinary Board has no right to go beyond the scope of a disciplinary accusation (facts of the accusation). It has no right to propose for substantive discussion at the Disciplinary Board session facts or circumstances that are not directly related to the disciplinary accusation presented against a judge; or to find a judge guilty for committing disciplinary misconduct for which a disciplinary accusation has not been presented against the judge, and impose disciplinary liability and penalties on him/her.

**Article 75<sup>24</sup>. Principles of activity of the Disciplinary Board**

1. The Disciplinary Board shall consider a disciplinary case collegially. The Disciplinary Board shall be duly constituted, if at least 3 Board members are present at its session.

2. The Disciplinary Board shall consider disciplinary proceedings impartially and objectively following the principles of adversarial proceedings and equality of arms.

3. A Disciplinary Board session shall be closed, and the information related to a disciplinary case hearing shall be confidential, except as provided for in Article 754 (1) of this Law. A Disciplinary Board member and a person bringing a disciplinary charge shall keep the information confidential.

**Article 75<sup>25</sup>. Time frame for a disciplinary case hearing**

The Disciplinary Board shall consider a disciplinary case not later than two months after its receipt.

**Article 75<sup>26</sup>. Location of a disciplinary case hearing**

The Disciplinary Board shall consider a disciplinary case in a specially allocated hall. A disciplinary hearing may not be held in a courtroom.

**Article 75<sup>27</sup>. Procedure for assignment of disciplinary cases within the Disciplinary Board**

The Chairperson of the Disciplinary Board shall assign disciplinary cases according to the order of cases.

**Article 75<sup>28</sup>. Withdrawal of a Disciplinary Board member from a disciplinary case**

1. A Disciplinary Board member shall withdraw from a disciplinary case hearing if there is any circumstance that can prevent him/her from considering the case impartially and objectively.

2. A Disciplinary Board member shall withdraw from a disciplinary case hearing if a court ruling, decree, or a separate decision made by him/her or with his/her participation, and/or his/her explanatory note served as a basis for initiating disciplinary prosecution against a judge.

**Article 75<sup>29</sup>. Challenge of the Disciplinary Board**

1. A judge imposed with disciplinary liability, and a representative of the High Council of Justice of Georgia may challenge a member of the Disciplinary Board or the full composition of the Disciplinary Board if there is a basis under Article 7528 of this Law for a member of the Disciplinary Board to be withdrawn from a disciplinary case. He/she shall specify the reason of the challenge and substantiate the challenge. A judge imposed with disciplinary liability may also challenge a representative of the High Council of Justice of Georgia that has been appointed to support a disciplinary charge in his/her case.

2. The Disciplinary Board shall consider a motion for challenging the Board, its member or a representative who is appointed to support the charges in a meeting room.

3. A motion for challenge must be satisfied if there is a well-grounded suspicion about the impartiality of a Disciplinary Board member, the full Board composition or the representative appointed to support the charges.

4. If a Disciplinary Board member or a representative appointed to support disciplinary charges reverses or overturns the judgment passed by the judge against whom disciplinary liability was imposed in the past, it shall not constitute grounds for impartiality and recusal of the Disciplinary Board member or the representative appointed to support the disciplinary charges.

5. A motion for recusal of a Disciplinary Board member must be granted if any of the circumstances under Article 7528 (2) of this Law are present.

6. If a motion for recusal is granted, the Disciplinary Board shall continue to consider the case without the Board member recused.

7. If a Disciplinary Board or the representative appointed to support charges is challenged, the period of adjournment of the case hearing shall not be included within the time established by this Law for imposing a disciplinary penalty.

8. If a motion for recusal is not granted, the Disciplinary Board shall continue the hearing at the same session.

**Article 75<sup>30</sup>. Termination of a disciplinary proceeding due to expiry of the statutory period**

1. When receiving a disciplinary case, the Disciplinary Board shall, before starting the case hearing, verify whether the statutory period for imposing disciplinary liability on a judge has expired.

2. If the period of imposing disciplinary liability on a judge expires, the Disciplinary Board shall immediately make the decision to terminate the disciplinary proceedings, except when the period of imposing disciplinary liability on a judge expires due to an intentional culpable time delay by the judge imposed with disciplinary liability. The Disciplinary Board shall

communicate this decision to the High Council of Justice of Georgia, and to the judge against whom the disciplinary prosecution is pending.

**Article 75<sup>31</sup>. Suspension of a disciplinary proceeding due to presence of elements of a crime**

1. When receiving a disciplinary case, the Disciplinary Board shall be obliged, before starting the case hearing, to verify whether the action that served as the basis for imposing disciplinary liability contains elements of a crime.

2. If, based on the disciplinary case files, the action of a judge contains explicit elements of a crime, the Disciplinary Board shall not start the case hearing but it shall suspend disciplinary proceedings, forward the case files to an appropriate body and communicate this to the judge against whom the disciplinary prosecution is pending, and to the High Council of Justice of Georgia.

3. If criminal prosecution against a judge is not initiated, and/or the judgment of conviction is not delivered, except as provided for in Article 7542 (1)(d) of this Law, the Disciplinary Board shall resume the suspended disciplinary proceedings after receiving the appropriate information, unless the period of imposing disciplinary liability is expired.

**Article 75<sup>32</sup>. Making arrangements for a disciplinary case hearing**

1. The Disciplinary Board assigned to consider a disciplinary case shall beforehand familiarize itself with the case material and appoint a date for hearing by the Board.

2. The Disciplinary Board must timely communicate the date, time and location of the disciplinary case hearing to the High Council of Justice of Georgia and its representative, and to the judge against whom the disciplinary proceedings is pending.

3. The Disciplinary Board shall summon witnesses and other persons to participate in the case hearing, and shall notify them of the hearing date, time and location.

**Article 75<sup>33</sup>. Hearing of a case by the Disciplinary Board**

1. The Disciplinary Board shall hear a disciplinary case at its session. The Chairperson of the Disciplinary Board or, in his/her absence, a Board member making a report on a disciplinary case shall chair the session.

2. The chairperson of the Disciplinary Board session shall open the session.

3. A disciplinary case hearing shall start with a report by one of the Disciplinary Board members. The report shall provide details of the stages of the disciplinary proceeding and related factual circumstances in chronological order.

4. After hearing the report, the floor shall be given to the parties involved: first to a representative of the High Council of Justice of Georgia to present a disciplinary charge, and then to the judge imposed with disciplinary liability to reply to the presented charge. The judge imposed with disciplinary liability may have a defender. He/she may invite a lawyer, or another judge, or another representative to be his/her defender.

5. The parties shall be entitled to fully express and appropriately defend their positions, exchange questions, present written and other evidences, file motions for publishing various documents, materials or information, or for hearing information of persons invited to the session, or for requesting additional documents or inviting additional persons and hearing their information, for evoking a respective proceeding, as well as for carrying out other measures. The motions shall be considered by the Disciplinary Board.



6. The Disciplinary Board shall be entitled to question the parties, or persons invited to participate in the case hearing, request additional documents, materials or information, invite additional persons to hear their information, adjourn the case for not more than two weeks, and carry out other measures.

7. Presenter of a disciplinary charge shall only be limited to presenting a disciplinary charge and its substantiation. He/she may not request imposing a specific disciplinary penalty and disciplinary measure on a judge.

8. Minutes of the Disciplinary Board session shall be drawn up at the session.

**Article 75<sup>34</sup>. Ensuring equality of the parties**

1. The Disciplinary Board shall be obliged to provide the parties with equal conditions and opportunities to express and defend their positions.

2. Disciplinary Board members may not hold prior meetings with, or obtain any information from any party in the absence of the other party, or without notifying the other party of contents of the information, unless it refers to an organizational aspect of the case.

3. Disciplinary Board members shall be obliged to abstain from expressing their attitudes or predispositions in favor of either party that may raise doubts about impartiality of the Disciplinary Board.

**Article 75<sup>35</sup>. Mandatory participation of parties in disciplinary proceedings**

1. During the disciplinary case hearing, participation of the judge imposed with disciplinary liability and of a representative of the High Council of Justice of Georgia in a Disciplinary Board session shall be mandatory. If any of the parties fail to appear at the session, the Disciplinary Board shall adjourn the disciplinary case hearing by not more than two weeks. This time shall not be included in the two-month period for hearing the disciplinary case by the Disciplinary Board.

2. If it is proved that the judge imposed with disciplinary liability avoids attending a Disciplinary Board session without reasonable excuse, the Board shall be entitled to consider the case in his/her absence, to find him/her guilty if relevant grounds are present, and impose disciplinary liability and disciplinary penalties on him/her.

3. If a judge imposed with disciplinary liability is unable to attend a Disciplinary Board session due to a severe illness or another force majeure, the Disciplinary Board shall, by its decision, be entitled to suspend the disciplinary proceedings for up to three months. This period shall not be included in the one-year period for imposing disciplinary liability on the judge but it shall be included in the five-year period determined under this Law for imposing disciplinary liability. If the reason for suspending the disciplinary proceeding is not eliminated within the three-month period, the Disciplinary Board may hear the case in the absence of the judge imposed with disciplinary liability.

**Article 75<sup>36</sup>. Decision of the Disciplinary Board with respect to withdrawal of disciplinary accusations against judges, or admission of disciplinary accusations by judges**

1. A representative of the High Council of Justice of Georgia may, based on the decision of the High Council of Justice of Georgia, at any stage of a disciplinary case hearing (before the Disciplinary Board goes into the deliberations room), free the judge from the disciplinary charge presented against him/her. In this situation, the Disciplinary Board shall terminate the disciplinary case hearing regardless of its stage, and subsequently, the disciplinary case.

2. Before the hearing starts, the judge accused of disciplinary misconduct shall have the right to fully admit the disciplinary accusation and request the Disciplinary Board to decide on finding him/her guilty and on imposing disciplinary liability and penalties against him/her without a substantive case hearing. The Disciplinary Board shall grant the motion of the judge and make an appropriate decision.

**Article 75<sup>37</sup>. Temporary suspension of a case hearing at the Disciplinary Board**

1. If, before completing a disciplinary case hearing, the Disciplinary Board receives another disciplinary case against the same judge, the Disciplinary Board shall be obliged to temporarily suspend the previous hearing, consolidate both disciplinary cases, consider them simultaneously and, in case the judge is found guilty of committing two or more misconducts and disciplinary liability is imposed, to impose one of the penalties provided for by this Law.

2. The Disciplinary Board shall also temporarily suspend the hearing in other cases as provided for by this Law.

3. The temporary suspension period of a case shall not be included in the two-month period for the Disciplinary Board to consider the case.

4. After the grounds for suspending disciplinary proceedings are eliminated, the Disciplinary Board shall resume the hearing.

**Article 75<sup>38</sup>. Noncompliance with the principle of continuity of the proceeding**

The principle of continuity of a proceeding does not apply to disciplinary proceedings. If a disciplinary case hearing is adjourned or temporarily suspended, Disciplinary Board members shall be entitled to consider another disciplinary case and then resume considering the adjourned or temporarily suspended case. They shall have the right to consider a disciplinary case regardless of whether or not they participate in other (criminal, civil, etc.) proceedings.

**Article 75<sup>39</sup>. Making a substantive decision on a case**

The Disciplinary Board shall determine whether a judge committed an action for which a disciplinary charge was presented against him/her, and whether this action constitutes disciplinary misconduct under this Law. The Disciplinary Board shall also determine whether a judge was to be found guilty of committing disciplinary misconduct. Only under all of the three circumstances the Disciplinary Board shall be entitled to find a judge guilty and to impose disciplinary liability and disciplinary penalties against him/her. The Disciplinary Board may reclassify the action committed by the judge and replace it with any other disciplinary misconduct under Article 75<sup>1</sup> of this Law.

**Article 75<sup>40</sup>. Making a decision by the Disciplinary Board**

1. The Disciplinary Board shall make a decision in a meeting room.

2. The decision of the Disciplinary Board shall be considered to be made if the majority of the Board members present vote for it.

3. The decision of the Disciplinary Board shall be made in writing and signed by its members.

4. A Disciplinary Board member who disagrees with a decision made in a disciplinary case shall formulate his/her opinion in writing, which will be attached to the case.

5. The decision of the Disciplinary Board may be appealed to the Disciplinary Board.

**Article 75<sup>41</sup>. Types of the Disciplinary Board decisions**

1. The Disciplinary Board shall be entitled to deliver decisions on one of the following issues:

- a) suspending a disciplinary proceeding;
- b) terminating a disciplinary proceeding;
- c) finding a judge guilty of committing disciplinary misconduct and imposing disciplinary liability and disciplinary penalties against him/her;
- d) finding a judge guilty of committing disciplinary misconduct, imposing disciplinary liability against the judge and giving a private recommendation letter to him/her;
- e) acquitting a judge.

2. The decisions under paragraph (1)(c-e) of this article shall be made only following the hearing of a disciplinary case on the merits, except as provided for Article 75<sup>36</sup> (2) of this Law.

**Article 75<sup>42</sup>. Decision of the Disciplinary Board on termination of a disciplinary proceeding**

1. The Disciplinary Board shall decide to terminate a disciplinary proceeding if:

- a) the time frame for imposing a disciplinary penalty against a judge has expired;
- b) the High Council of Justice of Georgia has freed the judge from a disciplinary charge;
- c) the judge against whom a disciplinary prosecution has been initiated resigns before the disciplinary proceeding is completed or his/her judicial power expires;
- d) based on files submitted by the Disciplinary Board, criminal prosecution was not instituted against a judge due to failure to prove the guilt of the judge, or the facts that served as a basis for the disciplinary charge.

2. The Disciplinary Board shall terminate a disciplinary proceeding only before a substantive case hearing is completed, and before the Disciplinary Board goes into the meeting room.

**Article 75<sup>43</sup>. Decision of the Disciplinary Board on temporary suspension of a disciplinary proceeding**

1. The Disciplinary Board shall temporarily suspend a disciplinary proceeding in cases under Article 7537 of this Law.

2. A disciplinary proceeding may be temporarily suspended only before a substantive case hearing is completed, and before the Disciplinary Board goes into the meeting room.

**Article 75<sup>44</sup>. Decision of the Disciplinary Board to find a judge guilty of committing a disciplinary misconduct, to impose disciplinary liability on him/her or to apply to a judge with a private recommendation letter**

1. The Disciplinary Board shall make the decision to find a judge guilty of committing a disciplinary misconduct, to impose disciplinary liability on him/her or to apply to a judge with a private recommendation letter if, during hearing of a disciplinary case before the Disciplinary Board, based on the combination of concurrent and convincing evidence, a culpable commission of a disciplinary misconduct under this Law by the judge is proven but due to the insignificance of the misconduct, or an insignificant degree of the charge or for another reason (due to the sensitivity of the issue, or for another reason, taking into account the judge's personality), the Disciplinary Board considers it inappropriate to impose a disciplinary penalty on the judge, and deems it sufficient to apply to him/her with a private recommendation letter.

2. A private recommendation letter is a letter of the Disciplinary Board addressed to a judge that has committed a disciplinary violation, in which the fact of committing a disciplinary

misconduct by the judge is negatively evaluated. The private recommendation letter shall also contain a recommendation of the Disciplinary Board on the ways and instruments for eliminating the violation, and solving the problems and difficulties associated with the performance of duties of a judge.

3. The content of a private recommendation letter shall be confidential. A private recommendation letter shall only be sent to the judge that has committed a disciplinary misconduct, to the High Council of Justice of Georgia, and to the author of a complaint (application/notification). The author of a complaint (application/notification) shall sign an order of non-disclosure of the content of the private recommendation letter. A copy of the private recommendation letter may not be forwarded to another authority or official. A copy of the private recommendation letter shall be attached to the disciplinary case in a sealed package. The package may only be opened during hearing of the case before the Disciplinary Board in case of a repeated commission of a disciplinary misconduct by the judge.

#### **Article 75<sup>45</sup>. Decision of the Disciplinary Board on acquitting a judge**

The Disciplinary Board shall acquit a judge if commission of disciplinary misconduct under this Law or its culpable commission by the judge has not been proven as a result of the hearing.

**Article 75<sup>46</sup>. Decision of the Disciplinary Board on finding a judge guilty of committing a disciplinary misconduct, imposing disciplinary liability and a disciplinary penalty on him/her**

The Disciplinary Board shall make the decision to find a judge guilty of committing a disciplinary misconduct and to impose disciplinary liability and a disciplinary penalty on him/her if, as a result of the case hearing before the Disciplinary Board, based on the combination of concurrent and convincing evidence, culpable commission of one or several disciplinary misconducts under this Law by the judge has been proven, and the Disciplinary Board considers it appropriate to impose one of the disciplinary penalties under Article 753 (1) of this Law on him/her.

#### **Article 75<sup>47</sup>. General procedure for imposing disciplinary penalties and disciplinary measures**

1. Disciplinary penalties and disciplinary measures shall be imposed by following the principle of independence and non-interference in the activities of a judge. When selecting a disciplinary penalty and a disciplinary measure to be imposed against a judge, the Disciplinary Board shall consider the content and gravity of disciplinary misconduct, implications it incurred or may have incurred, and the degree of guilt.

2. The Disciplinary Board shall be entitled to apply only one type of disciplinary penalty. A disciplinary penalty may be imposed either separately or in combination with a disciplinary measure under Article 753 (2)(b) of this Law. A measure under Article 753 (2)(a) of this Law shall be applied only separately.

3. If the penalty imposed for a previously committed disciplinary misconduct has not been lifted, as a rule, a more severe disciplinary penalty shall be imposed on a judge.

4. If, within six months of giving a private recommendation letter, a judge commits similar disciplinary misconduct for which the disciplinary measure was imposed, the Disciplinary Board shall consider imposing a disciplinary penalty against the judge.

#### **Article 75<sup>48</sup>. Imposing disciplinary penalty**

1. For committing disciplinary misconduct under:

a) Article 75<sup>1</sup> (2)(a) or (c) of this Law, a reprimand, severe reprimand or removal from a position (elimination from the reserve list of judges of the Common Courts) may be imposed as a disciplinary penalty;

b) Article 75<sup>1</sup> (2)(b) of this Law, a severe reprimand or removal from a position (elimination from the reserve list of judges of the Common Courts) may be imposed as a disciplinary penalty;

c) Article 75<sup>1</sup> (2)(d),(f) or (g) of this Law, a reproof or a reprimand may be imposed on a judge;

d) Article 75<sup>1</sup> (2)(e) or (h) of this Law, a reproof, reprimand, severe reprimand or removal from a position (elimination from the reserve list of judges of the Common Courts) may be imposed as a disciplinary penalty.

2. The Disciplinary Board shall be entitled to impose a more severe disciplinary penalty for committing three or more instances of disciplinary misconduct.

**Article 75<sup>49</sup>. Dismissal of a chairperson, first deputy chairperson, deputy chairperson of a court, or a chairperson of the Judicial Board or Chamber**

The Disciplinary Board shall dismiss a chairperson, first deputy chairperson, deputy chairperson of a court, or a chairperson of the Judicial Board or Chamber as a disciplinary measure if a judge fails to exercise or improperly exercises his/her respective administrative powers – duties of the head of court, the board or chamber, or when committing other disciplinary misconduct under this Law.

**Article 75<sup>50</sup>. Decision of the Disciplinary Board on dismissal of a judge**

1. The Disciplinary Board shall take into account that dismissal of a judge is the last resort measure, and that this measure is applied in a special case. The Disciplinary Board shall make the decision to dismiss a judge if, considering the gravity, and number of a particular disciplinary misconduct, and any previously committed disciplinary misconducts, it considers inappropriate that this judge continue exercising his/her judicial powers.

2. If a severe reprimand, either separately or in combination with a disciplinary measure under the Law, was imposed on a judge as a penalty for previously committed disciplinary misconduct, and this penalty has not been lifted, the Disciplinary Board shall consider the dismissal of this judge when selecting a penalty for new disciplinary misconduct.

3. A judge must be removed from a case hearing and from exercising other official powers, as determined by the Law, immediately after the Disciplinary Board makes a decision to dismiss the judge.

**Article 75<sup>51</sup>. Contents of a decision of the Disciplinary Board**

A decision of the Disciplinary Board shall include:

a) the title of the Disciplinary Board;

b) the composition of the Disciplinary Board;

c) the time of the disciplinary hearing;

d) the full name and position of the accused judge;

e) the identity of an official initiating the disciplinary proceeding, and the name of a body imposing disciplinary liability on a judge;

f) the date of initiating a disciplinary proceeding and instituting disciplinary liability;

g) the circumstances of a disciplinary case;

h) the content of the disciplinary accusation and the explanations of the judge;

i) the factual and legal grounds for the decision; the content and motivation for the decision;

j) the type of disciplinary misconduct for which liability is imposed against the judge, and the types of a disciplinary penalties and disciplinary measures;

k) grounds for terminating a disciplinary proceeding, acquitting the judge, giving a private recommendation letter to the judge, or for a recommendation to dismiss the judge.

**Article 75<sup>52</sup>. Submission of a copy of the Disciplinary Board decision**

1. Copies of the decision of the Disciplinary Board on a disciplinary case shall be, within five days after it is made, forwarded to the judge with respect to whom the decision was made, to the High Council of Justice of Georgia, and to the Conference of Judges of Georgia. Copies of the decision shall be, within the same period, forwarded to the author of the complaint (application/notification) if a common court ceased to hear the case in relation to which the disciplinary proceeding was conducted.

2. A copy of the decision of the Disciplinary Board must be attached to the personal file of a judge.

**Article 75<sup>53</sup>. Minutes of a Disciplinary Board session and its content**

1. The minutes of a Disciplinary Board session shall include the date of the session, its start time, course of the session, composition of the Board, full names of the parties involved and their views, evidences and relevant substantiation presented by the parties, the essence of the motions filed by the parties and results of their consideration, names and positions of the persons invited to the session and the information they provided, the content of the decision by the Disciplinary Board, and the closing time of the session.

2. The chairperson and the secretary of the Disciplinary Board session shall sign the minutes of the session.

3. The minutes of the Disciplinary Board session shall be attached to the disciplinary case.

**Article 75<sup>54</sup>. Appeal of the decision of the Disciplinary Board and Ethics committee of Georgian Bar Association**

1. A decision of the Disciplinary Board may be revised by appealing it to the Disciplinary Chamber of the Supreme Court of Georgia (the "Disciplinary Chamber"). Only decisions made under Article 7541 (1)(b-e) of this Law shall be subject to appeal. The parties to the disciplinary case shall have the right to appeal.

2. A decision by the Disciplinary Board shall be appealed to the Disciplinary Board within 10 days. This time frame cannot be extended (recovered) and it shall commence from the time of handing the decision of the Disciplinary Board to a party. Submission of a copy of the decision to the party directly at the Disciplinary Board or sending it by post shall be considered to be the time of handing the decision.

3. The High Council of Justice of Georgia shall make the decision on appealing a Disciplinary Board decision at its session by two-thirds majority of the full list. The High Council of Justice of Georgia shall appeal a Disciplinary Board decision through its representative.

4. A judge against whom disciplinary liability has been imposed shall appeal the Disciplinary Board decision in person or through his/her defending counsel or other representative.

5. Within five days after receiving the appeal from either or both parties to a disciplinary case, the chairperson of the Disciplinary Board shall submit the disciplinary case file to the Disciplinary Chamber, along with the appeals received, and shall notify the parties to the disciplinary case about it.

6. A state fee shall not be paid for an appeal filed against a Disciplinary Board decision.

7. The decision of the Ethics committee of the Georgian Bar Association on imposing disciplinary penalty may be appealed in the Disciplinary Chamber by a lawyer within the term of one month after receiving the decision.

8. The Disciplinary Chamber shall review the appeal of the lawyer according to the procedure laid down by this Article, Articles 75<sup>55</sup>–75<sup>68</sup> of this Law and Article 35<sup>1</sup> of the Law of Georgia “On lawyers”.

**Article 75<sup>55</sup>. Content of an appeal**

1. An appeal must include:

- a) the title of the Disciplinary Chamber;
- b) the name and address of the appellant and of the adversary;
- c) the exact title of the decision appealed, and the title of the authority that made this decision;
- d) a reference to the section of the decision that is appealed;
- e) a reference to the grounds (reasons) for appeal and explanation of whether the appellant requests to reverse the decision (application of the appeal);
- f) a reference to the facts and evidence confirming the infringement of procedural norms, if the appeal is based on an infringement of procedural norms;
- g) the list of written materials that are attached to the appeal;
- h) the signature of an appellant.

2. A power of attorney verifying the right of the representative to appeal shall be attached to the appeal submitted by the representative, if the document verifying this right is not included in the case file.

3. The appeal and other additional materials received shall be submitted to the court in as many copies as the number of parties to the case.

**Article 75<sup>56</sup>. Verification of admissibility of an appeal**

1. Within 10 days after the receipt of an appeal, the Disciplinary Chamber must verify if the appeal has been filed in compliance with Article 7555 of this Law. If the appeal complies with the requirements of the article, the Disciplinary Chamber shall admit it to proceeding.

2. If an appeal fails to comply with the requirements of Article 7555 of this Law, the Disciplinary Chamber shall require the appellant to correct the failure, for which it shall allow him/her a reasonable time (not more than 10 days). If the failure is not corrected within this time frame, or if the appeal is not filed within the statutory period, the appeal shall not be considered.

3. The Disciplinary Chamber shall resolve the issue under this article without oral consideration.

4. Copies of the appeal and of the enclosed files must be forwarded to the adversary. The Disciplinary Chamber may fix a time for the adversary to respond in writing to the appeal.

**Article 75<sup>57</sup>. Refusal to appeal the decision and waiver of the appeal**

1. If, following the announcement of the decision, a party refuses to appeal the decision of the Disciplinary Board in writing, the appeal shall not be admitted.

2. During hearing of a case by the Disciplinary Chamber, the appeal may be waived before making a decision. In case of waiving an appeal, the party shall be deprived of the right to appeal the decision again.

**Article 75<sup>58</sup>. Time frame and timing for a case hearing**

1. The Disciplinary Chamber shall hear a disciplinary case within one month after admission of an appeal. Under objective circumstances, the Chairperson of the Supreme Court of Georgia may extend the time for hearing the case for one more month.

2. Under the decision on admission of an appeal, the Disciplinary Chamber shall fix the time for an oral case hearing and shall notify the parties of it within three days of the decision.

3. The Disciplinary Chamber shall ensure that the parties/participants are invited to take part in the session before the Disciplinary Chamber.

**Article 75<sup>59</sup>. Scope of hearing of an appeal by the Disciplinary Chamber and principles of its activity**

1. The Disciplinary Chamber shall verify a decision by the Disciplinary Board within the scope of the appeal in terms of factual and legal aspects, as well as the lawfulness of the penalty imposed.

2. A hearing held by the Disciplinary Board in violation of legal procedures may serve as a ground for reversing the decision only if it results in making a substantively incorrect decision on the case.

3. During the appeal hearing, the Disciplinary Chamber shall carry out its activity in compliance with the principles contained in Article 7524 (2),(3) of this Law.

**Article 75<sup>60</sup>. Hearing of a case by the Disciplinary Chamber**

1. An appeal against a Disciplinary Board decision shall be considered at a session of the Disciplinary Chamber. The chairperson of the Disciplinary Chamber or another member of the Chamber – by order of the chairperson – shall chair the session.

2. The chairperson of the Disciplinary Chamber session shall open the session and announce the case to be considered.

3. The secretary of the Disciplinary Chamber session shall report on who of those invited to the current hearing is present, and whether those absent have been notified of the session and what information is available regarding the reasons of their absence. The Disciplinary Chamber shall check the details of persons present and verify the powers of representatives.

4. The chairperson of the session shall explain to the parties and their representatives their rights and obligations.

5. The chairperson of the session shall announce the composition of the Disciplinary Chamber, the full name of the secretary of the session, and explain to the parties that they have the right to recuse, if the recusal was not proposed on the basis of a reasonable excuse before hearing of the case at the session; or if another composition of a court is considering the case and not the one that was known at the preparatory stage of the proceeding.

6. The chairperson of the session shall ask the parties whether they have motions or statements that were not announced before the session.



7. Participants of the proceeding shall be obliged to maintain order and obey the instructions of the chairperson of the session. If during the hearing order is disrupted, the chairperson shall warn the violator.

**Article 75<sup>61</sup>. Substantive hearing of the case**

1. The substantive hearing of a case shall start with a judge reporting on the case based on the case files submitted.

2. After the judge's report on the case, the chairperson of the session shall give the floor to the parties to provide statements.

3. The appellant/representative of the appellant shall be the first person to provide a statement; in particular what is his/her claim, what are the circumstances on which the claim is based, and how can he/she prove the circumstances; whether he/she still supports the claim, or wants to waive the appeal, etc.

4. After that, the court shall hear statements of the adversary/representative of the adversary on whether he/she admits the appeal, etc.

5. If only one party is present at the session, the Disciplinary Chamber shall take statements from this party.

6. With the permission of the chairperson of the session, either party may ask questions of the adversary and its representative. If the question goes beyond the scope of the subject of the hearing and is not intended to examine and establish circumstances of the case, the chairperson of the session can, at the request of a party or on his/her own initiative, disallow the question.

7. Members of the Disciplinary Chamber may ask questions of the parties that will help establish circumstances that are significant for resolution of the case completely and accurately, and determine their reliability.

8. The argument shall consist of statements by the parties and their representatives. The appellant and his/her representative shall be the first to speak, and next the adversary and his/her representative.

9. After each party speaks, the chairperson of the session shall allow the parties to make replications.

10. After the arguments, the Disciplinary Chamber shall retire to a meeting room to make a decision, of which it shall notify the parties.

11. After returning from the meeting room, the chairperson of the session shall announce the decision, and explain the grounds for making the decision; afterwards he/she shall close the session.

12. Minutes of the Disciplinary Chamber session shall be drawn up to be signed by the chairperson and the secretary of the session.

**Article 75<sup>62</sup>. Decision of the Disciplinary Chamber**

1. The Disciplinary Chamber shall make a decision by a majority of votes.

2. When making a decision, a Disciplinary Chamber member may not abstain from voting.

3. The decision of the Disciplinary Chamber shall include the content of the Disciplinary Board decision and of the appeals admitted, results of consideration of the issue before the Disciplinary Chamber, and the essence and substantiation of the decision made.

4. The decision of the Disciplinary Chamber shall be final and without appeal.

5. At the request of the parties or on its own initiative, the Disciplinary Chamber may correct inaccuracies or obvious arithmetic errors in the decision, if it considers appropriate to make corrections. The ruling on making corrections in the decision shall not be appealed.

#### **Article 75<sup>63</sup>. Types of a decision of the Disciplinary Chamber**

The Disciplinary Chamber shall be entitled to make one of the following decisions:

a) affirming a decision by the Disciplinary Board, if the appeal concerns decisions under Article 7541 (1)(b-e);

b) overturning a decision by the Disciplinary Board, if the appeal concerns decisions under Article 7541 (1)(c), and (d);

c) reversing a decision by the Disciplinary Board and making a new decision, if the issue concerns decisions under Article 7541(1)(b-e);

d) reversing a decision by the Disciplinary Board and remanding the case.

#### **Article 75<sup>64</sup>. Grounds for affirming a decision by the Disciplinary Board**

1. The Disciplinary Chamber shall affirm the decision by the Disciplinary Board, if it finds that the Disciplinary Board has lawfully acquitted a judge or terminated a disciplinary proceeding against him/her; or if it has provided a proper subsumption for disciplinary misconduct as determined at the Board session, and it has imposed a lawful and fair penalty or disciplinary measure on a judge.

2. To affirm a decision of the Disciplinary Board, it is mandatory that the facts considered to have been established by the Disciplinary Board (committing a respective disciplinary misconduct, grounds for terminating a disciplinary case or acquitting a judge) are also confirmed at the session before the Disciplinary Chamber, along with the presence of the circumstances under the first paragraph of this article.

#### **Article 75<sup>65</sup>. Grounds for overturning a decision of the Disciplinary Board**

1. The Disciplinary Chamber shall overturn the decision of the Disciplinary Board if:

a) the Disciplinary Board has provided an improper subsumption for the actions committed by a judge and failed to determine correctly which disciplinary misconduct under Article 751 of this Law the judge committed. The Disciplinary Board shall be entitled to re-characterize the action of the judge and replace it with any disciplinary misconduct under Article 751 of this Law, and also to find the judge guilty for committing another instance of disciplinary misconduct under this Law, if it is included in the factual circumstances of a disciplinary charge;

b) the Disciplinary Board has applied an unlawful, unfair or inappropriate penalty or disciplinary measure. In this case, the Disciplinary Chamber shall be entitled to:

b.a) affirm a penalty, remove a disciplinary measure from or impose it against a judge;

b.b) overturn a penalty and affirm a disciplinary measure;

b.c) overturn a penalty and a disciplinary measure, or apply a disciplinary measure under Article 753 (2)(a) of this Law;

b.d) replace a disciplinary measure with any disciplinary penalty or apply this penalty together with a disciplinary measure under Article 753(2)(b).

2. If the circumstances under paragraph 1(a), and (b) of this article are present in combination, the Disciplinary Chamber shall make a decision to overturn the subsumption

for disciplinary misconduct committed by a judge, the penalty or disciplinary measure imposed against the judge, and consequently, to overturn the decision of the Disciplinary Board in part.

**Article 75<sup>66</sup>. Grounds for reversing a decision by the Disciplinary Board and for making a new decision**

The Disciplinary Chamber shall reverse a Disciplinary Board decision, if the Disciplinary Board has unlawfully acquitted a judge; unlawfully terminated a disciplinary proceeding initiated against him/her, or unlawfully imposed a disciplinary liability on and applied a penalty or a disciplinary measure against the judge. Upon reversing the Disciplinary Board decision, the Disciplinary Chamber shall be entitled to make any decision under Article 7541 of this Law, except for a decision under the same Article 7541 (1)(a).

**Article 75<sup>67</sup>. Grounds for reversing a decision by the Disciplinary Board and for remanding a case**

The Disciplinary Chamber shall reverse a Disciplinary Board decision and remand a case, if:

- a) the case has been considered by the illegitimate composition of the Disciplinary Board;
- b) the Disciplinary Board considered the case in the absence of either of the parties that were not notified of the scheduled session;
- c) the decision has been based on a hearing where the confidentiality rules for the proceeding have been violated;
- d) the legal substantiation of the decision is deficient, or incomplete to the extent that the legal substantiation of the decision cannot be verified;
- e) the decision has not been signed by the chairperson or the secretary of the session;
- f) minutes of the hearing have not been enclosed with the case file.

**Article 75<sup>68</sup>. The form of the decision by the Disciplinary Chamber**

1. The decision made by the Disciplinary Chamber on a disciplinary case shall be in writing. It shall be signed by the Chamber members.

2. Copy of the decision of the Disciplinary Chamber shall be forwarded to the High Council of Justice of Georgia, parties to the proceeding, their representatives, and to the author of the complaint (application/notification).

**Article 75<sup>69</sup>. Enforcement of the Decision in a Disciplinary Case**

2. The High Council of Justice of Georgia, or the Chairperson of the Supreme Court of Georgia shall be responsible for the enforcement of a disciplinary penalty and a disciplinary measure within the scope of their authority.

3. The decision by the Disciplinary Board shall enter into force after expiry of the period for appeal, and the decision of the Disciplinary Board shall enter into force immediately.

**Article 75<sup>70</sup>. Enforcement of the decision on dismissing the chairperson of a court, the first deputy or deputy chairpersons, and the chairperson of the Judicial Panel or Chamber**

When applying dismissal against the chairperson of a court, the first deputy or deputy chairpersons and the chairperson of the Judicial Panel or Chamber as a disciplinary measure, the Disciplinary Board or the Disciplinary Chamber shall submit its legally effective decision for enforcement to the appropriate authority or official; in particular to the Plenum of the Supreme Court of Georgia if it refers to deputy chairpersons of the Supreme Court of Georgia, and to the High Council of Justice of Georgia in all other instances.

**Article 75<sup>71</sup>. Enforcement of a decision to dismiss a judge**

When imposing the dismissal of a judge as a disciplinary penalty, the Disciplinary Board or the Disciplinary Chamber shall submit its legally effective decision for enforcement to the High Council of Justice of Georgia.

#### **Article 75<sup>72</sup>. Dismissal of a judge**

1. After a recommendation for dismissing a judge is received, the Parliament of Georgia shall dismiss a judge of the Supreme Court of Georgia, and the High Council of Justice of Georgia shall dismiss all other judges.

2. The High Council of Justice of Georgia shall, based on the legally effective decision of the Disciplinary Board or the Disciplinary Chamber on dismissing a judge, and the appropriate recommendation of the same, dismiss the judge within the time limit of 10 days after receiving the recommendation.

3. A person who was dismissed from the position of a judge under the procedures determined by this Law for committing disciplinary misconduct shall cease to be entitled to receive a state compensation under Article 70 of this Law.

#### **Article 75<sup>73</sup>. Publishing decisions of the Disciplinary Board and the Disciplinary Chamber**

1. Decisions of the Disciplinary Board and the Disciplinary Chamber shall be published without the identification data of a judge, unless the judge has requested the disciplinary proceeding be made public, on an official website upon their entry into force. The decision on dismissing a judge shall be fully published.

2. Copies of legally effective decisions of the Disciplinary Board and the Disciplinary Chamber shall be issued to any person, when requested.

#### **Article 75<sup>74</sup>. Obligation of a member of the Disciplinary Board and a member of the Disciplinary Chamber to maintain the confidentiality of information concerning a disciplinary case**

1. A member of the Disciplinary Board and a member of the Disciplinary Chamber shall keep the confidentiality of information concerning a disciplinary case, except when the judge requests that the disciplinary proceeding be made public under Article 754 (1) of this Law, and the secrecy of deliberations. This obligation shall not apply to the information contained in the legally effective decisions of the Disciplinary Board and the Disciplinary Chamber.

2. Failure to follow the procedure under the first paragraph of this article shall be considered to be disciplinary misconduct under Article 751 (2)(e) of this Law. This misconduct shall become a ground for removing a judge from the Disciplinary Board or the Disciplinary Chamber, as well as a ground for imposing disciplinary liability against the judge.

#### **Article 75<sup>75</sup>. Reimbursement of travel expenses**

Travel expenses of a person conducting disciplinary proceedings, and a presenter of disciplinary charges, also travel expenses of a member of the Disciplinary Board and a member of the Disciplinary Chamber related to their exercising disciplinary powers shall be reimbursed according to their work place.

#### **Article 75<sup>76</sup>. Lifting a disciplinary penalty**

1. A "reproval" shall be deemed lifted six months after it was imposed; a "reprimand" – nine months after, and a "severe reprimand" – one year after it was imposed, unless a judge commits another instance of disciplinary misconduct within this period.

2. A judge against whom a decision finding him/her guilty of committing disciplinary misconduct, on imposing disciplinary liability against the judge, and on giving him/her a private recommendation letter as a disciplinary measure has been made, shall not be deemed to have been charged with a disciplinary penalty.

3. A disciplinary penalty may not be lifted before expiry of a respective time frame set under the first paragraph of this article.

**Article 75<sup>77</sup>. Restriction of the right of promoting a judge in the office**

1. A judge, who is imposed with disciplinary liability by decision of the High Council of Justice of Georgia, or if a disciplinary penalty imposed on him/her has not been expunged, shall be restricted from exercising the right of being promoted in the office for a particular period.

2. A respective authority or an official shall not assign a judge to a superior court if disciplinary liability has been imposed on him/her by decision of the High Council of Justice of Georgia, or if a disciplinary penalty imposed on him/her has not been expunged.

**Article 75<sup>78</sup>. Inadmissibility of finding a judge guilty for the same charges and of imposing a disciplinary penalty against him/her**

After the Disciplinary Board or the Disciplinary Chamber finds a judge guilty or acquits him/her, it shall be inadmissible to initiate a disciplinary prosecution against the judge on the same grounds, to institute disciplinary proceedings against the judge for the same charges, and to find the judge guilty of the same action and to impose disciplinary liability and disciplinary penalties against him/her.

**Article 75<sup>79</sup>. Storage of a disciplinary case**

1. A disciplinary case shall be stored at the Disciplinary Board, and shall be inaccessible to other persons.

2. Disciplinary cases may be submitted to the authorities or officials appointing judges only by permission of the chairperson of the Disciplinary Board.

3. The storage period for a disciplinary case shall be 10 years.

**Article 75<sup>80</sup>. Statistical information**

1. Statistical information on Disciplinary Board activities and disciplinary cases considered shall be periodically submitted to the Conference of Judges of the Common Courts of Georgia and the High Council of Justice of Georgia.

2. Statistical information under the first paragraph of this article may be submitted to other officials, agencies, as well as to mass media representatives only by permission of the chairperson of the Disciplinary Board, and following the restrictions imposed under this Law for maintaining the confidentiality of information.

**Chapter XIV - Transitional Provisions**

**Article 76 - Social security of judges**

**Article 70 shall apply to the relations arising from 15 May 1999.**

**Article 77 - Calculating a judge's compensation**

1. A judge of the Supreme Court of Georgia whose powers were terminated, based on a personal application, from 1 January 2005 to 1 January 2006 and who was awarded a state compensation to the extent of the full amount of the salary for the period during which he/she should have exercised the powers of a Supreme Court judge, shall retain the compensation to the extent of the full amount of salary according to the monthly changes in the remuneration of an active Supreme Court judge. After the expiry of the above powers the compensation shall be calculated to bring it in line with Article 70(1) of this Law.

2. A judge (other than a Supreme Court judge) shall be awarded a state compensation according to the rule and in the amount determined by the Law of Georgia on State Compensation and State Academic Scholarship if:

a) he/she was appointed to the office of a judge under Articles 46-49 and Article 85(2) of the Organic Law of Georgia on General Courts of 13 June 1997;

b) he/she completed the mandatory qualification attestation and exercised judicial power under the Organic Law of Georgia on General Courts of 13 June 1997 in a district (city), regional court as well as in the High Court of an autonomous republic within the period, for which he/she had been appointed in the district (city) court, Tbilisi City Court as well as in the Supreme Court of an autonomous republic;

c) his/her judicial powers were terminated from 15 May 1999 under Article 54(1)(l),(n) or (p), also under Article 86<sup>1</sup>(4) of the Organic Law of Georgia on General Courts of 13 June 1997 and has at least 10 years of work experience as a judge;

d) his/her judicial powers were renewed from 15 May 1999 under Article 85<sup>2</sup>(2) of the Organic Law of Georgia on General Courts of 13 June 1997.

#### **Article 78 - Reviewing supervisory appeals**

The supervisory appeals filed against the final judgements of Georgian general courts before 1 May 1999, the supervisory proceedings which are still pending, also supervisory objections and Supervisory Chamber motions shall be reviewed by the Chamber of Civil Cases of the Supreme Court of Georgia. Particularly complex cases and cases that have been heard by the Supervisory Chamber, the Panel of Civil Cases and the Presidium of the Supreme Court of Georgia, shall be heard before all the members of the Chamber of Civil Cases who have not taken part in the hearing of the case. This rule shall not apply to those participating in the hearing of cases in the Supervisory Chamber of the Supreme Court of Georgia.

#### **Article 79 - Establishing the procedure for compensating business trip expenses of general court judges and the representative of the President of Georgia to the High Council of Justice of Georgia**

The High Council of Justice of Georgia shall establish the procedure for compensating business trip expenses of general court judges and the representative of the President of Georgia to the High Council of Justice of Georgia according to the requirements of Article 49(1)(d<sup>1</sup>) and 68(7) of this Law.

Organic Law of Georgia No 3523 of 21 July 2010 – LHG I, No 46, 4.8.2010, Art. 286

Organic Law of Georgia No 4461 of 22 March 2011 – website, 1.4.2011

#### **Article 79<sup>1</sup> - Measures to be implemented to introduce the office of a court manager**

1. The High Council of Justice of Georgia shall ensure the amendment of the relevant legal acts and introduction of the office of a court manager in the structure of the administrative offices of general courts.

2. Until the office of a court manager is introduced, the chairperson of the relevant court shall supervise the administrative offices of courts.

Organic Law of Georgia No 3523 of 21 July 2010 – LHG I, No 46, 4.8.2010, Art. 286

**Article 79<sup>2</sup> - Appointing the officers of the administrative offices of courts before the new procedure for recruitment of officers is introduced**

1. Until paid interns are appointed under the procedure for recruitment of the officers of administrative offices of courts specified in Article 57(1) of this Law, the officers of administrative offices of courts shall be appointed according to the Law of Georgia on Public Service.

2. A person who has a higher legal education and who has completed a special training course in the High School of Justice or has at least one year work experience as a judge, prosecutor, investigator or advocate or has worked in his/her speciality in court, may be appointed as an assistant judge.

3. A secretary of a court session shall be appointed from those persons who have completed a special training course in the High School of Justice or have at least one year work experience as a secretary of a court session.

Organic Law of Georgia No 5529 of 20 December 2011 – website, 28.12.2011

**Article 79<sup>3</sup> – Measures to be implemented for the creation of the Department of General Courts**

1. The Department of General Courts shall be a legal successor of the Department of General Courts of the High Council of Justice of Georgia.

2. For the creation of the Department of General Courts, the Government of Georgia shall ensure that:

- a) the budgetary allocations of the Department of General Courts of the High Council of Justice of Georgia are transferred to the Department of General Courts under the legislation of Georgia;
- b) the assets necessary for the operation of the Department of General Courts are transferred to the Department of General Courts under the legislation of Georgia.

3. The High Council of Justice of Georgia shall ensure:

- a) the approval of Regulations of the Department of General Courts;
- b) implementation of other measures related to the creation of the Department of General Courts.

Organic Law of Georgia No 5529 of 20 December 2011 – website, 28.12.2011

**Article 79<sup>4</sup>. The procedure for assigning a judge, who had been assigned to the position for a term of 3 years and has at least 3 years' experience in the judicial activities, to the position indefinitely**

In relation to a judge assigned to the position before July 1, 2017 for a term of 3 years, who has at least 3 years' experience of working as a judge, in case of his/her request the evaluation procedures established by this Law shall be terminated and the judge shall be appointed to office indefinitely until he/she reaches the statutory age limit, by the decision of

the High Council of Justice of Georgia (this decision of the High Council of Justice of Georgia shall be made by secret ballot, by no less than 2/3 of the full list of the High Council of Justice of Georgia), based on successful interview, study of files defined by Article 36<sup>1</sup> (1) and Article 36<sup>1</sup> (2), Article 36<sup>2</sup>, Article 36<sup>3</sup>, Article 36<sup>4</sup> of this Law, the system of evaluation with scores and interview, on the basis of forms independently filled in by members of the High Council of Justice of Georgia. If this judge is refused to be assigned to the position indefinitely, he/she will exercise the powers within the remaining 3 years' term of office.

Organic Law of Georgia No 1052 of 16 June 2017 – website, 27.06.2017

Article 79<sup>5</sup>. Procedure for review of disciplinary proceedings upon considering the Law of Georgia on Disciplinary Liability and Disciplinary Proceedings of Judges of the Common Courts of Georgia as invalid.

Upon considering the Law of Georgia №150-III of 23 February 2000 on the Disciplinary Liability and Disciplinary Proceedings of Judges of Common Courts of Georgia as invalid, disciplinary proceedings to be reviewed according to the procedure established by this Law.

Organic Law of Georgia No 2194 of 20 April 2018 – website, 26.04.2018

## **Chapter XV - Final Provisions**

### **Article 80 - Entry into force of the Law**

1. This Law, except for Article 24(2) of this Law shall enter into force upon promulgation.

2. Article 24(2) of this Law shall enter into force from 1 January 2010.

3. The following shall be declared void upon the enactment of this Law:

a) Organic Law of Georgia on General Courts of 13 June 1997 (The Parliamentary Gazette, No 33, 31 July 1997, p. 75);

b) Organic Law of Georgia on the Supreme Court of Georgia of 12 May 1999 (The Legislative Herald of Georgia, No 14(21), 1999, Art. 62);

c) Law of Georgia on Social Guarantees of the Members of the Supreme Court of Georgia of 25 June 1996 (The Parliamentary Gazette, No 19-20, 30.7.96, p. 37);

d) Law of Georgia on Social and Legal Guarantees of Judges of 3 December 2002 (The Legislative Herald of Georgia, No 32, 20.12.2002, Art. 146).

President of Georgia  
M. Saakashvili

Tbilisi

4 December 2009

No 2257-III