

# ORGANIC LAW OF GEORGIA

## ON COMMON 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 common courts through civil, administrative and criminal proceedings.
3. This Law defines a system and organisation of common 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.

##### Article 2 - Common court system of Georgia

1. The Common courts of Georgia are district (city) courts, courts of appeals and the Supreme Court of Georgia.
2. The common court system of Georgia shall be uniform.
3. Military courts may be created during periods of martial law and only within the common 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.

##### 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 A court decision may be repealed, modified or suspended only by a court according to the procedure defined by law.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 shall give rise to liability as determined by law.

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

A common 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. No one may request a judge to make a report 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.

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.

#### **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.

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*

#### **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. Unless the public broadcaster exercises the right under the second paragraph of this article, such right may be exercised by any other general



broadcasting licensee by filing a written application to the trial court before the session begins. If such application is submitted by more than one general broadcasting licensee, the judge shall select an authorised person by casting lots. The person exercising the right under the second paragraph 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*

## **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 common 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.

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

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

1. The Plenum of the Supreme Court shall determine the number of the Supreme Court judges.

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*

#### **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 common 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 - 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 members of the Supreme Court chambers (other than the Chamber of Qualification) and their chairpersons on the recommendation of the Chairperson of the Supreme Court;
  - b<sup>1</sup>) elect members and a chairperson of the Chamber of Qualification;
  - c) appoint 3 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.

*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*

#### **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 approved by the Plenum of the Supreme Court for a term of three years. Candidates for membership in the Chamber of Disciplinary Cases (including the candidate for Chairperson of the Chamber) shall be nominated to the Plenum for its approval by the Chairperson of the Supreme Court from among the Supreme Court members.

2. The Chairperson of the Supreme Court may discharge a member of the Chamber of Disciplinary Cases.

3. If the Plenum of the Supreme Court twice rejects a candidate for membership in the Chamber of Disciplinary Cases that is nominated by the Chairperson of the Supreme Court, the Chairperson of the Supreme Court may appoint an acting member of the Chamber of Disciplinary Cases for a maximum six months before the approval of such 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 recusation 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 shall review appeals from the decisions of the Disciplinary Panel of Judges of Common Courts of Georgia under procedures determined by the Law of Georgia on Disciplinary Liability and Disciplinary Proceedings of Judges of Common Courts of Georgia.

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

1. Under Articles 36<sup>5</sup> and 36<sup>6</sup> of this Law, the Chamber of Qualification of the Supreme Court shall review appeals of the decisions of the High Council of Justice of Georgia on the refusal to appoint a judge to office indefinitely.

2. The Plenum of the Supreme Court shall elect the Chamber of Qualification of three members, for a two-year term. A member of the Chamber of Qualification may not be the judge of the Supreme Court who simultaneously 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*

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

1. The Supreme Court chambers have chairpersons. The chairperson of a chamber (other than the 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 term of five years. The Chairperson of the Chamber of Disciplinary Cases shall be appointed by the Plenum of the Supreme Court from among members of the chamber for a term of three years according to procedures in Article 19 of this Law. The Chairperson of the Chamber of Qualification shall be appointed by the Plenum of the Supreme Court for a term of two years according to procedures in Article 19<sup>1</sup> of this Law. By decision of the Plenum of the Supreme Court, the powers of the chairperson of a chamber (other than the 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*

#### **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) appoints and discharges employees and other workers 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) initiates disciplinary prosecution of judges and exercises other disciplinary powers;

i) makes decisions on arraignment, detention or arrest of a judge, search of his/her apartment, car, workplace or of his/her person;

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*

### **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 created in the court of appeals:
  - a) Chamber of Civil Cases
  - b) Chamber of Administrative Cases
  - c) Chamber of Criminal Cases
  - d) Investigation Panel.
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, to avoid delay in the administration of justice, the chairperson of the court of appeals may assign a judge to participate in a hearing in another chamber or in the Investigation Panel of the same court.
5. Each chamber and the Investigation Panel of the court of appeals shall have a chairperson who is appointed for a term of five years from among members of the relevant chamber and panel and who is discharged by the High Council of Justice of Georgia. Unless a judge is appointed indefinitely, he/she shall be appointed as the chairperson within his/her tenure but for not more than five years.
6. The chairperson and the deputy chairperson of the court of appeals shall be appointed from among chamber and Investigation Panel chairpersons for the term of five years and discharged by the High Council of Justice of Georgia. Unless a judge is appointed indefinitely, he/she shall be appointed as chairperson or deputy chairperson within his/her tenure but for not more than five years.
7. 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.

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

#### **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) preside over one of the chambers or the Investigation Panel of the court;
  - b) manage and oversee the operation of the court staff, appoint and discharge, according to procedures determined by the legislation of Georgia, the court manager and other court employees and impose disciplinary penalty upon them;
  - c) generalise precedents, applications, complaints and proposals, and submit the generalisation materials to the High Council of Justice of Georgia;
  - d) where provided in Article 23(4) of this Law, assign a judge of the court of appeals to participate in the examination of a case in another chamber or on the Investigation Panel of the same court;
  - e) distribute, according to procedures determined by law, cases and other materials filed with the court;
  - 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.

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



## **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) preside over one of the chambers or the Investigation Panel of the court;
- 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) generalise precedents, applications and complaints according to procedures determined by law and submit the generalisation materials to the chairperson of the court of appeals;
- f) 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 shall be discharged by the chairperson of one of the chambers or the Investigation Panel of the court.

## **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 specialised panels ('the Panels') may be created 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. The Panel shall have a chairperson who is appointed from among Panel members for a term of five years and who is discharged by the High Council of Justice of Georgia. Unless a judge is appointed indefinitely, he/she shall be appointed as chairperson or deputy chairperson within his/her tenure but for not more than five years.

5. If necessary, to avoid delay in the administration of justice, the chairperson of the court may assign a judge to examine a case in another specialised composition (Panel) within the same court and also to act as a magistrate judge, and may assign a magistrate judge to examine a case beyond his/her jurisdictional area in a district (city) court.

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

### **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 the relevant court, and in a court having Panels – from among the chairpersons of such Panels for a term of five years and shall be discharged by the High Council of Justice of Georgia. Unless a judge is appointed indefinitely, he/she shall be appointed as chairperson or deputy chairperson within his/her tenure but for not more than five years.

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

- a) personally examine cases, preside over one of the Panels;
- b) manage and oversee the operation of the court staff, appoint and discharge, according to the procedure determined by the legislation of Georgia, the court manager and other court employees and impose disciplinary penalties upon them;
- c) distribute for examination, under procedures determined by law, cases falling within the jurisdiction of the district (city) court;
- d) organise the operation of the court;
- e) deleted;
- f) generalise precedents, applications, complaints and proposals according to the procedure determined by the legislation of Georgia and submit the generalisation materials to the High Council of Justice of Georgia;
- g) exercise the right under Article 30(5) of this Law;
- h) study the causes of delay in hearings in court and submit the relevant materials to the High Council of Justice of Georgia;
- i) provide for the observance of order in the court, have the right to introduce rules for checking participants and attendees of the process before a session begins and 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 the attendees of the session depending on the courtroom space;
- j) 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 for by the procedural legislation of Georgia. The procedure for issuing an order on these matters by the chairperson of the court and appealing such order shall be determined by the procedural legislation of Georgia;
- k) discharge any other duties provided in the legislation of Georgia.

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.

*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*

### **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 office of a judge for any of the reasons set forth in Article 43(1)(b), except when the provision of the Law of Georgia on Disciplinary Liability of Judges of Common Courts of Georgia and Disciplinary Proceedings based on which the person was discharged from the office of a judge no longer exists, or for any of the reasons set forth in Article 43(1)(c) and (h), must not be appointed (elected) as 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.
5. A former judge of common 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 of Georgia shall be released from the judge's qualification exam and the High School of Justice training.

*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*

#### Article 35 - Procedure for holding the office of a judge

1. A person who meets the requirements of Article 34(1) and (2) of this Law shall be deemed a candidate for judge after he/she submits an application to the High Council of Justice of Georgia for filling a vacant position of a judge. The decision on appointing him/her to the office of judge shall be made in consideration of his/her serial number on the Justice Students Qualifications List and the evaluation by the Independent Board of the High School of Justice. By decision of the High Council of Justice of Georgia, the candidate for judge shall be invited to the meeting.
2. A person refusing to hold the office of a judge after having been put on the Justice Trainee Qualifications List may not submit an application for filling the vacant position of a judge to the High Council of Justice of Georgia within five years after the List is approved. As an exception, the High Council of Justice of Georgia shall consider the question of admitting the person to the competition.
3. A person who has been released from the High School of Justice training shall hold the office of a judge by competition. Such person shall be deemed a candidate for a judge after having submitted an application for taking part in the competition announced by the High Council of Justice of Georgia. The High Council of Justice of Georgia shall announce the competition through an official gazette of Georgia when there is a vacancy in the office of a judge in district (city) court and court of appeals. The High Council of Justice of Georgia shall define the period for registration of candidates for judge when announcing the competition. The competition shall be conducted after the period of registration of candidates for judge expires. The competition conditions and judge selection criteria shall be determined by decision of the High Council of Justice of Georgia.
4. Within seven days after submitting an application, the candidate for judge must submit to the High Council of Justice of Georgia a certificate of filing with the Public Registry Bureau a property declaration issued under the legislation of Georgia.
5. If a candidate for judge's office cannot be selected by competition, the High Council of Justice of Georgia shall announce, under procedures contained in this article, a new competition within three months after the results of the competition are announced.

#### 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.



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>. The judge of a district (city) court and court of appeals shall be appointed to office for a term of three years. 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 appoint the judge to office indefinitely.

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>. After one and two years of office, as well as four months before the expiration of the three-year term of office of the 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’) to assess the activity of the judge appointed to office for three years. The evaluators shall assess the activity of the judge for the given period within one month, 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 within one month, three 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*

### **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 - 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.



#### 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 established by legislation at any time within the one-month period provided for the assessment; 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 that is not related to the assessment of a judge based on the criteria under this Law may not be sought. The information obtained may be only used for the purposes of 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 enhance the effectiveness of the judicial assessment procedure, 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 specific criteria.

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 the thirteenth paragraph of this article, the High Council of Justice of Georgia shall make, by at least two-thirds of the full membership and by an open ballot, one of the following decisions:

a) to leave the legal act of the Chairperson of the High Council of Justice of Georgia unmodified;

b) to cancel the legal act of the Chairperson of the High Council of Justice of Georgia and to interview 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. The decision made by the High Council of Justice of Georgia under paragraph 14(a) of this article shall be final and it may not be appealed.

17. If the High Council of Justice of Georgia makes a decision under paragraph 14(b) of this article, it shall interview the judge and make a decision under the nineteenth and twentieth paragraphs of this article. If, following an interview with the judge, the High Council of Justice of Georgia makes a decision to refuse to appoint the judge to office indefinitely; this decision may be appealed under 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*

## **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 a competition**

If a vacancy arises, a judge who has been appointed to office may be appointed without competition as a judge of a lower, corresponding or upper court if the judge so agrees. If a judge has been appointed indefinitely, he/she may be appointed without competition as a judge of a lower, corresponding or upper court within his/her tenure.

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

#### **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.

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

#### **Article 41 - Promotion of judges**

1. The judge of a district (city) court may be appointed in a court of appeals if he/she has served as a judge in the district (city) court for at least two years. The High Council of Justice of Georgia shall formulate the criteria for promotion of judges.

2. A judge may be promoted earlier than the term determined by the first paragraph of this article, if he/she has made a special contribution to the development of law, formulation of uniform judicial practice and fast and effective administration of justice, also if he/she demonstrated high judicial skills during the exercise of judicial power.

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



**Discharging (Terminating the Powers of) Judges; Liability of Judges**

**Article 42 - Discharging judges**

1. 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.

*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*

**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) holding any office or engaging in any activity incompatible with the status of a judge;
  - d) being found by court legally incompetent and with limited capacity;
  - 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 crime of corruption under the procedure of determined in Article 20(6) of the Law of Georgia on Conflict of Interests and Corruption in Public Service;
  - 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.

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*

**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 from 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 Common 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 common 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 Common Courts of Georgia.

## **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.

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 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. 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.

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 common court judges according to this Law.

4. Georgian common courts shall be represented in the High Council of Justice of Georgia by the chairperson of the Supreme Court and 8 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 common court judge. A member elected by the Conference of Judges of Georgia may not be a member of the Chamber of Disciplinary Cases or the Chamber of Qualification of the Supreme Court or a chairperson of any court; nor may such member be the first deputy chairperson or a deputy chairperson of a court, except where he/she holds the office because he/she is the chairperson of a judicial panel or chamber. Not more than 3 out of the members elected by the Conference of Judges of Georgia may be the chairperson of a judicial panel or chamber.

5. The Parliament of Georgia shall elect five members of the High Council of Justice of Georgia by competition, by secret ballot. 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 timeframe for nominating Council candidates, determining their compatibility with the requirements set out by this paragraph and the sixth paragraph of this article, for debating and presenting nominees to the plenary session of the Parliament shall be determined by the Rules of Procedure of the Parliament of Georgia.

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 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. The candidates shall be elected to the High Council of Justice of Georgia by a two-thirds majority of the full membership of the Parliament of Georgia, according to the procedures contained in this paragraph, paragraphs 8-10 of this article and the Rules of Procedure of the Parliament of Georgia. If some vacancies are left after the first round of voting, the candidates in the second round of voting shall be elected by a majority of full membership of the Parliament of Georgia. At the same time, the number of the members elected by such quorum shall not exceed four.

8. The candidates receiving at least a two-thirds 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 there are some vacancies left after the first round of voting, the 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 more than twice the number of the vacancies. 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. Votes of the majority of the full membership of the Parliament of Georgia shall be sufficient to be elected in the second round, provided that:

a) if at least one member is elected to the High Council of Justice of Georgia by a two-thirds majority of votes in the first round, the candidates receiving the majority of votes of the full membership of the Parliament of Georgia shall be deemed elected in the second round. If the number of such candidates is higher than the number of vacancies, only the appropriate number of candidates with the best results shall be deemed elected. If candidates cannot be elected due to a tie in votes, those candidates shall be put to a repeat vote and the candidate with the best result shall be deemed elected;

b) if a member fails to receive a two-thirds majority of votes in the first round and no one receives two-thirds of votes in the second round, one seat shall remain vacant and those elected to the remaining seats shall be identified under subparagraph (a) of this paragraph.

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 an appellate judge. 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.

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.



*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*

#### **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 legally incapable and with limited capabilities;
- 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 or the Conference of Judges of Georgia, respectively. If there are any of the circumstances referred to in paragraph 1(a) through (g) of this article, the Parliament of Georgia or the Conference of Judges of Georgia shall receive information on those circumstance without making a decision, but in the circumstances referred to in paragraph 1(h) through (m) of this article – shall put to vote the decision on the termination of the powers of the member of the High Council of Justice of Georgia. The Parliament of Georgia shall make the decision by a secret ballot, by a majority of its 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*

#### **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 common court judges (other than the chairperson and members of the Supreme Court);
- b) determine the composition of the Qualification Examination Commission;
- c) 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 common 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 common courts;
- e<sup>1</sup>) approve the procedure for internship in the High Council of Justice of Georgia, district (city) and appellate courts;
- e<sup>2</sup>) approve the procedure for the appraisal of the staff of the Office the High Council of Justice of Georgia, district (city) and appellate courts;
- f) review materials related to judicial statistics analysis;
- g) conduct disciplinary proceedings against Georgian common court judges in the prescribed manner and within the scope of its powers;



- h) hear the report of the chairperson of the Department of Common 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 out of its non-judge members to nominate him/her to the Legal Aid Council;
- 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.

*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*

#### **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 - 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.

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, appointing and dismissing officials and other personnel 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*

#### **Article 53 - 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 seven years after passing the exam.

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

### **Chapter VIII**

#### **Department of Common Courts**

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

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

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

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

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

5. The chairperson and vice chairpersons of the Department of Common 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. Other employees of the Department of Common Courts shall be appointed and dismissed by the chairperson of the Department of Common Courts.
7. The chairperson of the Department of Common Courts shall be accountable to the High Council of Justice of Georgia.
8. The chairperson of the Department of Common Courts shall approve the cost estimate, staff list and payroll budget of the Department of Common Courts in agreement with the High Council of Justice of Georgia.
9. The Department of Common Courts shall be financed from the State Budget of Georgia and any other revenues determined by the legislation of Georgia.
10. The Department of Common Courts shall have a seal bearing the National Coat of Arms of Georgia and hold bank accounts, including deposit accounts. Any amount credited as interest to the account shall belong to the Department of Common Courts.

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

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

The Department of Common 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 common 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.
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) and appellate courts shall be determined under Regulations of the Administrative Office of the Supreme Court approved by the High Council of Justice of Georgia.
5. The employees of administrative offices of courts shall be regarded as public servants. Officials and auxiliary personnel of the administrative offices of courts shall enjoy all the social guarantees afforded to the officials and auxiliary personnel of the legislative and executive branches of government.

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

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

1. A Georgian citizen with a higher legal education, who speaks the language of court proceedings, has completed up to one year of paid internship in a common court and a special training course in the High School of Justice, may be appointed, according to the procedure laid down 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, an intern shall be appointed to the relevant position in the administrative office. A person meeting the main requirements set for a public servant 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 years 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 common court voluntarily.

6. Officers of the administrative office of court whose functions are not directly related to the administration of proceedings in court, as well as auxiliary and non-staff personnel shall be appointed and dismissed by the chairperson of court according to procedures contained in 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*

#### **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*

### **Chapter X**

#### **Bailiff**

#### **Article 59 - Bailiff, Bailiff's Office**

1. A Bailiff's Office may be established within common 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 common court judges. The Conference of Judges of Georgia shall consist of the Supreme Court, appellate and district (city) court judges.
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 common 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 common 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 Common Courts on the work of those bodies;
  - 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 the office of the three judge members of the High Council of Justice of Georgia who are authorised under Article 47(4) of this Law to hold concurrently the position of the chairperson of a judicial panel or chamber and that of a member of the Council, and shall separately put to vote candidates for the office of the remaining five judge members who are not authorised to concurrently hold any such office. A person holding the office of a member of the Chamber of Disciplinary Cases and the Chamber of Qualification of the Supreme Court, the chairperson, first deputy chairperson or deputy chairperson of a court or the chairperson of a judicial panel or chamber, and runs for the office of the member who may not concurrently hold any of the above-mentioned offices, shall, if elected, forfeit the right to hold an office incompatible with that of a member. If the number of the candidates to the office of those three members who are authorised to concurrently hold the office of the chairperson of a judicial panel or chamber is lower than three or if fewer than three members receive the necessary number of votes as a result of voting, the vacant position may be filled by a person who does not hold the office of the chairperson of a judicial panel or chamber.
  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 ¼ 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 ¼ of the votes of the full membership of the Conference of Judges of Georgia.



## **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 1/5 of Georgian common 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 Common 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 common 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 Common Courts; Social and Legal Guarantees of Judges**

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

1. Common 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 Common Courts, shall submit a draft version of the section of the State Budget of Georgia that deals with the financing of common courts (other than the Supreme Court) and the Department of Common 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 common courts and the Department of Common 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 common 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 appellate and district (city) court judges 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 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 an appellate court, the chairperson of a district (city) court and a common 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.



#### **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 70 - Procedure for awarding a state compensation to common 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 common 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 appellate and district (city) court judges shall be paid from the budget of common 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 appellate and district (city) court judges shall be performed under a contract concluded between the Department of Common Courts and a licensed insurance organisation according to the procedure laid down by the legislation of Georgia or by means of a voucher.

### **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.



#### **Article 75 - Court seal**

A court seal shall bear the National Coat of Arms of Georgia and the name of the court.

### **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 Common Courts of 13 June 1997;

b) he/she completed the mandatory qualification attestation and exercised judicial power under the Organic Law of Georgia on Common 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 Common 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 Common Courts of 13 June 1997.

#### **Article 78 - Reviewing supervisory appeals**

The supervisory appeals filed against the final judgements of Georgian common 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 common 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 common 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 common 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 Common Courts**

1. The Department of Common Courts shall be a legal successor of the Department of Common Courts of the High Council of Justice of Georgia.

2. For the creation of the Department of Common Courts, the Government of Georgia shall ensure that:

a) the budgetary allocations of the Department of Common Courts of the High Council of Justice of Georgia are transferred to the Department of Common Courts under the legislation of Georgia;

b) the assets necessary for the operation of the Department of Common Courts are transferred to the Department of Common 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 Common Courts;

b) implementation of other measures related to the creation of the Department of Common Courts.

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

## **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 Common 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-IIS**

