

## **CHAPTER 1. GENERAL PROVISIONS**

### **Article 1. Judicial Power**

1. Judicial power is independent from other branches of state power and is executed only by courts.
2. Justice is one of the forms of execution of judicial power and is administrated by common law courts through civil, administrative and criminal proceedings.
3. The present Law defines the system and organization of common law courts, the legal status of a judge, rules of selection, appointment and dismissal of judges, as well as guarantees of social and legal protection of judges.

### **Article 2. The System of Common Law Courts**

1. Common law courts of Georgia are: the regional (town) court, the court of appeal, the Supreme Court of Georgia.
2. The system of common law courts of Georgia is unified.
3. Martial-law courts may be established during the war and only within the system of common law courts. The procedure for setting up and jurisdiction of martial-law courts are defined under law.
4. The setting up of emergency or special courts is inadmissible.

### **Article 3. Protection of Rights in Legal Form**

1. Every person has the right to apply directly in person or through a representative to a court for protecting his rights and freedoms.
2. Every person shall be considered only by the court under which jurisdiction his case is.

### **Article 4. Obligation of Court Rulings**

1. A court act, as well as court demand and order shall be binding upon all natural or legal persons, state and local executive bodies on the whole territory of Georgia.
2. The revocation, alteration or suspension of a court ruling is possible only by a court under the procedure established by a law.
3. The non-performance of a court ruling shall invoke the responsibility as provided under law.

### **Article 5. Making a Ruling on Behalf of Georgia**

A ruling of the common law courts is made on behalf of Georgia.

### **Article 6. Principles of Administration of Justice and Legal Proceedings**

1. Justice is administered on the basis of law and equality before the court of all persons participating in the case, as well as publicity, not replacement of judges and protection of principles of independence.
2. The legal proceedings are conducted on the basis of equality and competition of the parties.

### **Article 7. Independence of a Judge**

1. A judge in his activities is independent. A judge evaluates factual circumstances and makes decision only on the basis of the Constitution of Georgia, internationally declared principles and norms of international law, in relevance of other laws and inner belief. No one has the right to require from a judge a report on the concrete case.
2. Withdrawal of a judge from the case hearing, termination of his/her authority before terms or his/her assignment to other position is prohibited except in cases defined by the law.
3. If, in considering a concrete matter in the common law court, the court decides that there are sufficient grounds for recognizing any law or normative act, which is to be applied by the court in settling the matter, inconsistent in full or in part with the Constitution, it shall suspend the proceedings and shall apply to the Constitutional Court of Georgia. The proceedings shall resume after the matter is settled by the Constitutional Court.

4. If the examining court decides that the law or sublaw does not fall under the Constitutional Court's jurisdiction, the court shall decide in accordance with the Constitution.

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**Article 34. Requirements set out for candidates to be appointed as judges**

1. A legally capable citizen of Georgia who has attained the age of 28, has the higher legal education, minimum 5-year experience in the practice of law, is fluent in the State language, has passed a judicial qualification examination and attended a full study course at the High School of Justice and has been enrolled in a judicial graduates' qualification list is eligible for appointment (election) to a judicial position.

2. A person with previous criminal record as well as persons dismissed from a judicial office for any of the grounds listed in subparagraphs “b”, “c” and “h” of the first paragraph of the Article 43 of this law may not be appointed (elected) as a judge.

3. There is no obligation to attend the High School of Justice for a person who is recommended to be elected to a member of the Supreme Court as well as a former judge who has passed the judicial qualification examination, has been assigned to perform judicial duties at the Supreme Court, a district (city) court or an appeals court by a rule of competition and has worked as a judge for at least 18 months. A person who has attended a full course of study at the High School of Justice and has been enrolled in a judicial graduates’ qualification list is not obligated to attend the High School of Justice regardless of how long he/she has served in judicial office or whether or not he/she was appointed as a judge after the completion of the course at the School.

4. The President of Georgia is authorized to recommend a candidate to the Parliament of Georgia for election as a member of the Supreme Court without the candidate having passed a judicial qualification examination; however, the candidate’s professional experience should correspond to the high status of a member of the Supreme Court. A candidate recommended for election as a Chairman of the Supreme Court is also released from the obligation to pass the judicial qualification examination.

5. A former judge of Georgian common courts is released from the obligation to pass the judicial qualification examination within 7 years after termination of his/her judicial powers.

6. Both current and former members of the Constitutional Court of Georgia are released from the obligation to pass a judicial qualification examination and to attend the High School of Justice.

#### **Article 35. The rule of occupying the position of a judge**

1. A person, who satisfies the requirements foreseen by the paragraphs 1 and 2 of the article 34 of this law, shall be considered as a judicial candidate after he/she lodges an application with the High Council of Justice to occupy a vacant position of a judge. A judicial graduates’ qualification list number and the assessment prepared by the Independent Council of the High School of Justice have to be taken into consideration while rendering a decision about appointing a judge. According to the decision of the High Council of Justice, the judicial candidate is invited to the session.

2. A person, who refuses to occupy the position of a judge after being enrolled in a judicial graduates’ qualification list, is not allowed to lodge an application with the High Council of Justice to occupy a vacant position of a judge within 5 years after the list was approved. In exceptional cases, the High Council of Justice considers the issue of admitting the person for competition.

3. A person released from studying at the High Council of Justice, occupies the position of a judge based on the rule of competition. The person shall be considered as a judicial candidate after he/she lodges an application for the competition announced by the High Council of Justice. In case there is a vacancy in district (city) and appellate courts for a judicial position, the High Council of Justice announces the competition through the official promulgation body. The term for registration of judicial candidates is determined by the High Council of Justice when the competition is announced. The competition is held after the registration term has expired. The procedure for conducting the competition and the criteria for selection of the judges are defined by the decision of the High Council of Justice.

4. Within 7 days after the application has been lodged, the judicial candidate has to present the certificate to the High Council of Justice issued according to Georgian legislation regarding the submission of the financial declaration in the Civil Service Bureau.

5. In case the candidate for appointing to a judicial position could not be selected based on competition, the High Council of Justice will announce a new competition within 3 months after the announcement of the competition results based on the rule defined by this article.

#### **Article 36. Appointment (election) to a judicial position**

1. The Chairperson and the judges of the Supreme Court of Georgia shall be elected for a period of not less than ten years by Georgian parliament, by the majority of the number of the members of Parliament on the current nominal list upon the submission of the President of Georgia.
2. The chairperson of the Supreme Court is authorized to present the candidate to the president of Georgia to be elected as a judge of the Supreme Court and the president is authorized to submit any candidate for election to the parliament of Georgia, who satisfies the requirements set out by this law and Constitution of Georgia.
4. The same candidate for election as a member of the Supreme Court can be submitted to the parliament of Georgia only twice.
5. The judges of appellate and district (city) courts are appointed on their positions by The Supreme Council of Justice of Georgia for the period of ten years.
6. In case the judge reached retirement age or the authority foreseen by this article has expired before the completion of the consideration of criminal case in which he/she is participating, his/her authority can be extended by the decision of the High Council of Justice of Georgia before the final decision on this case is rendered by this judge or by the panel (chamber) of court to which he is assigned.
7. In case the judge is assigned to a different court, before the authority at a new position commences he cannot be removed from the consideration of the case, that he/she was presiding over at the moment of his/her assignment.

#### **Article 37. The rule of appointing a judge at another court as a judge without competition**

In case there is a vacancy, appointed judge can be assigned to a subordinate, equivalent or superior instance courts without competition based on their consent and within the term of their office.

#### **Article 38. Oath of judges**

1. The chairperson of the supreme court, member of the supreme court before commencing to carry out the powers in case it is the first time being appointed to a judicial position or the authority has been suspended before being elected for a position of a Supreme Court judge, as well as the judge of district (city) and appellate court to be appointed to a judicial position for the first time, take an oath during an official ceremony.
2. The chairperson of the Supreme Court and a member of the Supreme Court take an oath in the presence of the president of Georgia, and the judges of district (city) and appellate courts take one in the presence of the High Council of Justice.
3. The High Council of Justice approves the text for the oath of judges.

#### **Article 39. Judges' incompatibility of office**

The position of judges is incompatible with any other occupation and remunerative activity, except for the case foreseen by Georgian Constitution. A judge shall not be a member of a political party or participate in a political activity.

#### **Article 40. Inviolability of Judges**

1. A judge shall be inviolable. Subjecting the judge to Criminal liability, his/her arrest or detention, the search of his/her apartment, car, workplace or his/her personal search shall be impermissible without the consent of the chairperson of the Supreme Court of Georgia. All the above-mentioned actions against the chairperson and judges of the supreme court is impermissible without the consent of the Parliament of Georgia, except when he/she is caught in the act, which shall be immediately notified to the chairperson of the Supreme Court of Georgia or Georgian Parliament respectively. Unless they give their consent, the arrested or detained judge shall be immediately released.
2. The state shall ensure the security of a judge and his/her family.

#### **Article 41. Promotion of judges**

1. The judge of district (city) court of Georgia can be appointed to appellate court, in case he/she carried out their judicial powers in district (city) court at least for 2 years. The criteria for promoting judges are defined by the High Council of Justice.
2. A judge can be promoted before the term set by the first paragraph of the article, in case he/she exceptionally contributed to the development of law, establishment of consistent court practices, expedient administration of justice, also he/she showed high level of judicial skills during the period of carrying out their powers.
3. The High council of Justice provides assessments for judges according to the criteria for promotion.

## **Chapter 6. Dismissing a judge from office (suspension of authority), responsibility of the judge**

### **Article 42. Dismissing a judge from office**

1. The chairperson of the Supreme Court is dismissed from office in accordance with the impeachment procedure.
2. In case of violation of constitution and commission of a crime, not less than one third of the total number of the members of the Parliament shall be entitled to raise the question of the dismissal of the chairperson of the Supreme Court. Georgian parliament is authorized to dismiss the chairperson of the Supreme Court from office by the majority of votes of the total number of the members of Parliament after having received the appropriate conclusions of the Supreme Court and Constitutional Court of Georgia. The discussion of the issue at the session of Supreme Court plenum is led by the first deputy of the chairperson, in the absence of the latter- the eldest deputy.
3. The authority of the member of Supreme Court is suspended by Georgian Parliament according to the recommendation of High Council of Justice based on the ground foreseen by article 43 of this law. Parliament of Georgia decides about pre-term suspension of Supreme Court member authority by the majority of the number of the members of Parliament on the current nominal list.
4. Appellate and district (city) court judges are dismissed from office by the High Council of Justice.

Organic law of Georgia, December 28 of 2012 №192-webpage, 30.12.2012 year

### **Article 43. The grounds for dismissing a judge from office and suspending the authority of the chairperson of Supreme Court and Supreme Court member**

1. The grounds for dismissing a judge from office and suspending the authority of the chairperson of Supreme Court and Supreme Court member are:
  - a) Personal application;
  - b) Commission of disciplinary violation;
  - c) Occupying a position or pursuing an activity incompatible with the judge's status;
  - d) Declaration by court as legally incapable or having limited capacity;
  - e) Suspension of Georgian citizenship;
  - f) Attainment of the age 65;
  - g) Commission of corrupt law violation in accordance with the procedure foreseen by the 6th paragraph of article 20 of Georgian law on "Conflict of Interest and Corruption in Public Service".
  - h) Death;
  - i) Liquidation of court, reduction of judicial positions;
  - j) Appointment (election) to a different court;
  - k) Appointment or election to a position in different body;
  - l) Expiration of office term.

2. For the case foreseen by subparagraph “b” of the first paragraph of this article, the conclusion of disciplinary panel is required.

3. The High Council of Georgia is authorized to dismiss a judge from office if during the last 12 months he/she could not carry out the powers for more than 4 months and also there is a relevant medical report according to which he/she will not be able to carry out the judicial powers in future.

Organic law of Georgia, March 27, 2012 №5920 –webpage, 19.04.2012 year

**Article 44. Assigning a judge to a different judicial position and dismissing him/her from office following the liquidation of court and reduction of judicial positions**

1. In case of court liquidation as well as reduction of judicial position, the judge can be assigned to carry out the powers of the judge of equivalent or subordinate instance court according to the procedure set by Georgian legislation and based on his/her prior written consent within the term of their office.

2. In case a judge refuses to carry out judicial powers or fails to carry out the designated powers of a different court judge in accordance with the grounds and procedure foreseen by the first paragraph of this article, he/she shall be dismissed from office no later than 3 months after court liquidation or reduction of judicial position and shall be enrolled in list of reserve judges for 3 years with prior written consent and according to procedure set by law, but no later than the term of expiration of judicial authority.

3. The judge who was dismissed from the occupied position according to procedure set by the second paragraph of this article and was not removed from the reserve list, receives the remuneration for their position in the amount determined by Georgian legislation. The judge can be at any time assigned to carry out the powers of the judge of different court according to the procedure set by Georgian legislation and based on his/her prior written consent within the term of their office. In this case the judge is considered to be removed from the list of reserve judges within the term of assignment of authority.

**Article 45. Removing the judge from consideration of cases and from carrying out other official powers**

1. From the point of rendering a decision by disciplinary panel of judges of common courts of Georgia about subjecting the judge to criminal liability or dismissing him/her from office until the final decision is made, the judge has to be removed from the consideration of cases and from carrying out the official powers.

2. The decision on removal of judges from the consideration of cases is made by the chairperson of the Supreme Court based on appropriate recommendation.

3. The removal of judges from consideration of cases automatically results in their removal from carrying out other official powers.

4. In cases foreseen by the first paragraph of this article, the remuneration and other financial privileges are suspended before the final decision of the issue.

5. In case of exoneration, the judge is fully compensated with the amount of salary and other financial privileges withheld during the period.

**Article 46. Disciplinary liability of a judge**

The grounds for disciplinary liability for common court judges, types of disciplinary punishment, the procedure for disciplinary proceedings and for imposing disciplinary liability is set by Georgian law on “disciplinary liability of common court judges and disciplinary proceedings”.

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*President of Georgia*

*M. Saakashvili*

*Tbilisi, 4 December 2009,*

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