

Reform of the Judiciary

(Existing Problems and the Possible Solutions)

Responsible for the Preparation of the Document:
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Introduction

The political systems established in the emerging democracies, which lack liberal and institutional consciousness, are characterized by authoritarian elements. The political regime organized similarly, is called "hybrid", so-called "soft authoritarianism" in the doctrine.¹ In such political regimes, at any level of exercising the public authority, the interests of influential individuals or groups of individuals (authorities) are primary value. Authorities try to maintain their positions and spheres of influence by using both formal and informal mechanisms. In "soft authoritarianism", the appointment, retention of a position, and career advancement depends on the degree of loyalty shown to authoritarian persons.

In "soft authoritarianism" the Judicial system is characterized by a vertical structure of organizational arrangement and centralization of power, a clear illustration of which is the case of the areas of the influence and the practical effects of the realization of these influences by a narrow group of interconnected persons in Georgia Judiciary system, the so-called "clan". The Clan sets up the agenda of the judiciary, has formal or informal leverage to influence important decisions regarding Judiciary, undermines the degree of individual independence of judges, subordinates' judicial activities to favoritism, nepotism, conformism and the principle of loyalty to the "clan". Despite the "four waves" of judicial reform aimed at improving the judiciary, the problem of judicial independence and impartiality remain acute in Georgia.

Despite some positive shifts, the judiciary continues to face fundamental challenges. Significant questions regarding the internal and external independence of the judiciary remain unanswered. The main reason for these challenges is the uncontrolled concentration of power in the hands of one particular group of judges within the judiciary. This influential group of judges, the so-called "clan", has been influencing the judiciary for years, and often the curvature of the judiciary is linked to their name and influence. Despite the reforms, the "clan" 's influence was facilitated by their close informal relations with the other branches of government, as well as their ability to "adapt" to the legislative changes. This group of influential judges, formed through personal or professional connections, who present themselves as "defenders of the judiciary", through various formal or informal levers, force judges and other members of the judiciary to remain loyal to them, at least not to publicly express dissenting opinions. In such conditions, we consider weakening the levers of the "clan" and strengthen the individual independence of judges as one of the inevitable steps to improve the judiciary.

The purpose of the document is to provide the public with a systemic vision of judicial reform. The document will assist decision-makers in planning legislative changes in such a way, to eliminate the institutional or functional problems in the Georgian Judiciary system which hinders exercising the judicial power conscientiously and competently by a judge. The reform of the judiciary implies the deconcentrating of power in the judiciary system by

¹ Tamir Moustafa and Tom Ginsburg, the functions of courts in authoritarian regimes, Cambridge University Press, 2008 year, page 27.

ensuring the autonomy of the individual judge, as the transformation of the existing institutions, as well as the creation of new institutions, the modification of the scope of their powers.

The vision of the authors of the document is based on the model of judicial reform, which aims to achieve the maximum optimal result by transforming and strengthening of existing institutions. As mentioned above, experience shows, that the neutralization of power in the hands of the "clan" is necessary to for the turning reform of the judiciary. We believe, that achieving this goal requires eliminating gaps in different areas, within which we can distinguish between particularly important and important issues. According to the vision of the authors of the document, particularly important issues include: (1) the problem of high concentration of the power in the hands of the High Council of Justice of Georgia and (2) the current composition of the Supreme Court of Georgia. The following falls into the category of important issues: closure of the judiciary, the problem of lack of new and qualified staff in the judiciary, low degree of autonomy and competence of judges, shortcomings in the mechanism of judicial incentives, etc.

Any form of government saturated with authoritarian elements, including the "clan", has the ability to adapt to fragmentary legislative changes, thus, the vision of the authors of this document is based on the prospect of unified and systemic changes. Therefore, reservation on the issue, that a selective or fragmented response to the problems discussed in this paper or partial consideration of the recommendations, will not ensure a proper reform of the Judiciary is of a fundamental importance. The present scheme of the judicial reform presents a ranking - between issues of particular importance and important issues. Issues of particular importance are addressed to the basic elements of the organizational structure of the Judiciary - the High Council of Justice and the Supreme Court of Georgia. Important issues include current issues, the overcoming of which will bring positive shifts in the process of building public confidence in the judiciary.

Issues of Particular Importance

The High Council of Justice of Georgia

The High Council of Justice is the body responsible for ensuring the independence, accountability and efficiency of the Judiciary system, and thus the High Council of Justice is primarily responsible for systemic problems within the Judiciary and the negative consequences of concentrated power. The legislative mechanisms and levers at the disposal of this body allows the influential group operating within the system to maneuver favorably and pursue its own interests.

The rules of composition of the High Council of Justice are problematic. According to the legislation, 8 members of the High Council of Justice of Georgia shall be elected by a self-governing body of judges of the general courts of Georgia - the "Conference of Judges" by a 2/3 majority present at its meeting. If fewer than the required number of candidates receives the necessary number of votes, the candidates failing to receive the necessary number of votes shall be put to repeat vote. Only the number of the highest scoring candidates that is necessary to fill the vacant positions shall be deemed elected. At the same time, the number of votes received by such candidates shall not be less than $\frac{1}{4}$ of the votes of the full membership of the Conference of Judges of Georgia. Such an arrangement does not allow the preferences of minority group of judges to be reflected in the composition of the High Council of Justice, which indicates to the minimum standard of legitimacy and causes the centralization of the spheres of influence and domination of one group over another in the system. Given that the term of office of one of judge - member of the High Council of Justice has expired and another six member's terms will be expired in 2021, it is imperative that the composition of the High Council of Justice be changed immediately and that a minority be empowered to nominate their own candidate. Such changes will ensure, that the Conference of Judges is deprived of the natural, artificially created legitimacy of representation in the High Council of Justice, which will prevent the centralization of power in the judiciary and reduce the degree of domination of one group over others.

In particular, it is necessary to implement the following legislative changes:

- The conference elects all 8 members once every 4 years;
- One judge should be empowered to vote for only one candidate for membership of the High Council of Justice;
- 8 candidates with the best results should be selected at the Conference;
- In case of early termination of the term of office of the High Council of Justice judge-member, the next candidate on the list shall take his / her place for the remaining term. If the candidates have received an equal number of votes, new member of the High Council of Justice will be identified by casting lots.

As for the members of the High Council of Justice elected by the quota of the Parliament, they should be appointed to a position within the framework of deliberative democracy, as a result of a compromise dialogue between the parliamentary majority and the minority. This is especially important in the context of the initiated constitutional changes around the electoral system, which will lead to a higher degree of fragmentation of the Parliament.

- The members of the High Council of Justice to be elected by the quota of the Parliament should be elected as a result of an open and transparent process;
- Members of the High Council of Justice to be elected by parliamentary quota should be elected with the unanimous support of the minority and the majority.

Whereas the Judiciary must reflect the narrow political interests of a state bound by the rule of law and not of the ruling power, it is imperative, that the High Council of Justice, the body responsible for the independence and accountability of the judiciary, be formed in accordance with the preferences expressed by the people within a representative democracy, as a result of a compromise dialogue between the parties.

The procedure for appointing a member of the High Council of Justice with a quota of the President is completely devoid of democratic accountability and transparency, therefore, it is recommended that:

- A member of the High Council of Justice elected by the President's quota shall be appointed as a result of an open, fair and reasoned procedure.

The Supreme Court

The Supreme Court is the highest instance of the administration of justice, it has a monopoly on the final, binding and precedent interpretation of the legislation, which systematically encapsulates the basic structural units of the normative space, has the prerogative of the final solution of moral and legal dilemmas.

The current composition of the Supreme Court and the rules for its composition do not provide a basis for forming public confidence towards the judiciary, and thus it is one of the main challenges that Georgian judiciary is facing.

On December 12, 2019, the Parliament of Georgia appointed 14 candidates nominated by the High Council of Justice to the position of the Supreme Court Justices for a life-time.² Although public hearings at the Legal Affairs Committee of the Parliament of Georgia, that has clearly identified problems with each candidate's competence, integrity or value system³, the

² The chronology of the one-year-long process of selection of judges of the Supreme Court. Pg.1 Available at: <https://gdi.ge/uploads/other/1/1270.pdf>

³ Second Report on the Nomination and Appointment of Supreme Court Judges in Georgia – OSCE/ODIHR, 2020. available at: <https://www.osce.org/odihr/443494?download=true>

Parliament of Georgia did not take the report on the shortcomings or conclusions identified as a result of active monitoring of the civil sector or the international community into account, and supported their appointment for life. These developments give the impression, that while composing the Supreme Court, not the merit of the candidates, their competence, integrity and value system is important, but the degree of their obedience to the system, their loyalty, their political views or their social status.

Although the current composition of the Supreme Court of Georgia has formal legitimacy, it suffers from a lack of social legitimacy. The public hearings at the Legal Affairs Committee of the Parliament of Georgia clearly revealed the fundamental problems in the judiciary and the indifference of political forces to these problems:

"It makes us presume that 10 members of the High Council of Justice (including all judge members of the Council) had a joint agenda and acted in a coordinated manner. Such agreements between the members of the Council once again highlights that internal independence of the judiciary still represents a significant challenge in Georgia and that the secrecy of ballot and evaluation cannot reach the goal of protecting the Council members from influences. Under given circumstances, the secrecy of ballot and evaluation only impedes public oversight over the process, which is of no value itself and, on the contrary, is harmful".⁴

The legal framework defining the composition of the Supreme Court is flawed and needs to be addressed. In particular:

- Legislation should introduce the possibility of appealing a reasoned decision of the High Council of Justice on the issue of incompatibility of interests between a member of the High Council of Justice and a candidate;
- At the legislative level should define what is meant by publicity in the process of selecting of the Supreme Court candidates;
- Ensure that the High Council of Justice, as a collegial body, discusses the candidate (s) after the interview with them (s) and their individual evaluation by the members;

Monitors regret appointment of 14 judges by Georgian parliament – Parliamentary Assembly of Council of Europe (PACE). 2019. Available at: http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=7737&lang=2&cat=3&fbclid=IwAR2qKcZpkGYz8y445qIuz1InjM2-wTWWh_u9etVOkDDYnEU9i11Bssy884wY

Statement by the Spokesperson on the appointment of judges to the Supreme Court of Georgia – EU external Action. Available at: https://eeas.europa.eu/headquarters/headquarters-homepage/72068/statement-spokesperson-appointment-judges-supreme-court-georgia_en

U.S. Embassy's statement on supreme court nominees. Available at: <https://ge.usembassy.gov/u-s-embassy-statement-on-supreme-court-nominees-december-12/>

The progress of the Assembly's monitoring procedure (January-December 2019) -Parliamentary Assembly of Council of Europe (PACE). 2020. Available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=28597&lang=en>

Assessment of the Hearings of Supreme Court Judicial Candidates at the Parliament Legal Committee – Coalition for an Independent and Transparent Judiciary. Available at: http://www.coalition.ge/index.php?article_id=234&clang=1

⁴ Public Defender of Georgia, Monitoring Report on the Selection of Supreme Court Judicial Candidates by the High Council of Justice of Georgia, 2019. Available at: <https://ombudsman.ge/res/docs/2019110317223567554.pdf>

- Nominations for Supreme Court judges (as well as appointment of lower instance court judges) should be supported by a double 2/3 (2/3 of judge members as well as 2/3 of non-judge members);

Elimination of legislative gaps will minimize the risk of arbitrary manipulation of the Supreme Court Judge Selection Procedure, ensure the transparency, substantiation of the Supreme Court Judge Selection Procedure, and the ability to exercise judicial control over the made decision.

Important Issues

Judges' Individual Independence

In "hybrid authoritarianism" the scheme of institutional arrangement of the Judiciary system is strictly vertical, while the power to make key decisions is concentrated in the hands of a narrow group of individuals. Judges working in a similar organizational order position themselves not as law imposing but as law enforcing officers - they perceive themselves not as human rights defenders but as state-appointed officials.

The low degree of individual independence of judges has a negative impact on the administration of justice and the formation of public trust towards it. The individual independence of judges may be jeopardized not only by the lack of legal guarantees ensuring their autonomy, but also by the vague nature and practice of the norms governing the activities of the judge, their incentives or disciplinary liability. Legislative changes within the "four waves" of judicial reform have largely been aimed at mitigating/neutralizing repressive legal mechanisms against judges, although it should be borne in mind that judges can be influenced through positive, encouraging, arbitrary measures.

Functional Independence of Judges

One of the most important components of a judge's individual independence is his or her functional independence. The effective and efficient exercise of one's professional powers is highly depended on those officials of the judiciary whose functions are directly related to the court proceedings (assistant to the judge and a secretary of the court session). In Particular:

Under the current law, the Competition Commission in the courts of first and second instance, and the Chairman of the Supreme Court in the Supreme Court, determines the appointment of the assistant to the judge and a secretary of the court session to the vacant

positions. The competition commission is staffed by the chairman of the court within full discretion. Due to the fact, that the chairmen of the first and the second instance courts are considered to be affiliated with the “clan”, there is a reasonable doubt, that the competition commission, in the hands of an influential group operating in the judiciary, is an additional lever to influence the functional independence of the judge. These doubts are further reinforced by the fact that the chairmen of the district (city) courts and the courts of appeals are appointed by the High Council of Justice. Since the assistant to the judge and a secretary of the court session make an important contribution to the effective performance of judge’s professional functions, the complete exclusion of the judge from their selection procedure and, thus, the disregard for his or her individual preferences seriously jeopardizes the judge’s functional independence.

To ensure the functional independence of a judge, it is necessary to:

- Develop a new institution in the judiciary - the Judiciary Cabinet, which envisages the authority of the judge to make a significant contribution to the staffing of his or her assistants and the secretary of the court session (e.g. exercising veto power over the candidate) and to increase the role of the judge in determining their incentives and dismissal procedures.

Judges’ Incentives

Under the current law, bonus to a judge's salary is issued by a decision of the High Council of Justice. The legislation⁵ does not provide clear criteria on the basis of which the High Council of Justice is obliged to issue the bonus, which increases the risk of arbitrary decision-making by the High Council of Justice and creates the risk of indirect or direct influence on the independence of the judge through incentives.

To reduce the risks of arbitrariness, it is necessary to:

- Incentive criteria should be presented with a high degree of predictability;
- Incentives of judges according to specific criteria should be related to the professional development of the judge, judicial and academic activities.

Promotion

⁵ Organic Law of Georgia “on Common Courts”. Article 69 (6).

There are legislative gaps in the procedures for promoting judges and appointing judges to the same or higher instance without competition. According to the Organic Law of Georgia “on Common Courts”,⁶ *A judge of a district (city) court may be appointed in the Court of Appeals if he/she has exercised judicial powers in a district (city) court during at least five years. The High Council of Justice of Georgia shall establish criteria for promotion of a judge.* Despite the legislative regulation, the Council has not yet developed a system, based on clear, transparent and objective criteria for the promotion of judges, including no evaluation rules. The unpredictable nature of the promotion system also increases the risks of making arbitrary decisions.

To reduce the risks of arbitrariness, it is necessary to:

- Regulation, within which the criteria for promotion will be clearly presented.
- Promotion of judges according to these criteria should be related to the professional development, judicial and academic activities of a judge.

The High School of Justice and the High Council of Justice - system closure

According to the legislation, the primary function of the High School of Justice is the professional training of the persons to be appointed as a judge in the system of common courts - the trainee of justice trainees and their gradual integration into the judicial system. The High School of Justice is a filter between society and the Judiciary, it is a prerequisite for a judicial career.

When assessing the degree of institutional or functional independence of a judge and the accountability, closure or openness of the judiciary, it is important to focus on three stages of a judicial career:

1. The stage before a person is appointed a judge;
2. The stage of performing judges’ professional functions;
3. Prerequisites for dismissal of a judge from the office.

The institutional analysis of the High School of Justice is related to the first stage - the relationship between the judiciary system and the aspirant person before his/her appointment.

Doubts that the High School of Justice pursues the interests of influential groups within the judiciary are supported by the fact that the High School of Justice is closely linked to the High Council of Justice, which raises reasonable questions about its institutional independence. Institutional interdependence and the dominant position of the High Council of Justice are also indicated by the legislative norms, according to which:

⁶ *Ibid.* Article 41.

- 4 out of 7 members of the Independent Board of the High School of Justice are elected by the High Council of Justice;
- The High Council of Justice also elects the Chairman of the Independent Council from among the members of the Independent Council;
- The High Council of Justice, at its sole discretion, determines the number of justice trainees at the High School of Justice.

In its turn, the Independent Board of the High School of Justice makes decisions on important issues such as:

- Development and approval of the procedures for drafting the budget of the School;
- Enrollment and expulsion of the justice trainees;
- Approval of the amount of state scholarship for justice trainees;
- Selection of a deputy director and internship supervisor;
- Approval of the theoretical courses and final School examinations;
- Approval of a qualifying list of trainees of justice;

The high School of Justice is an important object of concentration of power of the High Council of Justice and the so-called “clan”. Influencing the High School of Justice makes it possible to control the influx of new judges into the judiciary and thus maintain influence within the judiciary. The flow of new judges is controlled by various levers at the high school level, including:

- Defectiveness of the requirements imposed for Justice Trainees;
- Ambiguity of selection criteria
- Lack of guarantees to substantiate and appeal the decision

One of the main challenges in Georgian Judiciary system today is the closure of the system, its identity and the tendency to crystallize spheres of influence. Because the influx of new qualified staff into the system and the increased number of judges are directly linked to a reduction of the power of the influential group within the judiciary, the High Council of Justice strictly controls the influx of new staff into the judiciary and creates significant barriers through the High School of Justice. While it is advisable to appoint an additional 100 judges to achieve an optimal number of judges and ensure the effective administration of justice, the process of recruiting new staff is proceeding at a very slower pace. The existing “clan” in the High Council of Justice, using the influence it has over the Independent Council of the High School of Justice, indirectly, however, still contributes to the closure of the system.

Not only quantitative but also qualitative analysis of the issue of influx of the new staff in the judiciary is noteworthy: From 20 justice trainees appointed as a judge by the High Council of Justice in November 2019, 15 are persons with a professional relationship with the judiciary

system, while 10 out of 15 have working experience only in the judiciary.⁷ These data confirms, that the Georgian judiciary does not have the resources of development. New judges are usually "indigenous" employees of the system, they perceive themselves not as independent human rights defenders with an independent, principled, solid value system, but as government officials who seek to gain sympathy and recognition from the "clan" for their success and maintaining the positions.

In view of all the above, in order to ensure the independence of the High School of Justice, it is important to review the mechanism for the formation of the High School of Justice by the High Council of Justice, so as to weaken the Council's power to control the entry of new people into the judiciary:

- The Criteria for selecting justice trainees for the High School of Justice should be defined by a high degree of legislative detail;
- There should be an obligation to substantiate the decision made by the High Council of Justice and the mechanism for appealing it;
- For the decentralization of the power of the High Council of Justice and elimination of the closer of the judiciary system, it is necessary to create an alternative to the High School of Justice on the basis of higher education institutions, which will enable a wider range of applicants to acquire relevant knowledge, and after passing the appropriate examinations, will enable them to develop career in the judiciary;
- Undergoing the study course at the High School of Justice should not create a legal barrier for justice listeners to be engaged in other types of professional activities;
- **Possible alternative:** The High School of Justice should not be a prerequisite for a judicial career, its importance should be limited to both: the training of the current judges and the development of appropriate judicial skills for the newly appointed judge.

The Competence of the Judge

Professional trainings and academic data of judges are not consistent with the position of a judge, often, Judges are limited by narrow field knowledge and have an imperfect perception of the legal system. All this is reflected in the value order of the judge, the question, how judge identifies himself/herself – as a human rights defender or as a public servant whose main function is to pursue the interests of the government? Is of fundamental importance.

- In order to solve the problem of judges' incompetence, it is important to refine the methodology of developing the qualification exam for judicial candidates and to

⁷ The report of Nazi Janezashvili, Member of the High Council of Justice of Georgia on a Public Discussion - Functional and institutional independence of the High School of Justice; August 14, 2020.

include not only the issues that determine the knowledge in a narrow specialty, but also the test of proper response to moral-legal dilemmas;

- Appointed judges must pass qualification examinations at regular intervals and the results obtained by them must be reflected in the criteria for determining a judge's professional incentives and promotions;
- The existence of alternative educational spaces similar to the High School of Justice will also have a positive impact on increasing the competence of judges. The abundance of training courses for candidates for judges will contribute to the growth of internal competition, which will have a positive impact on the quality of the offered courses / trainings;

Court overload

One of the main problems is the overloading of the judiciary. It hinders the administration of effective justice and threatens the individual independence of the judge. The tendency to delay the hearings deprives the public of the opportunity to benefit from timely and quality justice, and when a judge has to deal with an unreasonably large number of cases, there is a high risk of negligence, error, violation of the law, which makes the judge more vulnerable with respect to imposing the disciplinary liability and thus, an additional mechanism of restricting its autonomy with malicious intent arises. Two sub-problems can be named in frames of the problem of Overload:

Case Flow

The electronic case distribution system introduced as part of the "third wave" of judicial reform, which provides random distribution of cases between judges, failed to unload the flow of cases into the judiciary and thus, to ensure the independence of the individual judge. The system remains vulnerable to outside interference, and problems arise in the distribution of cases in courts where the exercise of power by two or more judges in the same specialization is not guaranteed. Given the extensive powers of the Chairman of the Court, the insecurity of the main module of the electronic program and the number of changes made to it since the launch of the system, clearly indicated on the defects of the system.

Administrative Recourses

Lack of human resources and unjust distribution of existing resources can be considered as one of the preconditions for courts' overload, along with technical deficiencies/ complications. Subsequently, the number of judges and assistants of judges needs to be

revised. According to the report⁸ prepared on the redeployment of judges and staff in Georgian courts, it is necessary to completely increase the number of judges and change the existing redistribution. Through the internal rotation of judges, the High Council of Justice manages to maintain its influence over judges, preventing the influx of new staff into the judiciary, which ultimately manifests itself in the form of overcrowding of the judiciary. Accordingly:

- It is necessary to determine the optimal number of judges in the common courts, taking into account the flow of cases (number of cases: not reviewed, ongoing and pending);
- The staff of the court should be provided with fair working conditions. The government should also ensure the recruitment of judiciary staff on the basis of a fair competition;
- The electronic case distribution system should be improved.

Rules for appointing the chairman of the court. Separation of powers of the President of the Court and the Court Manager

In order to ensure the individual independence of the judge and the institutional recovery of the judiciary, it is necessary to decentralize the power in the hands of the High Council of Justice. The institution of the Chairman of the Court is at the core of the vertical scheme of the organizational arrangement of the Judiciary. Under current law, the High Council of Justice appoints chairpersons of the courts of first and second instance, and court chairpersons are endowed with a number of organizational and functional powers that are directly reflected in a judge's exercise of his or her professional powers (a clear illustration of this is the authority to elect an assistant to the judge and a secretary of the court session).

It is also noteworthy, that under current law, the President of the Court, in addition to the rights and duties related to the professional functions of a judge, has an obligation to administer organizational and functional operation of the court, which, in practice, is a ground for refusing to perform judicial activities. This is evidenced by the practice of managing the flow of cases in the judiciary system - court presidents and members of the High Council of Justice are in a privileged position compared to other judges. The privilege of chairpersons is manifested in their less intense performance of judicial functions. According to a study conducted by the Human Rights Education and Monitoring Center (EMC) the percentage of workload of the following chairpersons during the reporting period was 0%:

- In the case of Mikheil Chinchaladze, Chairman of Tbilisi Court of Appeals;
- In the case of Vasil Mshvenieradze, former chairman of Tbilisi City Court

⁸ Assessment of the need for judges in Georgia - Jesper Wittrup, Tea Machaidze, Elene Janelidze, Mariam Makishvili, 2018. (EWMI, PROLoG, USAID). Available at: <http://ewmi-prolog.org/images/files/4566AssessmentoftheneedforjudgesinGeorgia-ENG.pdf>

- In the case of the Secretary of the High Council of Justice and the judge of Tbilisi City Court, Giorgi Mikautadze.

Given that the institution of a "court manager" already exists in the judiciary system for the organizational and functional administration of the court, there is no rational basis for bringing these rights and responsibilities within the competence of the chairman of the court.

Necessary legislative changes to be implemented:

- Instead of the High Council of Justice, the appointment of the Chairperson of the Court should be done through the exercise of internal institutional democracy - judges of a particular court should be given the opportunity to elect the Chairperson of the Court by a majority of votes;
- The powers of the court chairperson and the court manager should be separated from each other. The court manager should be fully given the levers of internal and functional administration of the court.

In order to realize the individual independence of the judge, to ensure the quality of justice and to form public confidence towards the judiciary, it is necessary to shift the foundations of the institutional system of the judiciary from the vertical structure to the horizontal structure as much as possible - to neutralize all possible levers and risks in the hands of specific individuals, acting on the autonomy of the judge. Hence, the reservation that the reform of the judiciary should not be based on fragmentary positive legislative shifts, but on legislative changes implemented within the framework of the complex and comprehensive vision presented in this document.

Jury Trial

The formation of public confidence in the judiciary depends on the degree of transparency of the ongoing processes in it and the component of public legitimacy. The historically and doctrinally reinforced expression of the idea of public legitimacy in the administration of justice is the institution of a jury. Under Georgian law, a jury trial hears only criminal cases under specific articles.

- It is important to increase the powers of the jury trial in the process of reforming the judiciary system, which implies **the right of a person** to ensure the participation of jurors in the type of proceedings in which he or she may be liable to imprisonment;
- In order to save human resources and avoid further delays in proceedings, it is possible to share the model of the United States courts. The Cases that do not have a broad social impact may be considered by at least 6 jurors;

- Jurors must make an individual decision based on the “preponderance of the evidence,” or “more true than not” standard. The role of judges in this process is limited only by the definition of the relevant legislation and in case of determining violation by the jurors, by imposing relevant liability within the framework of the law.

In this way, the judges will be released from the obligation to study the case materials and the factual circumstances, which will relieve them of their time in the course of additional judicial activities. In addition, the involvement of citizens in the administration of justice will increase, which, in turn, will help to increase the degree of public trust towards the judiciary.