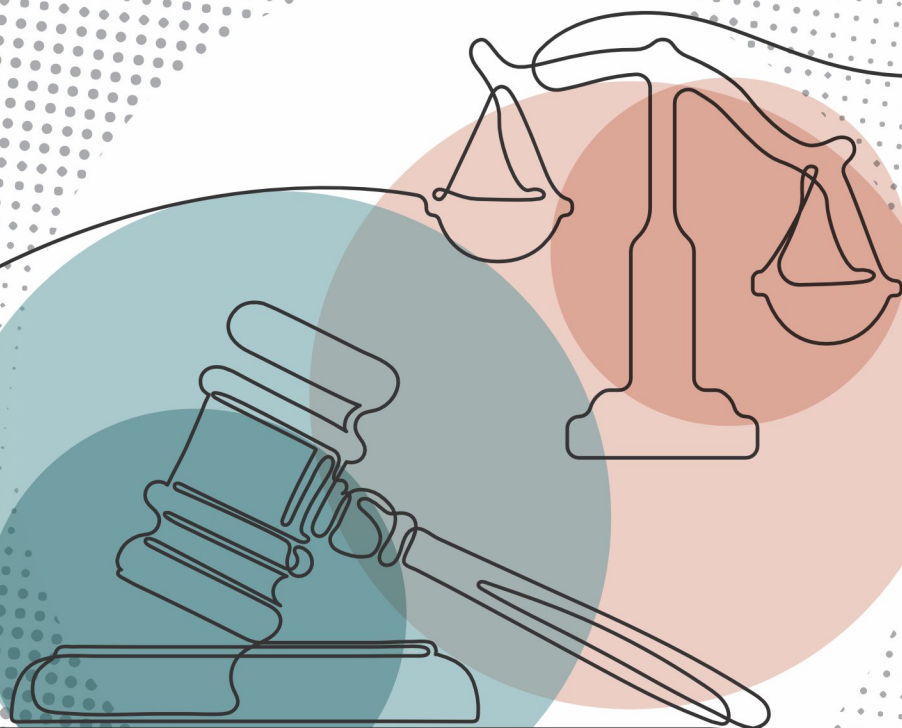




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AMENDMENTS OF 2025 TO THE ORGANIC LAW ON COMMON COURTS OF GEORGIA.



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TO THE ORGANIC LAW OF GEORGIA
ON COMMON COURTS**

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Heads of Publication: NONA KURDOVANIDZE
NANUKA KRUASHVILI

Editor: KHATUNA KVIRALASHVILI

Technical Editor: IRAKLI SVANIDZE

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J. Kakhidze street #15, Tbilisi, Georgia
(+995 32) 295 23 53, 293 61 01
www.gyla.ge

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INTRODUCTION

On 18 June 2025, amendments to the Organic Law on Common Courts were initiated that were adopted by the Parliament in an expedited manner on 26 June. The amendments concern important issues such as the rules for the operation and composition of the council, the publicity of court activities, disciplinary proceedings, communication with judges, etc. The current version of the law significantly worsens the independence guarantees of the judges' and is aimed at consolidating power within the judicial system.

1. NO INTERFERENCE IN THE ACTIVITY OF COURTS AND CONTEMPT OF COURT

Amendments were introduced to articles 8 and 9 of the Organic Law on Common Courts, which concern no interference in the activity of courts and liability for contempt of court.

Encroachment upon the independence of the judiciary was prohibited even prior to these amendments. However, the phrase “in any form” was added to paragraph 1 of article 8. The meaning of “in any form” is not defined.

An amendment was also introduced to paragraph 2 of the same article that concerns the prohibition of pressure upon a judge or interference in his/her activity. Prior to the amendments, this norm applied only to decisions to be made. The current version makes it punishable to influence a judge in any way because of a decision that has already been made. From the logic of this article and based on its title, it becomes unclear how any person could interfere in the activities of the court if, in relation to a specific case the decision has already been completed and the consequence has been rendered.

Recent developments provide grounds to assume that these amendments are not directed toward safeguarding judge or institutional independence, but rather toward suppressing discussion on systemic issues within the judiciary and on court judgements.

As for the amendment introduced to article 9, according to the explanatory note, “responds to recent amendments made in Georgian legislation, which established liability for insulting public officials arising from their official activities (status).”¹ Even before the amendments, the law provided for liability

¹ Explanatory note on the draft Organic Law of Georgia “On Amendments to the Organic Law of Georgia “On General Courts””. Available at: <https://parliament.ge/legislation/31004>, updated: 27.06.2025.

for contempt of court, which covered actions by parties, other participants in the proceedings, as well as other persons present during a court hearing or in the courthouse. Under the current version, it has been specified that expressing contempt to a judge is punishable in any form (for example, non-verbally, through obscene acts, etc.) and in any circumstances, including in public spaces.²

The permissible limits of criticism are broader in respect of public figures than private individuals. Consequently, politicians and representatives of state institutions are required to display a significantly higher degree of tolerance towards criticism directed at them than any other citizen.³

In the absence of a clear definition, any critical opinion expressed by a citizen, even on social media, may be regarded as contempt to judge and impose a liability. This, evidently, is incompatible with the right to freedom of expression and significantly increases the risks of its undue restriction. Moreover, contempt of court is a criminal offence,⁴ and such an expansive interpretation under the Organic Law on Common Courts may also lead to a broader interpretation of the relevant provision of the Criminal Code, which could potentially be employed as a repressive mechanism.

2. COMMUNICATION WITH A JUDGE

The issue of communication with a judge was regulated in a new way, significantly limiting the ability of judge to remain active members of society, regardless of status. The High Council of Justice (“the council”) has been granted increased powers to control judges’ academic and other professional activities. Under the amended provisions, judges are now required to obtain prior permission to engage in any additional activities.⁵

According to the Venice Commission, judges have the right to participate in civil society activities, public events, if they do not damage their status and authority of the judiciary.⁶ For participation in such activities, they shall not need any prior permission. According to the Bangalore principles, a judge, like

² Organic Law on General Courts, Article 9.

³ *Lacroix V. France*, (App. No. 41519/12), ECHR, 2017.

⁴ Criminal Code of Georgia, Article 366.

⁵ Organic Law on General Courts, Article 49¹.

⁶ Venice Commission – „Report on the Freedom of Expression of Judges“ (19–20 June 2015, CDL-AD(2015)018), #26.

any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.⁷

Evidently, a judge's any communication and public life cannot be identical to that of an ordinary citizen and is inherently restricted by virtue of their status. However, this should not be interpreted in a manner that requires a judge to obtain permission for every activity they undertake. Nevertheless, the recent legislative amendments have introduced an obligation to secure prior permission in order for judges to engage in such activities.

The legislative amendments have also revised the definition of an interested person.⁸ Previously, according to the Organic Law on Common Courts, an interested person was defined as a person who is interested in the outcome of a case to be considered and tries to communicate with a judge to this end. This definition has now been broadened, and an interested person is deemed to be any person who attempts improper communication with a judge with the aim of influencing either the judge personally or the independence of the judiciary as a whole.⁹ This definition is excessively broad, making it practically impossible for a citizen to determine what may be considered improper communication or an attempt to influence the independence of the judiciary.

Amendments were introduced to articles 72¹ and 72². The inadmissibility of communication with a judge is no longer limited to a specific case and any attempt to influence a judge or, more generally, the judiciary as a whole is now considered a violation of the law.

Notably, the law considers even matters related to a judge's participation in educational or professional development programs as forms of communication (subject to regulation), it also encompasses any issue that directly or indirectly relates to the administration of justice or the functioning of the judiciary. Such matters are placed under the direct oversight of the High Council of Justice, constituting a significant restriction. As a result of these amendments, a judge's individuality is absolutely disregarded, and the judge loses ability to engage in any form of communication without prior consent.

⁷ Bangalore Principles of Judicial Conduct (2002) Paragraph 4.6

⁸ Organic Law on General Courts, Article 1¹.c.

⁹ Ibid.

A new Article 72⁷, “Special Communication with a Judge”, has been introduced into the law, prohibiting judges from participating in any events without the involvement of the High Council of Justice. Moreover, notifying the council does not merely imply providing information, it requires obtaining prior permission. To secure this permission, the relevant person must submit comprehensive details, including the purpose, nature, agenda, duration of the event, and the status of the participants, etc. Under this article, the decision is made by the Secretary of the Council, and the law does not specify how such a decision may be appealed.

3. ADDITIONAL ACTIVITIES OF A JUDGE

The law also concerns the implementation of scientific or pedagogical activities by a judge and the procedure for granting permission to receive benefits provided for by the Law of Georgia “On the Fight Against Corruption”.¹⁰ A judge may engage in such additional activities only with the consent of the Secretary of the High Council of Justice. In order to obtain this permission, the judge must submit comprehensive information to the Secretary, including a description of benefits.

The Secretary is authorized to not to give consent if the proposed activity is likely to affect the judge’s ability to perform judicial duties; if the provider of the benefit engages in activities incompatible with the principles of independent and impartial justice; or if the receipt of such benefit by the judge is contrary to the interests of justice and may jeopardize the judge’s impartiality.¹¹

The grounds listed are so broadly formulated that they may be applied selectively. The grounds do not allow for assessment based on objective criteria and, consequently, impose a disproportionate restriction on judges’ rights. Although the decision is subject to appeal, however an appeal does not suspend its effect.¹²

¹⁰ Organic Law on General Courts, Article 49¹.

¹¹ Ibid, Article 49¹. 4.

¹² Ibid, Article 49¹. 5.

4. THE HIGH COUNCIL OF JUSTICE, DISCIPLINARY PROCEEDINGS AND PUBLICITY

The procedure for forming the High Council of Justice has been amended, further expanding the Council's powers and strengthening the influence of dominant groups within the system. Moreover, the Office of the Independent Inspector is being abolished, transferring all stages of disciplinary proceedings into the hands of the High Council of Justice. The obligation to make a number of decisions made by the High Council of Justice public was also abolished.¹³ The transparency of the Council has also formally deteriorated, as according to the amendments, the Council is no longer obliged to publish a number of public information, such as meeting minutes, information about judicial candidates, etc. Judicial acts will become public only after a final decision is made on the relevant case.

4.1. Publicity of trials and transparency of proceedings

The amendments have practically totally prohibited photo/video documentation of proceedings.¹⁴ It has become prohibited to take photos, make film or video recordings, or conduct broadcasts within court halls (including courthouse and courtyards) except in cases where such activities are carried out by the court itself or by persons authorised by the court. Furthermore, the dissemination of recorded materials is now subject to the court's discretion. The new regulation completely excludes public control over the activities of the judiciary and violates the principle of freedom of expression.

Video and audio recording or broadcasting of court hearings now requires the prior consent of the High Council of Justice for each specific hearing. This requirement makes the work of the media impossible. In some cases, hearings are scheduled only a few hours in advance due to short procedural timeframes. Under such circumstances, media will practically not even have time to receive a timely response from the High Council of Justice.¹⁵

From the first day of the amendment's entry into force, problems with its implementation have emerged. Numerous media outlets have applied to the

¹³ Article 49¹. 4.

¹⁴ Ibid, Article, 13¹.

¹⁵ Media Cannot Cover Cases of Persons Detained in the Context of Protests from the Courtroom, Georgian Young Lawyers' Association, 30 June 2025, available at: <https://gyla.ge/en/post/mediis-shezgudva-sxdomebze-saia>, updated: 07.07.2025

High Council of Justice for permission to conduct video and audio recording of court hearings. However, more than a week has passed, and the council has yet to publish a regulation governing this matter. This fact once again confirms the Council's disregard for the principles of publicity and transparency and the goal of the proposed amendments - to restrict the right to public hearings for those detained during protests, distance the public from court hearings, and reduce public awareness of ongoing cases.

4.2. The High Council of Justice

For years, one of the main challenges facing the system has been the excessive concentration of power by the High Council of Justice. The council makes decisions on all key issues of importance to the judiciary, and does in a manner that renders the involvement of non-judge members effectively nominal. This situation is further entrenched by the amendments of 26 June, under which the number of judge members in the High Council of Justice is increased from 9 to 12, while the number of non-judge members is reduced from 6 to 3.¹⁶ This means that the involvement of non-judge members will no longer be necessary for making significant decisions, which contradicts the purpose of having non-judge members on the council to ensure diverse societal representation and to reduce the risks of corporatism. The amendments effectively enshrine privileges that are typically reserved for holders of administrative positions at the legislative level. Additionally, the terms of chairpersons of courts, collegiums/panels are extended from 5 to 10 years.¹⁷ For years, GYLA has been asking the abolition of the position of deputies, as the council uses this position to give advantage to influential judges.¹⁸ Individuals appointed/ elected to significant administrative positions are, mostly representatives of the same influential group. With the June amendments, the position of Deputy Court Chairperson has now also been introduced in first instance courts.¹⁹ Also, the restriction prohibiting the Secretary of the Council or a member of the Administrative Committee from simultaneously

¹⁶ Organic Law on General Courts, Article 47.2.

¹⁷ Ibid, 30.4, 32.1.

¹⁸ Nozadze N. Monitoring Report of the High Council of Justice №10, Georgian Young Lawyers' Association, 2022, pages 27-30, website of the Georgian Young Lawyers' Association, available at: https://admin.gyla.ge/uploads_script/publications/pdf/MONITORING%20REPORT%20OF%20THE%20HIGH%20COUNCIL%20OF%20JUSTICE%2010.pdf, updated: 07.07.2025.

¹⁹ Organic Law on General Courts, Article 32¹.

serving as a court chairperson, first deputy, deputy, or as the chairperson of a collegium or chamber has been abolished. These changes, in a context, where the council's power was already broad and unbalanced, make the system even more closed.

The already fragile guarantees of the independence of individual judges have deteriorated, and the levers of influence on judges have expanded.

4.3. Disciplinary proceedings

Another lever for pressure on judges - disciplinary proceedings - has now been placed entirely in the hands of the High Council of Justice, becoming even more closed, with several key aspects reverting to the state of affairs that existed years ago. For example, it has been established that the disciplinary proceedings against a judge may be initiated based on a submission from the chairperson of the court. The notion of "improper performance of duties" has been reintroduced into the legislation as a form of disciplinary misconduct, that was identified as one of the most vague and problematic provisions. Disciplinary proceedings against judges have become completely closed to the public, and the previously positive provision allowing a judge, at their own request, to demand that the Council (except for deliberations and decision-making processes), as well as the hearings of the disciplinary panel and the Chamber dealing with their case, be made public, has been abolished. Furthermore, the severity of disciplinary sanctions has increased: previously, salary deductions ranged from 5% to 20% for no more than six months. Based new provisions, deductions may range from 10% to 50% of salary for a period of up to one year.²⁰

According to the amendments, since 1 September 2025, the Office of the Independent Inspector and the position of the Independent Inspector will be abolished. Disciplinary proceedings against judges, including the preliminary examination and investigation of cases, will be initiated and conducted by the Secretary of the High Council of Justice.²¹ Although the institutional independence of the Independent Inspectorate has been criticized since its establishment due to the lack of proper guarantees of independence, the system of disciplinary proceedings has become much more transparent as a

²⁰ Organic Law on General Courts, Article 75³.1.d.

²¹ Ibid, Article 75⁶.

result of legislative changes implemented over the years. However, with the amendments adopted in June, in an expedited manner, instead of progress, disciplinary proceedings have become even more firmly in the hands of the High Council of Justice as a lever of pressure on judges.

5. OTHER CHANGES

In parallel with these amendments, judges' salaries are increased significantly. Previously, salaries ranged from 4,000 to 7,000 GEL. According to the amendments, the salary will increase from 10,512 to 14,600 GEL. It is interesting whether the system of salary increment will remain in force. The system was another lever of influence over the system in the hands of the council.

The promotion of judges has been simplified, as 3 years of professional experience will now suffice for promotion instead of the previously required 5 years.

In the Supreme Court, judges may be assigned narrower areas of specialization by decision of the High Council of Justice.²²

This increases the possibility of manipulation in the distribution of cases, as the circle of judges is narrowed, which makes it more predictable who may be assigned a particular case.

Additionally, the functions of The Department of Court Management have been abolished, and the authority to define its former competencies has been transferred to the High Council of Justice.²³

The obligation to hold a competition for admission to the High School of Justice at least once a year has been abolished. The Council of Justice will decide when to announce the competition. For years, excessive influence on the High School of Justice and issues determining the careers of judges has hindered the influx of new personnel into the system.

The bailiff service will be transferred to the Council. The High Council of Justice will also have the authority to determine the official salary of court bailiffs by law, which will allow it to increase or decrease the remuneration of bailiffs at its will.

²² Ibid, Article 15.2¹.

²³ Ibid, Article 56¹.

According to the amendments, judge will no longer be obliged to participate in relevant programs for at least 5 days every 3 years to improve qualification²⁴ that was previously provided for by law.

SUMMARY

The Organic Law on Common Courts has undergone numerous waves of amendments, some of which were aimed at strengthening the independence of the judiciary and judges. Unfortunately, years-long efforts of international organizations and local actors and positively assessed legislative changes were repealed. As a result of the adopted amendments, the system is becoming even more isolated and closed, mechanisms of control over judges are being reinforced, and freedom of expression is under threat. The adoption of the amendments in an expedited manner, made discussions around the draft law practically impossible, which further clarifies the objectives of its adoption.

²⁴ Ibid, Article 66³⁸.