

Court and Legal Reporting Handbook for Journalists

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A L P E

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Introduction

A modern, democratic and equitable society needs a legal system that is not only respected and accepted, but one that is also transparent and fair. Journalists can help achieve and maintain such a system by reporting on the law and the courts. By reporting how the system works, and when it does and doesn't, journalists can help the public understand the system of justice, can instill respect for the law, and can expose problems with or efforts to resist the legal reforms necessary to create a rule of law.

This guide outlines the principal features of the Georgian legal system and offers ideas on how to make interesting stories from the legal process. It also deals with problems and challenges unique to legal reporting. Details in this guide are correct at the time it went to press, but since legal reform in Georgia continues, reporters using this guide should check information on the current situation with competent lawyers. This guide is intended to help journalists in Georgia craft accurate and interesting legal stories for the general public, and thus to help Georgians understand the judicial system.

The back of this handbook lists useful contacts and websites, an assessment of the judicial system and judicial reform in Georgia, explanations of different types of legal documents, an outline of the main areas of law and a glossary of terms.

SECTION 1. THE GEORGIAN JUDICIAL SYSTEM

Preface

The Georgian Constitution defines three branches of power in the country: Legislative, Executive and Judicial.

- Legislative refers to Parliament, which is responsible for the adoption of laws
- Executive refers to the President and the State Chancellery, which is responsible for the execution of laws adopted by Parliament
- Judicial refers to the General Courts and the Constitutional Court, which supervises all other branches of power to prevent violations of the law and to ensure its application

Georgia, like most mainland European countries, is part of the Continental (statute) Law system. That means there are written codes for different legal areas such as: civil code, criminal code, administrative law and applicable procedural codes.

Article 6 of the European Convention on Human Rights, to which Georgia is a signatory, states:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

The structure of judicial power in Georgia is defined and outlined in the Constitution adopted by Parliament in 1995. Chapter Five of the Constitution deals specifically and solely with judicial power. It identifies all the judicial bodies that implement justice in the country (the constitutional court, courts of general jurisdiction and military courts within the system of the courts of general justice in time of war). Under the Constitution, the Public Prosecutor's Office is a body of judicial power and its authority, competence and some procedural rules are defined in the relevant paragraphs of Chapter Five.

In order to guarantee human rights and uphold the rule of law, the Constitution prohibits the establishment of *ad hoc* courts. It also lays down some general principles:

The independence and inviolability of judicial power

The independence, immunity and security of judges

Transparency of court proceedings

The authority and competence of the Constitutional Court and the rules governing its establishment

The authority and competence of the Supreme Court and the rules governing its establishment

1. The Constitutional Court

The Constitutional Court was established to ensure observance and implementation of the Constitution. It is the supreme body of constitutional control. The Constitution determines the composition of the Constitutional Court: nine judges, each with a 10-year term of office. Three are appointed by the President of Georgia, three are elected by Parliament with a quorum of no less than three fifths of all MPs, and three are appointed by the Supreme Court of Georgia.

According to the Constitution, the Constitutional Court has remit in the following areas:

To ensure that normative acts¹ of legislation and the actions of the President (and of the supreme bodies of power in Abkhazia and Adjara) comply with the Constitution

Lawsuits related to the competence of state bodies

The creation and constitutionality of citizens' political associations

Constitutionality of referenda and elections

Constitutionality of international treaties and agreements

Constitutionality of normative acts on the basis of applications filed by citizens related to Chapter Two of the Constitution

The Constitutional Court fulfils other functions defined by the Constitution and Organic Law.

The Constitutional Court considers a case if an application has been filed by any citizen, the President, no less than one fifth of MPs, any court, representative bodies of Abkhazia or Adjara, or the Public Defender. A decision by the Constitutional Court is final and the normative act or a part of it that is considered unconstitutional loses its legal force once the decision has been made public. The Organic Law on the Constitutional Court provides for its authority, the rules of its creation and activities.

¹ A Normative Act is a legal act issued by the official State Body that has the right by law to issue such an act which defines obligatory rules of behaviour in perpetuity.

2. The Courts of General Jurisdiction

General Courts are governed by the Constitution and the Organic Law “On General Courts” adopted by Parliament in 1998.

All issues connected with property lawsuits, the redress of moral or material damage, the registration of commercial and non-commercial legal entities², the establishment of legal facts, and the observance of other civil rights are within the competence of the Courts of General Jurisdiction. They also consider criminal cases and administrative grievances.

The General Courts in Georgia are:

The Supreme Court

District Courts

Regional (City) Courts

The High Courts of Abkhazia and Adjara

These courts hear cases which are divided into three categories:

Administrative — cases in which any state body is involved as one of the parties.

Civil — disputes between citizens over ownership or any other dispute between citizens covered by the Civil Code

Criminal — cases involving violations of the law punishable by the state under Criminal legislation

The courts are divided into three instances:

I instance:

Regional City Courts

The Collegium³ of District Courts in Tbilisi and Kutaisi and the Collegium of the High Courts of Adjara and Abkhazia

² Foundations are exempted from this form of registration and must register with the Ministry of Justice

³ Collegium – a sitting of three judges of the first instance making a joint and/or majority decision in a case

The Criminal Collegium of the Supreme Court

II instance – Appeal:

The Appeal Chambers⁴ of Tbilisi and Kutaisi District Courts

The Appeal Chambers of the High Courts of Adjara and Abkhazia

III instance – Court of Cassation:

The Cassation Chambers of the Supreme Court of Georgia and the Grand Chamber are courts of the final instance

I. The Supreme Court of Georgia

The Supreme Court of Georgia is the highest judicial body in Georgia. It supervises the execution of justice in all the general courts of Georgia. Its Chairman is nominated by the President and elected by Parliament for a 10-year term. Judges of the Supreme Court are also nominated by the President and elected by Parliament for 10-year terms. There are 30 judges in the Supreme Court at present.

In the Supreme Court there are three Chambers of Cassation and a Collegium of Criminal Law.

The Chambers are:

The Chamber of Civil, Entrepreneurship and Bankruptcy Cases

The Chamber of Criminal Cases

The Chamber of Administrative and Other Categories of Cases

The chairmen of the chambers and the collegium are also deputies of the Chairman of the Supreme Court. Since 2001 a Grand Chamber has been operating within the Supreme Court. It consists of the Chairman of the Supreme Court, the Chairman of the Collegium and at least 12 other judges from the chambers elected by the Plenum.

Cases are heard by nine judges and are considered if:

⁴ Chamber – a sitting of three judges of the appeal or cassation chamber making a joint and/or majority decision in a case

Consideration and settlement of the case is of utmost importance for the establishment of judicial practice;

Due to the complexity of the case, a new definition of a legal norm is required; The case concerns a unique legal issue.

The Chairman of the Supreme Court chairs the sittings of this Chamber or delegates this authority to a chairman of one of the chambers of cassation. Chambers of the Supreme Court, composed of three members, consider complaints relating to decisions of the Courts of Appeal and those of the High Courts of the autonomous republics.

The Collegium of Criminal Cases, within the Supreme Court, considers in the first instance only grave criminal cases such as terrorism, assassination of a senior official, etc. Decisions by the Supreme Court are public and are available in special publications.

The Plenum of the Supreme Court

The Plenum works within the Supreme Court. It consists of the Chairman of the Supreme Court, his/her deputies, the Chairmen of the High Courts of Abkhazia and Adjara, and all the judges of the Supreme Court.

It appoints the members of the Constitutional Court and one member of the Council of Justice; elects the Chairman and members of the Collegiums and the Chambers of the Supreme Court upon the recommendation of the Chairman of the Supreme Court; and under Articles 64-65 of the Constitution it has the power to impeach both the President of Georgia and the Chairman of the Supreme Court. It receives the reports of the Chairman of the Collegium and those of the Chambers, and their proposals on improving the work of the Board and Chambers. It is responsible for the official publication of the Supreme Court, appointing its editor and the board of editors. It establishes scientific-consultative councils of the Supreme Court, confirms their composition and elaborates on and publishes their recommendations in order to introduce uniform practice in applying the law.

Similar to the Constitutional Court, there is a separate Organic Law “On the Supreme Court of Georgia”, which provides for its authority, rules of creation and activities.

II. District Courts

There are two District Courts in Georgia: in Kutaisi and Tbilisi. The District Court, like the Regional one, is a court of the first instance, where cases are considered by three judges.

Within the District Courts there is:

A Collegium of Criminal Cases

A Collegium of Civil and Bankruptcy Cases

A Collegium of Administrative Justice and Taxation

District Courts consider the following:

Lawsuits related to intellectual property

Lawsuits which exceed 500,000 Laris

Administrative cases. But unlike Regional Courts, District Courts can discuss the legitimacy of presidential orders or other acts, and can determine whether acts of the supreme state bodies and of Presidential appointees are in keeping with legislation. Acts of the autonomous republics can also be scrutinised. It is also the competence of the District Court to consider cases on issuing, revoking or denial of licenses and criminal cases of certain categories provided for by law.

Special Chambers of Appeal have been created within the District Courts. These chambers are II Instance Courts. They consider appeals from the Regional (City) Courts. There are three chambers for criminal cases, civil and bankruptcy cases and administrative law and taxation cases.

III. Regional (City) Courts

Regional (City) Courts are the lowest level of general courts. Cases are considered by one judge. Regional (City) Courts function in those towns that are not divided into administrative units and in districts of larger towns and cities. There are 75 Regional (City) Courts.

They consider:

Disputes between citizens, citizens and legal entities, and legal entities involving civil, family, labour, land, natural resources and environmental issues

Cases about disputes between public and religious organisations

Cases not involving disputes

Cases arising from international treaties or where foreign citizens, stateless persons, enterprises or organisations are involved

Criminal cases which come under the Criminal Code of Georgia (excluding those crimes which fall under the competence of the Supreme Court of Georgia, the High Courts of the Autonomous Republics of Abkhazia and Adjara and the District Courts of Kutaisi and Tbilisi)

Cases of administrative law

Other categories of cases, as outlined by the law

IV. The High Courts of Abkhazia and Adjara

The Autonomous Republics of Adjara and Abkhazia have their own High Courts. These High Courts have collegiums and chambers.

The Collegiums are:

Collegium of Criminal Cases

Collegium for Civil Cases and Bankruptcy

Collegium of Administrative Law and Taxation Issues

The Chambers are:

Appeal Chamber for Criminal Cases

Appeal Chamber for Civil and Bankruptcy Cases

Appeal Chamber for Administrative Law and Taxation Issues

The collegiums of the High Courts of Abkhazia and Adjara, like District Courts, consider cases in the first instance, while the chambers, in accordance with the rules of appeal, consider appeals on the verdicts of Regional (City) Courts.

3. Judge and Court Staff

I. Judge

According to the Georgian Constitution and the Organic Law “On General Cases”, anyone who is 30 years old or more, who has a university law degree and a good command of the national language, and who has passed the judges’ qualification exam can be appointed as a judge. The qualification exam consists of three stages: multiple-choice, written composition and an oral test. The Council of Justice of Georgia conducts all three stages, in accordance with a programme approved by the President of Georgia. An exception to this qualification procedure is made in regard to Supreme Court Judges, who may also be selected from amongst prominent academics or distinguished legal experts. The appointment of a judge (except for a Supreme Court Judge) is made by the President for no less than a 10-year term following nomination by the Council of Justice.

The Law on General Courts defines that all Judges prior to commencing their duties should sit a two month training course in the Judicial Training Centre⁵ according to a training programme devised by the Council of Justice. Judges who have at least one year’s experience working as a judge are exempt from this rule.

The Constitution forbids a judge from holding other posts, being a member of a political party or participating in political activity. The Constitution guarantees the independence and inviolability of a judge and the security of his/her family. The prosecution, detention or arrest of a judge or the search of his/her apartment, workplace or him/her personally is prohibited without the permission of the Chairman of the Supreme Court.

Competence of Judges

There are no fields of specialisation for judges in Regional (City) Courts. Every judge considers civil, administrative and criminal cases. In the Supreme Court and in collegiums and chambers of District Courts, judges are differentiated by fields of specialisation. Criminal, civil and administrative cases are considered by judges with experience in each specific area. There are 388 judicial positions in Georgia.

⁵ The Judicial Training centre is a non -governmental organization established to provide and conduct training courses for Judges, Judge’s assistants, court secretaries and other court staff.

II. Court Employees

Judge's Assistant

The Organic Law “On General Courts”, adopted in 1997, instituted a new post in the national court system, a Judge's Assistant. The assistant meets citizens and receives their applications, prepares cases for court consideration and does other work related to cases as instructed by the judge. The criteria for the position of judge's assistant are; he/she must have legal education and undergo a three-month training course in the Judicial Training Centre and/or have one year of experience of working as a judge, investigator, prosecutor or lawyer. An amendment to the law introduced on May 28, 1999 has obliged all judges' assistants who were appointed to the position without having completed the special training course to pass the exam within a year, or face dismissal.

The chairman of the court⁶ appoints and dismisses a judge's assistant on the recommendation of the judge.

Clerk of the Court

Clerks of the Court play an important role in court routine. Cases may not be considered by the court without their participation. The Clerks keep minutes of the proceedings, prepare materials for pending cases and, together with the judge, act as a signatory on decisions. Generally, each judge is attended by a Clerk of the Court. They are appointed and dismissed by the chairman of the court. Those selected for the position either have passed a special training course at the Judicial Training Centre or have at least a year's experience of working as a Clerk of the Court. All functions and procedures connected with Clerks of the Court are regulated by the organic law “On General Courts”.

The Staff of the Supreme Court

The composition and functions of the Supreme Court staff are the same as those of other courts. The only difference is that Supreme Court staff also analyzes and elaborates court practice and statistical data. The statutes of the staff sections and subsections are approved by the Chairman of the Supreme Court of Georgia. Staff work is managed by the head of staff, who is appointed by the Chairman of the Supreme Court.

⁶ The Chairman of the Court is appointed by President from among the Judges of the court for a five year term. The Chairman hears cases, manages staff, nominates and dismisses staff members, distributes cases among judges, receives citizens and complaints etc.

4. Disciplinary Procedures for the Judges of General Courts and the Disciplinary Council

I. Disciplinary Procedures for Judges

The main features of the disciplinary responsibility, the types of disciplinary penalties and the rules for imposing disciplinary sanctions on judges are outlined in the law “On disciplinary responsibility of judges of general courts and disciplinary legal proceedings”, adopted in 2000. Under this law, the following bodies are entitled to bring disciplinary procedures against judges:

The Chairman of the Supreme Court against any judge of general courts
The Chairmen of the High Courts of Abkhazia and Adjara against judges of the High Courts of Abkhazia and Adjara, and Regional (City) Court judges within their territory

The Chairmen of Tbilisi and Kutaisi District Courts against Tbilisi and Kutaisi District Court judges respectively, or the judges of Regional (City) Courts

In certain cases provided for by the legislation, disciplinary sanctions may be imposed by the Council of Justice of Georgia against any judge of the general courts (excluding the Supreme Court)

The Councils of Justice of Abkhazia and Adjara against judges of the High Courts of Abkhazia and Adjara respectively and judges of Regional (City) Courts within their jurisdiction.

Disciplinary procedures commence following a complaint or an application to the appropriate body as listed above by any individual (but not anonymously); a report by another judge or a court employee alleging disciplinary abuse; notification from a higher instance court of a gross violation of law by a judge in relation to a pending case; an allegation made by the head of an investigative agency, an investigator or a prosecutor; an allegation made by another judge or court of a disciplinary abuse by the judge in question; media allegations of disciplinary abuse or a petition of the Disciplinary Collegium.

In such a situation an officer or a body with the authority to bring a disciplinary procedure shall conduct a preliminary investigation of the allegations. Within two weeks a decision must be made either to proceed with an inquiry or dismiss the charges.

If the decision is to proceed, a disciplinary committee is established consisting

of three members. If the decision to proceed is made by the Council of Justice, then the committee is composed of a member of the Council of Justice, a judge and an employee of the Council of Justice. If the decision is made by the court, two judges and a staff employee are assigned to the committee. The committees must complete the inquiry within a month. The result issued by the committee is considered by the body which initiated the disciplinary procedure. Notably if the Council of Justice initiates the procedure then by law the President of Georgia is not allowed to participate in the deliberation process. If a decision is made to discipline a judge, the file is sent to the judges' disciplinary council to be considered within three days.

II. Disciplinary Council

Disciplinary files are considered by the Disciplinary Council of the General Courts of Georgia and the Disciplinary Councils of the Autonomous Republics of Abkhazia and Adjara.

The Disciplinary Council of the General Courts of Georgia is composed of 12 members. Eight members - three Supreme Court judges, two Supreme Court judges from each of the autonomous republics, one judge from both Tbilisi and Kutaisi District Courts and a Regional (City) Court judge - are elected by the Conference of Judges of Georgia. The four other members are elected by the Conference of Judges by a simple majority of votes from a list of eight candidates nominated by the Council of Justice of Georgia.

The Disciplinary Councils of the Autonomous Republics of Abkhazia and Adjara are composed of nine members. Six – of whom half are judges of the High Courts of Abkhazia and Adjara respectively and the remaining three are judges of Regional (City) courts acting in the territory of the autonomous republics. They are elected by the Conference of Judges of General Courts of the autonomous republics by simple majority from a list of six candidates nominated by their respective Councils of Justice.

Each Disciplinary Council has a chairman. Each one also has a chamber of three members which makes the final decision in a disciplinary case. A decision by the chamber may be challenged solely by the Disciplinary Council itself. All the procedural actions, rights and duties of the parties, the rules establishing the board and other procedural aspects are specified by law.

If there is any question of criminal activity, then the disciplinary case file is sent to a criminal prosecution agency. All materials of a disciplinary case are confidential.

5. Self-Regulation and Governing Bodies of Judges

I. Conference of Judges

New legislation provides for a judicial self-governing body. This Conference of Judges, involving all judges of Georgia (except Constitutional Court Judges), is convened once every six months.

The Conference acts under a charter submitted by the Council of Justice and approved by the Conference. The organisational structure of the Conference is as follows:

The Administrative Committee, which is composed of nine judges elected by the Conference, exercises decision-making power and is authorized to analyse administrative acts for the courts of general jurisdiction. The acts are submitted to the Conference of Judges for approval. The Administrative Council is chaired by the Chairman of the Supreme Court of Georgia

The Coordination Council, which is composed of managing judges appointed by the Administrative Committee and other judges elected by the Conference for five-year terms, is responsible for promoting and administering policy in the general courts

The Disciplinary Council - its composition, authority and procedures are regulated by a separate law

The Conference of Judges receives annual reports from the chairmen of the Coordination Council, Disciplinary Committee and Department of Logistics on the functioning of these bodies. The Conference may apply to the Chairman of the Supreme Court of Georgia to have the Chairman of the Department of Logistics removed from his post. The Conference adopted the Judicial Code of Ethics in June 2001.

II. The Association of Judges of Georgia

The Association of Judges of Georgia was formed as a professional unit in 1999 by a group of judges. Almost all judges of Georgia are members of the association. The Association is an NGO and aims to represent the interests of judges, and to guarantee the security, independence and sustainability of the judge's position. The Association publishes a monthly newsletter; organizes conferences and meetings on diverse topics such as the rights of judges, different legal issues and improving legislation in different judicial areas; and elaborates proposals for legislative changes.

6. Council of Justice of Georgia

The Council of Justice, composed of 12 members, is an advisory body to the President of Georgia. It works out proposals for implementing judicial reform, selects and nominates candidates for judicial posts, organises qualifying exams and fulfills other tasks designated by the law. The Council is composed of four members appointed by the President of Georgia and four appointed by Parliament (only two of whom can be representatives of the parliamentary majority.) The Chairmen of the Supreme Court of Georgia and the High Courts of Abkhazia and Adjara are *ex officio* members. One member is appointed by the Supreme Court of Georgia.

Any citizen of Georgia, unless a Member of Parliament, may be on the Council. One only needs to be twenty-five or more and have a university degree in law. Tenures last for three years and may only be renewed once.

Members must not hold any other position in the public service or any self-governing body, or be engaged in any other activity for which he/she is paid, with the exception of pedagogical, scientific or creative work. Salaries paid to a member of the Council of Justice may not be less than those paid to a Member of Parliament.

Sessions of the Council of Justice are chaired by the President of Georgia, or, if assigned by the President, by the Chairman of the Supreme Court of Georgia.

The functions of the Council of Justice are as follows:

- To propose judicial candidates to the President of Georgia

- To submit a list of qualifying-exam board members to the President of Georgia

- To define the specialisations for Regional (City) Court judges

- To draw up, and submit to the President of Georgia for approval, a list of positions of the general courts (excluding the Supreme Court of Georgia) based upon proposals made by the Department of Logistics

- To analyse judicial statistical data

- Where provided for by legislation, to initiate disciplinary procedures against judges of the general courts (excluding the judges of the Supreme Court of Georgia)

- To receive the annual report of the Chairman of the Department of Logistics
- To submit a list of judges entitled to incentives under legislation to the President of Georgia
- To work out proposals on issues related to judicial reform for the President of Georgia
- To discharge other duties specified by law

The procedures and functions of the Council's staff are designated by the President of Georgia. The staff is managed by the secretary of the Council of Justice who is appointed by the President of Georgia for a three-year term. He/she is selected from the Council of Justice (though not the Minister of Justice or a Member of Parliament). He/she provides organisational and technical support to the Council of Justice, prepares Council sessions, signs documents within the scope of his/her competence and fulfills other duties designated by legislation.

Adjara and Abkhazia have their own Councils of Justice, which fulfill similar functions.

7. Department of Logistics of the General Courts

Operating within the Supreme Court of Georgia, this agency, created by the organic law “On General Courts”, manages the logistics for the general courts. Its chairman is appointed by the Chairman of the Supreme Court on the recommendation of the Council of Justice of Georgia. The Department’s functions are:

To command funds assigned for the provision and logistics of the courts

To provide buildings and facilities for the courts

To provide courts with relevant normative acts and other materials necessary for their functioning

To check court spending on materials

To provide other forms of logistical support to the courts

The Department is accountable to the Chairman of the Supreme Court of Georgia, the Conference of Judges of Georgia and the Council of Justice of Georgia.

8. Public Prosecutor's Office of Georgia

Under the Constitution, the Prosecutor's Office of Georgia is an organ of judicial power. The Prosecutor's Office initiates criminal prosecutions, supervises the investigatory agencies and the execution of sentences. During court proceedings, the Prosecutor's Office acts as the state prosecutor. The head of the Prosecutor's Office, the Prosecutor General, is proposed and nominated by the President and is appointed by Parliament. He serves a five year term. He appoints the lower level prosecutors. The law provides for qualification exams for prosecutors, which are conducted by the Council of Justice.

The examination rules, the competence and authority of the Prosecutor's Office and its organisational structure and procedures are designated by the organic law "On the Prosecutor's Office".

9. Ombudsman

The Public Defender (Ombudsman) is elected by Parliament for a five-year term. He is responsible for protecting human rights and freedoms and has a right to initiate proceedings in the Constitutional Court.

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10. Legal Information

According to the Law on Normative Acts, laws enter into force after their official publication in the Official Gazette by the Ministry of Justice. The Constitutional Court publishes Legal information (articles, cases, laws) in its journal, "Man and Constitution". Some information is also available on the web sites of the Constitutional Court, the Parliament and some other organisations. The Supreme Court also now publishes its decisions in special edition "Decisions of the Supreme Court".

11. Private Arbitration

The 1997 Law of Private Arbitration established procedures for private arbitration. Private arbitration allows for an alternative way to settle disputes. However, the current legal framework for arbitration grants the courts significant powers to control the process to an extent greater than in many other countries.

For example:

Courts can appoint arbiters at the request of a party (Article 11.2);

They can assist the process of discovery (Articles 21, 23 and 32);

Arbitration awards can be appealed on certain grounds in front of the courts (Article 43).

Most importantly, the enforcement of arbitration awards can be stopped by a district court if an award can lead to irremediable damage to either party (Article 44).

Currently, there are five arbitration institutions in Georgia. Among these are the courts of the American Chamber of Commerce and the International Chamber of Commerce in Georgia. Few cases have been taken to arbitration in Georgia, which contrasts with the situation internationally.

By virtue of its membership in the World Trade Organisation, Georgia is subject to WTO rules and procedures on the settlement of international investment disputes and intellectual property disputes in the designated international bodies.

12. Enforcement Agencies

Enforcement Service of the Ministry of Justice of Georgia

Procedures to enforce decisions made by courts of general jurisdiction (in criminal, civil and administrative cases) are regulated by the law “On Enforcement Procedures” passed in 1999. Under this law, enforcement procedures are implemented by the Department of Enforcement, which is a structural unit within the Ministry of Justice of Georgia, and the enforcement bodies of Adjara and Abkhazia. There is also an Enforcement Police Division which is authorised to use force, within the limits specified by law, in the course of executing a decision.

Bailiffs (civil)

Bailiffs are responsible for executing the decisions of the courts. The system was reorganised in January 2001. The Department for Judicial Enforcement of the Ministry of Justice has taken responsibility for managing the bailiffs’ service. Prior to that, the service was managed through a state-owned company. The regional branch network is also being transformed and large-scale regional structures are being created. There are 12 regional offices across the country.

Prison Service (criminal)

The organisation and functioning of the system is regulated by the 1999 Law on Imprisonment.

When the prisons’ administration was handed over from the Ministry of Interior to the Ministry of Justice, the Interior Ministry retained the prison security unit. The Ministry of Justice had to recruit new guards. These guards had no security background and had to be trained.

At present, guards are not subject to military discipline but have the status of civil servants.

13. Organs of Inquiry and Investigation

Division of competence

The Criminal Procedure Code distinguishes between 'inquiry' and 'investigation' as first stages of the criminal process. Inquiry can be conducted by units in the Ministry of Interior, Ministry of Security, Border Control Units, Customs, tax organs and other administrative divisions that might be notified of an alleged crime. General investigation is within the primary competence of the Ministry of Interior. Specific cases, however, can be investigated by the Procuracy (military and crimes involving positions of office) and the Ministry of Security. By law, all these investigators have equal powers. The Ministries of Interior and Security are in charge of the preliminary investigation of crimes.

Liability and control

Organisations involved in an inquiry or investigation are subject to criminal liability for violations that result in the imprisonment of innocent people. In other cases, disciplinary measures are applied according to the Procedure Code. The Procuracy has general supervisory powers over the investigation and inquiries and can remove investigators from the case. Where there are procedural violations, the materials are reviewed by the court, which can impose a fine on the inquirer/investigator.

Procuracy

Despite the constitutional position of the Prosecutor General within the judicial branch, he sits in cabinet meetings and de facto is not independent from the Executive.

Organisational details of the Procuracy are provided for by the 1997 Law on Procuracy.

- **Functions:**

- Prosecution in criminal proceedings

- Procedural guidance of criminal investigation

- In certain cases, conduct of preliminary investigation

- Supervision of penitentiary system and places of detention

- Co-ordination of anti-crime measures

- **Organisation**

- General Prosecutor's Office of Georgia

- Main Military Prosecutor's Office and Main Transport Prosecutor's Office

- Prosecutor's Offices of Adjara and Abkhazia

- Tbilisi Prosecutor's Office and Circuit Offices

- Regional Military and Transport Prosecutor's Offices

- District Prosecutors

- Prosecutors in charge of penitentiary system

- **Control and supervision:**

- Parliamentary control through questions to the Prosecutor General

- Presidential control: periodical reporting by the Prosecutor

- Financial supervision by the Control Chamber of Georgia

- The same forms of liability stated above for the investigators and inquirers apply to the prosecutors.

- **Appointment and training of prosecutors**

- The Law provides for a system of qualification exams under a programme of the Council of Justice that was to be introduced by 1 January 2001, but no exams have been organised as of mid-2002.

14. Mechanisms for Protection of Rights and Interests

An individual wishing to protect his or her rights or enforce obligations has a number of options:

I. Start judicial proceedings.

According to Art. 42.1 K, every citizen has the right to seek judicial protection of a right they consider to have been violated. Various factors can affect whether someone will actually go to court:

Availability and cost of competent legal representation

Legal representation is completely liberalised. Anyone can appear and plead in court without the need for special qualification and/or licensing as long as they prove a connection to the interested party. A Law on Advocates was passed in 2001. Training for advocates is currently in progress, which will end with a qualification exam. Those who have passed will become members of the bar. Free legal aid is provided by a number of organisations throughout the country. For contacts, see list at back of this guide.

Legal information.

Adequate and up-to-date legal information is not easily or readily available to the general public.

II. Petition the Ombudsman in cases of human rights violations.

As of 2002 the Ombudsman has exercised his/her right to file petitions to the Constitutional Court only twice: regarding the unconstitutionality of certain provisions of the Labour Code and the Law on Elections.

III. File an individual petition to the Constitutional Court.

The cost of this route is low, but proceedings take a long time. According to the data provided by the Constitutional Court, 90% of all constitutional complaints, since the establishment of the Court in 1996, have been filed by citizens regarding human-rights issues.

IV. Ask for the initiation of disciplinary proceedings.

See previous sections.

V. Oral complaint or during ‘public access/reception’ hours in the Council of Justice and other institutions.

As of 2000, permanent members of the Council of Justice have office hours during which citizens can raise disciplinary as well as judicial issues.

VI. Initiate administrative proceedings

The General Administrative Code sets the procedures that members of administrative agencies are supposed to follow, and the standards they are supposed to meet. But because of the constitutional division of powers, the Code doesn't apply to Parliament, the Ombudsman or the Judiciary. It also doesn't apply to the Ministry of Interior or the Ministry of Justice with regard to their conduct of criminal proceedings, investigations, or the enforcement of valid court judgments.

According to the General Administrative Code, an interested party may file a complaint against a decree issued by an administrative agency and start administrative proceedings (Chapter 13). The Code also prescribes that damages inflicted by a state administrative agency in the course of executing its duties are to be redressed by the State following the rules of the Civil Code (Chapter 14). The acts of the administration are also subject to judicial control.

VII. Petition a Member of Parliament.

Constitutionally, an MP can use his/her right to question members of the government. A group of MPs (one fifth) can also challenge the constitutionality of certain legal provisions in front of the Constitutional Court.

VIII. Inform representatives of the mass media.

Chapter Three of the General Administrative Code (the Freedom of Information Act) provides for the disclosure of public information by administrative agencies. Despite the still unclear limits to ‘public information’, journalists have used

the Code to gain many different types of information, exert pressure and contribute to the development of standards of openness and enhanced accountability.

The broadcast media are regulated by an Independent Regulatory Commission for Communication, appointed by Parliament. The head of the Commission is like a Minister for Information. The Commission is in charge of licensing and potentially is able to define schedules, content and other broadcasting requirements. The heads of the state-run media are appointed by the President. According to the Criminal Code, media representatives, like anyone else, can be held criminally responsible for defamation and libel.

IX. Alert representatives of local NGOs

Various NGOs have been active in trying to raise civic and anti-corruption awareness. For NGOs see list at back of handbook.

X. Petition the European Court of Human Rights or International Court of Human Rights

Georgia joined the Council of Europe in April, 1999, and had its judge appointed to the Court of Human Rights in June the same year. As a member of the Council, it is subject to rulings of the European and International Courts of Human Rights. This route is potentially powerful as it overcomes domestic resistance and might lead to international pressure. It is, however, difficult to pursue in terms of cost and legal information.

XI. Petition Amnesty International and other international organisations

Many organisations are concerned with human rights violations internationally. See website addresses at back of handbook.

15. List of Normative Acts related to the Judiciary Adopted by Parliament

1. Concerning the Constitutional Court of Georgia – 1996
2. Concerning Constitutional Legal Proceedings – 1996
3. Concerning Social Security Guarantees of Members
of the Supreme Court of Georgia – 1996
4. Concerning Social Security Guarantees of Members
of the Constitutional Court of Georgia – 1996
5. Concerning Salary of Members
of the Supreme Court of Georgia – 1996
6. Concerning Salary of Members
of the Constitutional Court of Georgia – 1996
7. Concerning General Courts – 1997
8. Concerning the Supreme Court of Georgia – 1999
9. Concerning the Disciplinary Responsibilities
of Judges of General Courts
and Disciplinary Legal Proceedings – 2000

SECTION 2. WRITING LEGAL STORIES

In a democratic society, the rule of law is paramount, and is the ultimate arbiter of all disputes. In Western Europe and North America, the law reaches into every aspect of society, from business, insurance, home-ownership, education and medicine to family matters and sport. Because of this, it has become one of the main sources of news stories. On any normal day, most newspapers will have up to a dozen law-based stories – apart from any dedicated legal pages. This is increasingly the way Georgian society will move too, so journalists here will need to be able to cover legal stories properly if they want to write about the changes in their society.

The main challenges Georgian journalists face in covering legal stories can be listed as follows:

1. The law can sometimes seem a boring subject; it is often very technical and written in unfamiliar language. Most journalists who cover legal issues are not qualified lawyers.
2. In developing democracies, solving problems through law is not very common and legal rights are not well known. In most post-Soviet countries there is a cynical attitude to law which leads to “informal” justice – a powerful alternative to the rule of law.
3. Given the first two challenges, the law may not appear a very attractive subject for the public. So it may be difficult to persuade your editor to run these stories.

How do we overcome these challenges – and even turn them to our advantage?

Let's take the **first** problem, the technical aspect of the law, its unfamiliar language and little – known concepts. Don't be dismayed by this; as we said, few journalists have any formal legal training. Your job is to ask the right questions and translate the answers into ordinary language. Remember that you are asking these questions on behalf of your audience – and they are not legal experts either!

What you do need is to familiarise yourself with the operation of the courts; while there you can begin to seek out sympathetic lawyers – and court staff - who will help you understand the legal details. Court archives can be a valuable source of stories, as you will not be able to attend all the interesting court hearings yourself. Developing a system of contacts is essential. As in any field of journalism, you need to develop contacts, to “cultivate” people who can lead you to stories or help you develop them. In the legal field this is particularly important, since a mistake can land you in trouble and even bring you or your editor before the courts! Different organisations operating in Georgia might be a good place to start this quest for contacts – see “Useful Addresses” at the back of the Handbook.

Remember that a busy lawyer may not want to talk to an absolute beginner, but if you show an intelligent interest and a basic understanding, he or she will probably help. As private legal practices develop and competition increases, lawyers are likely to become more open to the press, as they learn that media exposure can help attract more clients.

The **second** challenge you face is that in Georgia people don’t know their legal rights very well and don’t see the law as central to their lives. But look at it from a different perspective: the media can be a powerful catalyst for change, and the more you cover legal issues or draw people’s attention to the legal angles of news stories, the greater awareness you will create of the role law has in society. This can help push people to solve their problems through courts and arbitration, and ultimately help establish the rule of law in Georgia.

You probably know the saying “There are no such things as problems, only opportunities” – in other words, it’s all a matter of perspective. In the case of transitional societies, people’s ignorance of the law actually provides you with a useful opportunity to give practical information. Your stories can serve to educate people about the law, and help them in the conduct of their lives.

The **third** challenge, making your stories interesting to the public – and your editor – is a matter of journalistic skill and practice. Below we will provide you with some tips you may find useful. You may think that journalists in the West have an easy life, with dedicated legal supplements, law pages, and a general acceptance that law is important to people’s lives. But in fact they still have to be creative and professional, to make their legal stories engaging to their read-

ers in a busy market, with lots of competing calls on people's time and attention. Moreover, they still have to deal with Problem Number 1 – that unless handled properly the law can seem technical and boring.

As well as these challenges, you'll find that it's sometimes difficult to actually gain access to information. Despite what the U.S. Supreme Court has said – “what transpires in the courtroom is public property...” – you may face legal obstacles in writing your story, and some even after you've written it.

For example, in other parts of the world, as in Georgia, many journalists face the challenges outlined below.

At the newsgathering stage, for instance, you might not be allowed to attend official proceedings or have access to documents because of national security considerations. If evidence is given by deposition in civil cases, you won't know what it is. Sometimes, official records will be sealed. Judges may also order lawyers, witnesses, *etc.* not to talk about the case outside the courtroom. In extreme situations, the police may even investigate you.

Pre-publication controls are also a problem for journalists. Judges may forbid the publication of evidence in criminal cases, in the pre-trial period and during the trial, where the evidence is part of the public record. They may also forbid you publishing potential evidence in criminal cases, if the evidence is not admitted in open court. There might be limitations on the content of advertisements or even on distribution of publications in particular places. You may be stopped too from using evidence, such as tape recordings, in broadcasts even after the recordings have been admitted in open court as evidence.

At the post-publication stage, you may receive a subpoena seeking to force you to reveal your sources for published or unpublished stories. The police may search your news organisation's files or even arrest you on criminal suspicion following publication of stories describing witnessed crime. Slander lawsuits, because of alleged remarks made during an interview, can also be a problem, as can threats of damage lawsuits for refusal to publish information, including advertisements. The authorities may also withdraw your credentials or other “access” documents.

A libel lawsuit – if defined in its narrowest meaning of “defamatory falsehoods”

– is an ever-present danger for journalists, which you can only avoid by diligence and care in collecting information. The Right to Privacy is not a serious problem for court reporters, as testimony given in open court is *ipso facto* public information. But you still need to take care when interpreting information because the manner of presentation could breach a person's right to privacy. If you write about purely private matters or present a person in "a false light", then you may have breached someone's right to privacy.

When you deal with your sources, essentially judges, lawyers and others associated with the judicial system, you'll find that it's not the same as dealing with ordinary sources in non-legal stories. You need to be aware of the different circumstances operating and react accordingly.

Lawyers, for instance, are often unwilling to discuss cases. This is because of the obvious need to protect their clients' privacy. Publicity can also hinder pre-trial negotiations. If, however, a lawyer is willing to speak to you, you should encourage him to use non-legal language so that misunderstandings will be avoided. The use of documents also helps in this respect.

You will also have to deal with court employees. Without their help, your job will be extremely difficult. Although public records are in theory open for inspection, you need the active cooperation of court aides to actually access them. For example, court clerks can provide information on such things as new case filings, names and addresses of lawyers, judges' schedules and assignments, and dates of hearings and trials. Judges' Assistants can be helpful too in explaining decisions. But you must be tactful when dealing with such people. They are "officers of the court", and as such, their loyalty is to the court and the presiding judge. Nothing can be taken for granted, and so you need to be on good terms with them. They owe you nothing and may only help you if you have established a good relationship.

Finally there remains the reporter's relationship with judges. They rarely give interviews or press conferences. At best, they may give some background information. Nevertheless, you must maintain a good working relationship as it invariably ensures cooperation from their subordinates. This is why you should be careful when reporting on judges themselves. You can and should investigate instances of conflicts of interest, but in doing so you run the risk of damaging an important professional relationship.

All of this may seem daunting, particularly if you don't have any formal legal education. Don't be put off though. In fact, not having such an education can be an advantage, as you'll be in a better position to see things from your readers' perspective. You'll see the law less as a narrow field, and more in its broader social, political and economic context, which is how it should be seen. You'll also better understand the need for simple, non-legal language. When reporting the law, simplicity should be your benchmark. Aim to explain legal complexities to an uninformed public. Simplicity means clarifying and explaining otherwise difficult concepts and rulings. If you have to use legal terminology, always assume your readers don't understand, and explain it

So what makes a good legal story?

Groundbreaking or prominent court cases that set a precedent, and will have a wide-ranging impact on society.

Under English law, great prominence is accorded to what is known as "precedent" – what happened in one court can be cited as an example of how to proceed in a similar case.

An example of such a story is the Los Angeles court ruling on March 21, 2002, that dog owners can be prosecuted for second-degree murder because of what their pets have done. Another example is the "Right to Die" case in the UK, also in March 2002, in which a judge ruled that a completely paralysed woman could order that her life support machine be turned off, leading inevitably to her death, despite her doctors' opposition.

Quirky or amusing court cases also make good stories, especially on the last pages of newspapers or as "... and finally" items in news bulletins.

An example of this is a story on the BBC TV London news of April 10, 2002. Two families went to court to decide who was the owner of a cat, which both families had been feeding. The legal expenses were hundreds of times higher than the cost of the cat! A more serious but still highly unusual case was reported in the English regional newspaper, "The Yorkshire Post" in 1999, in which a murderer was identified by the ear-prints he had left while listening at his victim's window. A Dutch expert proved that ear-prints were as distinctive as fingerprints, establishing another legal means of identification. The journalist who wrote the article won an award from the English legal profession for her work.

Developing a legal aspect or dimension of a story in the news. This is more suitable for a news feature, which emphasises the human or amusing aspects of a situation, rather than a straight news story, which emphasises the most recent and newsworthy developments.

An example from the UK press is a feature on the issue of life insurance for British soldiers going to Afghanistan, and insurance against kidnapping (prompted by the Daniel Pearl case – the American reporter for the Wall Street Journal who was kidnapped and murdered in Pakistan in early 2002). Try to examine the issues arising from a news report, and dig around behind the story. You may be surprised at what you find. In the example quoted, the reporter (from the Times Legal supplement of London) revealed that there is now a consulting industry developing around “kidnap response”, and interviewed one of its main players

Proposals for changes in legislation and legal practise that will have wide-ranging effects are also good stories.

For example, the proposed establishment of a bar association and bar exams in Georgia. This proposal, adopted by Parliament in 2001, requires all lawyers in Georgia to take legal examinations by 2003; those who don't pass will lose their right to practice. Many lawyers who only studied the laws under the old Soviet system now either have to go back to school or change professions. In transitional societies like Georgia, such media stories can help democratise society by encouraging discussion and familiarising the public with legal concepts.

Highlighting miscarriages of justice and correcting past injustices.

An example from the UK is the case of an educationally sub-normal man who spent 27 years in jail for a murder he didn't commit, because the defence lawyer was incompetent. His conviction was finally overturned in March 2002, after a tireless campaign by his local newspaper editor.

In Georgia, an example is the case publicised in January 2002 by Rustavi 2's Kurier Post Scriptum about the Kikodze family who won compensation from the Georgian first instance court for the wrongful Soviet-era confiscation of their property on Brothers Zubalashvili Street in Tbilisi.

Educational and informational stories. Educating the public about the legal system and their legal rights. Remember one useful definition of the role of a journalist:

“A journalist fulfils the public right to know by providing accurate, balanced information on which the public can make informed decisions”.

This definition places the journalist at the centre of a process of empowering people in society-which is particularly relevant in the legal sphere in Georgia today.

But you won't get anywhere if you start off bluntly, saying, “I'm going to educate you in this article/feature/programme”. This is where your creativity and imagination as a journalist comes in. In writing educational material, you are working essentially on features, without the topicality that justifies a news piece.

Of course there are standard ways of presenting educational material, like a Question and Answers column (“Your legal questions answered...”). But generally to attract the audience, you need to be more imaginative in the way you present your material. Legal cartoons and informational graphics can present information in an entertaining way. Another way to draw people's interest is by using celebrity stories to first attract people's attention and then educate them about their rights and other legal issues.

Humour also helps to enliven a subject such as the Law. There are a number of ways to do this. Perhaps the most obvious is to adopt a well-known phrase or saying to the purposes of the article. For example, an article on the perils of marrying abroad in The Times Law Supplement in October 2001 was headlined “For better for worse, Till law do us part.” This is a rewrite of the English marriage service where the original reads, “Till Death do us part”. You should, however, be very careful to avoid using humour inappropriately – anything that makes light of or might seem to make light of human suffering should be avoided.

In a series of educational radio programmes about law broadcast on Radio Russia (“Ready Steady, Law” or “Raz, dva, pravo”) the Foundation for Independent Broadcasting used a set of humorous sketches about the legal misadventures of the fairy tale character, Ivanushka, in modern Russia. They were followed up by a studio discussion with a legal expert.

Another journalistic technique to interest the audience is to bring in a human element to the law, and to personalise the judiciary or any of the other main actors involved in a case. An article about the somewhat academic sub-

ject of the legal rights of Al Qaida suspects at the American military base in Guantanamo Bay began with the words: “Judge Richard Goldstone is a worried man” (Guardian, 30 Jan 2002). The picture of the interviewee – a leading international human rights lawyer – and his profile – give a human dimension to a subject of extreme legal complexity. His own motivation in this case helps guide the reader through the various legal and ethical arguments.

The Times of London Law supplement runs a regular “Lawyer of the Week” feature, which looks at someone involved in a high profile case or an atypical figure in the legal profession. This sort of feature can be of particular use in the Georgian context with ongoing reform of the judiciary. By showing the “human face” of the reform (judges, lawyers and court workers), the journalist can inform and educate his audience in an engaging and non-didactic manner. At the same time, the journalist should avoid painting too rosy a picture, reminiscent of Soviet propaganda. He/she should not shirk from asking difficult and probing questions on behalf of the audience.

Some Georgian judges might be unused to this questioning and resentful of it. Remember, by law they do not have to explain their decisions. It may be worth pointing out to them that it has become western practice for even the highest judges to explain the law behind their decisions. This does not mean they are seeking to justify their actions, but merely helping people to understand the principles involved. This leads to more and better media coverage, and greater public understanding and acceptance of judicial decisions.

Success Stories: In the Georgian context, where negative perceptions of the legal system prevail, it’s a very good idea to publicise stories where ordinary people have successfully defended their legal rights. Examples can regularly be found in the legal supplement of Kviris Palitra, and Rustavi 2 Kurier Postscriptum. In February 2002 the latter ran a story about the successful application of a Tbilisi grocery store owner to limit the number of inspections by various official bodies. Eka Tsaria-Mekvabishvili used the new Law on the Control of Entrepreneurs to defend her rights. She told the court that the number of inspections always seemed to increase around Christmas! Such reporting will help change persistent cynicism and build trust in the rule of law.

CHAPTER 3. APPENDICES

APPENDIX 1. USEFUL LEGAL CONTACTS

ALPE – 14, Ingorokva street

ABA – 39C, Chavchavadze Ave.

GYLA – 21, Avlevi Street

Liberty Institute

– 23, Griboedov street

Union “Article 42”

– 6, Kostava street, 3rd floor

Constitutional Rights Centre

– 29, Marganishvili street, 2nd floor

Legal Clinic (Legal Department)

– 8th block, Tbilisi State University building

Legal Clinic (Dep. of International relations)

– 1st and 2nd buildings, University

Legal Clinic, Ministry of Justice

– 30, Rustaveli Ave.

Human Right Centre, Parliament

– 8, Rustaveli ave. (Parliament of Georgia)

Former Political Prisoners for Rights

– 40, Rustaveli Ave.

Caucasian Connections

– 41, Barnovi street

Human Rights Centre, State Security Council

– 7, Ingorokva Street, 8th floor

Supreme Court of Georgia

– 32, Zubalashvili street

Council of Justice of Georgia

– 80, Agmashenebeli Street

Ministry of Justice

– 30, Rustaveli Ave.

APPENDIX 2.
TABLE OF RELEVANT ACTS

● Constitution of Georgia	August	1995
● Law on the Constitutional Court	January	1996
● Law on Procedure in the Constitutional Court	March	1996
● Law on the Ombudsman	May	1996
● Law on Bankruptcy Proceedings	June	1996
● Law on Normative Acts	October	1996
● Law on Private Arbitration	April	1997
● Law on the Courts of General Jurisdiction	June	1997
● Civil Code	June	1997
● Law on the Prolongation of the Powers of Judges	June	1997
● Civil Procedural Code	November	1997
● Law on the Office of the Public Prosecutor	November	1997
● Law on Impeachment	November	1997
● Law on the Abolition of Capital Punishment	November	1997
● Criminal Procedural Code	February	1998
● Law on the Necessary Measures of Enactment of the Criminal Procedural and Civil Codes of Georgia	June	1998
● Law on Allocating Cases between General Courts Judges	June	1998
● Law on the Prolongation of Powers of the Supreme Court Judges	November	1998
● Law on the Supreme Court	May	1999
● General Administrative Code	June	1999
● Law on Imprisonment	July	1999
● Criminal Code	July	1999
● Administrative Procedural Code	July	1999
● Law on the Disciplinary Responsibility and the Discipline Jurisprudence of Judges	January	2000
● Law on Advocates	June	2001

APPENDIX 3.

TYPES OF DOCUMENTS IN COURT AND LEGAL PROCEDURES

I. Documents in Civil Procedures

1. Complaint
2. Khodataistvo
3. “Middle” decision (opredelenie).
4. Private complaint
5. Decision

II. Documents in Criminal Procedures

1. Accusing conclusion
2. Middle decision (opredelinie)
3. Order of a judge
4. Decision (prigovor)
5. Appeal complaint – on decisions of lower courts
6. Cassation complaint – on decisions of appeal court
7. Postanavlenie

Complaint

A document prepared by a party for commencing a court trial. By this document the party informs the court about a violation of his/her rights or other issue of argument. It is written on the name of the chairman of the 1st instance District Court in which the complainer resides.

Mediation made by party (Khodataistvo)

A document which is made by a party and has character of asking for expertise, for postponing a trial, etc. Mediation can be done during trials and on any kind of issue. The judge upholds the mediation or refuses to accept it.

“Middle” decision (Opredelenie)

Can be issued by a judge for different occasions, for example for starting a hearing, expertise, leaving a case without a final decision, adding a third party etc. With this document a judge responds to mediation, on private complaints etc.

Private complaint

Only if a party does not agree with a “middle” decision this type of complaint can be made.

Decision

The final document on a case made by a judge. A Decision can be appealed to an appeals court, and the decision of the appeals court itself can be appealed to the Supreme Court (Cassation).

Appeals are written in the same way as a first complaint (on the name of the chairman of the applying court) but indicate why and which parts of a previous decision is appealed.

APPENDIX 4. USEFUL WEBSITES:

European Court of Justice:

<http://www.curia.eu.int/en/>

European Court of Human Rights:

<http://www.echr.coe.int/>

International Court of Justice:

<http://www.icj-cij.org/icjwww/icj002.htm>

World Development Report 2002, Chapter 6: The Judicial System:

http://econ.worldbank.org/wdr/structured_doc.php?sp=2391&st=&sd=2394

Basic Principles on the Independence of the Judiciary, United Nations:

http://www.unhchr.ch/html/menu3/b/h_comp50.htm

Recommendation of the Council of Europe on the Independence, Efficiency and Role of Judges, 1994:

<http://www.coe.fr/cm/ta/rec/1994/94r12.htm>

Judges' Charter in Europe:

<http://juripole.u-nancy.fr/magistrature/aem/statut1197.htm>

FORMULATION OF INTERNATIONAL STANDARDS:

UN Covenant on Civil and Political Rights:

<http://www.hrweb.org/legal/cpr.html>

Council of Europe Convention on the Protection of Human Rights and Fundamental Freedoms:

<http://conventions.coe.int/Treaty/EN/CadreListeTraites.htm>

EU Procedural safeguards for suspects and defendants in criminal proceedings:

http://europe.eu.int/comm/justice_home/unit/penal/consult_paper_proc_safeguards_en.htm

Human Rights Watch:

<http://www.hrw.org/>

The journalist's toolbox:

http://www.geocities.com/mike_reilley_2000/newswriting/legal.html

Legal language: use of legal dictionaries:

<http://www.online-dictionary.net/law/>

<http://www.nolo.com/lawcenter/dictionary/wordindex.cfm>

<http://dictionary.law.com/>

<http://www.lawyers.com/lawyers-com/content/glossary/glossary.html>

<http://www.butterworths.com.au/legalwords/default.htm>

<http://august1.com/pubs/dict/index.shtml>

Accuracy in Legal Journalism Reporting Code:

<http://www.abota.org/archive/aljrc.html>

Specifics of media coverage of crime:

<http://members.ozemail.com.au/~dtebbutt/oj/ojmediacrime1.html>

Ethical issues:

Code of Ethics:

<http://www.alliance.org.au/hot/ethicscode.htm>

International Centre for Journalists:

<http://www.icfj.org>

<http://www.ijnet.org>

The Association for Legal and Public Education:

<http://www.samartali.ge>

APPENDIX 5. NORMATIVE ACTS

Constitution of Georgia

Article 19

1. Everyone shall have the right to freedom of speech, thought, conscience, religion and belief.
2. Persecution of an individual on the grounds of his speech, opinion, belief or religion, also compulsion to express opinions about them shall be impermissible.
3. The rights enumerated in this article may not be restricted unless their exercise infringes upon the rights of others.

Article 20

1. Everyone's private life, place of personal activity, personal record, correspondence, communications by telephone and by other technical means, also notifications received by the technical equipment shall be inviolable. Placing restriction on these rights shall be permissible only by a court order, or in case of a legally defined unavoidable emergency without a court decision.
2. No one shall be entitled to enter an apartment or other premise, or to conduct a search against the will of the residents, unless there is an appropriate court order or unavoidable necessity determined by law even if there is no court act.

APPENDIX 6.
ADMINISTRATIVE CODE OF GEORGIA

Chapter 3. Freedom of Information

Article 27. The definition of terms

The terms used in this Chapter have the following meanings within this Chapter:

- (a) “Public agency” means an administrative agency, or an artificial person of Private Law funded by the State or local government budget, but only within the scope of such funding.
- (b) “Corporate public agency” means a public agency that incorporates a governing or advisory board consisting of more than one person, and in which decisions are jointly made or prepared by more than one person.
- (c) “Member of a corporate public agency” means a public servant who participates in decision-making of a corporate public agency with the right to vote.
- (d) “Official” means the person indicated in Article 2 of the Law of Georgia on Conflict of Interests and Corruption in Public Service.
- (e) “Session” means the hearing of a matter by members of an agency for the purpose of preparing or rendering a decision on behalf of the public agency.
- (f) “Publicizing” means entry of public information into a public register in accordance with law and making public information accessible for the public.
- (g) “Public database” means data that is systematically collected, processed and stored by a public agency or public servant.
- (h) “Personal data” means public information that allows identification of a person.
- (i) “Executive privilege” means the exemption of a public agency or public servant from the obligations stipulated by this Chapter.
- (j) “Urgent necessity” means a threat of violation of the law, or a genuine threat to the functioning of public agencies in a democratic society.

Article 27¹. Personal secret

The matter whether particular information constitutes a personal secret shall be decided by the information subject, except as otherwise prescribed by the law.

Article 27². Commercial secret

1. Commercial secret means any information concerning the plan, formula, process, or means that constitute a commercial value, or any other information that is used to produce, prepare, or reproduce goods, or provide service, and/or which represents an innovation or a significant technical accomplishment, or any other information, disclosure of which could reasonably be expected to cause competitive harm to a person.
2. No information concerning an administrative agency shall be considered commercial secret.
3. When submitting particular information, a person shall indicate whether it constitutes commercial secret. A public agency shall within 10 days categorize the information specified in Paragraph 1 of this Article as commercial secret, unless the applicable law requires the information to be open. If after submission of the information by the person the public agency does not consider it a commercial secret, the agency shall make the information open and immediately inform the concerned person thereof. The information shall become open 15 days after the decision is made, unless the person who submitted the information appeals the agency's decision to a higher administrative agency or court before expiration of that term. In this case the person shall immediately inform the agency about the appeal.
4. Any person may appeal the decision to consider information as a commercial secret in a higher administrative agency or court.
5. A public agency shall enter into a public register records regarding any request for commercial information submitted by a third person or another public agency, including the date of the request and the name/title and address of the requester.

Article 27³. Professional secret

Professional secret means any information that constitutes a personal or commercial secret of a person or organization, which became known to another person in the course of execution of his professional duties. No information that does not constitute a personal or commercial secret of a person or organization shall be considered a professional secret.

Article 27⁴. State secret

Information constituting a state secret shall be defined by the legislation on state secret.

Article 28. Access to public information

Public information shall be open, unless otherwise prescribed by the law, or except for information that constitutes a state, commercial, or personal secret.

Article 29. Executive privilege

Names of the public servants (except for political officials) participating in the preparation of a decision by an official shall be protected from disclosure by means of executive privilege.

Article 30. The decision designating public information to be classified

The decision designating public information to be classified may be rendered if law provides express requirement to protect such information from disclosure, establishes concrete criteria for such protection, and provides an exhaustive list of classified information.

Article 31. Term for keeping public information classified

1. Unless otherwise prescribed by applicable legislation, professional and commercial information shall be kept classified for an unlimited term.
A commercial secret shall be declared open if the grounds for classifying such information can no longer be invoked. A personal secret shall be classified within the lifetime of the information subject, unless otherwise prescribed by applicable legislation.
2. The decision to classify public information or to extend the term for keeping it classified shall be entered into a public register.

Article 32. The openness of a session

A session conducted by any corporate public agency shall be open and public, except as provided in Article 28 of this Code.

Article 33. The procedure for publicizing secret information

After classified information is declassified, any part of classified public information or protocol of the closed session of a corporate public agency that can be separated on reasonable grounds shall be publicized. In such case the agency shall also indicate the name of the person who classified the information, the grounds for classifying, and the term for keeping the information classified.

Article 34. Meeting of a corporate public agency

1. A corporate public agency shall a week ahead publicly announce any forthcoming meeting, including its place, time and agenda. The agency shall also publicly announce its decision to close such a meeting, if applicable.
2. In case of urgent necessity, a corporate public agency may hold a meeting without complying with the rules set forth in Paragraph 1 of this Article. In such case the agency shall immediately announce the place, time and agenda of the meeting, and, if applicable, its decision to close the meeting.
3. When a corporate public agency holds a meeting or decides to close the meeting due to urgent necessity, it shall announce procedures for appealing a decision made at the meeting within three days after the decision is made. The agency shall enter into the register results of a roll-call vote regarding closure of its meeting, and minutes of the meeting, pursuant to Article 33 of this Code.
4. A lawsuit concerning the legitimacy of a meeting held by a corporate public agency due to urgent necessity, or concerning the agency's decision to close the meeting shall be filed with court within one month after the meeting was held. If the court rules that the agency held its meeting in violation of applicable procedures, the decision made at such meeting shall be declared invalid by the court.

Article 35. Public register

All public information kept by a public agency shall be entered into the public register. Reference to public information shall be entered into the public register within two days after its acquisition, creation, processing or publicizing, indicating its title and the date of receipt, creation, processing, and publicizing of the information, and the title or name of the natural or artificial person, public servant, or public agency, which provided the information and/or to which it was sent.

Article 36. Ensuring access to public information

A public agency shall designate a public servant who will be responsible for ensuring the accessibility of public information.

Article 37. Request for public information

1. Everyone may request public information irrespective of its physical form or the condition of storage. Everyone may choose the form of receipt of public information, if there are various forms of its receipt, and gain access to the original of information. If there is the danger of damaging the original, a public agency shall provide access to the original under supervision or provide a duly certified copy of the document.
2. In order to obtain public information, a person shall submit a written request. The applicant shall not be required to specify grounds or purpose for requesting the information. When seeking to obtain personal data of another person or commercial secret, the applicant shall also submit a written consent of the information subject, certified by a notary or an administrative agency, except for the events prescribed by the law.

Article 38. Access to the copy of public information

A public agency shall provide access to the copy of public information. No fees shall be charged for distributing public information, except for copying costs.

Article 39. Access to personal information

A person may not be denied access to the public information, which allows his identification, and which shall not be accessible to other persons according to this Code. A person may have access to his personal information that is kept in a public agency, and may obtain copies of such information free of charge.

Article 40. Release of public information

1. A public agency shall release public information immediately, or not later than ten days if responding to a request for public information requires:
 - (a) acquisition of information from its subdivision that operates in another area, or from another public agency, or processing of such information,
 - (b) acquisition and processing of separate and large documents that are not interrelated, or
 - (c) consultation with its subdivision that operates in another area, or with an other public agency.
2. If release of public information requires the period of 10 days, the public agency shall immediately inform the applicant thereof upon his request.

Article 41. Denying access to public information

1. The applicant shall be immediately informed of the denial of a public agency to release public information.
2. If access to public information was denied, the agency shall provide an applicant with information concerning his rights and procedures for filing a complaint within three days after the decision is rendered. The agency shall also specify those subdivisions or public agencies, which provided their suggestions regarding the decision.

Article 41¹. Decision to release or deny access to public information

In the events prescribed by Paragraph 3 of Article 272, a public agency shall render a decision to release or deny access to public information immediately after expiration of the term prescribed by the above-referenced article.

Article 42. The information that shall not be classified

Everyone shall have access to information concerning:

- (a) environment and the hazard that constitutes a threat to life and health,
- (b) fundamental principles and objectives of a public agency,
- (c) description of the structure of a public agency, the procedures for assigning and dividing functions among public servants and decision-making procedures,
- (d) names and office addresses of those servants of public agencies, who hold positions or are responsible for classifying public information, or public relations, or provision of information to citizens,
- (e) results of open ballots in a corporate public agency,
- (f) election of a person to an elective office,
- (g) results of auditing or inspection of the activity of a public agency and court materials on the cases where a public agency acted as a litigant,
- (h) the title and location of the public database of a public agency and the name and office address of the person responsible for the database,
- (i) the purpose, area of application and legal grounds for collecting, processing, storing and disseminating data by a public agency,
- (j) availability or non-availability of personal information of applicant in a public database, the procedures for gaining access to such information, including the procedures allowing the identification of a person, if the person or his representative filed the request to gain access to or modify personal information of the applicant,
- (k) category of persons who may gain access to the personal information contained in a public database pursuant to law,

- (l) composition and sources of the data contained in a public database and the category of persons, concerning whom information is collected, processed and stored, and
- (m) any other information that is not considered state, commercial, or personal secret pursuant to the law or applicable procedures.

Article 43. The procedures for processing personal data

A public agency shall:

- (a) collect, process and store only those data that are expressly provided by law and are necessary for the proper functioning of the agency;
- (b) not allow collection, processing, storage, or disclosure of personal data relating to a person's affiliation with any religious, sexual, or ethnic group, or his political beliefs or world views;
- (c) develop and establish the program for controlling the conformity of collection, processing, storage and content of the data with statutory goals and terms;
- (d) destroy the data that is unrelated to the statutory goal when demanded by a person or required by a court's decision; destroy inaccurate, unreliable, incomplete and irrelevant data and replace them with accurate, reliable, updated and complete data;
- (e) store amended data, indicating the date of their use, together with original data for the period of their existence, but not less than five years;
- (f) during the collection of personal information about any person obtain information directly from that person and other sources, only if all possibilities of obtaining information from an initial source were exhausted, except as provided in Article 28 of this Code, and only if the public agency is expressly authorized by law to collect, process and store personal data about persons of certain category;
- (g) enter into a public register the information about the collection and processing of personal data and about the request for data by a third person or a public agency; date of a request and the name/title and address of the applicant;
- (h) immediately notify a concerned person at his current address of the request for his personal data by a third person or a public agency, except as provided in Article 28 of this Code;
- (i) before transferring personal data to another person/public agency take all reasonable measures for double-checking whether those data are accurate, relevant, updated and complete;

- (j) during the collection, processing and storage of personal data inform a concerned person about the objectives and legal grounds for processing personal data, whether the person is required to provide personal information, the sources and composition of personal information and third persons who may gain access to it.

Article 44. Secrecy of personal data

1. No public agency shall disclose information constituting a personal secret, except for personal data of officials (including candidates to such positions), without the consent of the information subject, or a founded decision that was rendered by court pursuant to the law.
2. A person may appeal the agency's decision to deny access to personal data within one month after the denial.
3. A court may render the decision declassifying personal data only if it is impossible to prove essential facts on the case on the basis of other evidence, and if all possibilities of obtaining this information from other sources were exhausted.

Article 45. Access to personal data

Personal data may be accessible for the purpose of conducting a scientific research. This rule excludes the possibility of identifying a person.

Article 46. The revision or destruction of data

A person may demand the revision of data or the destruction of illegally obtained data. The burden of proof concerning the legality of collection of personal data shall rest with a public agency. Before the revision of public information a person's statement concerning inaccuracy of that information shall constitute public information and shall be attached to the public information. A public agency or public servant shall render a decision on this matter within ten days.

Article 47. The nullification or amendment of a decision. Claim for damages

1. A person may file a claim in a court demanding the nullification or amendment of the decision of a public agency or public servant, and claim material or non-material damages for:
 - (a) denying access to public information, partly or completely closing the session of a corporate public agency, or designating public information to be classified,

- (b) the creation and processing of incorrect public information,
 - (c) the illegal collection, processing, storage and dissemination of personal data, or illegal furnishing of personal data to another person or public agency, or
 - (d) the violation of other requirements of this chapter by a public agency or public servant.
2. The burden of proof shall rest with the public agency or public servant that acts as a defendant in a court.

Article 48. The request for classified information by a court

Pursuant to the motion submitted by a party, the court may request for and review classified public information to investigate the legality of designating this information to be fully or partly classified.

Article 49. Reporting

On December 10 of every year a public agency shall report to the Parliament and President of Georgia regarding:

- (a) the number of requests to provide or modify public information provided to the agency and the number of decisions,
- (b) the number of decisions complying with or denying requests, the names of the public servants rendering those decisions and the decisions of corporate public agencies to close their sessions,
- (c) the public databases and the collection, processing, storage, and furnishing of personal data by public agencies,
- (d) the number of violations of this Code by public servants and the imposition of disciplinary penalties upon officials,
- (e) the legislative acts that served as grounds for denying access to public information or closing a session of a corporate public agency,
- (f) appeals from the decisions to deny access to public information, and
- (g) expenses relating to the processing and release of information and appeals from the decision to deny access to information or to close a session of a corporate public agency, including the payments made to adverse party.

Article 50. Openness of previous public information

Public information under Articles 28 and 29 of this Code, except for commercial, professional, and private secret, shall be open if created, sent or received before October 28, 1990. Such information may not allow the identification of persons indicated therein for life.

APPENDIX 7.
LAW OF GEORGIA ON STATE SECRET

Article 7. Information that may be Defined as a State Secret

Only the following information may be defined as a state secret:

1. In the defense sphere:

- a) The information that contains strategic and operational plans, the documents on preparation and execution of military operations, issues related to strategic and operational relocation, mobilization and alertness of armed forces and use of mobilization resources;
- b) Earmarked programs for the development of armament and defense technology, as well as scientific-technical and engineering works for the development of armament and defense technology;
- c) The information on the regime of operation, structure and complement of highly classified military and civil defense objects.

2. In the economic sphere:

- a) The information about the mobilization plans and capacities of the national economy, reserves and supply volumes of strategic materials and raw materials, as well as about the layout and volume of the state and mobilization resources;
- b) The information about the operational regime and security systems of transport, communications and other infrastructure objects of the country, in order to ensure their safety;
- c) The information about specific types of the state reserves included in the monetary component of the national gold reserve – precious metals, precious stones and other values, about the operations related to production, safekeeping, guarding, circulation, exchange or removal from circulation of the banknotes and securities, as well as about the operations related to prevention of counterfeiting.

3. In external affairs:

- a) The information on the foreign policy and external economic relations of Georgia, disclosure of which may harm the state interests;
- b) The information on the issues of military, scientific-technical and other types of cooperation with foreign states, disclosure of which may harm the interests of Georgia.

4. In the spheres of intelligence service [19/03/99], state security and protection of law and order:

- a) The information on the plans, organization, material-technical supplies, forms, methods and results of the intelligence, counter-intelligence and dispatch-investigation operations, as well as on the financing of specific programs related thereto; the information on the persons who secretly cooperate or previously cooperated with the respective agencies of Georgia operating in these areas;
- b) The information on security systems and regime of guarding of the top officials, administrative buildings and governmental residences of Georgia defined by the law of Georgia “On the Special Service of State Guarding”;
- c) The information on governmental and special systems of communication;
- d) The information on the development and use of the state encoding and on scientific-research works in cryptography.

Article 8. Information that may not be defined as a State Secret

- 1. Defining any such information as a state secret that may prejudice or restrict basic human rights and freedoms or may cause harm to health and safety of population shall be prohibited.
- 2. Normative acts may not be defined as state secrets except for the acts of the Ministry of Defense, the Ministry of State Security, State Intelligence Department, State Department of Border Guarding and Special Service of State Guarding that regulate their internal activities directly related to state defense and security issues, and nor may the international agreements and treaties be defined as state secrets. *[19/03/99]*
- 3. Maps may not be defined as state secrets, except special military maps.
- 4. The following may not be defined as a state secret:
 - a) Information on natural disasters, catastrophes and other extraordinary events which have already occurred or may occur and which threaten the safety of the citizens;
 - b) Information on environmental conditions, health and living standards of the population, including information on medical services and social security, as well as social-demographic data and data on educational and cultural levels of the population.
 - c) Information on corruption, unlawful actions of the officials and crime statistics;
 - d) Information on privileges, compensations and benefits provided by the state to the citizens, officials, enterprises, institutions and organizations;
 - e) Information on the state monetary fund and national gold reserve;
 - f) Information on health status of the top officials of the state power.

Article 9. The Procedure of Defining the Information as a State Secret

1. The state body or the enterprise, institution or organization that has developed or received for consideration or for safekeeping the information of interest shall be bound to justify the necessity of defining it as a state secret.
2. The head official of the state body, so authorized under subparagraph (2-d) of Article 4 of this Law, shall make the decision on defining the information as a state secret.

Article 10. The List of the Data defined as State Secrets

1. The State Inspection for Protection of State Secrets shall prepare for publication and publish in the official state periodicals the list of the data defined as state secrets.
2. Amendments and additions to the list of the data defined as state secrets shall be published within one month from the respective decision of the President of Georgia.
3. The State Inspection for Protection of State Secrets shall officially publish the list of the data defined as state secrets at least once in every 5 years.
4. If the list of the data defined as state secrets contains the information that fails to meet the requirements of Article 7 of this Law or that violates the procedure of defining the information as a state secret, then the interested persons shall have the right to appeal against such decision to a court, in accordance with the procedure prescribed by legislation.

Article 11. Lowering the Secrecy Level; Revoking the Decision on Defining the Information as a State Secret

Lowering the secrecy level or revocation of the decision on defining the information as a state secret shall be made by revoking or amending the decision on defining the information as a state secret, either because of the expiration of effectiveness of such a decision or based on the respective court decision within Article 10 of this Law, and shall be legalized by entering of the respective amendment into the list of the data defined as state secrets by the State Inspection for Protection of State Secrets.

APPENDIX 8. CIVIL CODE OF GEORGIA

Article 18. Personal Non-Property Rights

1. A person whose right to a name is contested, or whose interests are impaired through unauthorized use of his name, shall be entitled to demand that the wrongdoer cease or refrain from such action.
2. A person is entitled to demand in court the retraction of information that defames his honor, dignity, privacy, personal inviolability or business reputation unless the person who has disseminated such information can prove that it corresponds to the true state of affairs. The same rule applies to the incomplete dissemination of facts, if such dissemination defames the honor, dignity or business reputation of a person.
3. If information defaming the honor, dignity, business reputation or private life of a person has been disseminated in the mass media, then it must be retracted in the same media. If such information is contained in a document issued by an organization, then this document must be corrected and the concerned parties must be informed of the correction.
4. A person whose honor and dignity has been defamed by information disseminated in the mass media shall be entitled to disseminate information in answer to the defamation through the same media of information.
5. A person may likewise exercise the rights described in paragraphs (1) and (2) of this Article when his image (photograph, film, video etc.) has been disseminated without his consent. The consent of the person is not required when photo-taking (video recording etc.) is in connection with his public notoriety, the office he holds, the requirements of justice or law enforcement, scientific, educational or cultural purposes, or when the photo-taking (video recording etc.) has occurred in public circumstances, or when the person has received remuneration for posing.
6. The protection of the good [i.e. human values such as honor, dignity and privacy] referred to in this article shall be exercised regardless of the culpability of the wrongdoer. And if the violation has been caused by culpable action, a person may claim damages (compensation for harm). Damages may be claimed in the form of the profit that accrued to the wrong doer. In the case of culpable violation, the injured person may also claim compensation for non-property (moral) damage. Moral damages may be recovered independently from the recovery of property damages.

Article 19. Protection of Personal Rights after Death

The rights referred to in Article 18 may also be exercised by a person who, although not the bearer of the name or the right to personal dignity himself, nevertheless has an interest [in it] deserving protection. He may exercise the right to demand such protection of the name and dignity [of the person] which determines the essence of the person and continues to exist as well after death. It shall not be allowed to claim compensation for property damage for defamation of the name, honor, dignity or business reputation of a person after his death.

APPENDIX 9. CODE OF ETHICS

Chapter I. The Purpose of the Code and its Tasks

Article 1.

This code defines general principles of judicial ethics, rules and standards of judicial conduct that the judge shall follow while fulfilling the duties of the office, as well as while implementing other activities and in private life.

Article 2.

The purpose of the Code is to support the independence, impartiality and integrity of the judiciary, and to establish and promote public trust and confidence towards the judiciary, to protect the prestige and authority of the judiciary and position of a judge.

Article 3.

The violation of the norms of judicial ethics causes disciplinary responsibility of a judge in cases determined by legislation.

Chapter II. Principles of Judicial Ethics

Article 4.

A judge shall be faithful to the laws, judicial oath and duties, and shall be the supreme guarantor of law during the implementation of justice.

Article 5.

A judge shall strengthen public trust and confidence in the independence, fairness, objectiveness, and impartiality of the judiciary.

Article 6.

A judge shall protect the prestige of the judiciary and shall not tolerate conduct that damages the reputation and authority of a judge.

Article 7.

A judge shall avoid expressing negative opinions about the professional or personal character of his or her colleagues or other judges.

Article 8.

A judge shall not discuss the decisions made improperly by another judge.

Article 9.

A judge should preserve the dignity, impartiality and independence of the judiciary during the expression of his or her opinion, belief and use of the right to assembly.

Chapter III. Rules for Implementation of Judges' Professional Activities

Article 10.

A judge who violates the norms of judicial ethics shall make all possible efforts to ameliorate the damage.

Article 11.

During the implementation of judicial obligations, a judge shall be independent and shall act according to the laws, principles and norms of International Laws.

Article 12.

A judge shall implement his or her judicial obligations in a proper, competent, fair, impartial and unbiased manner.

Article 13.

A judge shall be independent and unbiased while making a decision. The opinion of a judge shall not be affected by any kind of influence from political or social interests, or the interests of the parties or public influence, or by the fear of criticism.

Article 14.

A judge during the implementation of his or her judicial obligations shall be free from any kind of preliminary opinion, attitude, feelings and prejudice. The judge shall also avoid behavior (gesticulation, mimics, expression) that can be understood by others as forethought or a fixed idea.

Article 15.

The opinions of a judge concerning race, nationality, language, ethnicity, religion, gender, color of skin, disability, sexual orientation, social-economic status

or other circumstances shall not have an impact on the fairness and legitimacy of the decision.

Article 16.

A judge shall not discuss preliminarily his or her decision on a specific case with any person or shall not report in any form about his or her decision.

Article 17.

A judge shall not fulfill orders and recommendations that with their form or contents could hinder his or her independence.

Article 18.

A judge shall respect, be constructive, and support the interest of the representatives of the press and mass media to obtain and disseminate information about the implementation of justice, the activities of the court or some specific case.

Article 19.

A judge shall not express an opinion publicly or give any explanations on specific cases which are going to be heard or are in the process of being heard, if the matter does not concern the procedural or technical aspects of the case.

Article 20.

The judge shall avoid making a pronouncement either publicly or in private conversations that could cause a reasonable apprehension that this announcement or its grounds will have an impact on making fair decision in a case.

Article 21.

A judge shall not express publicly or in private conversations, his or her attitude, either positive or negative, toward the parties of the case pending before the court or heard by the court.

Article 22.

A judge shall not use racist or chauvinist terms or offensive and insulting words and expressions.

Article 23.

A judge shall be attentive, courteous, and constructive with the citizens who apply to the court.

Article 24.

The judge shall wear a robe during court proceedings.

Article 25.

A judge shall treat the parties of the case politely and appropriately.

Article 26.

The judge shall not use improperly for other purposes information that he or she learns while fulfilling his or her duties.

Article 27.

A judge should respect the court staff.

Article 28.

The judge shall assure that the court staff obeys the rules of professional ethics, behave with discretion, are unbiased, and treat parties equally and do not show their position in advance.

Article 29.

A judge is obliged to respond to all the violations of professional ethics conducted by court staff and to impose relevant measures.

Article 30.

A judge shall continually work on improving his or her professional level.

Article 31.

A judge shall also support the court staff in increasing their professionalism and competence and will give them necessary advice.

Chapter IV. Non-Judicial Activities of a Judge

Article 32.

The other activities of a judge that are not included in the official obligations are permissible only when the content of these activities does not contradict the declared principles of independence of a judge and of the judiciary, does not create any danger to the authority of the judiciary does not cause any doubt about the fairness and impartiality of a judge and does not contradict the Legislation of Georgia or this Code.

Article 33.

Judicial obligations are superior for a judge. A judge is not allowed to undertake other paid work, except teaching, scientific or creative work which does not interfere with the proper fulfillment of judicial obligations.

Article 34.

A judge shall not participate in any dealings that will conflict with his or her official functions, obligations and their fulfillment.

Article 35.

A judge cannot become a member of a union which requires the giving of an oath of obedience, or places the reputation of a judge in doubt or damages the authority of the court.

Article 36.

A judge shall avoid participating in political activities. He or she cannot be a member of any political party nor implement any party orders. A judge shall not make a speech on behalf of any political organization.

Article 37.

A judge should not reveal publicly his or her political views. Any kind of direct or indirect propaganda in a courtroom, as well as outside of the courtroom, is prohibited.

Article 38.

A judge should not support or oppose a political candidate publicly or in any other form.

Article 39.

It is prohibited for a judge to strike. A judge has no right to refuse for any reason, collectively or individually, implementation of his or her professional obligations or to encourage others to do so.

Article 40.

A judge shall advise the court staff to avoid participation in political activities and to not exhibit their political views.

Article 41.

A judge has the right to express his or her position opposing his or her own or other countries against the abridging the rights of judges or the representatives of legal profession, their persecution, improper influence on them, or interference in their work.

Article 42.

A judge has a right to hold a position on a voluntary basis, or to participate in state or public commissions the aim of which is legislative work, perfection of justice, of the legal system and of other legal and non legal issues, which are not against the requirements of this code.

Article 43.

A judge has a right, in a cases determined by law, to represent a country or its administrative unit at an official ceremony, cultural-educational program or celebration.

Article 44.

A judge has the right to be an honorary citizen of his or her own country (city or administrative unit).

Chapter V. Final Provisions

Article 45.

The Judicial Ethics Code of Georgia will enter into legal force upon its adoption at The Conference of Judges of Georgia.

GLOSSARY OF TERMS

- **Administrative law:** covers and regulates the relationship between citizens and administrative bodies of government.
- **Advocate:** a person with the right of audience in a court as the representative of a party in a case.
- **Amendment:** change made in a document, a change proposed to a Bill which is being discussed in parliament.
- **Article (of constitution):** Section which determines rights, obligations, status, and etc. of the person, state, state body etc.
- **Association of Judges:** Professional association representing interests of judges in Georgia.
- **Bailiff:** a person employed by the Ministry of Justice to execute the decisions of the courts.
- **Bar Association:** the ruling body of lawyers.
- **Bar exam:** a series of tests to qualify as a lawyer.
- **Bill:** draft of a new law which will be discussed in parliament.
- **Chancelleries of courts:** Department (service) in each court which is responsible for receiving or sending cases, information, messages.
- **Civil case:** a court case brought by a person or company against someone who is alleged to have done them wrong.
- **Civil Law System:** legal system based on codified laws.
- **Collegium:** body within the court which consists of three judges and all of these three judges are making a joint decision.
- **Common Law System:** law system which is created on basis of precedent.
- **Conference of Judges:** Self-governing body of judges.
- **Constitution:** laws under which a country is ruled.
- **Constitutionality:** a test of whether a law is in accordance with the constitution.
- **Contempt:** conduct which interferes with, or shows disrespect for, legal proceedings.
- **Control Chamber of Georgia:** government department which controls the use of public money.
- **Conviction:** finding that a person accused of a crime is guilty.
- **Council of Justice:** Advisory body to the president for coordination and implementation of judicial reform, conducts exams for judges, prosecutor's office, lawyers and proposes candidacy of judges.
- **Court Clerk:** Person employed by judicial authorities for the execution of duties determined by Law.

- **Court of Cassation:** Last instance court whose decision is final and which should be executed immediately.
- **Court Reporter:** a person responsible for transcribing what is said in court.
- **Criminal case:** a court case brought against someone charged with a crime.
- **Damage lawsuit:** a civil case which seeks financial compensation for loss caused by someone's illegal actions.
- **De facto:** a Latin phrase meaning "in fact": as a matter of fact, even though the legal title may not be certain.
- **Decree:** an order made by the president, which is not required to be passed by parliament.
- **Defamation:** injury to someone's reputation caused by falsely or maliciously saying or writing things about him.
- **Deposition:** written statement of evidence from a witness.
- **Enforcement agency:** Service within the Ministry of Justice which is responsible for execution of court decisions.
- **Ex officio:** Latin phrase meaning "because of the office held".
- **Executive:** section of a government which puts into effect the laws passed by parliament.
- **Feature:** a story emphasising the human or entertaining aspects of a story.
- **First degree murder:** premeditated and deliberate murder.
- **First instance court:** a court in which a case is first tried.
- **Freedom of Information:** the right to gain access to files held by government and other bodies.
- **General courts:** All institutional bodies which execute judicial functions in Georgia.
- **Government:** organisation which administers a country.
- **Head of State:** official leader of a country.
- **Hearing:** a case which is being heard by a court.
- **Immunity:** protection against arrest or prosecution.
- **Inquisitorial Process:** Procedural law where a judge has the duty to investigate the case and produce the evidence.
- **Intellectual property:** ownership of something (a copyright, patent or design) which is intangible.
- **Ipsa facto:** Latin phrase meaning "the fact itself shows".
- **Judge:** an official who presides over a court and decides which party is in the right.
- **Judicial gagging order:** an order made by a judge limiting what the press may report about a case.
- **Judicial system:** the court system.

- **Judiciary:** all judges of the court system.
- **Jurisdiction:** the legal power of a court.
- **Jurisprudence:** study of the law and the legal system.
- **Lawyer:** see **Advocate**.
- **Legislation:** laws which are passed by Parliament.
- **Libel:** written and published or broadcast statement which damages someone's reputation.
- **Majority voting:** Voting system whereby a candidate is selected according to direct votes which he/she has received during election.
- **Miscarriage of justice:** a decision wrongly or unjustly reached by a court.
- **Non-Governmental-Organisation (NGO):** organisation which is not funded by a government and which works on a local, national or international level.
- **Norm:** the general rule of behaviour which is obligatory for everybody.
- **Officer of the Court:** officials who service the judicial system.
- **“Official Gazette”:** Official government Newspaper.
- **Ombudsman:** an official who investigates complaints by the public against government departments or other large organisations.
- **Organic law:** Law which is superior to all other legal acts in Country except the Constitution.
- **Plenum:** governing body of the Supreme Court consisting of all judges of the Supreme Court.
- **Precedent:** a judgement made earlier which can be used as a reference in a later case.
- **Private arbitration:** Alternative method of resolving disputes.
- **Procedural codes:** determines rules for different legal procedures.
- **Procedural law:** rules governing how the civil or criminal law is administered by the courts.
- **Prosecutor's office:** agency responsible for bringing criminal charges against someone and who represents in court the party who brings the criminal charge.
- **Prosecutor- General:** Head of the Prosecutor's office.
- **Proportional voting:** Voting system for Political parties when parties receive amount of seats in parliament according to percentage of votes.
- **Public Defender:** a lawyer paid by the state to provide free legal aid.
- **Public record:** information which is open to the public.
- **Referendum:** a type of vote, where a whole population is asked to vote on a question.

- **Right of reply:** a person's right to respond to what he thinks is unfavourable comment.
- **Ruling:** a decision made by a judge.
- **Second degree murder:** murder without premeditation and not committed at the same time as rape or robbery.
- **Sequestered:** members of a jury are required to reside under the supervision of a court officer during a trial.
- **Slander lawsuit:** a case where someone claims that a person has made untrue spoken statements which damage his reputation.
- **Subpoena:** a court order requiring someone to appear in court.
- **Substantive law:** laws which deal with legal principles, (as opposed to procedural laws).
- **Supplement:** an addition to a newspaper which deals with a particular issue.
- **Tribunal:** a specialist court outside the judicial system which examines special problems and makes judgments.
- **Witness:** a person who appears in court to give evidence.