



The Coalition's Legislative Proposal on the System of Disciplinary Liability of Judges

The Coalition for an Independent and Transparent Judiciary submitted legislative proposal to the Parliament of Georgia. The proposal aims at improvement of the grounds for disciplinary liability of judges and reforming the institution of an Independent Inspector.

Considering the fact that current disciplinary proceedings have been numerous criticized by domestic and international organizations, the coalition proposes several amendments to the Parliament:

Reform of the Institution of Independent Inspector

- In order to increase the guarantees of independence of the Independent Inspector, it

is important to amend the procedural rules of appointment/dismissal, as well as the grounds for dismissal and the rules regulating appeal procedure of the dismissal. We believe selection and dismissal of the Independent Inspector should be possible by 2/3 of High Council of Justice (Council) members instead of simple majority. This will increase the influence of the non-judge members of the Council on an institutional level regarding the appointment/dismissal process of Independent Inspector;

- The salary of the Independent Inspector should be defined by the law. In addition, Independent Inspector should have a right to determine the number of its staff and their salaries;

- In order to avoid conflict of interest, certain employment restrictions could be introduced for the Independent Inspector. For instance, after the end of the term a former Inspector should be prohibited from holding any position at the judicial system for a reasonable period of time;

- Independent Inspector should be granted an access to relevant information (access to certain available electronic databases) in order to properly investigate the cases of alleged disciplinary violations;

- Legislation should clearly define that if a criminal offense is detected in the course of the investigation, Independent Inspector should be able to address the Prosecutor's Office directly. The consent of the Council in such instances should not be required;

- Law should establish the possibility of an Independent Inspector to address the Council with the recommendation on the launching of disciplinary proceedings;

- Law should define an obligation for the Inspector to proactively publish report on own activities every three months and as well as an annual report summarizing the whole year. The published information should contain details on the applied grounds of disciplinary misconducts and information on all decisions made by the Council based on the requests of an Independent Inspector.

Reform of the Grounds of Disciplinary Proceedings

- Law should clearly define the goals and scope of the disciplinary liability. Disciplinary proceedings should apply to grave professional violations only and not interpretations

of the law or judicial errors;

- Provisions of the Code of Ethics, which might cause disciplinary liability, should be clearly and thoroughly defined in the law;
- Specific standard should clarify what kind of actions of a judge would qualify as and detrimental to the court reputation. A Current formulation provided by the law is so general and vague that it poses a threat to its selective use in practice;
- It should be clarified which norms of the Georgian Law on of Interest and Corruption in Public Service are considered to serve as grounds for disciplinary liability of judges. At present, the entire law can be used as a basis for disciplinary liability of judges and this practice creates particular risks of abuse;
- Instances when judge does not inform relevant authorities about the cases of illegal communication with him/her, should constitute disciplinary violation under the Article 2 of the Law on Disciplinary Proceedings.