

REPORT

On the Activities of the High Council of Justice

(June 2013 – May 2017)

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Foreword

This document represents a report on the activities carried out by the High Council of Justice of Georgia and respective results. As far as the HCOJ started functioning with a new composition on June 2013, correspondingly, this report covers the period from June 2013 until May 2017, inclusive. The results are compared to the period of 2008-2012.

In some cases, for more visibility, the indicators are compared on a year over year basis.

The report also contains respective statistics, graphs and charts, which demonstrate the trends identified in various directions.

I. Ensuring Independence and Impartiality

1. *Activities for Strengthening Independence and Impartiality of the judiciary*

A. Enhancing the Institutional Independence

- In accordance with the amended regulation on staffing the High Council of Justice, the entire Council has become politically neutral. It was ruled out to elect/appoint politically biased non-judge members within the HCOJ. The non-judge members were elected based on their professional background, through a selection process.
- The role of the Conference of Judges – a judicial self-governing body has expanded.
 - In accordance with new regulations, the Conference of Judges was authorized to elect its representatives within the HCOJ for the first time in 2013. The Conference of Judges elected 8 judge-members and the secretary of the High Council of Justice. Thus, the majority of Council members (9 out of 15) are elected by the judicial self-governing body. Besides, now every member of the Conference of Judges has the right to nominate a candidate to become a judge-member of the HCOJ. It was only the Chief Justice of the Supreme Court who was authorized to do it before.
 - The Conference of Judges is held regularly. There have been 11 conferences summoned in 2013-2017, whereas there were only 3 held in 2008-2012.
 - It has become a usual practice for the Chairperson of the HCOJ and the Common Courts Department to submit annual reports to the Conference of Judges, and thus ensure their accountability to the Conference.

B. Individual Independence

- The regulation on sending judges on mission has improved and additional safeguards were established for eliminating the Council's arbitrary approaches in regards to sending a judge on a mission to another court, or resignation based on personal applications; the High Council of Justice of Georgia passed the Decision №1/207 on November 29, 2013, which made amendment to the Decision №1/208-2007 of the High Council of Justice of Georgia dated September 25, 2007 "On Approving the Rules of

Procedure of the High Council of Justice of Georgia”. This amendment made it mandatory to invite the respective judge to the HCOJ session when they discuss the issue of dismissal the judge based on his/her personal resignation letter, and the issue of sending the judge on a mission to another court. This way each member of the Council has an opportunity to listen to the judge and assess how the resignation from office or sending on a mission to another court really reflects his/her real will. This was a way to virtually eliminate the unwholesome practice of coercing judges to apply for resignation ‘based on their own will’, or to accept the imposed mission. The number of judges sent on mission has decreased as well. Currently there are only 3 judges sent on mission to another court.

- An unwholesome practice of placing judges on the reserve list was abandoned. This was the case when the court reorganization or liquidation procedures were sometimes used for setting undesirable judges aside from judicial authorities, and providing zero prospects of granting judicial authorities to them again. There were no judges placed on the reserve list during the reporting period. As for the 4 judges already placed on the reserve list, they started to perform their judicial duties. Currently there are no judges on the reserve list.
- There were procedural and substantial safeguards created to ensure that the monitoring and evaluation of judges who are on a 3-year probation are not used for damaging the independence of a judge and/or are not perceived as such by a judge. Detailed regulations were set for evaluating the judges who are appointed for a probation period. While studying randomly selected cases considered by a judge during the monitoring period, the Council members primarily looked at the adherence to procedural norms and timeframes, extent of reasoning of judgments, the skills of applying domestic and international law, the skills of handling judicial processes and other significant characteristics, and not at the contents of judgments as such, and/or at the fact of having them upheld or overturned by the courts of upper instances, so that it does not look like holding a judge accountable for a particular case, which is incompatible with the independence of judiciary. Besides, there was a new body established – Qualification Chamber of the Supreme Court, which hears complaints pursuant to the statutory procedure, regarding the decision of the High Council of Justice of Georgia on appointing a judge for a 3-year term, or on rejecting the lifetime appointment.
- The regulation on lifetime appointment of judges has been enacted. To date, there are 26 judges appointed for life at courts, and 209 judges are appointed for a 3-year term.

Besides, 21 judges were appointed for life after the completion of a 3-year probation period, and 5 judges were appointed directly, at the moment of their reappointment.

C. Procedures for Selection-Appointment of Judges

- The wrong practice, when the graduates of the High School of Justice had a big priority over other candidates at the moment of judicial appointment, was abandoned: the HCOJ used to appoint school graduates at vacant positions, whereas other candidates would be appointed only if there were any vacancies left. The HCOJ established a procedure for general competition for all the candidates willing to become judges, and provided equal opportunities to school trainees, sitting or former judges and all the other candidates.
- The HCOJ changed the illegitimate practice of selection and appointment of judges, during which the selection procedure was artificially divided into two stages, and a candidate would be first appointed a judge in general, based on a statutory rule of 2/3 majority, and then s/he would be appointed at a particular court bypassing the 2/3 rule – only with the consent of the majority of Council members, which was a violation of the requirements of the Organic Law on Common Courts, and ignored the positions of non-judge members in regards to a particular candidate. The HCOJ established a correct practice – now the selection is made according to specific vacancies, ensuring not only the adherence to the 2/3 rule, but also making it possible to evaluate candidates in regards to a particular vacancy.
- With its decision, the HCOJ elaborated objective criteria and sub-criteria including the evaluation specifications and principles for selecting the judges. Besides, procedures were established to inspect documents, inquire information, get familiar with and interview the candidate. Moreover, obligations were set for the HCOJ members regarding their integrity and observation of confidentiality, prohibition of ex-parte communication, non-discrimination and other issues; regulations were set for confidentiality of information, also for limiting the communication and conducting interviews. Besides the above-mentioned, application and consent templates were approved for candidate judges, also the questionnaires to be filled out by respondents with the purpose of information inquiry. Separate questionnaires were approved for lawyer and non-lawyer respondents;

- The Council has significantly improved the practice of interviewing candidate judges, a broad list of tentative questions were elaborated, equal time slots are allocated for candidates, homogenous questions are asked, which are aimed at learning about the candidate's knowledge and personality, and identifying their professional competencies and moral values. The interviews are open and attendance is restricted only if requested by the candidate.

D. Electronic Case Assignment

- There were effective steps taken for implementing electronic case assignment. In accordance with the legislative package drafted by the Ministry of Justice within the frameworks of the third wave of the judiciary reform, a principle of electronic case assignment was introduced, according to which the cases are assigned electronically among the judges of district (city), appellate and supreme courts, based on a random allocation principle. In accordance with this new rule, court chairperson can only assign cases without an electronic system if the electronic system is temporarily down. However, even in these circumstances, the cases are allocated in sequence, pursuant to the statutory rules and conditions. For securing this legislative amendment, which has been endorsed by the Parliament with its third hearing on December 29, 2016, the High Council of Justice passed the decision on May 1st, 2017 "On Approving the Regulation on Electronic Case Assignment at Common Courts of Georgia". Since July 1st, 2017 the pilot program of electronic case assignment was launched at the Rustavi City Court; and the rule on random allocation of cases through electronic allocation system will be fully enacted within the whole system of common courts from January 1st, 2018.

E. Enhancing Safeguards for Financial Independence

- Salaries of judges doubled in 2014, but we cannot say the same for the salaries of court personnel.

2. Evident Results Proving the Enhanced Independence of the Judiciary/Judges And Increased Trust in the Court

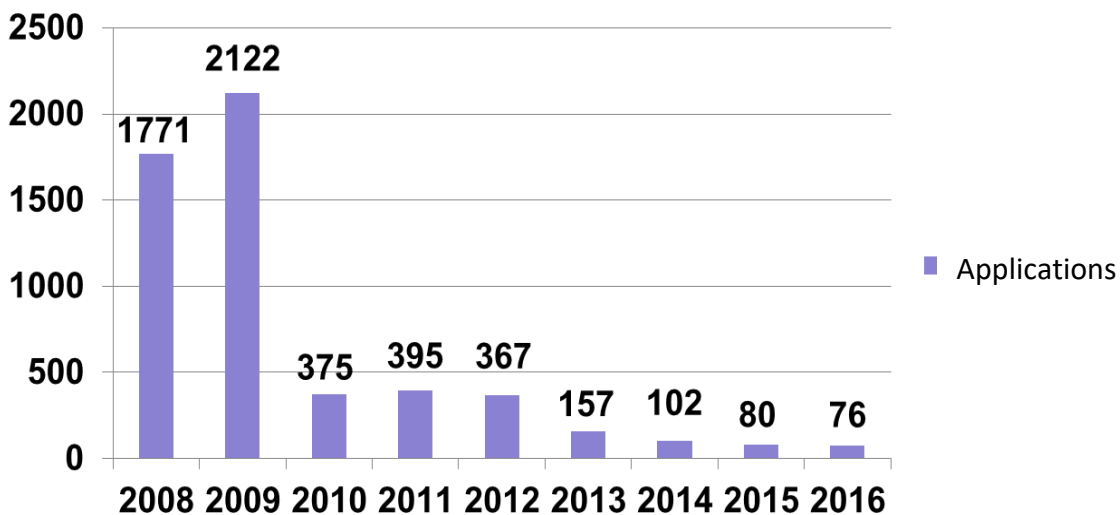
A. Sharp increase of referral to the Constitutional Court

- The referral rate of common courts to the Constitutional Court has increased significantly. Considering that the rate of common courts' referral to the Constitutional Court was 0 for double-checking the constitutionality of laws in 2005-2013, this rate has gone up to 51 during 2014-2017. In total, the common courts have made 75 constitutional submissions since 1996 to date, 68% of which (51) were made in 2014-2017.

B. Sharp decrease of referral to the European Court of Human Rights in Strasburg

- Compared to 2009-2012, the number of applications lodged to the European Court of Human Rights against Georgia has decreased by 87% in 2013-2016.

See the chart:



C. Liberalized Application of Criminal Legislation

- *Sharply increased number of acquittals*

Compared to previous years, the number of acquittals increased by 82% during the reporting period. Besides, this trend goes upward. There were 112 people acquitted in 2008-2011, but 643 – in 2013-2016. During the same years, the comparison of lowest and highest rates of

acquittals per year makes it evident that the **situation has dramatically improved in this respect**. For example, there were only 8 people acquitted in 2010, whereas this number was 227 in 2016. Besides, this rate is more by 2.3% than the rate of 2015 and it is also the highest one for the last 16 years.

- **Frequent discontinuation of criminal cases**

There is a clear tendency of increased number of discontinuing criminal cases. During 2008-2011, criminal cases against 784 individuals were discontinued in 2008-2011 out of all the cases considered on merits, and against 931 individuals in 2013-2016, which makes 147 individuals more. Together with the increased acquittal rate, these are clear results proving the liberalization of criminal justice policy. At the same time, these data indirectly speak about the increased independence of the judiciary from the Prosecutor's Office and strict adherence to the criminal standard of beyond reasonable doubt by the courts.

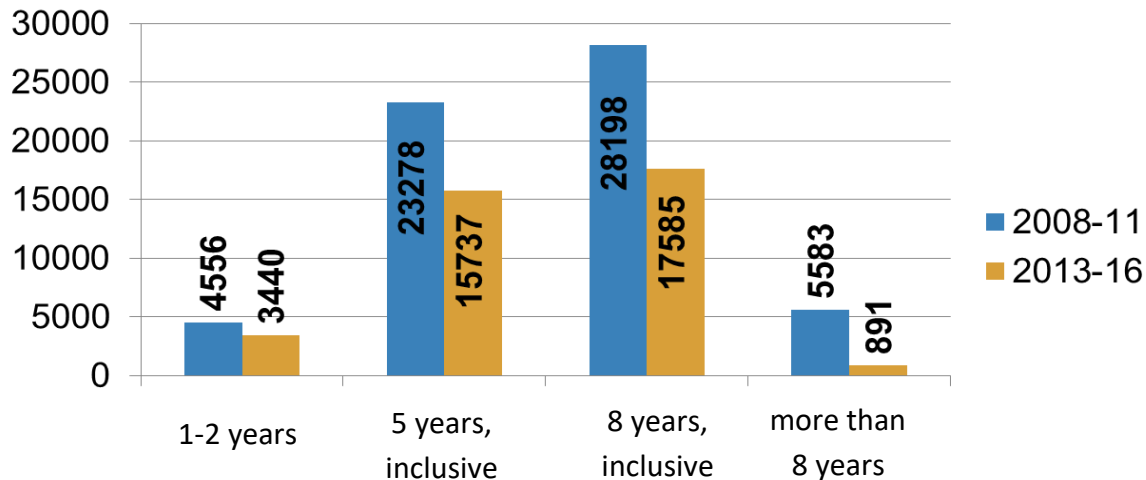
- **Decreased rate of imposing imprisonment as a preventive measure**

Application of detention as a preventive measure and number of motions on applying a preventive measure has decreased. Detention as a preventive measure was applied to 8,761 persons in 2010 and only to 5,044 ones in 2016. Thus, compared to 2010, the application of detention has decreased by 53% in 2016. Besides, in 2016, compared to 2015, the number of motions on applying a preventive measure filed by the investigative bodies to the city/district courts has decreased by 7.4. Moreover, the share of imposed non-custodial preventive measures was 46% in 2010, whereas this rate increased up to 71% in 2016.

- **Decreased length of the deprivation of liberty**

The duration of custodial sentence has decreased significantly. Considering that 5,583 individuals were sentenced to the deprivation of liberty for the term of more than 8 years in 2008-2011, this figure is 891 in 2013-2016. Thus, there is an 84% decrease. Besides, the decrease is observed regarding other indicators of the length of the deprivation of liberty.

See the chart:



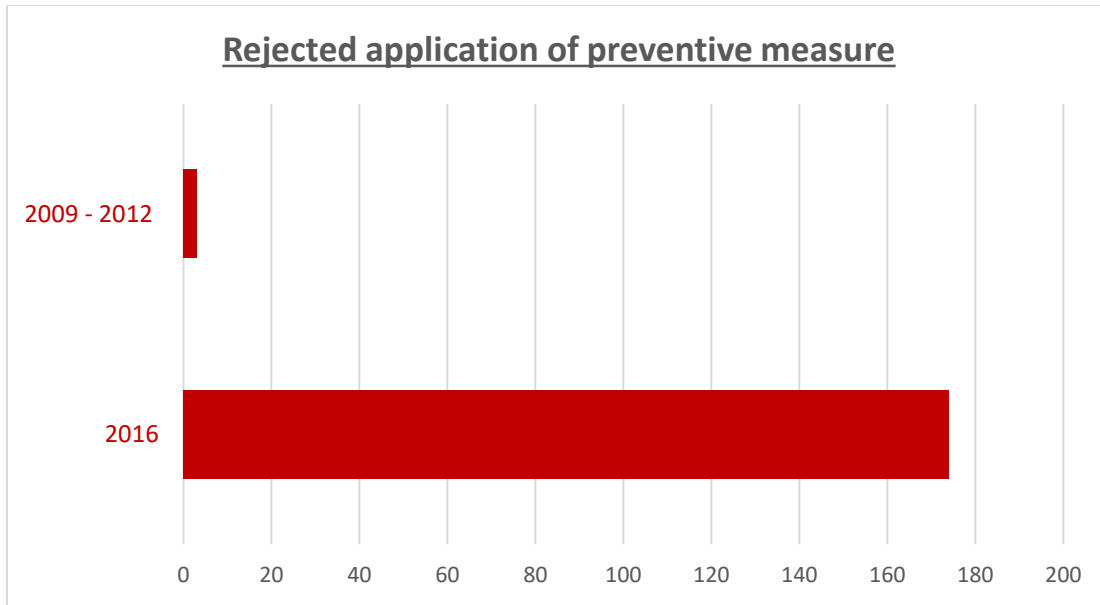
- Increased number of rejected motions of different types filed by the Prosecutor's Office

There is a decreased rate of granting the motions filed by investigative bodies. There were 46,651 motions filed from investigative bodies in 2010-2012, and 38,037 of them were granted (82%), however, the number of motions filed in 2014-2016 was 50,355, out of which 28,313 were completed (56%). Correspondingly, the number of granted motions went down by **26%** compared to previous reporting period.

- Increased rate of rejecting the motions filed by the Prosecutor's Office on applying the preventive measures

There is a significant increase in regards to the number of cases where the motions of Prosecutor's Office on applying the preventive measures were rejected. For example, the Tbilisi City Court rejected motions only in 3 cases in 2009-2012, whereas the motions filed by the Prosecutor's Office were not granted 174 times in 2016 only, which in total resulted in a **98%** difference.

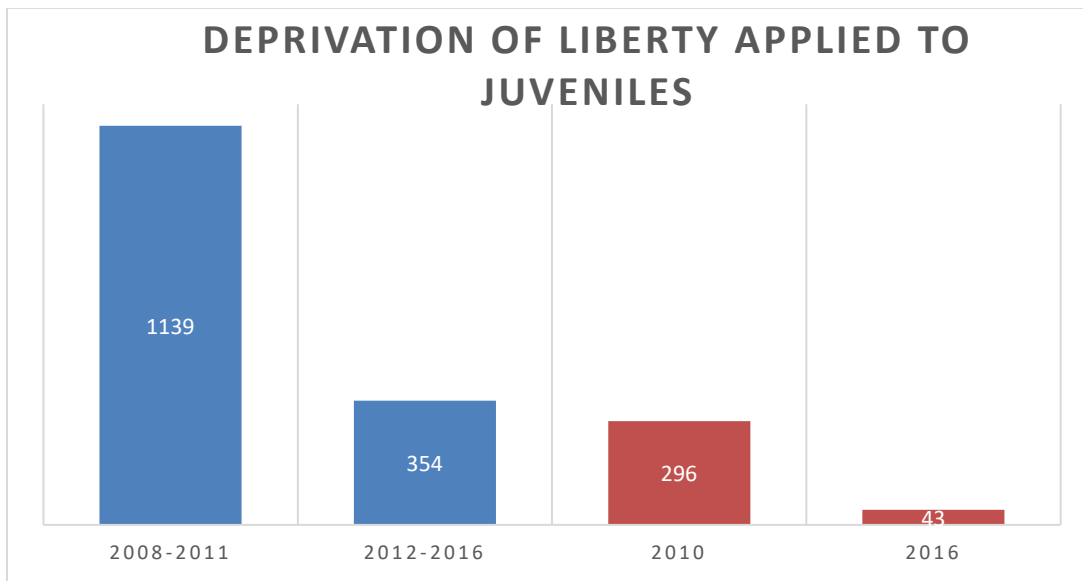
See the chart:



- **Decreased application of deprivation of liberty against juveniles**

Statistics on the application of deprivation of liberty against juveniles has decreased unprecedentedly. Deprivation of liberty was applied against 296 juveniles in 2010, but only against 43 juveniles in 2016. Correspondingly, application of the deprivation of liberty against juveniles has decreased **by 70%**.

See the diagram:



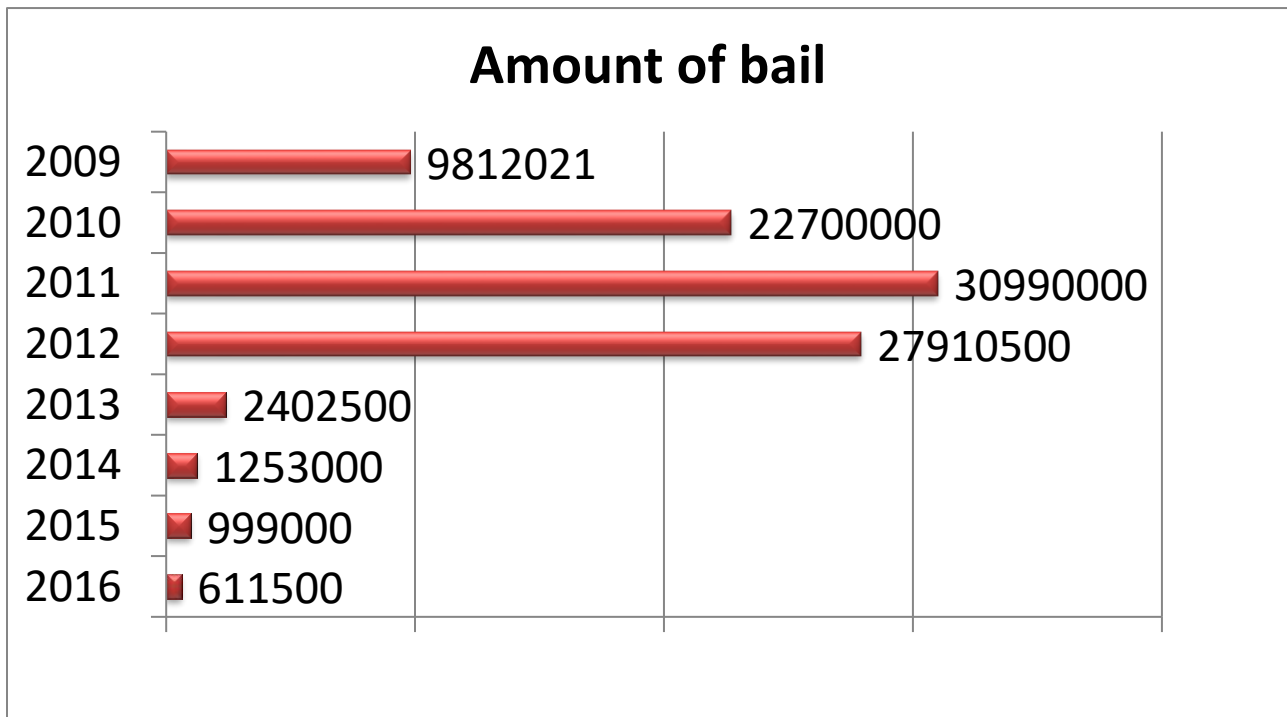
- **Increased share of non-custodial measures**

Compared to 2008-2012, the application of non-custodial measures has increased by 20% in 2013-2016.

- **Increased cases of rejecting motions filed by the Prosecutor’s Office concerning the bail amount and reducing the bail amount**

- The number of cases where the court fully grants the prosecutor’s motion regarding the bail amount has decreased 3.5 times (61%). 86% of motions filed by the Prosecutor’s Office would be granted in 2012, but this rate has decreased to 25% in 2016.
- The rate of fully granting the bail amount, requested as a restraining measure, has decreased by 94% at the Tbilisi City Court. Total amount of fully granted bails at the Tbilisi City Court was 91,412,521 GEL in 2009-2012 and 5,266,000 GEL in 2013-2016. Correspondingly, there is a 94% decrease. Moreover, for the sake of comparison, the amount of bail was 30,990,000 GEL in 2011, whereas this figure was 611,500 GEL in 2016.

See the table:



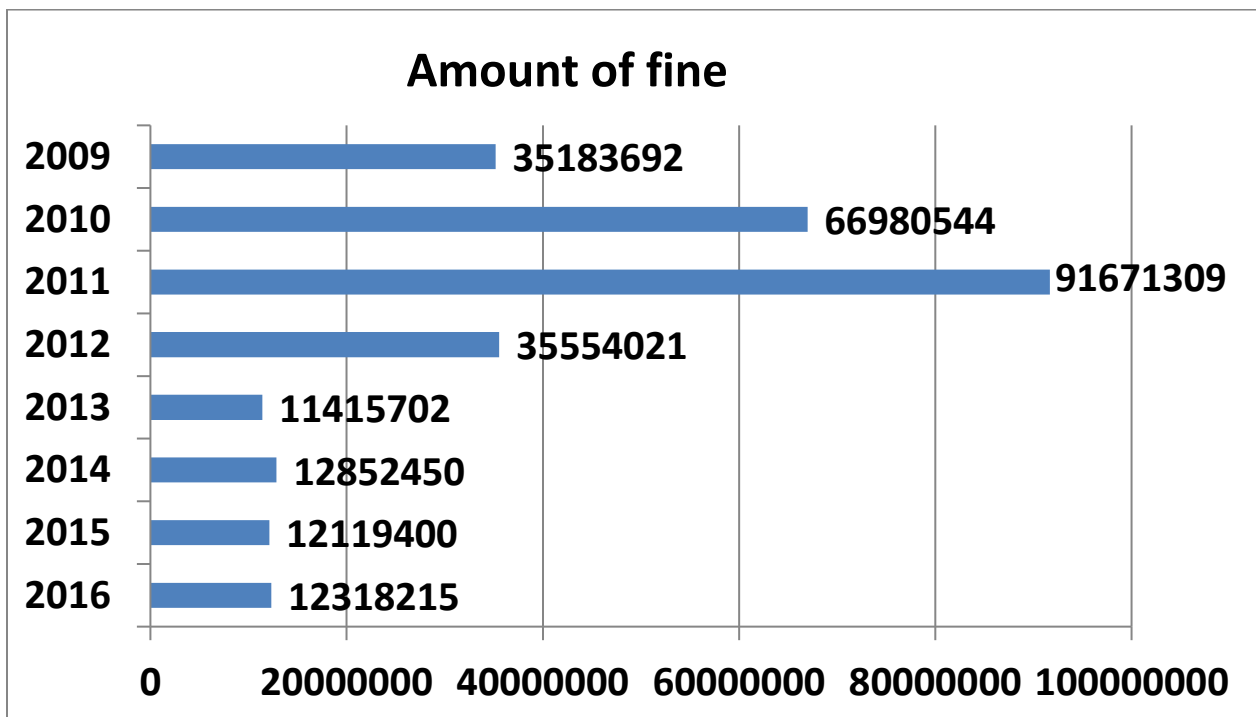
- Decreased appeal rate for criminal cases

The appeal rate for criminal cases has decreased. The trial courts have heard 56,524 criminal cases in 2009-2012 and 14% of them were appealed at upper courts. There were 57,930 cases heard in 2013-2016 and only 5,227 of them were appealed at upper instances, which is 9%.

- Reducing the amount of fine imposed as a type of punishment

Amount of fine imposed as punishment by the Tbilisi City Court has decreased by 79%. Total amount of fine applied at the Tbilisi City Court in 2009-2012 was 229,389,566 GEL, and 48,707,767 in 2013-2016. Therefore, there is a 79% decrease. For the sake of comparison, the amount of fine applied in 2011 was 91,671,309 Gel whereas the fine amount was 12,318,215 GEL in 2016. Even in this case too, there is a decreasing trend.

See the table:



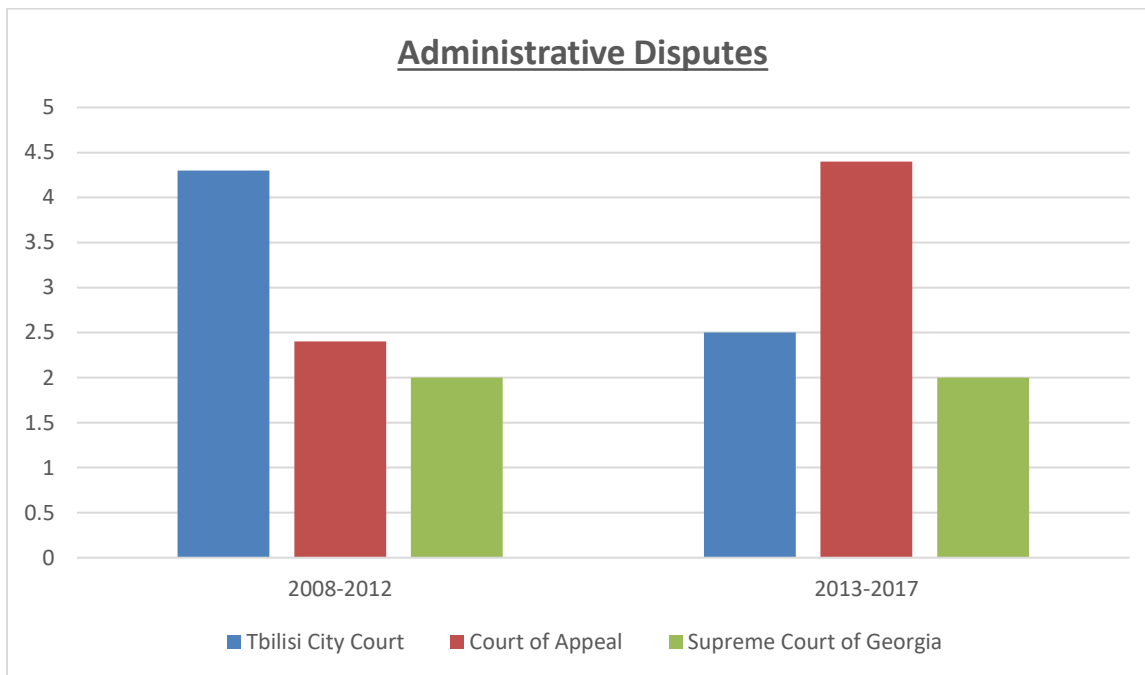
D. Liberalization in the field of administrative proceedings

- There are more citizens winning administrative disputes versus the state

Only 40% of disputes were resolved for the favor of state bodies in 2016, whereas the state won 66% of disputes in 2011. There is a statistics on resolving administrative disputes for the favor in individuals per instances:

- At the Tbilisi City Court - *increased by 17,5%*;
- At the Courts of Appeal – *increased by 21%*;
- At the Supreme Court of Georgia – *increased by 23,4%*.

See the chart:



- **More tax disputes are resolved for the favor of individuals.**
- From 2010 until 2016, there is increasing trend of resolving the tax disputes for the favor of individuals; besides, there is a growing trend observed at courts of all the instances:
 - At the Tbilisi City Court – *increased by 1,3%*;
 - At Courts of Appeal – *increased by 22,5%*;
 - At the Supreme Court of Georgia – *increased by 25%*;

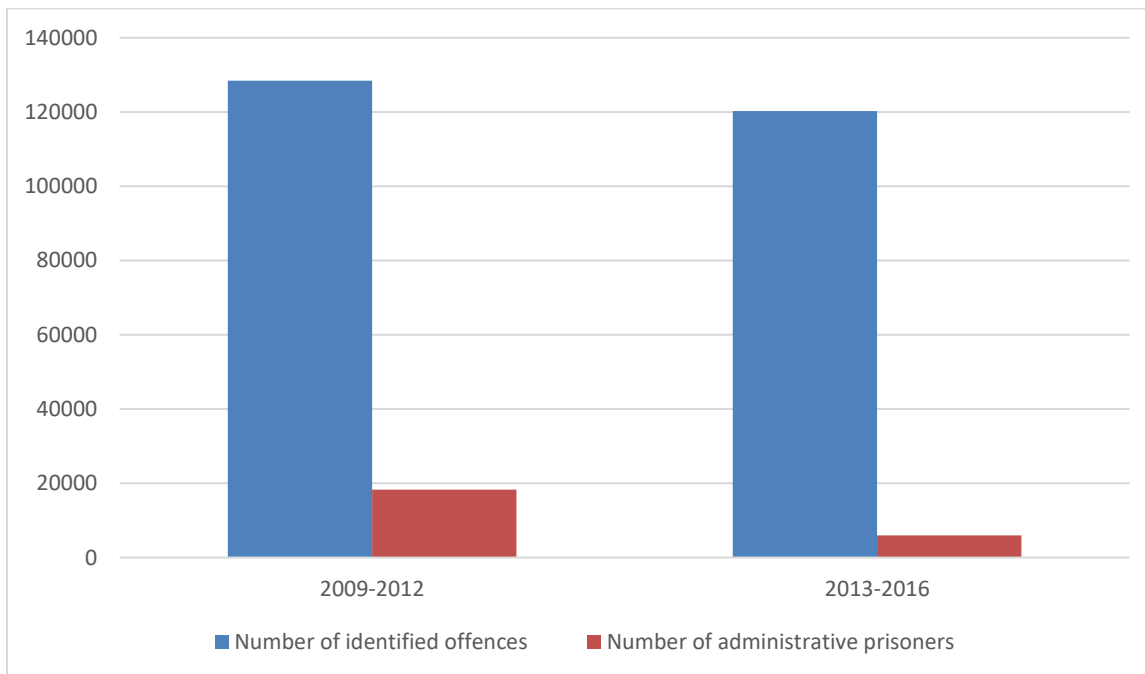
- The statistics of granting the tax disputes at the Supreme Court of Georgia looks like the following: there were 925 cassation claims considered during 2008-2011, and 574 (62%) were resolved for the favor of natural persons/legal entities; there were 334 cassation claims considered in 2012-2016 and 74% of them were resolved for the favor of natural persons/legal entities. Therefore, the observed growth is 12%.
- **The most frequently granted claims are regarding the fines imposed by the police and CT-Park.**

There is an improved statistics regarding the challenged fines imposed by the police and CT-Park. The court considered 44 times more claims (1,229) in 2016 than in 2011 (28). Among them, 51.8% of claims were granted. To compare, regarding the small number of claims in 2011, only 11% of them were granted.

- **Number of administrative detentions decreased by 68%**

There were 120,201 cases of identified offences in 2013-2016, and during the same period, the number of administrative detentions was 5,939. To compare, the number of offences was 128,453 in 2009-2012, and the number of administrative detentions – 18,288.

See the chart:



E. Application of the European Convention on Human Rights and Fundamental Freedoms

The common courts have significantly improved their skills and extent of adequate application of the European Convention on Human Rights. Supported by the High School of Justice and partner (donor) organizations, the High Council of Justice has provided extensive assistance to common courts for the last 4 years to effectively apply and implement the approaches, principles and standards of the law under the European Convention on Human Rights in the national law.

This is proved by the results of the research “Standards of Application of the European Convention on Human Rights by the Common Courts of Georgia”¹ prepared in 2017 within the framework of the joint European Union – Council of Europe project “Application of the European Convention on Human Rights and harmonization of national legislation and judicial practice in Georgia in line with European standards”.

According to the opinion of the research author, the analysis of reviewed judgments clearly speaks about the capabilities of common courts of Georgia to effectively apply the case law of the ECHR in their practice, and this way ensure protection of human rights in line with the standards of the European Court. According to the research results, “Common courts of Georgia perceive the ECHR judgments to be an organic part of the domestic legislation, and assign leading significance to them while providing reasoning for their decisions... Quite often, the common courts use the Convention and the ECHR judgments not only alongside with the norms established by the national legislation, but also for filling in the gaps and in some cases contrary to the existing enactments, and establish the European standards of human rights within the legal system of Georgia in accordance with the principle of universal interpretation of the norm”.

As it is indicated in the research itself, “judgments studied within the frameworks of the research present the common court of Georgia as a primary guarantor of human rights, which ensure a complete, effective and direct application of the Convention, and acknowledges the subsidizing role of the European Court. It is seen from the judgments studied under the research that the general approach of the common courts of Georgia to fulfill the state

¹ “Standards of Application of the European Convention on Human Rights by the Common Courts of Georgia”

“, joint European Union – Council of Europe project. Please follow the link to see the full version of the study: <https://rm.coe.int/168070a54c>, [08.06.2017].

undertakings and to apply the ECHR standards for the relevant interpretation of the contents and scope of human rights, for establishing fair balance between conflicting interests, examining the reasonability of interference and eventually, for the practical implementation of human rights at the national level... The examples clearly show that the courts of Georgia are successfully doing this within the scope of discretion granted to them.”

The research also highlights the cases, “when the national court has incorrectly or incompletely applied the practice of the European Court”, but it is also worth mentioning that “such cases are a clear minority”.

F. Perception of Judiciary Independence

Practicing lawyers consider that currently the courts are far more independent than 5 or 10 years ago. This is evidenced by survey that studied the opinions of practicing lawyers regarding the factors hindering the judiciary independence in 2005-2016, held by the organization Article 42 of the Constitution². To the question – How would you evaluate the judiciary independence 10 years ago?” – answer – “above the average” and “high” – was indicated by 8% of prosecutors, 8% of defence lawyers, 23% of former judges and 6% of sitting judges.

To the question: “How would you evaluate the judiciary independence 5 years ago?” – answer – “above the average” and “high” – was indicated by 10% of prosecutors, 8% of defence lawyers, 6% of former judges and 6% of sitting judges. And to the question – “How would you evaluate the judiciary independence now?” – answer – “above the average” and “high” – was indicated by 92% of prosecutors, 36% of defence lawyers, 11% of former judges and 82% of sitting judges. As the survey shows, all the interviewed practicing lawyers indicated that the extent of judicial independence has risen significantly.

3. *International Recognition*

Obviously, implemented reforms and increased judiciary independence resulted in a significant international recognition. Various studies conducted by international organizations have emphasized the rising independence of the judiciary in Georgia, namely:

² “Factors Hindering the Judiciary Independence”, Article 42 of the Constitution. Please visit the following link for the full version of the study: <http://article42.ge/?p=6125>, [08.06.2017].

A. World Justice Project

- According to the 2014-2016 data of the World Justice Project 'Rule of Law Index' published by the Rule of Law Project with the initiative of the World Bank, Georgia is on top of the medium-income countries of Eastern Europe and Central Asia in regards to the rule of law³.

B. Freedom House

- According to the 2016 report of the Freedom House, there is a progress observed in regards to the strengthening of judiciary independence in Georgia, which resulted in the improved overall assessment of democracy in the country. Besides, the Georgian justice also got similar evaluation in 2017 as well. It is noteworthy that the data of the last two years are significantly higher than those of received 4 years ago⁴.

C. Presidency of Steering Committee of the Joint EU-CoE Project on Regional Dialogue

- Regarded as a leading and development-oriented state in regards to the reforms, Georgia was a presiding country of the Steering Committee of the joint EU-CoE project on regional dialogue on judiciary reform in the Eastern Partnership countries (Georgia, Armenia, Azerbaijan, Ukraine, Moldova, Belorussia) in 2015-2017. There were three working groups formed within the frameworks of the project, dealing with 9 significant issues raised by the countries of eastern partnership: issues of disciplinary responsibility of a judge and judicial ethics; appointment, evaluation and promotion of judges; judicial independence; e-justice; judiciary reform; alternative dispute resolution methods; equality of parties and free legal aid. Within the frameworks of the project, there were reports drafted on all the above listed issues, with the involvement of representatives of every country, state bodies and civil society representatives⁵.

³ World Justice Project Rule of Law index. Please visit the website for the complete data: https://worldjusticeproject.org/sites/default/files/documents/RoLI_Final-Digital_0.pdf, [08.06.2017].

⁴ Freedom House, Nations is Transit Score, Please visit the website for the complete data: <https://freedomhouse.org/report/nations-transit/2017/georgia>, [08.06.2017].

⁵ Please visit the link for the complete data: <http://hcoj.gov.ge/ge/sasamartlo-reformis-sakitkhebze-regionuli-dialogi-gaimarta/2567>, [08.06.2017].

4. Activities in the Area of Monitoring of Judges

The High Council of Justice has carried out important and extensive work for the evaluation of judges who were appointed for 3 years. Based on statutory requirements, it elaborated and implemented the regulation, procedure and respective methodology for evaluating the performance of judges. Despite the absence of such experience, the HCOJ was able to adequately cope with this important task.

A. Performed Work

There were 209 judges appointed for a 3-year probation period in 2013-2017, and 370 opinions were produced within the monitoring frameworks since 2013 to date. Among them:

- 21 judges were evaluated based on the data of all the three years, and 6 opinions were produced per each of them by various member of the Council (two opinions per year);
- 24 judges were evaluated based on two years of the monitoring, and 4 opinions were produced by Council members for each of them.
- 70 judges are evaluated based on the data of one year, and there are opinions of two members of the Council.

In total, the HCOJ members produced 370 opinions for 113 judges. At various stages, every judge member produced 23 opinions on average, and every non-judge member – 37 opinions. On average, the opinions contain 15 pages.

B. Evaluation Criteria and Methodology

The evaluation was performed based on the key criteria of competency and integrity.

- Integrity was evaluated according to the following 5 characteristics: personal integrity and professional conscience; independence, impartiality and fairness; personal and professional conduct; personal and professional reputation; observance of financial liabilities.

- *Competency* was evaluated according to the following 7 characteristics: knowledge of legal norms; skills and competency for legal reasoning; writing skills; verbal communication skills; professional features, including the conduct at the courtroom; academic achievements and professional training; professional activity.

For evaluating every judge with these criteria, the HSOJ members relied upon:

- Characterization-evaluations provided by colleague judges, parties to the case, defense lawyers, prosecutors, representatives of law community, court staff members;
- Impression and results of interviews that the Council member conducted with the judge, court chairperson, colleagues or staff members;
- Statistical information about the judge's performance during the reporting period, number of considered and appealed cases, quantitative and qualitative data, procedural timeframes and adherence to labor discipline; stability of decisions. Often the comparative aspects of evaluation are used as well;
- Analysis of self-assessment conducted by the judge and its overall professional biography;
- Attendance at trials presided by the judge and analysis of audio and video recordings of other trials;
- Results of studying 5 randomly selected cases that were considered by the judge;
- In some respective cases, results of judges qualification exam and evaluation of the independence Council of the High School of Justice;
- Information spread about the judge in the media;
- Information about property status of the judge (the official's financial statement is inquired from the Civil Service Bureau);
- Information about his/her revenue sources and assets, owned and/or enjoyed property, tax liabilities and debt respective of these assets and revenues (information is inquired from the JSC Credit-Info and the LEPL Revenue Service);
- Information about imposing administrative penalties on judges (information is inquired from the Service Agency of the Ministry of Internal Affairs);

- Information about a disciplinary proceeding against the judge;
- Information about court litigations where the judge was involved (as a party, a representative);
- Checking if there are any civil disputes or criminal proceedings against the judge;
- Information about the business and moral reputation of the judge;
- Information about the judge's participation in professional seminars, trainings and conferences, and about other professional activities, initiatives, research publications or preparation of other projects;
- Information about managerial and other (computer, foreign languages, etc.) skills of the judge.

C. Results

In total, the Council has completed a 3-year monitoring process regarding 21 judges. In regards to the competency criteria, all the judges met the 70% threshold. There was only one judge who got negative evaluation by one Council member in regards to the competency criteria. In total, all the judges met the conditions for lifetime appointment and therefore the Council made a decision to appoint them for life.

Despite the evaluated judges can access the report of the HCOJ member, none of the evaluated judges expressed any concerns or dissatisfaction regarding the evaluation result, or claimed anything about violating their independence or abusing power by the monitoring persons.

II. Ensuring the Accountable Justice

For the last 4 years, there were many activities implemented at the High Council of Justice for ensuring the accountable justice, namely:

A. Regularity of conducting the meetings on disciplinary proceedings

- The regular intervals of conducting the meetings on disciplinary proceedings was set. As a result, if there were only 18 disciplinary meetings held in 2010-12, this number rose up to 50 in 2013-2016.

B. Amendments to the law on disciplinary responsibility and disciplinary proceedings

- There was an important amendment made to the Law on Disciplinary Responsibility and Disciplinary Proceedings against the Judges of Common Courts of Georgia, which established the obligation to publish the decisions of the Disciplinary Panel and Disciplinary Chamber without judge identification data (if the judge himself/herself does not request publicizing the disciplinary proceedings), on the official website as soon as they enter into legal force.
- With the purpose of improving the disciplinary proceedings within the frameworks of the Third Wave of the Judiciary Reform, in accordance with the amendments made to the Law of Georgia on Disciplinary Responsibility and Disciplinary Proceedings against Judges of the Common Courts of Georgia”, grounds of initiating the disciplinary proceedings were expanded, among which one of the grounds can be the information provided in the report and/or statement of the Public Defender of Georgia about a conduct committed by the judge, which may represent a disciplinary offence.
- The High Council of Justice passed a decision determining the issue of excusing the Secretary of the High Council of Justice during disciplinary proceedings, if there is a claim filed about the alleged disciplinary offence committed by him/her.

C. Statistics of resolved cases

- As of the first quarter of 2014-2017, the High Council of Justice heard 985 disciplinary claims, among which:
 - Proceedings were discontinued in regards to 855 cases;

- Private recommendation note was sent to the judge in 34 cases;
- Judges were asked for clarification in 82 cases;
- No decision was made regarding 9 cases;
- 5 cases were sent to the Disciplinary Panel.

In regards to the contents, 85% of these 985 disciplinary claims were about legalizing the decision; 10% - delayed case consideration; 3% - violation of ethical norms, and 2% - other violations (inappropriate conduct for a judge, disclosure of judges deliberation or professional secret, corruption, etc.). As far as the majority of disciplinary claims (85%) was about questioning the legality of decisions, the HCOJ discontinued disciplinary proceedings for them. Almost 90% of the remaining claims were about violating procedural timeframes by the judges. Although the delayed case consideration represents the grounds for disciplinary responsibility in general, the High Council of Justice still decided to discontinue disciplinary prosecution against them in most cases, considering the caseload of the respective judge (which was thoroughly investigated in every particular case), in order to ensure implementation of culpable responsibility principle in disciplinary proceedings. In parallel to this, the Council took numerous active steps to increase the number of judges and to enhance effectiveness of case management.

Besides, as of June 20, 2017, the High Council of Justice has 99 pending disciplinary claims that were filed at the end of 2016 and during 2017.

D. Institute of an Independent Inspector

- An institute of an independent inspector was created, which should ensure effectiveness of disciplinary procedures, adequate protection of the court prestige and authority on one hand, and relevance of disciplinary proceedings to the principles of judiciary independence and non-interference in judicial activities on the other. The Council announced an opening for selecting the candidate inspectors and interviewed them on June 16. However, there was no decision made and the Council handed over this issue to the new composition of the Council.

E. Dialogue on Disciplinary Responsibility and Ethics

The High Council of Justice was actively involved in the format of regional dialogue on judiciary reform within the frameworks of the Eastern Partnership, where one of the topics of

the discussion was the disciplinary responsibility and ethics of judges. Consequently, the practice and experience of various countries were analyzed, and various proposals and recommendations were elaborated.

III. Ensuring Efficient and Quality Justice

For ensuring the efficient and quality administration of justice within the judiciary, the High Council of Justice implemented significant activities. Some of them were aimed at identifying the existing problems in the judiciary in this respect, and others were focused on revealing evident challenges faced by the judiciary. A list of specific activities was planned, which should significantly enhance the quality and efficiency of the judiciary. Enhancement of efficiency and quality was identified as a separate strategic direction in the Judiciary Strategy Document.

Below you will find a consolidated list of main activities, which were implemented for ensuring the efficiency within the judiciary and for the quality justice during the last 4 years.

A. Judiciary Strategy and Action Plan were elaborated

- **Importance**

For the first time in the history of independent Georgia, the High Council of Justice elaborated and approved the Strategy for the Development of Common Courts System (2017-2018) and a five-year Action Plan on May 29, 2017. Elaboration of this document implies shifting to a qualitatively new stage of the judiciary reform, as far as the strategic plan will now guide the judiciary reform according to the plan, in an organized and consistent manner, according to the priorities and considering realistic opportunities. Existence of the Strategy and the Action Plan will help the High Council of Justice to conduct the Council's activities in specific directions and efficiently develop the judiciary in all the directions through adequate and pre-determined activities.

- **Engagement**

- The Judiciary Development Strategy and Action Plan were developed with an extensive engagement of the law community, NGO sector and stakeholder agencies. Elaboration of these documents is a product of a strategic committee,

which was specially formed within the frameworks of undertakings derived from the EU-Georgia Association Agreement, staffed with the representatives of the High Council of Justice, judicial corps, Parliament of Georgia, the Ministry of Justice of Georgia, the Ministry of Finance of Georgia, the Ministry of Internal Affairs of Georgia, the Secretary of the Administration of the Georgian Government for Human Rights, Public Defender, President's Administration, Bar Association, coalition of NGOs and International Organizations. The work lasted for more than a year.

➤ **Process management and international assistance**

- The consultation company Synergy Group organized the management of the process of elaboration of the strategy and the Action plan. The expert Aleš Zalar (Slovenia), the judge Renate Winter (Austria) and the expert Diana Kovacheva (Bulgaria) were actively involved in the process too.

➤ **Key Strategic Directions**

- The Justice Strategy and a 2-year Action Plan includes 5 key strategic directions. These are: *independence and impartiality, accountability, quality justice, efficiency of the judiciary, access to justice*. There are realistic challenges reflected in the document per each direction, together with the strategic directions of development and the respective specific activities. The document also includes the monitoring and evaluation procedures and methodology for the practical implementation of the strategy.

B. Reorganized Structure of the High Council of Justice

➤ **Structure of the High Council of Justice was renewed and the following structural units were formed:**

- Management Department;
- Independent Inspector's Staff;
- Judicial Performance Evaluation Management Department.

- The structure was optimized at the Tbilisi City Court, Tbilisi Court of Appeal and the Supreme Court of Georgia. The court users satisfaction survey was designed and implemented in a way. The updated questionnaire is based on the Guidance Principles of the CEPEJ dated September 10, 2010.

C. Wrongful practice of prolonging the judicial term after the expiry of official term was eliminated

The Council put an end to the practice of prolonging the expired official term of a judge until the completion of cases assigned to him/her. This practice resulted in an artificial prolongation of the official term for a quite long time (in some cases for more than a year), and instead of speeding up the case consideration, it would support the artificial delay of case hearing by some judges; it was also a hindrance for announcing the vacancy and filling the courts with new resources. In order to overcome this problem, the Council established the practice of mandatory termination of authorities immediately after the expiry of a judicial term since 2015.

D. Updated rule for evaluating the efficiency of judge's performance

The rule for evaluating the efficiency of judge's performance was amended, which provided new coefficients for evaluating the criteria; this ensures the fair and objective reflection of a judge's performance. The possibility was annulled to issue a supplement to a judge based on evaluation results.

E. Common standards were introduced

- With the purpose of introducing the quality setting standards within the judiciary in 2016 and for improving their control mechanisms, the first workshop (forum) of courtroom managers was held, where 15 issues were identified, which are necessary to evaluate/control in regards to determining the quality and efficiency of court performance. The issues were ranked based on priorities, and elaboration of standard setting documents started for the first three issues, with the involvement of court managers. One of such issues is the elaboration of common standard of the bylaws and currently there are intensive works carried out in this direction.
- In cooperation with the CEPEJ, there was a training held for the court staff with the purpose of learning a methodology to determine adequacy of human and material

resources. The training was held by the CEPEJ expert, whose specific methodology was offered and discussed.

- There were various instructions developed for common courts with the purpose of quality improvement and standardization of processes, namely, guidelines for giving titles to electronic documents; rule of functioning of the hotline; provisions of the Public Relations Service, etc.

F. Conducted Studies

- In 2016, based on the Decision of the High Council of Justice of Georgia on Approving the Regulation for Evaluating the Effectiveness of Performance of Judges of Common Courts and the CEPEJ methodology, the High Council of Justice conducted the study for calculating the required number of judges at common courts. This survey created the basis for the High Council of Justice for determining the number of positions at certain courts, for ensuring their adequacy and optimization. Representatives of the judiciary power, the economic bloc of the Government of Georgia and the Business Association members discussed the survey findings, namely the issues for securing the adequate number of judges, at the joint meeting.
- There was a survey – “Comparative analysis of identifying the types of supplements to a judge’s salary and cases of issuing the supplement“ conducted with the purpose of analyzing the experience of various European countries in regards to the rule on issuance supplements for a judge, and comparing it to the rules effective in Georgia.
- With the purpose of identifying the gaps in court administration and service provision process, within the frameworks of the EU Technical Assistance and Information Exchange (TAIEX) program and with the involvement of international experts, the HCOJ conducted a special study to identify needs. The staff of the HCOJ and common courts working on the court administration issues, actively participated in this study. Based on the survey, the experts elaborated the document analyzing the administration needs within the judiciary, with a special emphasis on the improvement of system efficiency and quality. This document was used while drafting the judiciary strategy and action plan.

- With the purpose of instituting the court mediation for administrative disputes, a study was prepared – “Alternative Dispute Resolution Means in Administrative Disputes – experience of foreign countries”.
- In addition, the judges evaluation rule of various countries were studied, to ensure that other than the quantitative element, the qualitative element is also reflected in the evaluation rule. The HCOJ has prepared a draft law, which will be approved at the HCOJ session in the nearest future.

G. Prepared Reports

The following reports were prepared and sent on time:

- Progress Report on the Convention against Torture;
- Report on the Universal Periodic Review of Human Rights;
- Progress Report of CEPEJ of the CoE.
- Progress reports on the performance of commitments taken under the EU-Georgia Association Agreement since 2014 to date.

H. Support to the Court Mediation

- In order to strengthen the role of the court mediation institute, the HCOJ invited Victor Schachter, President of The Foundation for Sustainable Rule of Law Initiatives (FSRI), to Georgia. The visit produced the following results:
 - Current situation was evaluated;
 - Respective recommendations were developed;
 - Future cooperation was planned.
- Based on the received recommendations, Gori Mediation Center was opened in partnership with the Gori District Court.
- With the purpose of administration of speedy justice and supporting the effective performance of court mediation, the HCOJ issued Decision #1/107 on March 14, for amending the Decision #1/156 of the HCOJ dated December 8, 2009, on Approving the

Templates for Claim, Response (Counterclaim) and Complaint. With this decision, the question on handing the case over to the court mediation was added to the claim and counterclaim templates for civil cases.

- Since 2016, the templates for handing the case over for mediation were worked out for launching the court mediation pilot program for private litigations at Gori District Court (forms on reconciliation, confidential agreements, etc.), also the mediation user satisfaction questionnaire and statistical table.
- For supporting the smooth functioning of the court and effective performance of the court mediation institute, the HCOJ issued a decision on determining the regulation on administering the court mediation process. This is to regulate the authority of mediation consultant for the effective conduct of the court mediation process, also the issues on initiating, organizing and finishing the court mediation process.

I. Activities for Improving the Efficiency

- The hotline started to function more effectively. As a result of controlling the HCOJ hotline and responding to the incoming calls, the court immediately followed up to the lawful requests of citizens and eliminated problematic situations in 237 cases with the support of the HCOJ.
- With the purpose of speedy and efficient administration of justice, and the decision of the High Council of Justice has established that the disputes related to the utilization of means for securing the claim derived from the loan agreement (including the electronic loans) concluded by the banking institutions of Georgia, microfinance organizations, non-banking depository institution – qualified credit institutes to be a separate specialization, besides, an investigative and pretrial sessions panel was formed, and regarding the cases of administrative offences, a specialization for hearing the cases falling under the Code of Administrative Offences was formed.
- The High Council of Justice has passed a recommendation regarding the enactment of the rule of interrogating a person as a witness at the court during investigation, which helped to regulate procedural issues related to the interrogation of an individual as a witness; besides, the templates of motion about interrogating a person as a witness in

front of the judge, and templates of court orders to be sent to the person to be interrogated as a witness were elaborated.

- In accordance with the Decision of the High Council of Justice of Georgia on “Approving the Rule on Evaluating the Efficiency of Performance of a Judge of Common Courts” dated December 27, 2011, effectiveness of a judge’s performance took place once every 6 months.
- In March 2016, the High Council of Justice addressed the common courts with a proposal to submit their opinions regarding the approval of the Decision that the HCOJ passed on December 27, 2011. 16 courts presented their opinion about the improvement of the evaluation procedure. In May, 2016, members of the HCOJ and respective staff members conducted the qualitative study, namely, they interviewed judges of all the panels of the Tbilisi City Court about the evaluation procedure. The judges expressed their opinion about the procedure and offered various alternatives of improving it. Hence above-mentioned, amendments to the Decision of the HCOJ dated December 27, 2011 “On the Approval of the Procedure for Evaluation of Effectiveness of Performance of Common Court Judges” was drafted.
- Statistical information was regularly processed about the judges appointed for the probation period, also about former judges who participated in the selection again.

J. Improvement of Court Infrastructure

For providing speedy, easy and comfortable services to citizens, also for creating an adequate working environment for judges and the court personnel, also for increasing the efficiency:

In 2013:

- All the courtrooms within the common courts system were equipped with video-recording system (in total 200 courtrooms).
- Installation of infrastructure was completed at the Batumi City Court, as necessary for holding jury trials.
- Construction of the building for Citizen Service Center was completed, furnished and equipped with various items at the Tbilisi City Court.
- The House of Justice construction works was underway during the year.

- There were ramps installed at courthouses at the common courts for people with disabilities.
- Ongoing repair works were conducted at 38 courthouses, namely: at the Tbilisi Court of Appeal, Kutaisi Court of Appeal, city courts of Batumi, Rustavi and Poti, district courts of Mtskheta, Akhaltsikhe, Gori, Telavi, Signagi, Gurjaani, Khelvachauri, Bolnisi, Tetrtskaro, Zestaponi and Samtredia, and magistrate courts of Senaki, Tsalenjikha, Keda, Shuakhevi, Kobuleti, Bagdati, Tkibuli, Terjola, Chiatura, Tskaltubo, Lentekhi, Mestia, Tianeti, Aspindza, Tsalka, Kareli, Kaspi, Akhmeta, Dedoplistskaro and Chokhatauri.

In 2014:

- Construction of House of Justice was completed.
- Repair works were implemented at 36 courthouses, namely: Tbilisi Court of Appeal and Kutaisi Court of Appeal, city courts of Tbilisi, Batumi, Poti, Kutaisi and Rustavi, district courts of Zestaponi, Gori, Khashuri, Bolnisi, Zugdidi, Senaki, Akhalkalaki, Khelvachauri, Ambrolauri and Tsageri, and magistrate courts of Tskaltubo, Bagdati, Tkibuli, Chiatura, Lanchkhuti, Kobuleti, Khulo, Keda, Shuakhevi, Kaspi, Kareli, Oni, Lentekhi, Ninotsminda, Adigeni, Abasha, Chkhorotsku, Khobi and Sagarejo.
- Construction of the building for Data Center was completed.
- Car park was arranged at the Tbilisi City Court and administrative building of the central archives of common courts.
- Regular repair works were conducted at the LEPL Common Courts Department.
- There were 115 desktop and 80 laptop computers, 85 laser printers, 29 scanners, 7 copiers were purchased for the judges and staff of common courts.
- Networks storage facilities were purchased for the buildings of common courts for strengthening the servers.
- Obsolete vehicles were replaced by 18 new ones with the purpose of renewing the car fleet.
- Voice recording equipment was installed at courtrooms at 28 magistrate courts.
- Videoconference equipment was purchased-installed for 4 district courts.

- Resource management system software was purchased.

In 2015:

- 24 courthouses were repaired, namely: Tbilisi Court of Appeal and Kutaisi Court of Appeal, city courts of Tbilisi, Kutaisi and Batumi, district courts of Mtskheta, Zugdidi, Senaki, Samtredia, Gurjaani, Tsageri, Bolnisi and Akhaltsikhe and magistrate courts of Tianeti, Abasha, Khobi, Tsalenjikha, Khoni, Tkibuli, Tskaltubo, Lentekhi, Akhmeta, Borjomi, Aspindza, Dmanisi and Gardabani.
- Repair-reconstruction works were initiated in Marneuli and Gurjaani courthouses.
- Furniture and computer appliances were purchased for newly appointed judges and court personnel (169 desktop computers, 130 laptops and 250 printers).
- 12 copiers were purchased.
- Audio-video recording equipment was installed in two courtrooms at the Tbilisi City Court.
- Audio sound systems were purchased for 12 courtrooms at 6 courthouses.
- Air conditions were installed at courthouses.
- Power generators were purchased for the city courts of Bolnisi, Gurjaani and Mtskheta.
- In total, 14 vehicles and 1 truck were purchased. Among them, 10 obsolete vehicles were replaced and additional 5 new vehicles were purchased.
- Vehicles registered to the common courts were insured.

In 2016:

- Repair-construction works, which started in 2015, were completed at Gurjaani District Court and Marneuli Magistrate Court.
- New building of the Tbilisi City Court was repaired and equipped with new appliances and equipment.
- Natural gas supply was provided to the Poti City Court, also to the magistrate courthouses of Khobi, Khoni and Tianeti.

- Repair works were implemented at 13 courthouses, among them: Tbilisi Court of Appeal and Kutaisi Court of Appeal, city courts of Tbilisi, Rustavi, Kutaisi, Batumi and Poti, also at the district courts of Akhaltsikhe, Tsageri, Senaki and Tetrtskaro, and magistrate courts of Kobuleti and Tskaltubo.
- Building of the Khelvachauri District Court was fully reconstructed.
- **Prisoner Escort** Officers block was built at Mtskheta District Court.
- Construction of Borjomi magistrate courthouse started.
- There were 205 desktop computers, 65 printers, 15 copiers, 25 scanners and 3 servers purchased.
- 8 courtrooms at the Tbilisi City Court, 2 courtrooms at the Batumi City Court, 2 courtrooms at the Zestaponi District Court and 1 courtroom at the Gardabani Magistrate court were equipped with sound systems.
- There was a video-surveillance system installed at the escort unit of the Tbilisi City Court and at the Archives of Common Courts.
- There were 3 sets of videoconference systems purchased for courtrooms.
- There were 2 vehicles purchased, and 1 truck, 1 van and 1 car of the court were replaced with new vehicles
- With the funding allocated from the government's reserve fund, necessary infrastructure for jury trial was installed at the Rustavi City Court, and at the district courts of Gori and Zugdidi.
- And finally, it is noteworthy that a new building was handed over to the Tbilisi City Court, where the judicial authorities are implemented by the judges specialized in family and heritage cases, also respective court officers (magistrates); besides, a land parcel was allocated to the Tbilisi City Court for constructing a new building.

K. Frequency and Periodicity of Council Sessions

Council activities have become much more intense. The High Council of Justice has set the periodicity of council sessions – usually, two sessions a week – one ordinary session on the current issues, and the other one for disciplinary issues. For example, there were 50 sessions of the Council on current issues in 2016, whereas this figure was only 28 in 2010.

2. Human Resources Management

A. Selection of Candidate Judges:

Since June 2013 to date, there were 8 competitions for selecting candidate judges. As a result, there were 224 candidates appointed: 49 trainees of the School, 3 reserve judges, 92 former judges and 80 sitting judges.

➤ Appointment of sitting judges without selection at other judicial positions

In two cases, the High Council of Justice raised the issue of appointing judges to vacant judicial positions without the selection process in 2015.

August 2015:

There were 6 judges of district/city courts appointed judges at the Tbilisi City Court in accordance with the Article 37 of the Organic Law of Georgia on Common Courts.

October-November 2015:

There were 7 judges of district/city courts appointed judges at the Tbilisi Court of Appeal in accordance with the Article 37 of the Organic Law of Georgia on Common Courts.

B. Judicial Qualification Exam

There were 2 judicial qualification exams held since July 2013 to date. In total, 97 contestants passed the exam.

C. Selection and Appointment of Judges

There were 8 selections held in 2013-2017. At various stages, the Council reviewed 765 applications in total, and shortlisted 672 candidates. The Council reviewed their background, inquired respective information and interviewed each of them. There were 209 judges appointed for the term of 3 years; besides, as of today, there are 21 judges appointed for life. In addition, 5 judges at the Constitutional Court and the Supreme Court were appointed for life after the selection, and there was one judge dismissed because of reaching the pension age.

Among the remaining 187 judges:

- 61 are sitting judges;

- 86 are former judges;
- 40 are trainees of the High School of Justice,
- Among the 21 judges appointed for life:
 - 10 are the trainees of the High School of Justice;
 - 2 are appointed from the judges reserve;
 - 7 are sitting judges;
 - 2 are former judges.

3. High School of Justice

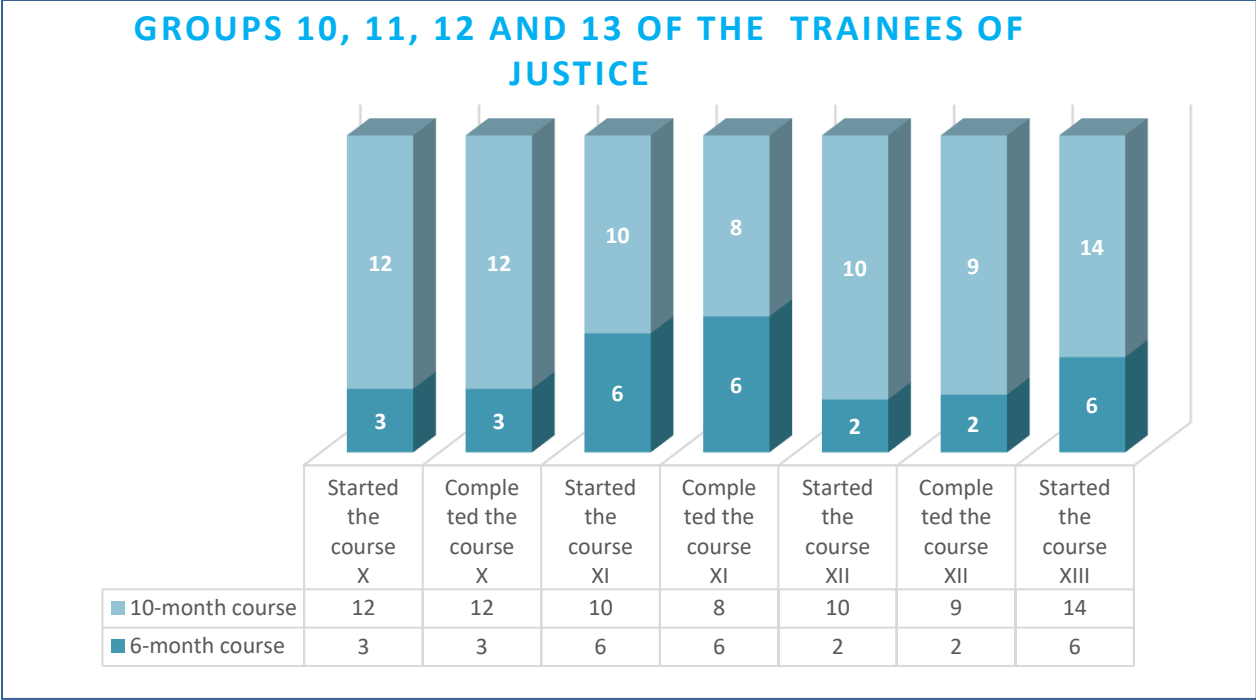
A. The School's Strategic Plan Was Elaborated

- There were fundamental changes implemented at the High School of Justice since 2013 with the purpose of building the school's capacity and enhancing the quality of justice. In 2014, with the support of the Council of Europe and with participation of the experts, the School's strategic plan was drafted within the frameworks of the project "Capacity Building of the High School of Justice", which covered main goals of the school development for 2014-2018. All the main fields of school activity were improved for meeting the goals set for improving the quality of studies, also for the organizational development. Namely, the evaluation mechanism for all the study stages was introduced for the trainees of justice (judicial candidates) for strengthening the teaching component for the trainees of justice, the quality control mechanism was elaborated, the contents and technical sides of curriculum was improved, procedural issues on internship and seminar activities were refined, trainee evaluation procedures were set and certificate award regulation was improved for the trainees.

B. Trainees

There were 43 trainees enrolled to the 10th, 11th and 12th groups of trainees of justice during the reporting period. Among them, 40 trainees completed the studies successfully. There are 20 trainees enrolled in the 13th group.

See the table:



C. Web-portal

There was a school’s web-portal created in 2014 with the support of USAID/JILEP, which became fully functional in September 2015. The school trainees can get their course materials electronically, also prepare and upload assignments. The portal enables the judges and other officers to plan their course calendar themselves. This has become the process more effective and transparent.

D. Curriculum Development

The High School of Justice has elaborated and practically implemented a standardized method of curriculum development during the reporting period. There were 11 curricula elaborated on public obligations and other topics of interest for judges in 2014-2017.

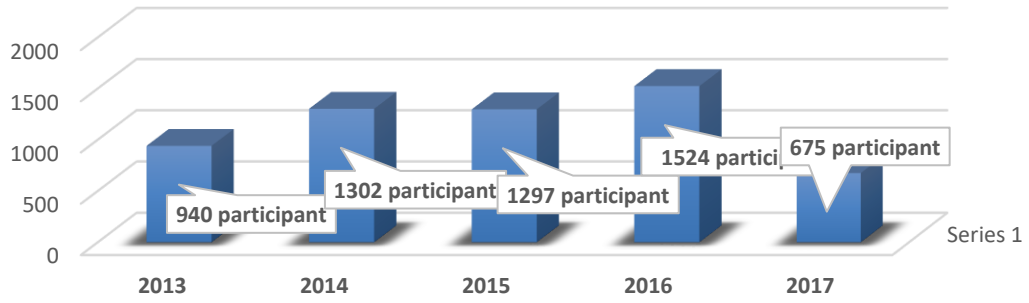
E. Number of conducted trainings

According to the data of 2013-2017, in total, there were 357 trainings organized within the frameworks of judges and court personnel training programs, attended by 5,738 participants.⁶ On average, a judge attended 6 trainings per year.

See the Chart:

⁶ The chart provides statistical information as of June 28, 2017.

Number of participants in training programs



IV. Ensuring Access to Justice and Transparency, Public and Media Relations

Compared to previous years, the publicity level of Council activities has increased significantly. Various organizations, as compared to previous years, faced fewer problems in regards to the inquiry of public information. It is also noteworthy that for the last 4 years, the High Council of Justice often enabled the attending individuals to express their opinions on the issues of discussion. There was no such practice observed in previous years.

A. Practice of Inviting Interested Individuals to the Sessions

- The Council initiated a practice of inviting outsiders – interested agencies, organizations or individuals. This is proved by the fact that various agencies and individuals were invited to the Council sessions various times, who were affected by the issue under consideration, or who were interested in this issue. For example, the Council gave floor to the representatives of the Public Defender’s Office and heard their positions and proposals regarding the discrimination issues. There was a personal data protection inspector invited to one of the sessions for sharing opinions regarding the regulation on the issuance and publication of court judgment by common courts; there was a foreign expert for sharing the experience regarding the jury trial institute and for sharing practical suggestions; besides, there was a review of the #4 Report of the Monitoring of the High Council of Justice prepared by the Georgia Young Lawyers Association and the International Transparency - Georgia.⁷ Representatives of the alternative association of judges – Union of Judges – were regularly attending the sessions and their opinions were heard

B. Practice of Holding the Enlarged Sessions of the High Council of Justice

- In order to ensure the transparency of the High Council of Justice, there were issues determined for summoning and conducting the enlarged sessions of the High Council

⁷ Monitoring Report of the High Council of Justice n 5, prepared by the Georgian Young Lawyers’ Association and Transparency International. Please visit the link for the full version of the report: <http://www.transparency.ge/ge/post/iusticiis-umaglesi-sabchos-monitoringis-mexute-angarishi>, [08.06.2017].

of Justice, and for making decisions. With the Decision №1/102 made by the High Council of Justice on November 19, 2014, there was an amendment made to the Decision №1/208-2007 made by the HCOJ on September 25, 2007 “On the Approval of the Rules of Procedure of the High Council of Justice of Georgia”, which regulated the issues on summoning and conducting the enlarged sessions and decision making by the HCOJ. In accordance with the new regulation, it is possible to invite the following persons to the enlarged session of the Council, depending on the contents of the discussed issues: any judge from common courts, a former judge, assembly of judges, head of the structural unit of the High Council of Justice, head of the LEPL – Common Courts Department or its structural subunit, representative of another agency (Parliament of Georgia, Government of Georgia, Prosecutor’s Office of Georgia, Bar Association of Georgia, LEPL – High School of Justice, Disciplinary Panel of Judges of Common Courts, Disciplinary Chamber of the Supreme Court of Georgia, educational institution, civil society organization) or academia, or any other person (a subject-matter expert, specialist, etc.), which ensures more transparency of activities of the High Council of Justice, and more involvement of the public in decision making processes.

C. Procedure for the Standard of Electronic Inquiry and Proactive Publication of Public Information

- With the Decision of the High Council of Justice dated December 27, 2013, the Regulation on the Standard of Electronic Inquiry and Proactive Publication of Public Information was approved for ensuring the transparency of activities of the High Council of Justice. This Regulation set the procedures issues for publishing public information proactively, also the standards of proactive publication, procedure for electronic inquiry of public information, people in charge of public information, also the list of information to be published proactively. To this effect a public information tab was added to the website of the High Council of Justice.

D. Publicity of HCOJ Sessions

- With the purpose of ensuring the transparency of the activities of the High Council of Justice, audio and video recording of sessions was ensured. Moreover, the HCOJ

provides the audio-video recording of a public session to the interested party, on request. Besides, the mass media can take photos and make audio-video recordings at the session of the High Council of Justice. It should be mentioned in addition that due to the small capacity of the HCOJ hall and high public interest to some cases, there was a monitor installed at the foyer of the HCOJ, where the council sessions are broadcasted live. This provides opportunities to more interested people to observe the Council sessions.

- The High Council of Justice passed the decision on Broadcasting the Sessions of the High Council of Justice, to ensure that the judges of common courts have access to public sessions of the High Council of Justice of Georgia through the intranet, by providing good streaming mode of council sessions; This streaming is done constantly, without interruptions.

E. Publishing the Judgments by Common Courts

- With the purpose of ensuring access to court decisions, with the decision made on September 12, 2016, the High Council of Justice established the procedure for issuing and publishing the decisions of common courts. On one hand this decision regulates the procedure of filing an application for issuing a copy of court decision, and on the other hand, it determines the issue of creating a unified registry of court decisions with the purpose of accessing court decisions, and posting court decisions in there.

F. Activities in the Area of Public Relations

- With the purpose of regulating the rights and obligations of Public Relations Office and speaker judges at common courts, also for addressing various issues related to their activities, the High Council of Justice passed the decision on the approval of the Provisions for Public Relations Office and Speaker Judges of Common Courts.
- The HCOJ website informs the public about the events taking place within the High Council of Justice and the judiciary.
- Citizens can get information they need and are interested in through telephone communications, electronic services (Email: council@hcoj.gov.ge), on time.

- There was a working group staffed with media representatives. A visit to the media center of the Parliament of Georgia was planned, for learning about their products and services.
- There is an established practice of regular meetings with journalists, with the purpose of informing them about court activities. In April 2015, there was a dialogue arranged between the leadership of the High Council of Justice of Georgia and the local media representatives. A long-term plan was drafted at this meeting for organizing trainings for journalists, focused on upgrading the qualification of journalists on legal matters. Within the frameworks of this project, there were 10 meetings with media representatives at the High Council of Justice, led by the HCOJ members and invited legal professionals who have experience in the media law. In total, 35 journalists of various media outlets participated in this meeting.

V. Key Challenges

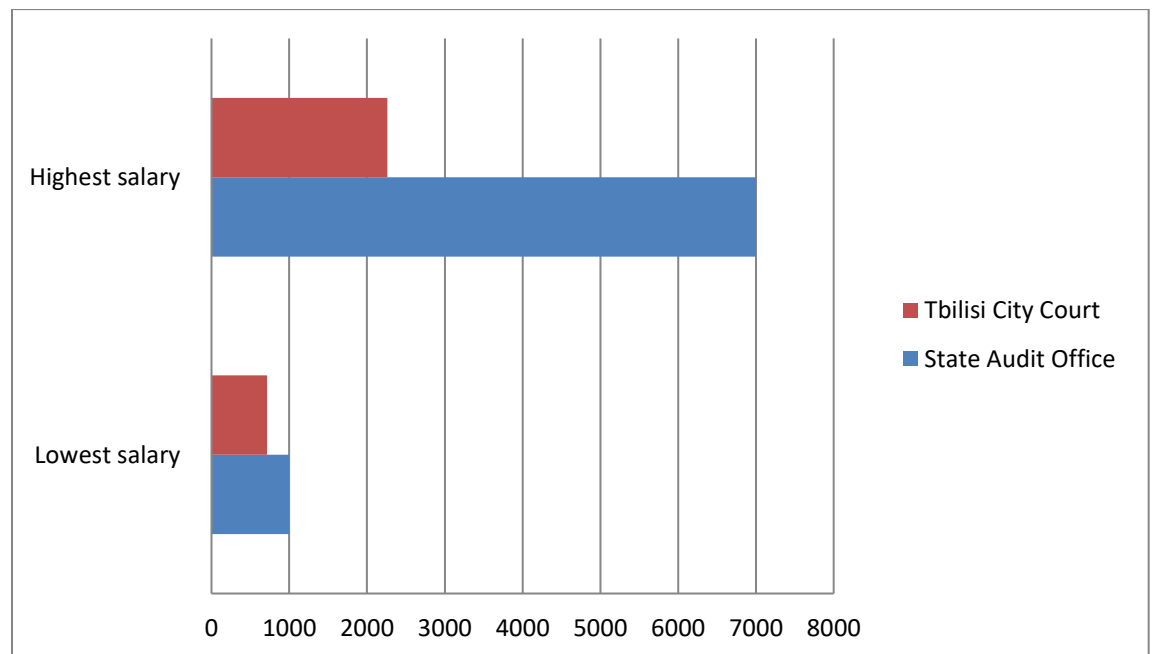
Despite the abovementioned significant advancement and resolved problems, the judiciary still faces many other remaining challenges. These challenges are diverse, but the HCOJ has highlighted the key ones:

A. In regards to independence and impartiality

➤ Low salary and social protection safeguards

- Despite the workload and unfixed work schedule, district/city courts are considered to be the lowest paid workplaces among public institutions. It is also possible to draw similar conclusions by comparing the salaries of officers to the positions at other LEPLs. For example, according to the payroll of the State Audit Office, the highest and lowest salaries are 7,000 GEL and 1,000 GEL in 2017. However, the highest and lowest salaries for the staff of the Tbilisi City Court is 2,260 GEL and 715 GEL, respectively.

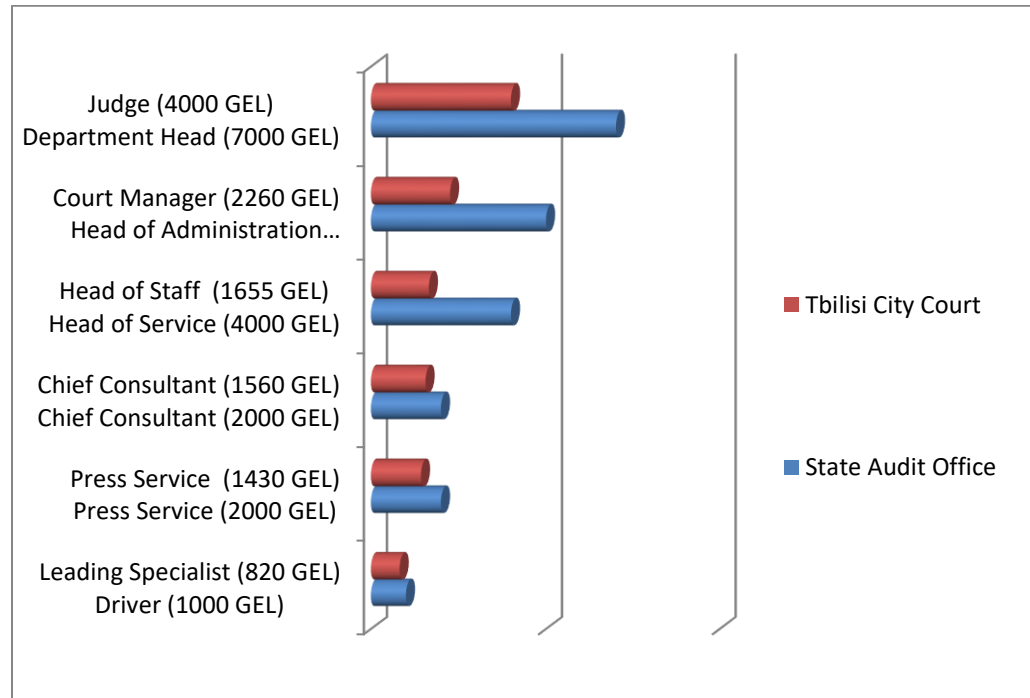
See the Chart:



- A judge's salary is 4,000 GEL, whereas the head of one of the structural units of the State Audit Office, namely, the head of the Quality Assurance Department gets a monthly salary of 7,000 GEL. A manager of the Tbilisi City Court, who has more than

520 subordinates and is responsible for the structural-administrative functioning of the court, gets a salary of 2,260 GEL a month, whereas the salary of a head of administration of the State Audit Office (whose functions are similar to those of the court manager) is twice as much as the court manager's salary and totals 5,000 GEL.

See the Chart:



The Table Disappeared!!!

- *Unregulated Pension System;*
- *Disproportional differences between the pensions of judges at the Supreme Court on one hand, and the judges at the courts of first and appellate instances;*
- *Lack of protection of salaries and pensions from inflation;*
- *Hard working conditions and unfixed work hours, which greatly damages the health of judges, also their personal and family lives;*

➤ **Small range of procedural rights of judges hearing criminal cases**

Procedural rights of criminal judges are too restricted, which limits their ability to pass fair judgments based on their personal convictions. Namely:

- *A judge does not have the right to ask a question without the consent of parties;*
 - *A judge does not have the right to impose conditional sentence per his/her consideration;*
 - *A judge does not have the right to impose less sentence, which is below the sanctioned minimum term of imprisonment.*
- Lack of constitutional safeguards of independence;
 - Gaps in the provisions regulating the activities of chairpersons of the High Council of Justice and court chairpersons;
 - Gaps in the judges promotion system;
 - Insufficient application of case law of the European Court of Human Rights;
 - Inefficient system for collecting necessary information about candidate judges;
 - Elimination of Supreme Court Justice from appointment for life;
 - Lack of personal independence among some judges;
 - Relatively low culture of producing dissenting opinion to the judgment;
 - Ambiguity of judges promotion rules and criteria;
 - Neutralize threat coming from the media and populist politicians; lack of protection of judges from ungrounded attacks.

B. In regards to accountability

- Absence of up-to-date system of permanent professional evaluation of judges;
- The need to elaborate a new Code of Judicial Conduct;

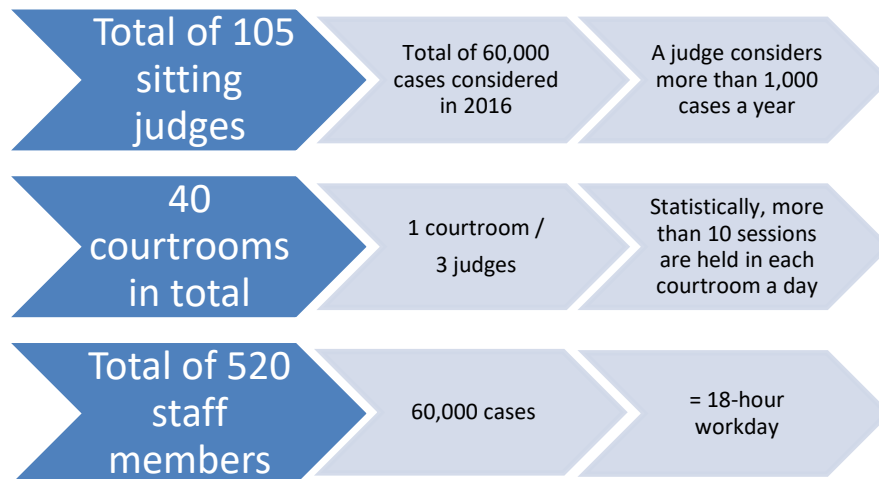
- Vagueness of grounds of disciplinary responsibility of judges and the need to improve the rules on disciplinary proceedings;
- Delayed consideration of disciplinary claims at the High Council of Justice.

C. In regards to Efficiency and Quality

- **Insufficient number of judges and their overload with cases**

The judges have a large caseload, which significantly increases the risk of mistakes and delays. They have to work until late every day, and they use weekends and holidays for writing their judgments. The situation is even more exacerbated by the lack of courthouses, courtrooms and court staff. In accordance with the CEPEJ data of 2014, with the ratio of judges per 100,000 population (5.4 judges), Georgia ranks 46th among 47 countries and it only ranks higher than Ireland. Caseload of a Georgian judge is 4 and 5 times as much as the average caseload of other European judges. Despite this, the clearance rates and disposition time indicators, Georgia performs better than: Germany, Lithuania, Denmark, Italy, Portugal, Slovenia, Croatia, Poland, etc. The judges caseload is especially evident at the Tbilisi City Court.

See the Chart:



Despite the shortage of judges and court personnel, the judges of common courts of Georgia have performed extensive work from the quantitative point of view: in 2013-2016, the common courts (courts of all the three instances) considered:

- 484 137 cases on merits;

- 49 427 motions on the application of a preventive measure;
- 9754 motions on conducting the covert investigative measure;

It is also noteworthy that in accordance with the CEPEJ survey held in 47 European states, the clearance rate at common courts is higher than 100%, and the disposition time at courts is less than 100 days on average. With these indicators, Georgia outperforms the countries such as: Germany, Lithuania, Denmark, Italy, Portugal, Slovenia, Croatia, Poland, Etc.

➤ **Lack of Court Chairwomen**

In total, the gender balance is observed within the system of common courts. There are 148 female judges and 139 male judges within the judiciary. Female personnel of the court also outnumber the male staff members (female – 882, male - 520). However, there is a remaining challenge of having little number of court chairwomen. Namely, as of June 2017, if not considering the Chief Justice of the Supreme Court, within the common courts system there are only 4 out of 27 courts with chaired by women.

- Little involvement of regional courts in the court management;

These challenges are adequately reflected in the five-year Strategy and Action Plan of Judiciary Development. The Action Plan envisages a system of specific activities for resolving every problem faced by the judiciary, and it is anticipated to improve the situation drastically in all the key directions after it becomes functional.