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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

GEORGIA

**DRAFT AMENDMENTS TO THE ORGANIC LAW OF GEORGIA ON
COMMON COURTS**

Paragraph 3¹ of Article 13 shall be formulated as follows:

“31. The full text of a judicial act made by a court as a result of an open court hearing shall be publicly available immediately after the adoption of this act and shall be issued in the manner prescribed by the General Administrative Code of Georgia. At the same time, the depersonalised text of this judicial act shall be published on the relevant website after the adoption of this act. For the purposes of this paragraph, a judicial act is any decision of a common court, including a decision that does not resolve the case on the merits. For the purposes of this paragraph, depersonalization of the text of a judicial act means the complete depersonalization of the following information contained in it:

- a) the identity of a person, name, date of birth, personal number, identification number, number of an identity document, name of the place of work and position held;
- b) address of a person’s place of registration, location, place of residence and place of work;
- c) phone number and email address of the person;
- d) other types of information determined by the High Council of Justice of Georgia, which are related to personal data.”.

Article 34(1) shall be formulated as follows:

“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. A person shall not be elected as a judge of the Supreme Court of Justice if he/she does not have at least 10 years of professional experience.

Paragraphs 12 and 13 of Article 34³ shall be formulated as follows:

“12. If the Qualification Chamber of the Supreme Court adopts a decision to annul the decision of the High Council of Justice of Georgia provided for in Article 341(12) of this Law and remand the case for a new trial, the High Council of Justice of Georgia shall adopt a new decree in accordance with the same paragraph. In addition, it is considered that the results of the evaluation of all candidates, made by a specific member of the High Council of Justice of Georgia, are annulled if the Qualification Chamber of the Supreme Court determines that this member of the Council has committed any of the actions provided for in subparagraphs (a – c) of the first paragraph of this article by a decision taken to annul the decision of the High Council of Justice of Georgia and return the case for review as provided for in Article 341(12) of this Law. Such a member of the High Council of Justice of Georgia may not participate in any procedures provided for in Article 341(12) of this Law, conducted to fill the relevant judicial vacancy. In the process of re-evaluation of the candidate, the HCoJ members take the decision of the Qualification Chamber into consideration.

13. If the Qualification Chamber of the Supreme Court decides to cancel the proposal of the High Council of Justice of Georgia and remand the case for a new trial, as provided for in Article 341(13/15) of this Law, the High Council of Justice of Georgia shall adopt a repeated proposal in accordance with the same paragraph. The specific member of the High Council of Justice of Georgia shall not participate in any of the votes held on the acceptance of these proposals, if the Qualification Chamber of the Supreme Court by its decision establishes that he/she has committed any of the actions provided for in subparagraphs (a – c) of the first paragraph of this

article. While adopted a repeated proposal of the High Council of Justice of Georgia, the HCoJ members take the decision of the Qualification Chamber into consideration.”.

Paragraphs 1 and 2 of Article 37¹ shall be formulated as follows:

“1. If necessary, when this is caused by the lack of a judge in a district (city) court or court of appeals and/or by a sharp increase in the number of cases under consideration and/or in exceptional case, when it is necessary by another objective circumstance for the proper administration of justice, the High Council of Justice Georgia shall address judges of other courts with a proposal to exercise the judicial powers. If any judge expresses his/her consent within 5 days after the address, the High Council of Justice of Georgia shall make a decision on his/her secondment to another court (including from a court of appeals to a district (city) court or from a district (city) court to a court of appeals) for a term determined by the High Council of Justice of Georgia. At the same time, this rule is not used in case when a judge addresses the High Council of Justice by himself/herself on his/her secondment to another court.

2. If a judge cannot be selected under the procedure established by paragraph 1 of this article, the High Council of Justice of Georgia shall have the right to make a substantiated decision, without consent of a judge, to send a judge on secondment to another court (including from the court of appeals to the district (city) court, or from the district (city) court to the court of appeals) but not for more than 2 years. Without consent of a judge, a secondment term may be continued for a period not more than 1 year. At the same time, the High Council of Justice of Georgia shall justify this decision with the existence of the circumstance provided in the first sentence of Paragraph 1 of this Article that created the necessity to second a judge without consent to another court or extend the secondment term.”.

Paragraph 12 of Article 47 shall be formulated as follows:

“12. The term of office of a member of the High Council of Justice of Georgia shall be 4 years. After the expiration of the term of office, the member of the High Council of Justice may not perform his/her duties. A member of the High Council of Justice shall be elected not earlier than 30 calendar days before the expiration of the term of office of the respective member of the High Council of Justice, and in case of early termination of powers of the member of the High Council of Justice – not earlier than 10 calendar days after the termination of his/her powers. To elect a member of the High Council of Justice by the Parliament of Georgia, a competition shall be announced not earlier than 3 months and not later than 2 months before the expiration of the term of office of the respective member of the High Council of Justice, and in case of early termination of the powers of the member of the High Council of Justice – not later than 1 month after the early termination of his/her powers. More than 4 judge members of the High Council of Justice of Georgia shall not be elected in any six-month period. It is not allowed for the Parliament of Georgia to elect more than 4 members of the High Council of Justice during same session.”

Paragraph 3 of Article 50 shall be formulated as follows:

“3. A decision of HCoJ on imposing disciplinary liability on a judge shall be deemed to have been adopted if it is supported by secret ballot by at least 2/3 of the full composition of the Council. A decision on other disciplinary matters shall be deemed to have been adopted if it is supported by secret ballot by a majority of the full membership of the Council.”

Sub-paragraph b.g. of Paragraph 8 of Article 75¹ shall be formulated as follows:

“b.g.) public expression of an opinion by a judge in manifest violation of the principle of political neutrality. Scientific or analytical deliberation by a judge about justice reform, improvement of functioning of justice system and/or other legal development shall not be regarded a manifest violation of the principle of political neutrality.”.

Paragraph 1 of Article 75¹³ shall be formulated as follows:

1. Following the disciplinary case investigation, the High Council of Justice of Georgia shall, within the overall time limit determined under Article 75(1) of this Law for the investigation of a disciplinary case, make a reasoned decision, by at least two-thirds of the total number of members, 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 who disagrees on this decision may express his/her dissenting opinion in a written form, which will be attached to the disciplinary case.