



Strasbourg, 26 January 2023

CDL-REF(2023)006

Opinion No. 1119 / 2023

Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

GEORGIA

DRAFT AMENDMENTS

**TO THE ORGANIC LAW
ON COMMON COURTS
AND OTHER LEGISLATIVE ACTS**

Draft

Organic Law of Georgia

On Amendments to the Organic Law of Georgia on Common Courts

Article 1. The following amendments shall be made to the Organic Law of Georgia on Common Courts (Legislative Herald of Georgia №41, 08.12.2009, Art. 300):

1. The law shall be supplemented with Chapter I¹ of the following content:

“Chapter I¹. Dissemination of the Text of a Judicial Act as Public Information”

Article 13³. Scope of this Chapter

1. The full or partially depersonalized text of a judicial act shall be communicated as public information in the manner prescribed by this Chapter only to a person who may not obtain the full text of the same judicial act on the basis of other legal norms in force in Georgia.

2. This Chapter shall apply only in the event where the fully or partially depersonalized text of a judicial act adopted in a case in which the final court decision has entered into legal force is requested as public information.

3. The rules established by this Chapter for resolving the issue of communicating the fully or partially depersonalized text of a judicial act as public information shall apply only if the court has not made a decision to close the relevant part of the court session or to close it completely.

4. The rules established by this Chapter shall not apply to the disclosure to the public of that part of the text of a judicial act, which contains a commercial, professional or state secret recognized in accordance with the law, or the communication of which as public information may lead to the disclosure of such secrets.

5. For the purposes of this Chapter, a judicial act is a final decision rendered by the Common Court of Georgia based on the results of an open court session in accordance with the procedural legislation, or a decision by which the case is not resolved on the merits, if it contains personal data and/or is related to a person's health, finances, family life, or other personal affairs.

6. For the purposes of this Chapter, the full text of a judicial act means the text of a judicial act in the form in which it was adopted by the court.

7. For the purposes of this Chapter, depersonalization of the text of a judicial act means changing the relevant information reflected in it in such a way that it is impossible to link it to the relevant person or establishing such a link requires disproportionately hard efforts, expenses and time. An individual may not be depersonalized with the initials of the first and last name. For the purposes of this Chapter, partial depersonalization of the text of a judicial act means the depersonalization of the legal document in such a way that all personal data contained in it or information relating to a person's health, finances, family life or other personal affairs is not completely modified.

Article 13⁴. Dissemination of the fully or partially depersonalized text of a judicial act as public information adopted before 1 May 2023

1. This article shall apply only to relations pertaining to the communication of the fully or partially depersonalized text of a judicial act as public information adopted before 1 May 2023.

2. Until 1 May 2024, a person shall have the right to apply to the High Council of Justice of Georgia or to the relevant court with a substantiated paper or electronic application and demand protection from disclosure of information about him/her in the form of public information in a

judicial act adopted before 1 May 2023. If a person does not apply to the High Council of Justice of Georgia or the relevant court with a substantiated paper or electronic application before 1 May 2024 and does not require protection from disclosure of information about him/her in the form of public information in a judicial act, he/she shall be considered to agree to the disclosure of this information as public.

3. Within 1 year from 1 May 2024, the relevant court, based on the principle of a reasonable balance of human rights guaranteed by the Constitution of Georgia, in particular the right to protection of life, health, finances, family life and/or other personal affairs, as well as the right to access to a judicial act shall decide on the issue of the admissibility of communicating a fully or partially depersonalized text as public information in relation of which a person requested protection from disclosure of information reflected in the text in the form of public information in accordance with the second paragraph of this article. The court shall issue a reasoned ruling on this matter.

4. A decision provided for by the third paragraph of this article shall enter into force immediately upon the expiration of 1 month from its adoption. Paragraphs 5 and 6 of Article 13⁵ of this Law shall apply to the filing of a complaint against the said decision, the consideration of the complaint and the adoption of a decision on it.

5. In order to obtain the fully or partially depersonalized text of a judicial act as public information, a person may apply to the court that adopted this judicial act, and in case of liquidation of the said court - to another appropriate court operating within the former territorial jurisdiction. An applicant shall have the right to substantiate the necessity and motivation for requesting the fully or partially depersonalized text of a judicial act as public information.

6. Within 10 working days after filing an application with the court in accordance with paragraph 5 of this article, the court office shall ensure the transfer of the fully or partially depersonalized text of a judicial act to the applicant, if the relevant ruling is made and entered into force in accordance with this article, as well as the transfer of the full text of the judicial act, if no person has requested protection from disclosure of information reflected in it as public information in accordance with the second paragraph of this article.

7. The information reflected in a decision provided for by this article may not lead to the disclosure of information reflected in the judicial act, the communication of which as public information is recognized by the court as inadmissible.

8. It shall be inadmissible to communicate the fully or partially depersonalized text of a judicial act adopted before 1 May 2023 as public information until 1 May 2025.

9. The High Council of Justice of Georgia shall determine the procedure for communicating the fully or partially depersonalized text of a judicial act adopted before 1 May 2023 as public information, based on this article. In addition, the High Council of Justice of Georgia shall periodically inform the public about the rules established by this article, including by publishing this information on its website.

Article 13⁵. Dissemination of the fully or partially depersonalized text of a judicial act as public information adopted after 1 May 2023

1. This article shall apply only to relations related to the communication in the form of public information of the fully or partially depersonalized text of a judicial act adopted after 1 May 2023.

2. Along with the adoption of its last judicial act on the case and based on the principle of a reasonable balance of human rights guaranteed by the Constitution of Georgia, in particular, the right to protection of life, health, finances, family life and/or other personal affairs and the right to access to a judicial act, the court shall decide on the issue of the admissibility of communicating as public information a fully or partially depersonalized text of all judicial acts adopted by it on the

same case as a result of an open court session. The court shall issue a reasoned ruling on this matter.

3. In order to resolve the issue provided for by the second paragraph of this article, the court, before adopting a final judicial act on the case in the manner prescribed by the fourth paragraph of this article, shall ascertain the will of a person regarding the disclosure of information about this person in the form of public information reflected in the judicial act adopted/to be adopted by the court on the same case. If it is established that a person agrees to the disclosure of information about him/her, reflected in a judicial act, in the form of public information, the court shall be obliged to allow the communication of this information as publicly available. If a person refuses to disclose information about him/her, reflected in a judicial act as public information, or his/her will to disclose this information as public information is unclear, the court shall have the right to allow the communication of this information as public information.

4. For the purposes specified in the second and third paragraphs of this article, the court shall invite a person participating in a court case and attending an open court session to agree in writing to the disclosure in the form of public information of information about this person reflected/to be reflected in a judicial act, and set a reasonable time limit for this but not less than the period necessary to complete the consideration of the case. If this person within the specified time limit does not provide the court with a reasoned refusal in writing to disclose the information reflected in the judicial act as public information, it shall be considered that he/she has consented to the communication of this information in the form of public information. In addition, for the purposes specified in the second and third paragraphs of this article, the court shall give the opportunity to a person participating in a court case and attending an open court session to express a reasoned refusal in writing to disseminate information in the form of public information about another person mentioned by this person in the course of the proceedings and reflected/to be reflected in the judicial act, and the court shall set a reasonable time limit for this, but not less than the time necessary to complete the consideration of the case. If this person during this time limit brings such a refusal to the court in writing, it shall be considered that the other person, mentioned by him/her in the course of legal proceedings, refuses to disclose the information about him/her reflected/to be reflected in the judicial act in the form of publicly available information. In other cases, it shall be considered that the will of the above specified other person regarding the disclosure of information about him/he reflected/to be reflected in the judicial act as public information is unclear. A person shall have the right to express the will provided for in this paragraph or refusal referred to in the same paragraph also in a claim, statement, complaint and/or a counterclaim filed with the court. The High Council of Justice of Georgia, by inserting the relevant fields and explanations in its approved sample forms of claims, complaints and counterclaims to be submitted to the court, shall ensure the possibility of expressing the will provided for in this paragraph and refusal referred to in the same paragraph in these claims, complaints and counterclaims. Failure to express refusal referred to in this paragraph in a claim, statement, complaint, counterclaim filed with the court shall entail the same result as the failure to appear in an open court session. If a person has a representative in court proceedings, his/her representative shall act on behalf of this person upon the expression of will provided for by this paragraph, or the refusal specified in the same paragraph, unless this person himself/herself decides otherwise.

5. A ruling provided for in the second paragraph of this article shall enter into force upon the expiration of 1 year from the date of its issuance, and if all the persons indicated in the relevant judicial act agree to communicate information about them reflected in the same judicial act as publicly available information, the said ruling shall enter into force immediately upon its issuance. A person in respect of whom the court, by a ruling provided for in the second paragraph of this article, has allowed the disclosure of information specified in a judicial act in the form of publicly available information, shall have the right to appeal against this ruling before it enters into legal force. If the decision on the appeal is not made before the entry into force of the ruling, the filing of the appeal before the adoption of a decision on it, but not more than 1 month after its filing, shall suspend the entry into force of the appealed ruling. Within 1 month from the date of filing the complaint, the court adjudicating it shall issue a ruling to refuse to cancel the contested

decision or cancel the contested decision by its own ruling and, based on the principle of a reasonable balance of rights provided for in the second paragraph of this article, shall resolve the issue defined by the same paragraph. When resolving this issue, the court adjudicating a complaint shall have the right to decide on the admissibility as publicly available information of the information reflected in the relevant judicial act that was not indicated by an applicant in the complaint. A decision adopted on the basis of the results of consideration of the appeal by the court adjudicating it shall not be appealed and enter into force immediately after its issuance. The rules for filing, considering and deciding on a private complaint established by the Civil Procedure Code of Georgia shall apply to the filing, considering and deciding on a complaint under this paragraph, unless otherwise provided for by this Chapter.

6. A complaint may be filed against a ruling provided for in the second paragraph of this article at any time after its entry into force, but not more than once every 2 calendar years. The filing of an appeal may not suspend the effect of the contested ruling. Within 1 month from the date of filing a complaint, the court adjudicating it shall issue a ruling to refuse to cancel the contested decision or cancel the contested decision by its own ruling and, based on the principle of a reasonable balance of rights provided for in the second paragraph of this article, shall resolve the issue defined by the same paragraph. When resolving this issue, the court adjudicating a complaint shall have the right to decide on the admissibility of information as publicly available information reflected in the relevant judicial act that was not indicated by an applicant in the complaint. A ruling adopted on the basis of the results of consideration of the complaint by the court adjudicating it may not be appealed and shall enter into force immediately after its issuance. The rules for filing, considering and deciding on a private complaint established by the Civil Procedure Code of Georgia shall apply to the filing, considering and deciding on a complaint under this paragraph, unless otherwise provided for by this chapter.

7. In order to obtain the full or partially depersonalized text of a judicial act in the form of public information, a person may apply to the court that adopted this judicial act, or, in the event of liquidation of the said court - to another appropriate court operating within the former territorial jurisdiction. An applicant shall have the right to substantiate the necessity and motivation for requesting the fully or partially depersonalized text of a judicial act as public information.

8. Within 10 working days after filing an application with the court in accordance with paragraph 7 of this article, the court office shall ensure the transfer of the fully or partially depersonalized text of a judicial act to the applicant, if an appropriate ruling has been issued and entered into force in accordance with this article.

9. The information reflected in a ruling provided for by this article may not lead to the disclosure of information reflected in the judicial act, the communication of which in the form of public information is recognized by the court as inadmissible.

10. The High Council of Justice of Georgia shall determine the procedure for communicating as public information of the fully or partially depersonalized text of a judicial act adopted after 1 May 2023, pursuant to this article.”.

2. The first paragraph of Article 19¹ shall be formulated as follows:

“1. The Qualification Chamber of the Supreme Court of Georgia shall consider a complaint against a decision of the High Council of Justice of Georgia on the refusal to appoint a judge for a term of 3 years or for life, as well as a complaint against a decision/nomination of the Supreme Council of Justice of Georgia made in the process of selecting judicial candidates to be proposed to the Parliament of Georgia for the appointment to the Supreme Court.”.

3. Article 21 shall be supplemented with 1¹ paragraph of the following content:

“1¹. The President of the Supreme Court shall be elected by the Parliament of Georgia by a majority of full membership from among the judges of the Supreme Court on the nomination of

the High Council of Justice of Georgia for a term of 10 years, but not more than the term of his/her term of office as a judge of the Supreme Court. The same person may not be re-elected as the President of the Supreme Court. At least one-fifth of the full membership of the High Council of Justice of Georgia shall have the right to nominate a candidate for the position of President of the Supreme Court. All candidates shall be voted together. A candidate who receives at least two-thirds of the votes of the full membership of the High Council of Justice of Georgia shall be considered nominated. If none of the candidates receives the required number of votes, the candidate with the best result shall be voted (if the number of votes is equal, preference shall be given to a candidate with a long record of work in the specialty). A candidate shall be considered nominated if he/she receives a majority of votes from the full membership of the High Council of Justice of Georgia. If the High Council of Justice of Georgia fails to nominate a candidate for the Presidency of the Supreme Court, the procedure for nominating candidates shall be resumed not earlier than 2 weeks after the last vote. A candidate proposed to the Parliament of Georgia for election to the Presidency of the Supreme Court, who has not received the required number of votes of the members of the Parliament of Georgia as a result of voting, may be nominated only twice during the term of office of the Parliament of the same convocation.”.

4. Article 34 shall be formulated as follows:

“Article 34. Requirements for a judicial candidate

1. Subject to the requirements established by this article, a capable citizen of Georgia over the age of 30 who has a higher legal education with at least a master’s degree or an equivalent academic degree/diploma of higher education, at least 5 years of professional work experience, as well as speaks the state language, has passed a judge qualification exam, completed a full course of study at the Higher School of Justice and is included in the qualification list of justice students, may be appointed/elected as a judge.

2. A convicted person, as well as a person dismissed from the position of a judge on the grounds provided for in Article 43)(1)(b) of this Law (with the exception of cases when the norm of Chapter XIII¹ of this Law has become invalid, on the basis of which a person was dismissed from the position of a judge), or on the grounds provided for by subparagraph (h) of the same paragraph of the same article, may be appointed/elected to the position of a judge.

3. In order to hold the position of a judge, the following persons shall be exempted from passing the qualification examination for the position of a judge:

- a) a person nominated for a judicial position of the Supreme Court;
- b) an active or former member of the Supreme Court;
- c) an active or former member of the Constitutional Court of Georgia;
- d) a former judge of common courts of Georgia until the expiration of 10 years from the date of termination of the powers of the judiciary.

4. To hold the position of a judge, the following persons shall be exempted from studying at the Higher School of Justice:

- a) a person nominated for a judicial position of the Supreme Court;
- b) an active or former member of the Supreme Court;
- c) an active or former member of the Constitutional Court of Georgia;
- d) a former judge who has passed a judge qualification exam, appointed to the position of a judge of the Supreme Court, a district (city) court or an appellate court on a competitive basis and has at least 18 months of experience as a judge;
- e) a person who has completed a full course of study at the High School of Justice and is included in the qualification list of justice students, regardless of how long he/she held the position of a judge or whether he/she was appointed to this position after graduating from the High School of Justice.”.

5. Regarding Article 34¹:

a) paragraph 11 shall be formulated as follows:

“11. After a public hearing of candidates until the next meeting of the High Council of Justice of Georgia, the members of the Council, pursuant to Article 35¹ of this Law, shall evaluate a candidate who does not have judicial experience with points in accordance with paragraph 16 of the same article, and a candidate with judicial experience with points in accordance with paragraph 17 of the same article. Members of the High Council of Justice of Georgia, pursuant to Article 35¹ of this Law, shall also evaluate candidates according to the criterion of good faith in accordance with paragraph 15 of the same article. At the same time, each member of the High Council of Justice of Georgia, when evaluating a candidate, shall substantiate each point in writing, provided for in paragraphs 16 - 17 of Article 35¹ of this Law, and each element of the criterion of good faith provided for in the same paragraphs 16 - 17 of Article 35¹ of this Law. The above assessments and justifications shall include the name, surname and signature of the relevant member of the High Council of Justice of Georgia. If a member of the High Council of Justice of Georgia does not assess all candidates in accordance with this paragraph and does not submit these assessments, together with the justifications specified in the same paragraph, to the Office of the High Council of Justice of Georgia, it is considered that this member of the Council does not participate in the procedure provided for by this paragraph. In addition, the results of his/her assessment of all candidates shall be cancelled. If a member of the High Council of Justice of Georgia submits an incomplete or unsubstantiated assessment of a candidate to the Office of the High Council of Justice of Georgia, the Office of the Council shall inform this member of the Council about this deficiency. A member of the High Council of Justice of Georgia may eliminate this deficiency within 2 working days. If the deficiency is not eliminated within this period, it shall be deemed that this member of the High Council of Justice of Georgia does not participate in the procedure provided for by this paragraph, and the results of the assessment of all candidates carried out by him/her shall be cancelled. The number of points scored by candidates and the grounds for these points, the assessments provided for in paragraph 15 of Article 35¹ of this Law, and the grounds for these points shall be publicly available and published on the website of the High Council of Justice of Georgia, indicating the names of the members of the High Council of Justice of Georgia.”;

b) paragraph 13 shall be formulated as follows:

“13. In accordance with paragraph 12 of this article, after the publication of the list of candidates who have passed to the next stage and the decision of the High Council of Justice of Georgia, to nominate a candidate for the position of a judge of the Supreme Court to the Parliament of Georgia, the candidates included in the above list shall be voted at an open meeting of the Council individually, observing following procedure: first, a candidate with the best result among these candidates by the sum of points scored in the course of assessment according to the criterion of competence shall be voted, and then, observing the same principle, the remaining candidates shall be voted respectively. In addition, if any candidate does not receive the support of at least two thirds of the full membership of the High Council of Justice of Georgia, the remaining candidates shall not be voted. If it turns out that the sum of points scored by two or more candidates is equal when assessing them according to the criterion of competence, when determining the order of voting, priority shall be given to the candidate who received the best score according to the criterion of good faith from a large number of members of the High Council of Justice of Georgia, and if these ratings are also equal, priority shall be given to the candidate who has a longer work experience in the specialty. Voting under this paragraph is open. When voting, members of the High Council of Justice of Georgia shall be guided by the criteria of good faith and competence determined by Article 35¹ of this Law. A member of the High Council of Justice of Georgia participating in voting shall, immediately after voting, submit a written justification for his/her decision recorded during the voting to the Secretary of the High Council of Justice of Georgia. A candidate shall be nominated to the Parliament of Georgia for election to the position of a judge of the Supreme Court, if he/she is supported by at least two thirds of the full membership of the High Council of Justice of Georgia. Candidates shall be nominated to the

Parliament of Georgia together, on the nomination of the High Council of Justice of Georgia. This nomination, as well as the voting results provided for in this paragraph, the decisions taken by the members of the High Council of Justice of Georgia in the course of voting, and the reasons for these decisions shall be published on the website of the Council.”.

6. Article 34³ shall be supplemented with paragraph 13¹ formulated as follows:

“13¹. If, as a result of considering a complaint under this article, the Qualifications Chamber of the Supreme Court establishes that a member of the High Council of Justice of Georgia has shown bias in the selection of candidates, his/her approach was discriminatory and/or he/she exceeded the powers granted to him/her by the legislation of Georgia, as a result of which the rights of the candidate were violated or the independence of the court was threatened, this member of the High Council of Justice of Georgia shall no longer participate in the process of adopting a second decree/second nomination under the same article by the High Council of Justice of Georgia.”.

7. The following changes shall be made to articles 35 and 35¹:

“Article 35. Procedure for filling vacant positions of judges in a district (city) court and court of appeals

1. Not later than 3 months before the opening of a vacancy for a judge of a district (city) court or court of appeals and not later than 1 month after its opening, the Supreme Council of Justice of Georgia through the official press of Georgia and its official website shall announce a competition and conduct an appropriate procedure for the appointment of a judge for the vacant judicial position of the above-mentioned court. The High Council of Justice of Georgia shall provide relevant information about this to the public broadcaster and at least 2 national broadcasters.

2. The High Council of Justice of Georgia, in the manner prescribed by the legislation of Georgia, shall appoint a judge to a vacant judicial position of a district (city) court or court of appeals by a decision adopted by at least two-thirds of the full membership. When appointing a judge on a competitive basis, the Council shall be guided by the procedure established by the legislation of Georgia for the selection of a candidate to be nominated to the Parliament of Georgia for the election to the judicial position of the Supreme Court; When evaluating a candidate for the position of a judge (with the exception of an active or former member of the Constitutional Court or the Supreme Court of Georgia), on the basis of the criteria of good faith and competence in accordance with Article 35¹ of this Law, it shall be mandatory to evaluate 5 cases adjudicated by him/her, the summary/final decisions of which have entered into legal force (including evaluation of at least 2 cases (if any), summary / final decisions of which are cancelled / partially cancelled by a higher court). Cases for evaluation shall be selected randomly. The purpose of studying a case/decision is to assess the level of knowledge of the judicial candidate of substantive and procedural legislation, human rights law (including the case law of the European Court of Human Rights), the correctness of the application of the relevant legal norms in his/her decisions, justification and persuasiveness of these decisions, as well as analytical thinking ability of the judge, ability to express opinions clearly and understandably, logical reasoning and analysis. When studying a case/decision, the nature and severity of the legal error made in the decision that is reversed/partially reversed by the higher court shall be assessed as well.

3. If it is not possible to appoint a candidate to an appropriate vacant position of a judge, after the end of voting, at least 3 members of the High Council of Justice of Georgia may, with the consent of the candidate, apply to the council so that the candidate can run again for any of the remaining vacancies within the framework of the ongoing competition. The High Council of Justice of Georgia shall make a decision on repeat voting by a majority of those present at its meeting. Repeat voting shall be carried out in accordance with the general rules.

Article 35¹. Evaluation criteria, their characteristics and the evaluation system of a judicial candidate and a judge of a district (city) court or court of appeals appointed for a 3-year term

1. A judicial candidate and a judge appointed to the position of a judge of a district (city) court or court of appeals appointed for a 3-year term shall be evaluated according to two key criteria - the criteria of good faith and competence.

2. Characteristics of the criterion of good faith shall be:

- a) personal integrity and professional conscience;
- b) independence, impartiality and justice;
- c) personal and professional behaviour;
- d) personal and professional reputation;
- e) financial liability - only in the case of evaluation of a judicial candidate who has judicial experience, or a judge appointed to the position of a judge of a district (city) or court of appeals for a 3-year term.

3. Characteristics of the competence criterion shall be:

- a) knowledge of legal norms;
- b) legal reasoning ability and competence;
- c) oral and written communication skills - only in case of evaluation of a judicial candidate without judicial experience;
- d) the ability to write - only in the case of evaluation of a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term;
- e) oral communication skills - only in the case of evaluation of a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term;
- f) professional qualities - only in case of evaluation of a judicial candidate without judicial experience;
- g) professional qualities, including behaviour in the courtroom - only in the case of evaluation of a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term;
- h) academic achievement and professional training;
- i) professional activity.

4. When evaluating a person with the characteristics of personal integrity and professional conscience, his/her honesty, integrity, appropriate awareness of duties and responsibilities, transparency, correctness and accuracy as a judge (in the case of evaluation of a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term) and citizen in the performance of official or other duties, financial or other liabilities (for example, when filling out a declaration of property status, paying a bank or other debt, utility or other tax, a fine for violation of traffic rules), etc., as well as love of truth in the case of evaluating a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term shall be taken into account.

5. When evaluating a person with the characteristics of independence, impartiality and justice, his/her integrity, ability to make decisions independently and resistance to influence, personal strength, irresistibility and so forth, also in the case of evaluation of a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term - impartiality on political or other grounds and justice shall be taken into account.

6. When evaluating a person with the characteristics of personal and professional behaviour, his/her correctness in relations with colleagues and other persons, self-control, the ability to manage his/her emotions, litigation in which he/she participated as a party, the presence of criminal charges against him/her and so forth, also in the case of evaluation of a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term - his/her compliance with judicial ethics, behaviour and image corresponding to the high rank of a judge, behaviour during disciplinary proceedings against him/her shall be taken into account.

7. When evaluating a person with the characteristics of personal and professional reputation, his/her business and moral reputation and authority in legal circles and society, the nature and quality of relations with legal circles, etc. shall be taken into account.

8. When evaluating a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term with the characteristic of financial liability, information about his/her source of income, assets, property owned and/or used, and the debt and liabilities corresponding to this property and income shall be taken into account. The purpose of checking a financial liability is to assess whether there are grounds for a conflict of property interests of this person with the interests of justice, which may jeopardize his/her impartiality.

9. When evaluating a person with the characteristic of knowledge of legal norms, the level of his/her knowledge of substantive and procedural legislation, human rights law (including the case law of the European Court of Human Rights) shall be taken into account. In order to evaluate a judicial candidate without judicial experience on this basis, the High Council of Justice of Georgia shall be entitled to request the results of the judge qualification exam passed by this person and the assessment of the independent council of the High School of Justice. When evaluating a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term with this characteristic, an evaluator shall take into account the correct application of legal norms, including the case law of the European Court of Human Rights, in decisions taken by this person on the cases. In order to evaluate a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term with this characteristic, an evaluator shall also request the results of the judge qualification exam passed by this person for a judicial candidate and evaluation by the independent council of the High School of Justice

10. When evaluating a person with the characteristic of legal reasoning ability and competence, his/her ability for analytical thinking and professional experience shall be taken into account, and when evaluating a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term - as well as the validity of the decisions made on the cases considered by him/her and the persuasiveness.

11. When evaluating a person with the skill of writing, the ability to clearly and understandably express a written opinion, logical reasoning and analysis, and when evaluating a person with an oral speech skill - the ability to speak correctly, the ability to patiently listen to someone else's opinion, openness, the ability to listen to dissenting opinions and so forth shall be taken into account.

12. When evaluating a judicial candidate without judicial experience with the characteristics of professional qualities, his/her punctuality, diligence, ability to think independently, ability to work in a stressful situation, purposefulness, managerial abilities and others shall be taken into account. When evaluating a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term with the professional qualities, including behaviour in the courtroom, his/her punctuality, an organized and responsible preparation of the case, behaviour in the courtroom and the ability to properly conduct a court session, behaviour in dealing with parties, carefulness and diligence, ability to make decisions without outside help and independent thinking, ability to work in a stressful situation, purposefulness, productivity and speed, compliance with procedural deadlines, managerial qualities and others shall be taken into account.

13. When evaluating a person with the characteristics of academic achievements and professional training, his/her openness to innovations, the ability to self-development, office culture, interest in obtaining new knowledge and skills, participation in professional training programmes, application of acquired knowledge and skills in practical activities and others shall be taken into account.

14. When evaluating a person with a characteristic of professional activity, his/her ability to take the initiative, put forward ideas and proposals, his/her scientific and other publications, his/her merits to the bar and society and others, and when evaluating a judicial candidate with judicial experience, or a judge of a district (city) court or court of appeals appointed for a 3-year term - also his/her participation in various formats of discussions, meetings and seminars on issues of the legal system and justice, open and free expression of his/her position and views shall be taken into account.

15. When evaluating a judicial candidate, or a judge of a district (city) court or court of appeals appointed for a 3-year term according to the criterion of good faith, the relevant characteristics of the criterion of good faith established by this article shall be taken into account. As a result of the analysis and comparison of these characteristics, an evaluator shall make one of the following conclusions:

- a) a judicial candidate/a judge of a district (city) court or court of appeals appointed for a 3-year term does not meet the criterion of good faith;
- b) a judicial candidate/a judge of a district (city) court or court of appeals appointed for a 3-year term meets the criterion of good faith;
- c) a judicial candidate/a judge of a district (city) court or court of appeals appointed for a 3-year term fully complies with the criterion of good faith.

16. A judicial candidate without judicial experience shall be evaluated by the points of the criterion of competence, based on the appropriate characteristics of the criterion of competence as defined by subparagraphs (a-c), (f), (h) and (j) and paragraphs 9-14 of the third paragraph of this article. Depending on the significance of the specified characteristics of the criterion of competence, the maximum number of points that must be obtained for each of these characteristics shall differ from each other and shall be determined as follows:

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

17. A judicial candidate with judicial experience shall be evaluated by the points of the criterion of competence, based on the appropriate characteristics of the criterion of competence as defined by subparagraphs (a), (b), (d), (e) and (g-i) and paragraphs 9-14 of the third paragraph of this article. Depending on the significance of the specified characteristics of the criterion of competence, the maximum number of points that must be obtained for each of these characteristics shall differ from each other and shall be determined as follows:

- a) knowledge of legal norms - 20 points;
- b) legal reasoning ability and competence - 20 points;
- c) ability to write - 20 points;
- d) oral communication skills - 15 points;
- e) professional qualities, including behaviour in the courtroom - 15 points;
- f) academic achievements and professional training - 5 points;
- g) professional activity - 5 points.”.

8. Article 35² shall be removed.

9. Article 35⁴ shall be removed

.

10. Regarding Article 36:

a) the title shall be formulated as follows:

“Lifetime appointments of judges”;

b) the first paragraph shall be removed;

c) paragraphs 4-4³ shall be formulated as follows:

“4. The Supreme Council of Justice of Georgia shall appoint a judge of a district (city) or court of appeals for life until reaching the age established by this Law, by a decision taken by at least two-thirds of the full membership, in accordance with the same Law.

4¹. Not earlier than 2 months and not later than 1 month before the expiration of the term of office of a judge appointed to the judicial position of a district (city) court or court of appeals for a 3-year term, the Supreme Council of Justice of Georgia, on the basis of the analysis of the evaluation results provided for in paragraph 4⁴ of this article, shall discuss and make a decision whether to appoint this judge to the judicial position or not for life. The 3-year term of appointment to the position of a judge shall not apply to an active or former member of the Constitutional Court or the Supreme Court of Georgia, an active or former judge of the court of appeal or district (city) court, if he/she has at least 3 years of experience as a judge, and 10 years have not passed since the termination of the judicial authority of the former judge. These judges shall be appointed to the position for life if they successfully pass the relevant competition and receive the necessary number of votes of the Supreme Council of Justice of Georgia (not less than 2/3 of the full membership of the Supreme Council of Justice of Georgia). In the case of refusing to appoint a judge for life, who is appointed to the judicial position for a period of 10 years, he/she shall continue to exercise his/her authority within the framework of the remaining term of judicial authority.

4². A member of the High Council of Justice of Georgia participating in voting on the issue of appointing a judge to the position of a judge of a district (city) court or court of appeals for life by the High Council of Justice of Georgia shall submit a written substantiation of his/her decision recorded during the voting to the Secretary of the High Council of Justice of Georgia immediately after the end of the voting. The results of this voting, the decisions taken by the members of the High Council of Justice of Georgia during the voting, and the reasons for these decisions shall be published on the website of the Council. A member of the High Council of Justice of Georgia shall have the right to submit his/her dissenting opinion in writing to the High Council of Justice of Georgia, which is published on the website of the Council. If the High Council of Justice of Georgia decides to appoint a judge for life, the judge shall be appointed for life until reaching the age established by this Law

4³. The judicial power of a judge, in respect of which a decision has not been made to appoint a judge for life, shall terminate after the expiration of a 3-year term of office in the manner prescribed by this Law, and his/her position shall be considered vacant and a competition shall be announced for his/her replacement. During the next 3 years, this judge shall not be able to take part in the announced competition for filling the vacant position of a judge.”.

11. Article 36² shall be removed**12. Article 36³ shall be removed****13. Paragraphs 7 and 8 of Article 36⁴ shall be formulated as follows:**

“7. When evaluating a judge according to the criterion of good faith, the appropriate features of the criterion of good faith, defined by Article 35¹ of this Law, shall be taken into account. As a result of the analysis and comparison of these characteristics, an evaluator shall make one of the conclusions provided for in paragraph 15 of the same article.

8. A judge shall be evaluated by points of the criterion of competence, based on the appropriate characteristics of the criterion of competence as defined by subparagraphs (a), (b), (d), (e) and (g-i) and paragraphs 9-14 of Article 35¹(3) of this Law. Depending on the significance of the specified characteristics of the criterion of competence, the maximum number of points that must be obtained for each of these characteristics shall differ from each other and shall be determined by paragraph 17 of the same article.”.

14. Paragraph 3 of Article 65 shall be formulated as follows:

“3. The Conference of Judges of Georgia shall separately vote on candidates for members of the High Council of Justice of Georgia for the position of a member judge who, in accordance with Article 47(4) of this Law, shall have the right to hold the position of the President of the court, his/her first deputy or deputy, or the chairperson of the judicial panel or the chamber, along with the position of a member of the council, and vote separately for candidates for members of the Supreme Council of Justice of Georgia for the position of a member judge who is not entitled to hold any of these positions. Before voting, a candidate shall have the right to apply to the conference of judges and present his/her vision and opinion on issues related to the exercise of his/her powers as a member of the High Council of Justice of Georgia, if elected. A person who holds the position of a member of the Disciplinary Chamber or the Qualification Chamber of the Supreme Court or the president of the court, his/her first deputy or deputy, the chairman of the judicial panel or the chamber and is running for the position of a member who does not have the right to hold any of the above-mentioned positions, in case of being elected as a member of the Council, his/her authority to hold a position incompatible with the position of a member of the Council shall be terminated. If the number of candidates for election to the position of the member, who has the right to fill the position of the President of the court, his/her first deputy or deputy or the chairperson of the judicial panel or chamber, is less than the number of eligible persons, or if as a result of voting the required number of votes have been received by persons less than the number of eligible persons, a person who does not hold the position of the President of the court, his/her first deputy or deputy, or the chairperson of the judicial panel or chamber may be elected to the vacant position.”.

15. Article 66²² shall be formulated as follows:

“Article 66²². Training programme for trainee judges

The curriculum for the training of trainee judges must ensure the deepening of theoretical knowledge, the development of practical skills and qualities in accordance with the criteria established by Article 35¹ of this Law. In addition to compulsory subjects, optional subjects may be included in the training programme for a trainee judge. An independent council shall approve the list of subjects on the recommendation of a principal.

Article 2

Until 1 May 2023, the High Council of Justice of Georgia shall adopt legal acts necessary to implement Chapter I¹ of the Organic Law of Georgia on Common Courts provided for by this Law and take other necessary preliminary measures to implement the same Chapter.

Article 3

1. This Law, with the exception of the first paragraph of Article 1 of this Law, shall enter into force immediately after its promulgation.
2. The first paragraph of Article 1 of this Law shall enter into force on 1 May 2023.

President of Georgia
Salome Zurabishvili

Draft**Law of Georgia****On Amendments to the Law of Georgia on the Protection of Personal Data**

Article 1. Regarding Article 6 of the Law of Georgia on the Protection of Personal Data (Legislative Herald of Georgia (www.matsne.gov.ge), 16.01.2012, registration code: 010100000.05.001.016606):

a) the second paragraph shall be supplemented with subparagraph (l) of the following content:

“l) the data are processed for the purpose of issuing a judicial act as public information in accordance with the Organic Law of Georgia on Common Courts.”;

b) paragraph 3 shall be formulated as follows:

“3. In the case of data processing on the basis of subparagraphs (a – k) of the second paragraph of this article, it shall be inadmissible to publish data and disclose them to third parties without the consent of the data subject. In the case of data processing provided for in subparagraph (l) of the second paragraph of this article, their disclosure in the form of public information shall be permitted in accordance with the Organic Law of Georgia on Common Courts.”.

Article 2. This Law shall enter into force on 1 May 2023.

President of Georgia
Salome Zurbashvili

Draft

Law of Georgia

On Amendments to the General Administrative Code of Georgia

Article 1. The following amendments shall be made to the General Administrative Code of Georgia (Legislative Herald of Georgia, 1999, No. 32(39), Art. 166):

1. The first part of Article 10 shall be formulated as follows:

“1. Everyone shall have the right to communicate with public information held by an administrative body, as well as to receive copies of it, if they do not contain state, professional or commercial secrets or personal data. The question of issuing a judicial act containing personal data as public information, shall be decided in accordance with the Organic Law of Georgia on Common Courts.”.

2. The first part of Article 28 shall be formulated as follows:

“1. Public information is open, with the exception of cases provided for by law, and information classified as state, commercial or professional secrets, or personal data. The question related to the issuance of a judicial act containing information related to personal data as public information shall be decided in accordance with the Organic Law of Georgia on Common Courts.”.

3. Article 44 shall be formulated as follows:

“Article 44. Secrecy of personal data

A public institution shall be obliged not to disclose personal data of a person without the consent of this person, except for the cases provided for by law, when it is necessary to ensure state or public security, protect public interests, health or rights of other persons. The personal data of an official, as well as a candidate nominated for the position, are public. The question related to the issuance of a judicial act containing personal data as public information shall be decided in accordance with the Organic Law of Georgia on Common Courts.”.

Article 2. This Law shall enter into force on 1 May 2023.

President of Georgia
Salome Zurbashvili

*Draft***Law of Georgia****On Amendments to the Law of Georgia
on Conflict of Interest and Corruption in Public Institutions**

Article 1. Paragraph 5² of Article 14 of the Law of Georgia on Conflict of Interest and Corruption in Public Institutions (Parliamentary Bulletin, No. 44, 11.11.1997, p. 86) shall be formulated as follows:

“5². A person registered as a candidate in accordance with Article 34¹(8) of the Organic Law of Georgia on Common Courts shall be obliged to complete and submit a declaration on the property status of an official within 3 working days after the expiration of the period for reviewing a complaint specified in paragraph 5 of the same article. This declaration is public and immediately published on the official website of the Bureau. The specified requirements shall also apply to the participation of a person in the relevant procedure for appointing a judge of a district (city) court or court of appeals.”.

Article 2. This Law shall enter into force upon its promulgation.

President of Georgia
Salome Zurbashvili

Draft

**Rules of the Parliament of Georgia
On Amendments to the Rules of the Parliament of Georgia**

Article 1. Paragraphs 8 and 9 of Article 208 of the Rules of the Parliament of Georgia (Legislative herald of Georgia (www.matsne.gov.ge), 14.12.2018, registration code: 010190030.06.001.016054) shall be formulated as follows:

“8. The documents submitted to the Parliament shall be immediately submitted to the Legal Issues Committee of the Parliament. In order to establish the compliance of candidates for members of the High Council of Justice of Georgia with the legislation of Georgia, the Legal Issues Committee of the Parliament shall hear each such candidate at an open meeting. The Legal Issues Committee shall complete the consideration of the documents submitted to the Parliament in order to determine their compliance with the requirements established by paragraphs 2-5 of this article, as well as hearing at an open meeting of the Committee of candidates for members of the High Council of Justice of Georgia:

- a) within 10 calendar days after the expiration of the nomination period - in the case provided for by subparagraph (a) of paragraph 6 of this article;
- b) within 4 calendar days after the expiration of the nomination period - in the case provided for by subparagraph (b) of paragraph 6 of this article.

9. After completion of the discussion/hearing referred to in paragraph 8 of this article, the Legal Issues Committee of the Parliament shall deliver an opinion. The opinion of the Committee shall indicate the candidates recommended by the Committee for appointment to the positions provided for by this article. The Legal Issues Committee shall submit the opinion and the list of candidates nominated by the persons provided for in the second paragraph of this article and meeting the requirements specified in this article, together with the relevant documents, to the Bureau of the Parliament. The Bureau of the Parliament shall immediately forward the list of candidates and the attached documents to the factions.”.

Article 2. The Rules shall enter into force upon promulgation.

Chairman of the Parliament of Georgia
Shalva Papuashvili