

Judicial strategy 2017-2020

2017 has been marked as a year inimitable in the history of the Georgian judiciary by the decision to adopt the judicial reform strategy.

The specific strategic committee had been formed to identify the gaps in the judicial system and relevant legislation. Representatives of the judiciary, related government agencies and international and local non-governmental organizations took part in development of this strategy.

The ensuing discussions singled out all the strategic areas of the judicial reform process. Adoption of the strategy has been the response to the high expectations of the Georgian society for an independent, transparent, and efficient judiciary. As a result of the above mentioned the draft strategy and the action plan for 2017-2018 has been created. The action plan is divided into five strategic directions (Independence and Impartiality; Accountability; Quality; Effectiveness; Access to Justice, Transparency and Public Trust).

In 2017 Judiciary has adopted a first comprehensive Judicial Strategy 2017-2021 and its two-year Action Plan that was considered as the progressive development of the judicial reforms in Georgia by the association agenda implementation report.

The strategy envisages institutional independence of the judiciary that is enshrined in the constitution of Georgia under the article 59 and defines that Judiciary shall be independent and exercised by the Constitutional Court of Georgia and the common courts of Georgia. For ensuring individual independence of judges, constitution refers that judges enjoy with immunity.

According to the constitution, judges are appointed for the life term until the retirement age by the High Council of Justice. As for the members of the Supreme Court they are elected by the parliament of Georgia for life, until the retirement age, by the nomination of High Council of Justice.

According to the strategy transparency of High Council of Justice has grown that is provided through openness of the sessions, publication of audio records of the sessions on the website and promptly deliver information for the society and publishing annual reports and statistical data for the public. It is notable that Council is in close collaboration with international/donor organisations and representatives of the civil society and they can monitor the appointment and promotion procedure of the judges. Additionally, to increase transparency of the performance of the council strategy defines that council will be publishing reports on Justice concerning to the fight against corruption, on effectiveness of implemented measures and will be elaborating annual reports and statistical data to the public;

In order to develop the institutional independence of the courts strategy considers that should be strengthened financial-budgetary independence of the judiciary that requires to ensure sufficiency of actual budgets based upon objective criteria and resolution of conflicts related to budgets. Strategy determines that organic law should regulate issue on annual budget, that cannot be less than the budget of previous year and should be established the right of the judiciary to present its budget to the Parliament directly, when the government refuses to approve the request to increase its amount;

Judicial strategy envisages to improve the criteria and procedure for selecting judges and the trainees of the High School of Justice together with elaboration a clear and transparent system for the promotion of judges, which will be based on objective criteria and will be interconnected with the results of permanent periodic evaluation of judges; However, will be assured to elaborate recommendations on the appointment rules, competence and terms of office for the Presidents of courts, will be provided recommendations based on the analysis of existing legislation and practice. According to the strategy will be implemented effective mechanisms on the substantiation assessment of candidate judges and listeners of the High School of Justice and for challenging decisions in terms of selection candidate judges and the listeners at the High Council of Justice, also to substantiate an assessment and challenge a decision on candidate judges and the listeners of the High School of Justice.

In regards to strengthen accountability of individual judges institute of Independent Inspectors was launched from February 8, 2017. An independent inspector may consider claims and complaints of trial participants, information spread by the media or information or recommendation issued in the Public Defender's report, and will submit his/her opinion to the High Council of Justice. The decision on initiating a disciplinary prosecution against a judge is made by the High Council of Justice.

According to the strategy it is necessary to review and improve existed scope and definitions in the laws and/or regulations on civil, criminal, administrative and disciplinary responsibilities of the judges so that the independence and freedom of judges shall not become subject to unnecessary pressure. It is important to review the disposition on excessive official authority and abuse of power. Norms of criminal code regulating judicial liability during the exertion of their judicial actions shall be revised in order to determine clearly when the judicial action exceeds disciplinary scope. Disciplinary grounds that exclude the judicial responsibility in case of performance of judicial power, reasoning of judicial decision or legal errors should be established. Maintain balanced and just grounds of liability, excluding judicial liability caused from administration of justice, content of a decision or judicial failing. Gross failings shall not be left without reaction.

Strategy considers to develop mechanisms of prevention of misconduct of the judges and court officials in order to be more oriented on identification, analysis of conditions and reasons of violations and their prevention rather than on punishment. It is important to strengthen the training components on standards of conduct and ethical norms, periodically organize training activities for judges on frequently occurred disciplinary infringements and failings; implement confidential counseling within judiciary on ethical standards.

Strategy defines that preventive mechanisms should be developed in order to avoid corruption in the Judiciary: Updated procedure for filling the property declarations shall be introduced in accordance with the Law on “conflict of interest and corruption in public service” Besides, it is important to receive information periodically and organize trainings regarding corruption in order to strengthen accountability mechanisms at Judiciary.