



დაამოუკიდებელი ინსპექციის საბიუროს

OFFICE OF INDEPENDENT INSPECTOR

Statistical Report

Third Quarter 2020

**Tbilisi
2020**

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Introduction

A quarterly report has been prepared by the Office of the Independent Inspector in accordance with the Organic Law, which includes information on the activities of the Office of the Independent Inspector from July 1 to September 30, 2020.

The statistical information in the document is processed by the categories of cases, court instances, disciplinary misconducts and by conclusions prepared. In addition, information about the authors of complaints and data about the judges have been analysed.

After the removal of the restrictions related to Covid-19, the number of complaints has increased during the reporting period compared to the previous quarter. Nevertheless, the Office of the Independent Inspector continued to work remotely for the most part and took care of both the investigation of incoming complaints and the professional development of the team.

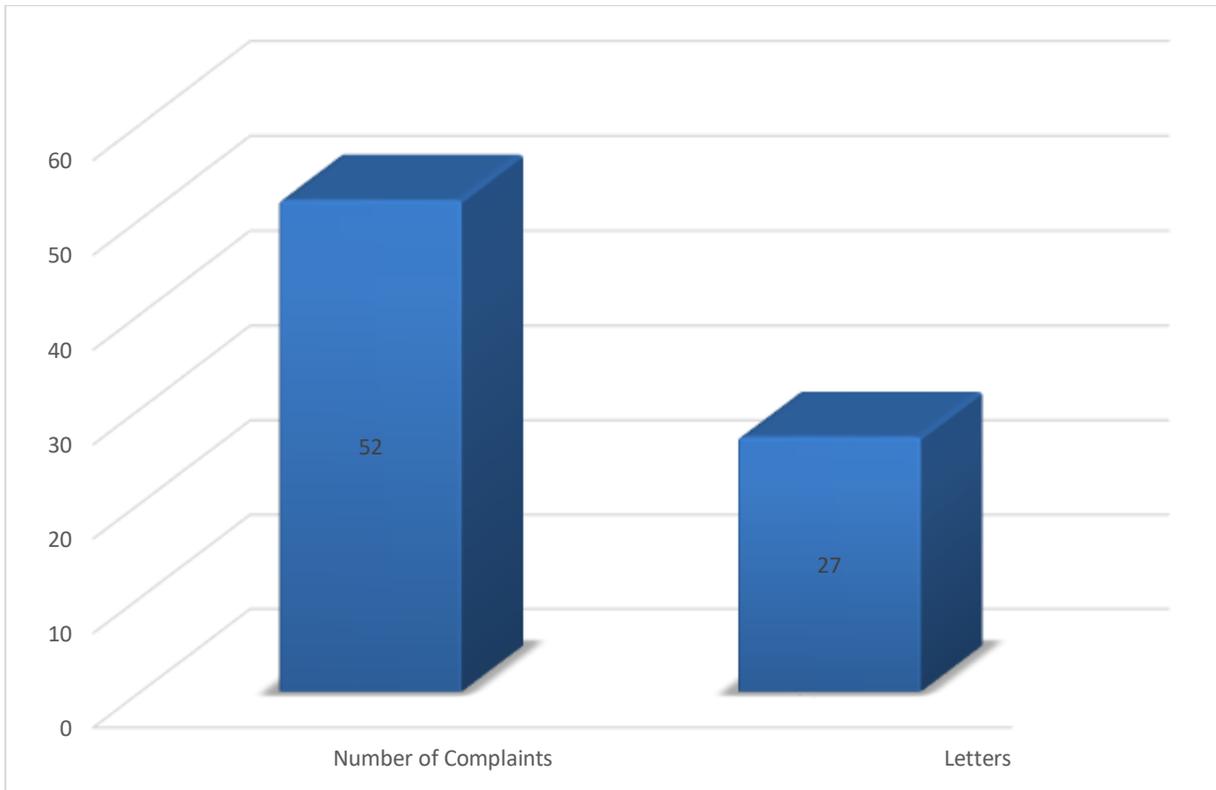
In parallel with mitigating the constraints caused by the pandemic, the Independent Inspector, with the full staff of the Office, held a field meeting with the support of the EU Judiciary Support Project and discussed the Office's strategic goals, challenges and solutions, as well as institutional development opportunities. As a result of the field event, a draft of the document on the main directions of strategic development was prepared, which will be discussed with international partners and non-governmental organizations in the next quarter.

To raise awareness about the service, the Office of the Independent Inspector has created informative videos with the support of the Council of Europe Judicial Reform Support Project. The process of filling out the complaint form and the stages of the disciplinary proceedings are shown in two videos. Informative videos are posted on the Independent Inspector's website and on youtube.com.

1. General Statistical Information

The Office of the Independent Inspector received 52 disciplinary complaints for the review between July 1 and September 30, 2020, which is almost 2.5 times more than the number of complaints received in the previous quarter.

During the reporting period, 27 letters were received without the proper form, after which the complaint form and detailed instructions for filling in were sent to the complainant.



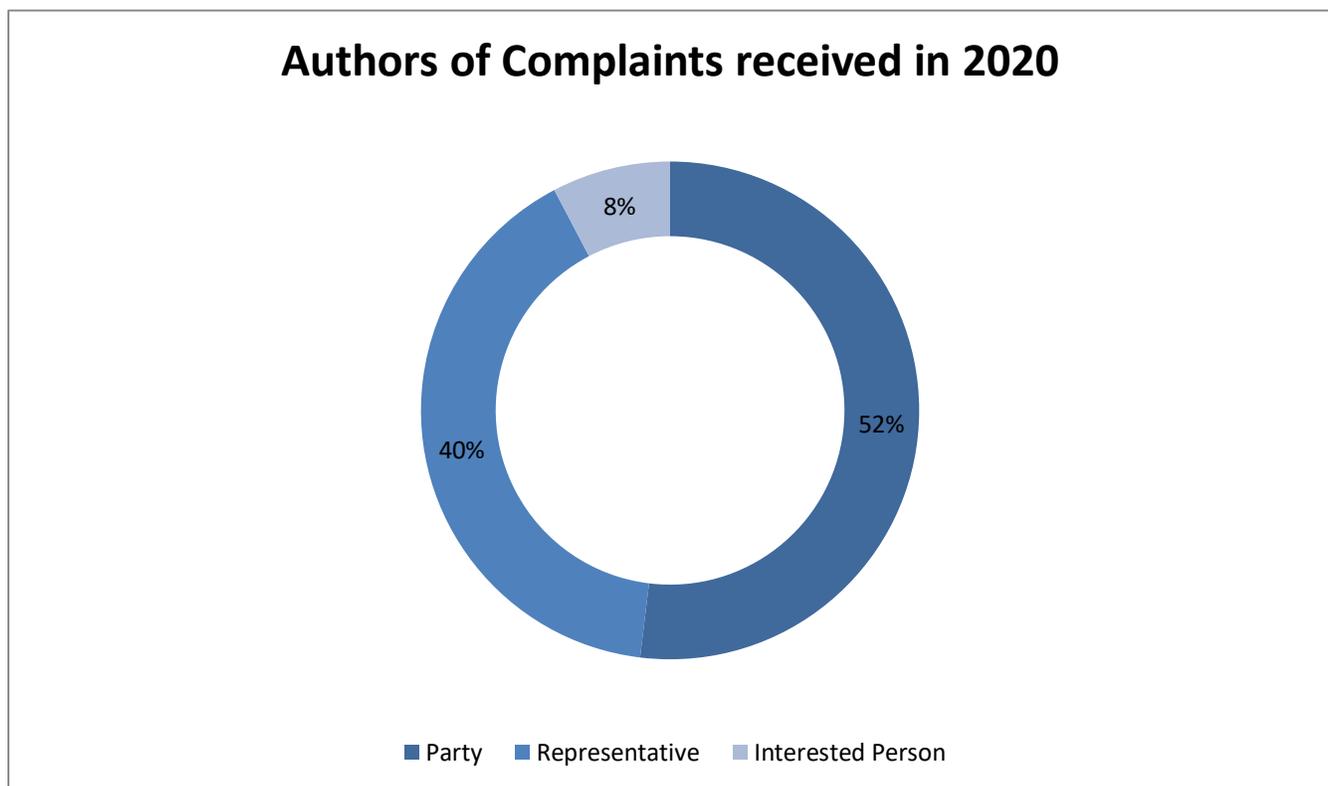
In order for the Independent Inspector's Office to investigate the complaints, 98 letters were sent and the relevant information required for the preliminary investigation was requested.

2. Statistical information about the authors of the disciplinary complaint

Statistical information about the authors of complaints was processed according to their status in pending cases.¹

Statistics on the authors of the complaint has changed. In particular, the number of complaints filed by representatives decreased by 12% compared to the second quarter and amounted to 40%. The number of appeals filed by the parties to the dispute in court increased by 4% to 52%. It should be noted that the number of complaints filed by interested parties in the previous quarter was not submitted to the Office of the Independent Inspector, although the number of complaints filed by the latter in the third quarter was 8%.

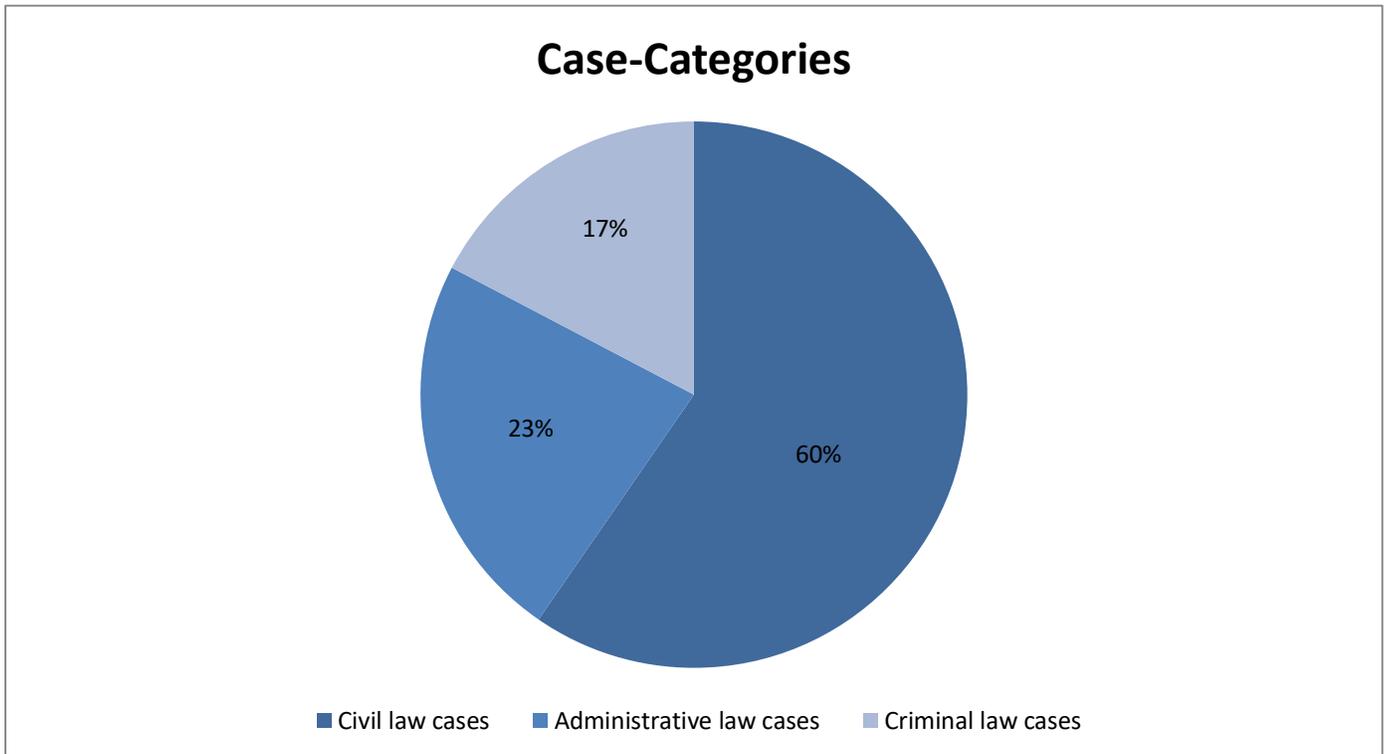
During the reporting period, disciplinary proceedings were not initiated on the basis of information disseminated in the media, the Public Defender's proposal or a report card.



¹ The authors of complaints may be: parties, representatives (legal representatives, persons with representative powers, lawyers), interested parties (family member of the party involved in the case, present at the hearing or any other person), Public Defender. Also, disciplinary proceedings may be initiated on the basis of media reports and report cards.

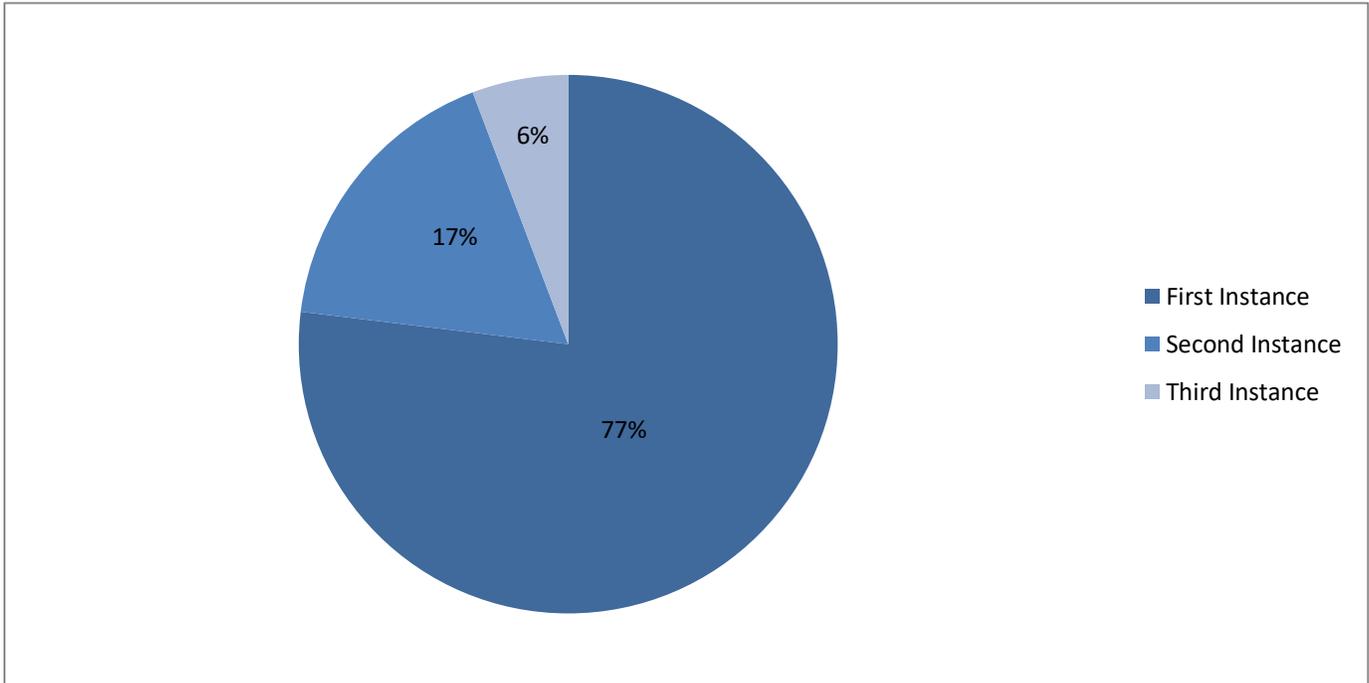
3. Statistical Information by Case-Categories

The number of complaints received in the third quarter of 2020 differs from the data of the second quarter in terms of the quantitative distribution of cases. As in the second quarter, the majority of complaints in the third quarter belong to the civil case-category, although their number increased by 12%. Compared to the previous quarter, the number of complaints in administrative law cases decreased by 20%, while the number of referrals in criminal cases increased by 8%.



4. Statistical Information by Court Instances

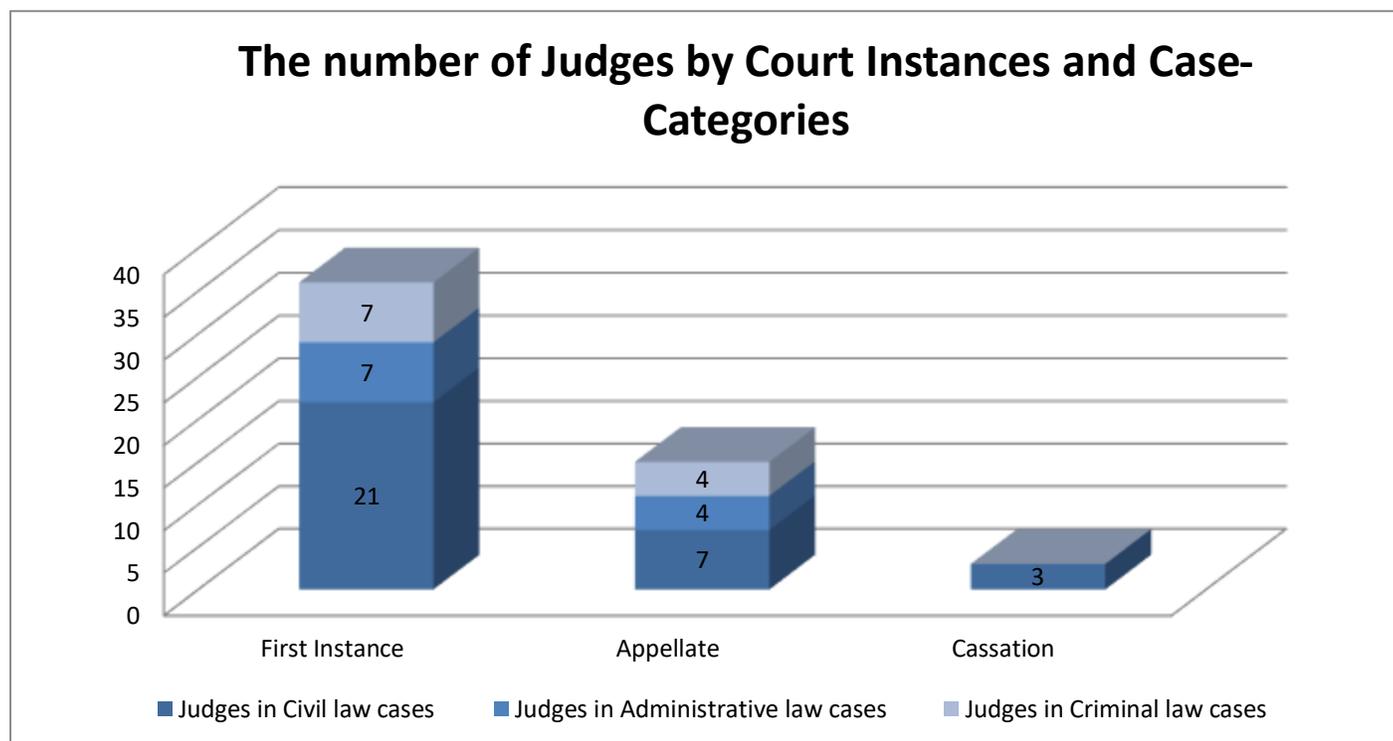
The Study found that in the third quarter of 2020, 76% of complaints were filed against first instance judges, which is 21% more than in the previous quarter. The number of appeals against judges of the Court of Appeals is 17%, which is 3% less than in the previous quarter. The number of appeals against judges of the Supreme Court of Georgia is 6%, which is 18% less than in the second quarter.



5. Statistical Information by Judges

During the reporting period, 52 complaints pending before the preliminary investigation concerned 55 judges, including 3 former judges.²

The number of appeals against judges by Court Instances and Case-Categories stands as follows:



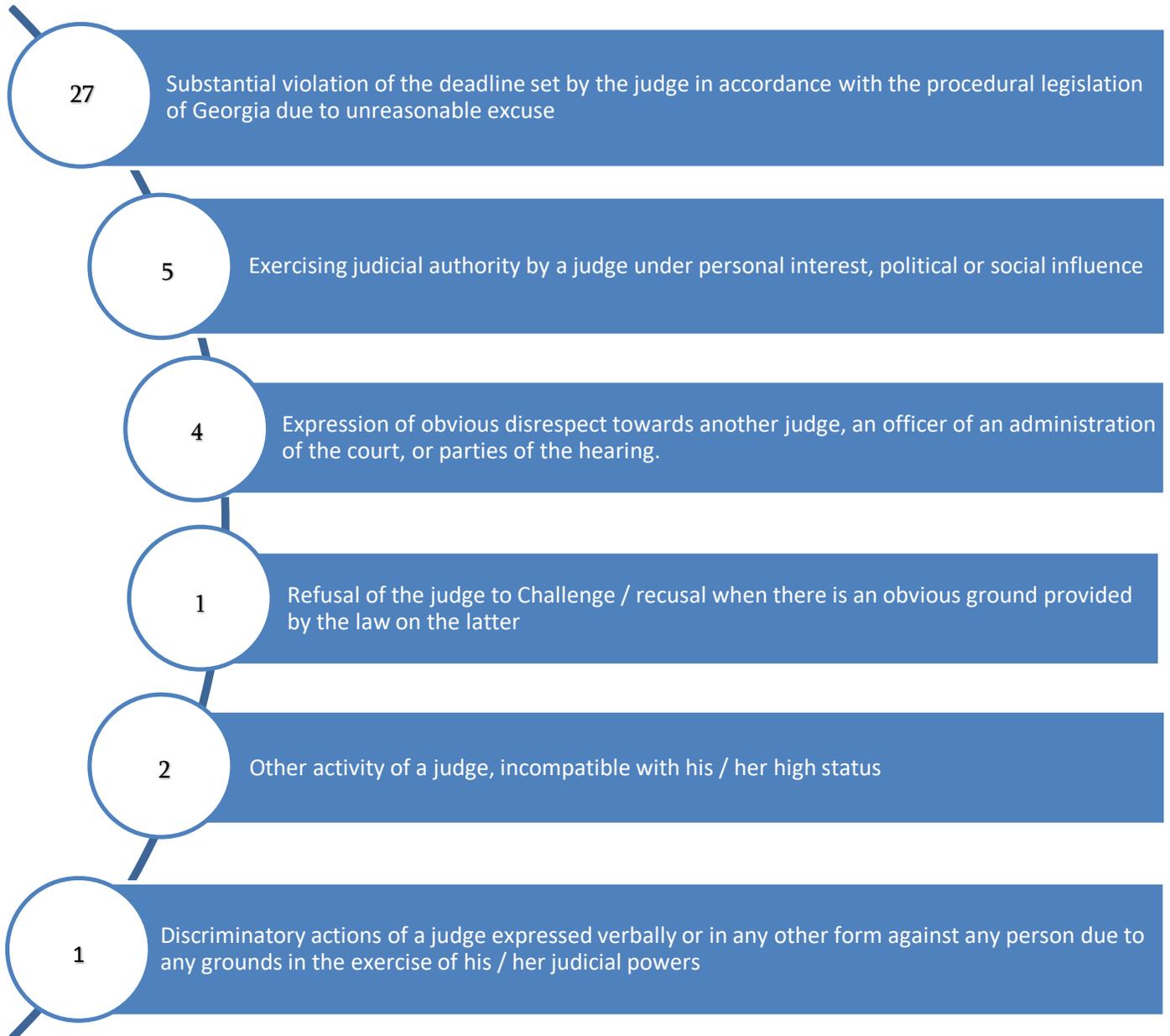
Analysing the submitted complaint rate and the data on judges, we can assume that the data for the second and third quarters are different. In the third quarter, 40% of complaints were filed against judges in the category of civil cases of the first instance, which is identical to the data of the previous quarter. In the first instance, 13.7% of appeals were filed against judges reviewing administrative law, which is 5% less than in the previous quarter. The number of complaints filed against criminal judges is 13.7%, which is 9% more than in the previous quarter.

As for second instance judges, the number of appeals against civil law judges is 13.7% of the judges mentioned in the appeals, which is 6% less than the data of the last quarter. The number of appeals against judges reviewing administrative cases, as well as the number of judges reviewing criminal cases, is 7.7%, which is 3.5% more than in the second quarter. It should be noted that in the third quarter, complaints were filed only against judges of the Civil Chamber of the Supreme Court of Georgia.

² It should be noted that some judges review three or two categories of cases. Accordingly, the number of judges differs by category from the total number of judges. The diagram shows information only about the judges who exercise judicial power.

6. Statistical Information on Disciplinary Misconducts

Paragraph 8 of Article 75¹ of the Organic Law of Georgia on Common Courts enshrines 20 different types of disciplinary misconduct. Complaints concerned only the actions set out in 6 different subparagraphs. Most of the complaints were filed on the grounds of violation of the procedural time limit, exercise of judicial powers by a judge in the personal interest and refusal of recusal. In 8 complaints with various types of misconduct, the complainants indicated the legality of the act, while only the legality was disputed in 15 complaints.³



³ In one complaint, the complainant may point to a variety of misconducts, while some complaints may only address the legality of the act. Consequently, the number of complaints differs from the number of facts of possible misconduct.

7. Statistical Information by Types of Disciplinary Misconduct and Case-Categories

It is important to highlight information about which instance and which category of cases are the most common types of misconduct in appeals against judges. To this end, this chapter analyses statistical information on the types of misconduct in relation to 52 disciplinary complaints.

7.1 Violation of Procedural Deadline

Preliminary investigation was carried out on the ground of substantial violation of the deadline due to unreasonable excuse based on 27 complaints.

These complaints mainly concerned civil and administrative law cases, which were mostly heard by judges of the first instance court.



7.2 Exercising Judicial Authority by a Judge under Personal Interest, Political or Social Influence

The type of disciplinary misconduct – Exercising judicial authority by a judge under personal interest, political or social influence, has become a subject of complaint in 5 cases.

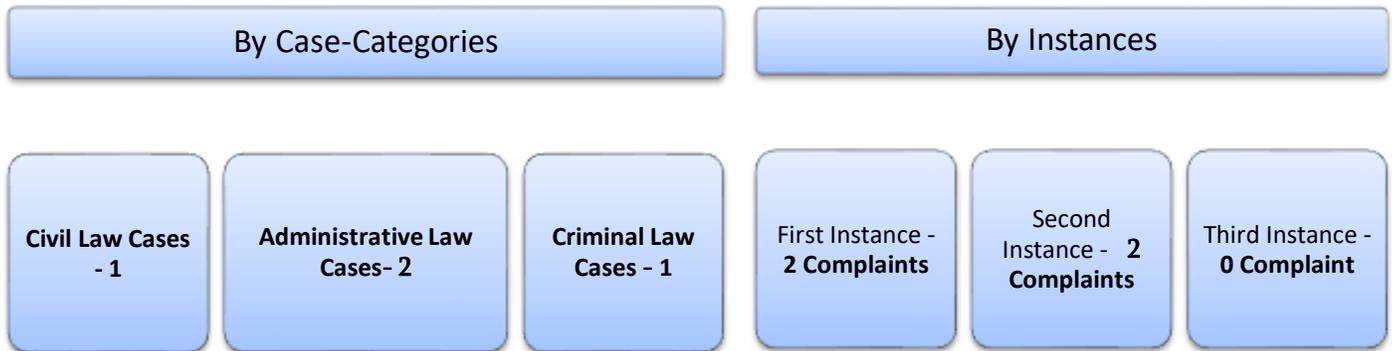
These complaints mainly concerned civil and administrative law cases, which were mostly heard by judges of the first instance court.



7.3 Expression of Obvious Disrespect towards another Judge, an Officer of an Administration of the Court, or Parties of the Hearing

On the ground of the following misconduct, expression of obvious disrespect towards another judge, an officer of an administration of the court, or parties of the hearing, was a subject of four complaints. These complaints concerned both district / city and appellate court cases.

The complaints mostly concerned administrative law cases.



7.4 Other Types of Misconducts

In the Office of the Independent Inspector, disciplinary proceedings were conducted on 5 complaints related to inappropriate conduct for a judge, discriminatory action, establishing a friendly relationship with a participant in the process, and refusal of recusal.

Most of the complaints were related to criminal cases, while in terms of instances, the first instance prevailed. It should be noted that one complaint was filed against judges of several instances.



8. Statistics on Decisions of an Independent Inspector

During the reporting period, the Independent Inspector conducted a preliminary investigation into 42 complaints.⁴ As a result of the investigation of the mentioned complaints, out of 17 complaints, the Independent Inspector made 26 decisions to terminate the disciplinary proceedings.⁵ Among them:

- ✓ On 11 appeals, 21 decisions were made to terminate disciplinary proceedings as the appeal concerned only the legality of the act rendered by the judges;
- ✓ 6 decisions were made on partial termination of disciplinary proceedings, as part of the claims in the appeals concerned the legality of the act rendered by the judges, and part of the claims concerned the fact (s) of possible disciplinary misconduct, which led to further disciplinary proceedings.⁶

Complaints that were filed only on the basis of legality review concerned:



It should be noted that a defect was identified in 2 complaints, and due to the lack of its correction, disciplinary proceedings were not initiated.

Significantly, the Fourth Wave Reform gave the Independent Inspector the power to terminate disciplinary proceedings, including on complaints concerning the legality of the Act.⁷

In order to achieve the effectiveness of the disciplinary proceedings, the Independent Inspector will make a decision on the termination of the proceedings regarding the complaints received in 2018-2019, which have not yet been reviewed by the HCoJ. This rule applies to:⁸

- Legality of the act;
- Imposing disciplinary liability (disciplinary sanction) on him / her, but the term has expired;
- an action for which there is a decision made by the body conducting the disciplinary proceedings against the same judge;
- A judge whose judicial authority has been terminated.

⁴ In the III quarter, the preliminary investigation of the disciplinary case was completed on 1 complaint received in the I quarter, 12 complaints received in the II quarter and 39 complaints received in the III quarter. Accordingly, a decision / conclusions were prepared. Disciplinary proceedings were not completed on the 23 complaints received in the third quarter.

⁵ Decisions are made with respect to individual judges. Consequently, the number of complaints differs from the number of decisions made.

⁶ Disciplinary proceedings have been terminated in certain cases only in accordance with Article 75¹² of the Organic Law of Georgia on Common Courts, in accordance with subparagraph (d) of the first paragraph. Other alleged misconducts mentioned in the complaints are subject of the disciplinary proceedings, accordingly, either preliminary investigation is being conducted or relevant conclusions prepared in accordance with the law.

⁷ Article 75¹² of the Organic Law of Georgia on Common Courts, effective from January 1, 2020.

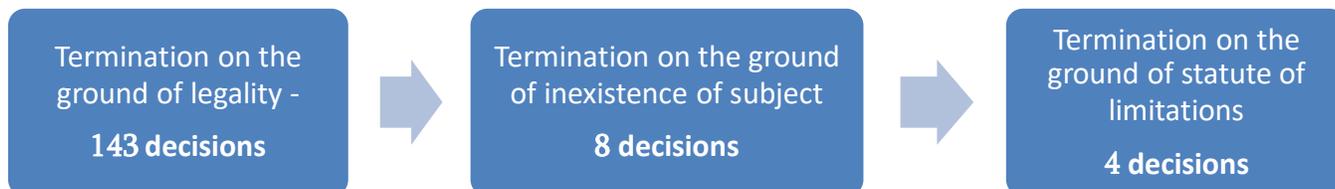
⁸ The agreement was reached with the High Council of Justice of Georgia on September 9, 2020.

If the complaint concerns both the grounds for termination provided for in paragraph 1 of Article 75¹² of the Organic Law of Georgia on Common Courts and disciplinary misconducts, the Independent Inspector will make a partial decision to terminate the proceedings on a proper basis, while the High Council of Justice will consider the disciplinary misconduct.

The High Council of Justice of Georgia will discuss and adopt an order for the part of the disciplinary misconduct at the disciplinary session, and the independent inspector will make a partial decision on termination of the disciplinary proceedings, when the grounds for the latter are present.

All of the above will increase the effectiveness of the Independent Inspector's Office, and the amendments will facilitate the effective exercise of the appeals of the complainants - to make timely decisions about their submitted complaints. Thus, from January 1, 2020, the independent inspector periodically makes a decision to terminate the disciplinary proceedings. Importantly, based on the conclusions prepared in the third quarter of 2018-2019, the decision to terminate disciplinary proceedings was made by an independent inspector in 155 cases: including 72 in 2018 and 52 in 2019. All of them concerned the legality of the act. Also, the proceedings were terminated:

- In 6 cases due to the expiration of the term of office of 8 judges;
- Due to the expiration of the statute of limitations for disciplinary liability in 4 cases;
- The High Council of Justice of Georgia made relevant decisions after reviewing the results of the preliminary investigation at the disciplinary session in 19 cases, as well as in the disciplinary misconduct on the basis of the same complaints.



9. Statistical Information on the prepared Conclusions

During the reporting period, the Independent Inspector prepared 29 conclusions on 29 complaints against 33 judges.

The conclusions concerned 23 cases of possible breach of time limit, 3 cases of expression of disrespect, 4 cases of personal interest, 2 cases of corruption, 2 cases of improper behaviour, and one case of interference with the distribution of cases.



It should be noted that none of the judges exercised the right to recuse an independent inspector, just as the independent inspector did not exercise his right to recusal.

10. Statistical Information on Results of Disciplinary Sessions

During the reporting period, the High Council of Justice of Georgia held 1 disciplinary session to review the conclusions of the independent inspector. 5 disciplinary cases on termination of disciplinary proceedings against judges as well as imposing liability on judges were discussed at the session. Disciplinary proceedings were terminated in 4 out of the five cases, and in 1 case the liability was imposed.

At the same time, at the disciplinary session, the High Council of Justice of Georgia reviewed 25 conclusions⁹ of the independent inspector and made 30 decisions.¹⁰ Including 29 decisions to terminate disciplinary proceedings and 1 decision to initiate disciplinary proceedings against a judge and to request an explanation.

Importantly, in 8 of the 26 conclusions reviewed, in relation to a number of facts, there was an independent inspector's conclusion on the initiation of disciplinary proceedings and the request of explanation from judges. The High Council of Justice of Georgia did not agree with the 6 facts mentioned in the conclusions on the initiation of disciplinary proceedings and terminated the disciplinary proceedings against the judges, while disciplinary proceedings were initiated against the judges in connection with the 2 facts mentioned in 2 cases and the judges were requested of explanations.

The cases submitted for the initiation of disciplinary proceedings concerned 7 facts of substantial violation of the procedural time limit of the case; Among them, 5 cases of ungrounded delaying in hearing a case and 2 cases¹¹ of improper performance of the duties of a judge, as well as one fact of expression of disrespect towards a participant of the trial.

Disciplinary proceedings were initiated against a judge in two cases alleging the substantial violation of the deadline due to unreasonable excuse.

It should be noted that none of the members of the High Council of Justice of Georgia has presented a dissenting opinion on the decision made by the High Council of Justice. At the same time, none of the judges exercised the right to make the hearing public.

⁹ The High Council of Justice of Georgia shall review the conclusions in accordance with the date of registration of the complaints. The conclusions prepared on the basis of the 2018 complaints were discussed at the second disciplinary session in 2020.

¹⁰ Regardless of the number of judges indicated in the disciplinary complaint, the independent inspector prepares one report on one disciplinary complaint, in which he/she evaluates the actions of each judge individually and submits the prepared report to the High Council of Justice of Georgia. The High Council of Justice of Georgia makes a decision on the commission of a disciplinary misconduct by each judge individually. Due to the above, the number of submitted conclusions and the number of decisions made by the High Council of Justice of Georgia are different.

¹¹ Version of the Organic Law of Georgia on Common Courts in force until January 1, 2020