



დაამოუკიდებელი ინსპექციის საბიუროს
OFFICE OF INDEPENDENT INSPECTOR

Second Quarter

STATISTICAL REPORT

TBILISI 2020

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Introduction

In accordance with the requirement derived from the Organic law on “Common Courts”, the Office of the Independent Inspector has prepared a quarterly report, which encompasses information on the activities of the Office of the Independent Inspector from April 1 to June 31, 2020.

Statistical Information comprised in the document is processed according to the case-categories, court instances, disciplinary misconducts and conclusions. The statistical data on the status of the authors of complaints and judges are also analyzed.

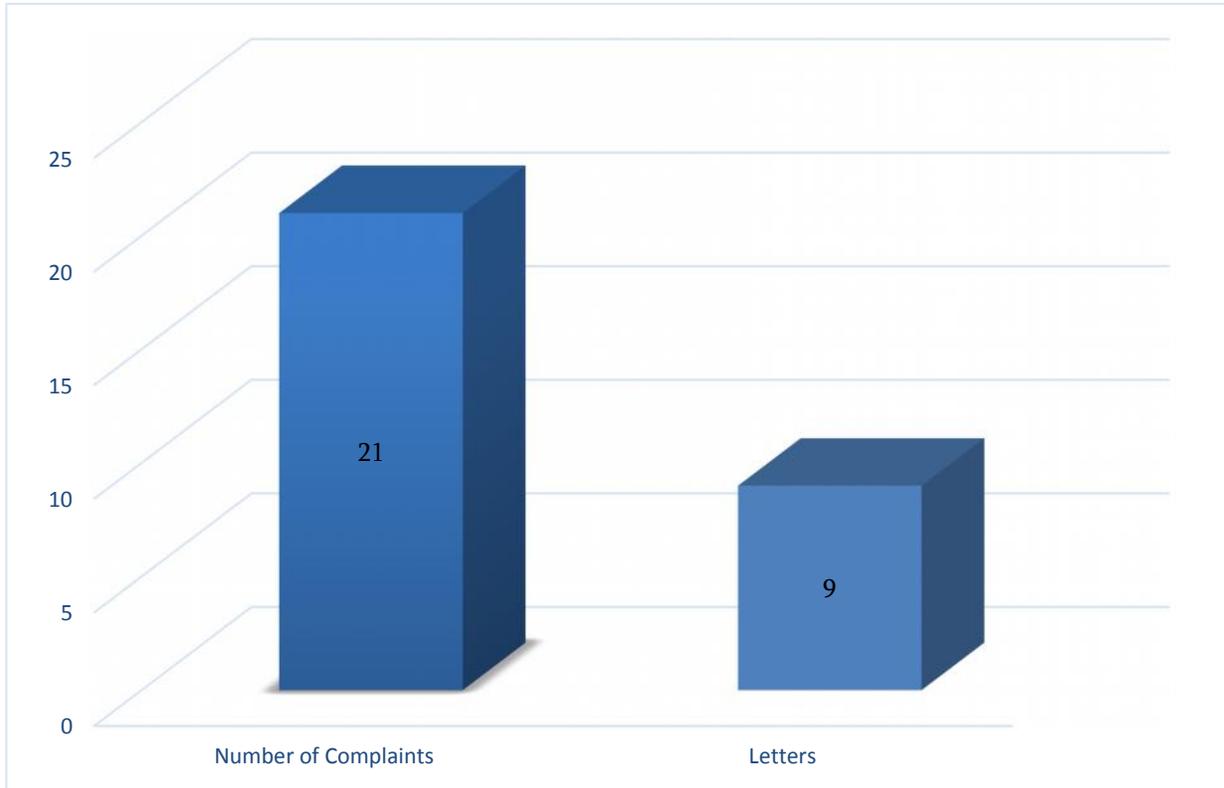
It is noteworthy that during the reporting period, the number of referrals to the Office of the Independent Inspector was reduced due to the Worldwide Covid Pandemic. However, despite the decreased number of complaints, the Office of the Independent Inspector continued to work remotely, taking care of the complaints received and fostering the professional development of the team.

At the same time, the High Council of Justice of Georgia has published the complaint form for a possible disciplinary misconduct by a judge, which was approved at the July 17, 2020 session.

1. General Statistical Information

From April 1, 2020 to June 31, the Office of the Independent Inspector received 21 disciplinary complaints.

During the reporting period, 9 complaints were submitted without consideration of the complaint form, in result of which the complaint form and detailed instructions were sent to the complainant.



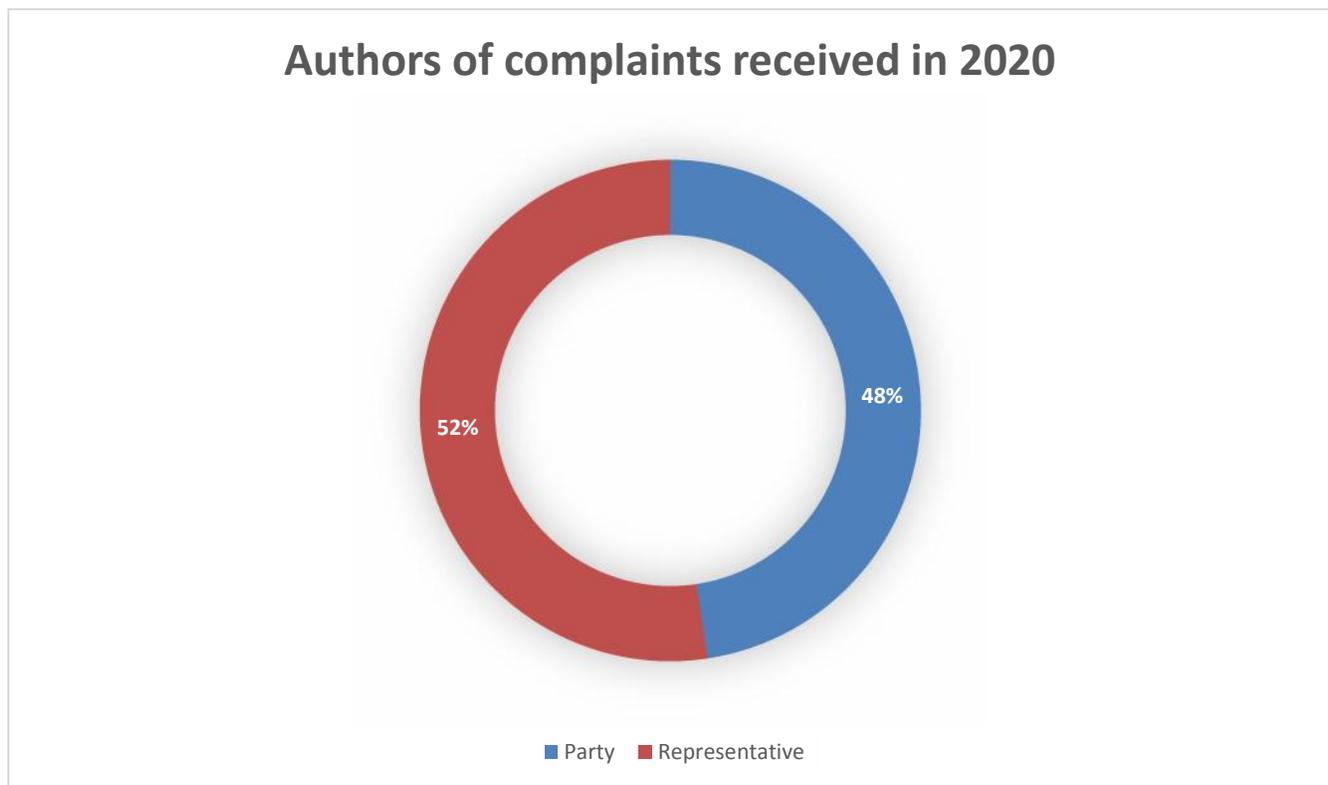
25 letters have been sent by the Office of the Independent Inspector to investigate the complaints and the relevant information required for the preliminary investigation has been requested. Documents related to the cases were received in the form of 20 letters during the reporting period.

2. Statistical Information on the Authors of Disciplinary Complaints

The statistical information about the authors of the complaints was processed in accordance with their status in hearings.¹

Statistics on the authors of the disciplinary complaints has changed: the number of complaints filed by the representatives has been decreased by 12% and made it to 52%, while the number of complaints filed by the litigants in court increased by 12% and made it to 48%.

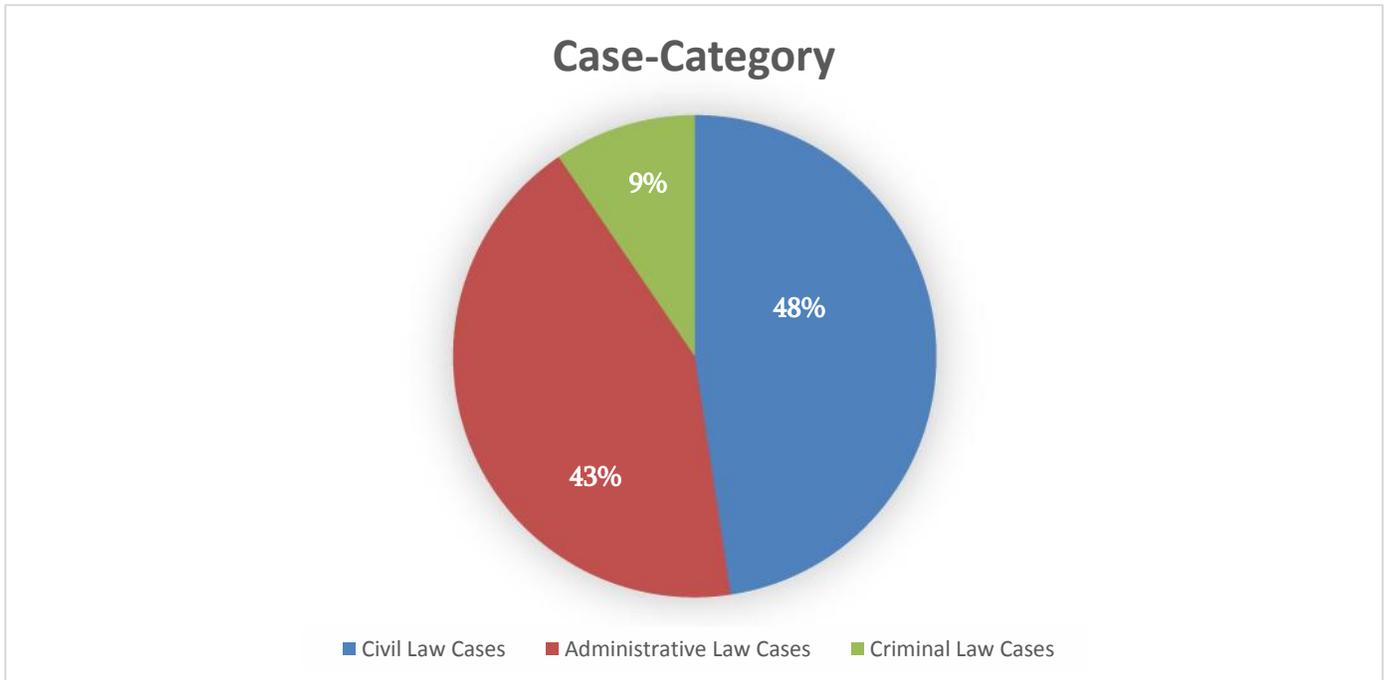
During the reporting period, disciplinary proceedings were not initiated on the basis of complaints from interested persons, information disseminated to the media, the proposal of the Public Defender or report cards.



¹ The authors of the complaint are: the parties, representatives (legal representatives or persons with representative powers, lawyers), other interested persons (family members, person present at the hearing or any other person), the Public Defender. Also, the disciplinary proceedings may be initiated on the basis of information disseminated in the media and report cards.

3. Statistical Information in Accordance with the Case-Category

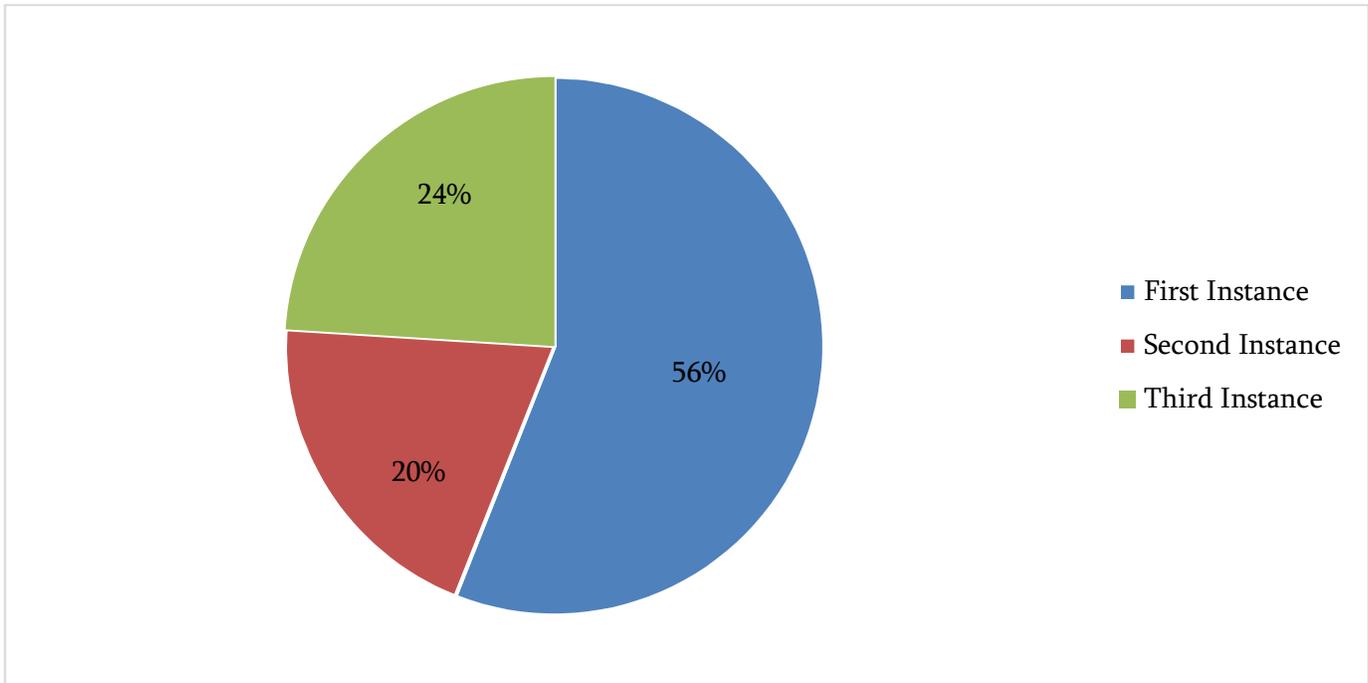
The number of the complaints filed in the second quarter of 2020, according to the Case-Category, is identical to the data of the first quarter. As in the first quarter, most complaints are in regard with civil law cases, which is matched by administrative law cases. As previously, the complaints in regard with criminal cases are in the smallest number.



4. Statistical Information in Accordance with the Court Instances

As a result of the case study, it was found that in the second quarter of 2020, 56% of the complaints concerned first-instance judges, which is 12% less compared to the data of the first quarter. 20% of the complaints concerned the appellate judges, which is also 12% compared to the data of the first quarter.

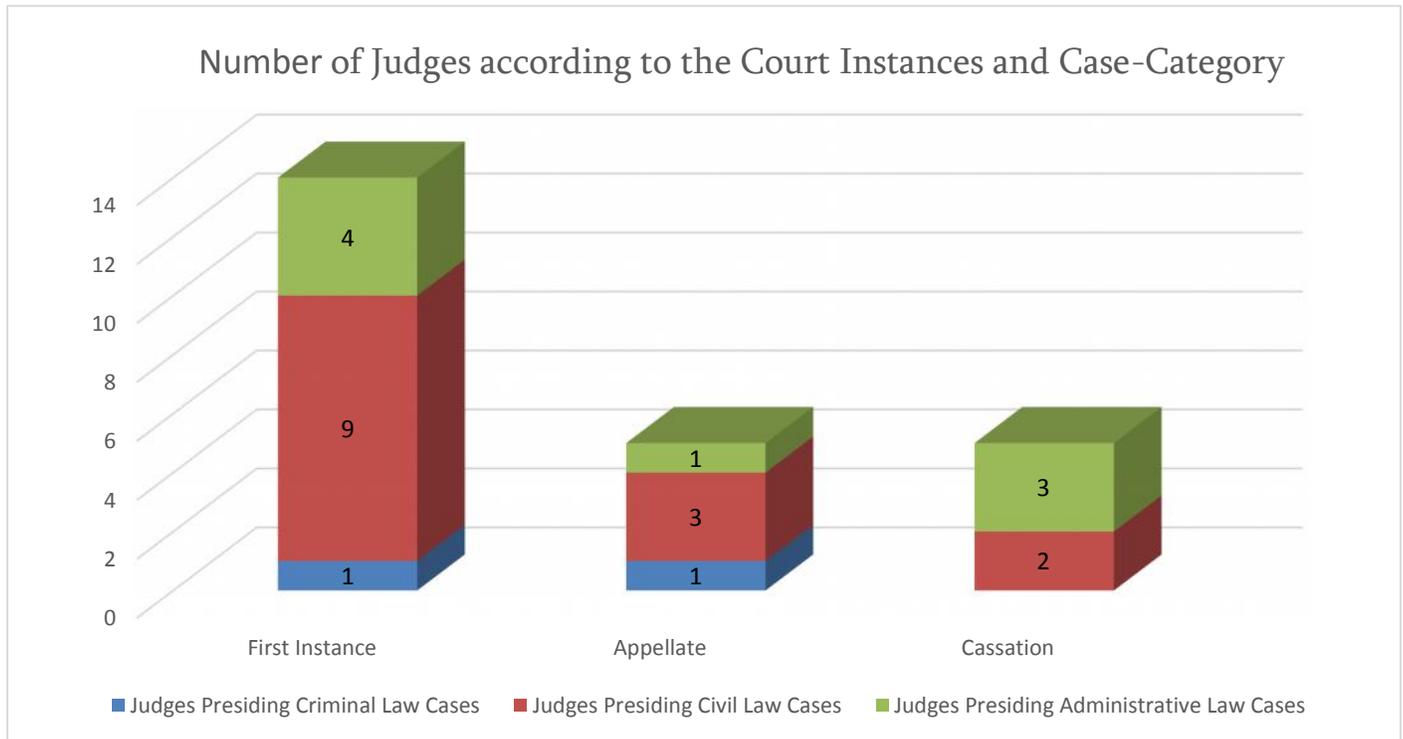
In the first quarter of 2020 none of the complaints were filed against the judges of the Supreme Court of Georgia, however, in the second quarter the number of complaints filed against the judges of the Court of Cassation reached 24%.



5. Statistical Information in Accordance with Judges

During the reporting period, 21 complaints were filed against 25 judges.

The number of complaints filed against judges is divided according to the Court Instances and Case-Category:



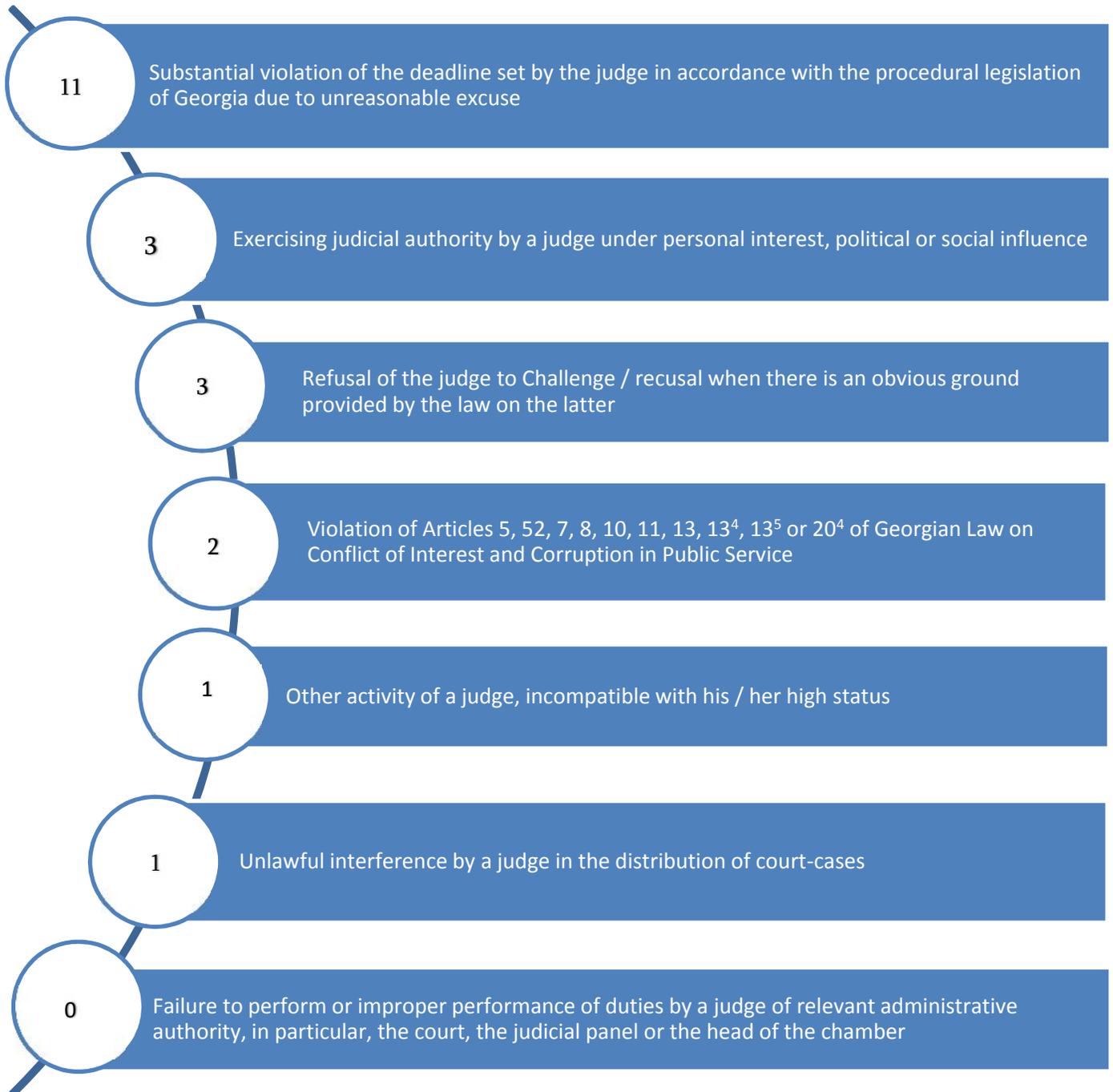
Analysing the number of the complaints received and the data on judges comprised in these complaints, we can assume that the first and second quarters are more or less similar. In the first quarter, 51% of the complaints were filed against judges of the first instance civil cases, while it increased to 61% in the second quarter. In the second quarter, 30% of complaints have been filed against administrative law judges, which is 6% more than in the previous quarter. It is noteworthy that the number of complaints against first instance judges in criminal law decreased by 14% in the second quarter.

As for judges of the second instance, the number of complaints against judges of administrative law decreased by 3%, the number of complaints against judges of civil law decreased by 6%, while the number of complaints against judges of criminal cases increased to 9%.

It should be noted that in the second quarter, none of the complaints were filed against judges of the Supreme Court of Georgia in criminal law.

6. Statistical Information on Disciplinary Misconducts

Article 75¹ paragraph 8 of the Organic Law of Georgia on Common Courts provides 20 different types of disciplinary misconducts. Complaints concerned only the actions reflected in 6 different sub-paragraphs. Most complaints were filed on the basis of violation of the procedural deadline; Exercising judicial authority by a judge under personal interest and refusal of the judge to recusal when there is an obvious ground provided. It should be noted, that in 2 complaints, in addition to various types of misconducts, the authors of the complaint indicated on the legality of the act, and solely the legality was disputed in 4 complaints.



0

Interference by the judge in the activities of another judge in order to influence the court decision

0

Public expression of opinion by a Judge on a case pending before a court. However, Judge's explanation on organizational and technical issues related to the case for the purposes of informing the public, will not be considered as disciplinary misconduct.

0

Pre-disclosure of the Court decision on the pending case by the judge, except in cases provided for by the procedural legislation of Georgia

0

Violation of the requirements of the 1st Paragraph of Article 72¹ or the 1st Paragraph of Article 72² of the Organic Law of Georgia on General Courts by the judge

0

A judge may not be a member of any political association or participate in political activities. A judge may not publicly endorse electees or express political views.

0

Discriminatory actions of a judge expressed verbally or in any other form against any person due to any grounds in the exercise of his / her judicial powers

0

Expression of obvious disrespect towards another judge, an officer of an administration of the court, or parties of the hearing.

0

Hinderance of Disciplinary Proceedings by a judge

0

Forming a personal and intensive (friendly, family) relationship directly with the participant in the proceedings, which causes the judge to be biased and / or give preference to the participant if he / she had information about the party.

0

Sexual harassment by a judge

0

Disclosure of secrecy of court deliberations by a judge

0

Inactivity of a judge towards a discriminatory action, expressed verbally or in any other form by an officer of court administration or a participant of a hearing against another participant, if a judge witnesses such fact.

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Inactivity of a judge towards violation of the law and possible disciplinary misconducts provided for in this paragraph, by another judge, an officer of court administration or participants in the proceedings, if a judge witnesses such fact.

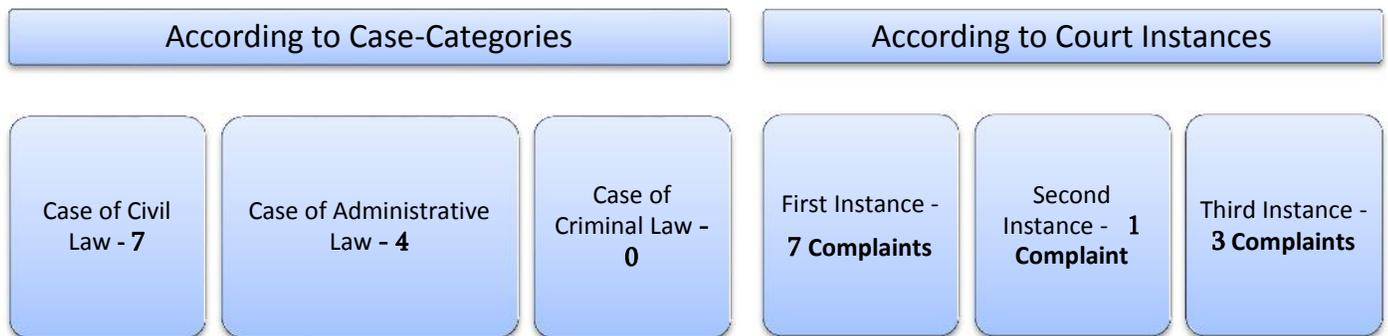
7. Statistical Information in Accordance with the Types of Misconduct and Case-Categories

It is important to set aside information, which type of disciplinary misconduct prevails among different instances or panel of judges presiding the cases. For this purpose, the present chapter analyzes statistical information on 21 disciplinary complaints according to the types of misconducts.

7.1 Violation and Procedural Deadline

In the first quarter of 2020, a preliminary investigation was conducted on the basis of 11 complaints on possible substantial violation of the deadline set by the judge in accordance with the procedural legislation of Georgia due to unreasonable excuse.

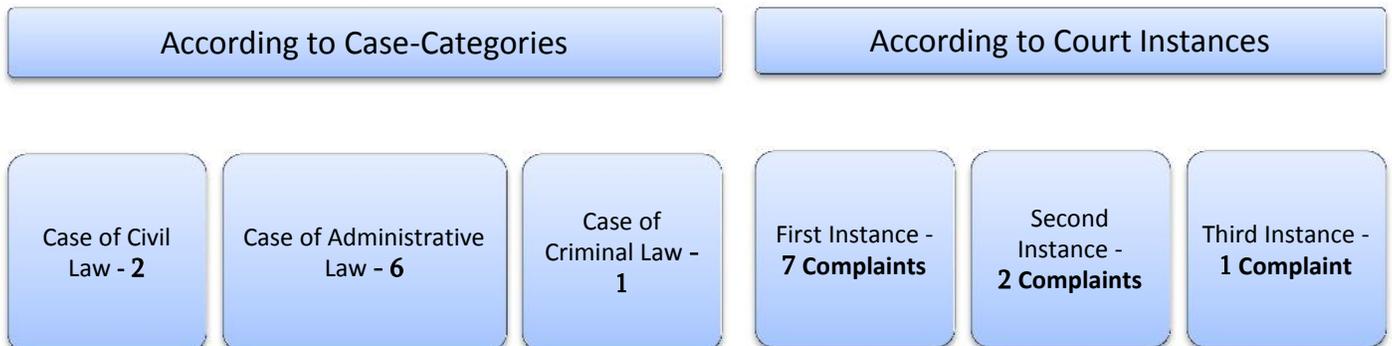
The complaints mainly concerned civil and administrative law cases, which were mostly heard by first instance court judges.



7.2 Other Types of Disciplinary Misconducts

The Office of Independent Inspector conducted disciplinary proceedings on 9 complaints in regard with the distribution of court-cases, corruption, exercise judicial authority under personal interest, political or social influence and refusal to recusal.

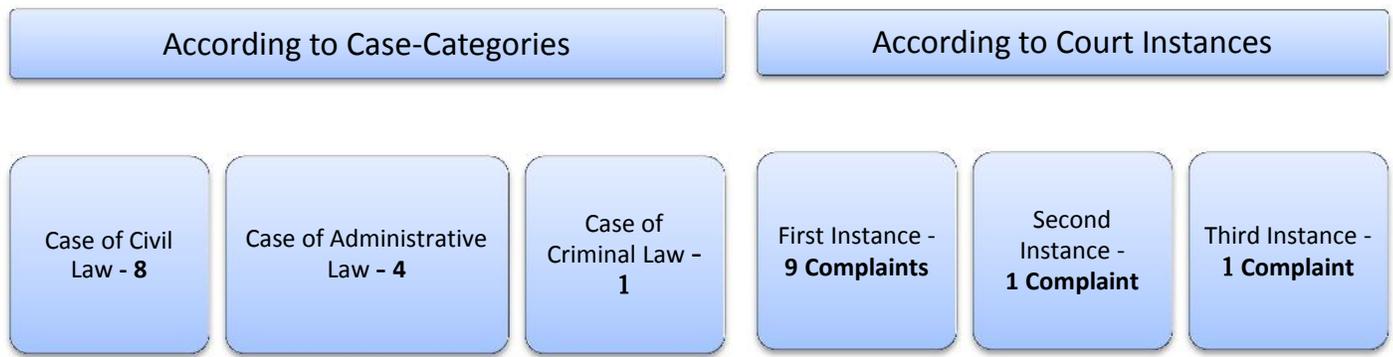
Most of the cases were related to administrative law cases, while the first instance prevailed in terms of instances.



8. Statistics on Decisions of an Independent Inspector

During the reporting period, the Independent Inspector conducted a preliminary investigation on 24 complaints.² As a result of the investigation, out of 14 complaints, the Independent Inspector made decisions to terminate the disciplinary proceedings in 13 cases.³ Among them:

- ✓ Disciplinary proceedings have been terminated on 5 complaints as the complaint concerned only the legality of an act rendered by judges;
- ✓ In 9 complaints, 2 of which were merged into one proceeding and assigned one number, 8 decisions were made on partial termination of disciplinary proceedings, as part of the claims in the complaints concerned the legality of the act rendered by judges, and part of the claims related to possible disciplinary misconduct (s), which led to disciplinary proceedings and preliminary investigation of the case.⁴



It should be noted that the defect was identified in 3 complaints, and after bridging the gap, a preliminary investigation of the disciplinary case was commenced on the basis of all three complaints.

Significantly, the Fourth Wave of Reform gave the Independent Inspector the power to terminate disciplinary proceedings, including complaints concerning the legality of the Act.⁵

In order to ensure the effectiveness of the disciplinary proceedings, given that the final decision on the complaint cannot be made within 2 months, the Office of the Independent Inspector, in agreement with the High Council of Justice of Georgia considered that complaints concerning only the legality of the act, as well as in cases where the term of disciplinary action or disciplinary liability (disciplinary sanction) of a judge has expired and / or there is a decision by the body conducting the disciplinary proceedings against the same judge, and / or the judge's judicial powers have terminated, the Independent Inspector makes the decision independently to terminate the proceedings.

² In the second quarter, the preliminary investigation of the disciplinary case was completed on 16 complaints received in the first quarter and 9 complaints received in the second quarter. Accordingly, decisions / conclusions have been prepared. Disciplinary proceedings were not completed for the 12 complaints received in the second quarter.

³ Decisions are made with respect to individual judges. Consequently, the number of complaints differs from the numbers of decisions made.

⁴ Disciplinary proceedings have been terminated in some cases only in accordance with Article 75¹² par. 1 (d) of the Organic Law of Georgia on "Common Courts". Other alleged misconducts in the complaints are subject to disciplinary proceedings and preliminary investigation or the relevant conclusions have been prepared in accordance with the law.

⁵ „ Article 75¹² of the Organic Law of Georgia on Common Courts, in force from January 1, 2020.

When a complaint concerns the grounds for termination provided for in par. 1 of Article 75¹² of the Organic Law of Georgia on “Common Courts” as well as a disciplinary misconduct, the High Council of Justice of Georgia will handle the latter and issue and order while the office of the Independent Inspector makes the decision on partial termination, given the grounds for such a decision are present.

It should be noted that the amendments envisaged by the Fourth Wave Reform enters the force on January 1, 2020, meanwhile the decision to terminate disciplinary proceedings on the grounds established by the Organic Law is periodically carried out by an Independent Inspector.

All of the above will increase the effectiveness of the Independent Inspector’s Office and help to protect the rights of complaints-authors by making timely decisions on the complaints received.

In the second quarter, based on the findings of former Independent Inspector Ketevan Tsintsadze, Zurab Aznaurashvili made decisions to terminate disciplinary proceedings in 12 cases. Out of 12 cases, 10 cases concerned only the legality of the act. In 2 cases, the Independent Inspector made a partial decision about termination of the disciplinary proceedings. In one case the judicial powers of a judge were terminated, and in the other, the High Council of Justice ruled on the same judge on the same grounds and made the relevant decisions. Based on the same complaints, the High Council of Justice of Georgia made relevant decisions for the part of disciplinary misconduct after reviewing the results of the preliminary investigation at the disciplinary session.



9. Statistical Information on the drawn Conclusions

During the reporting period, an Independent Inspector prepared 18 conclusions on 19 complaints against 20 Judges.⁶

Conclusions mentioned concerned 13 cases of substantial violation of the deadline; 3 cases on refusal to recusal; 2 cases on expression of obvious disrespect; 2 cases on personal interest; 2 cases on incompatible behaviours; One case on discriminatory action.



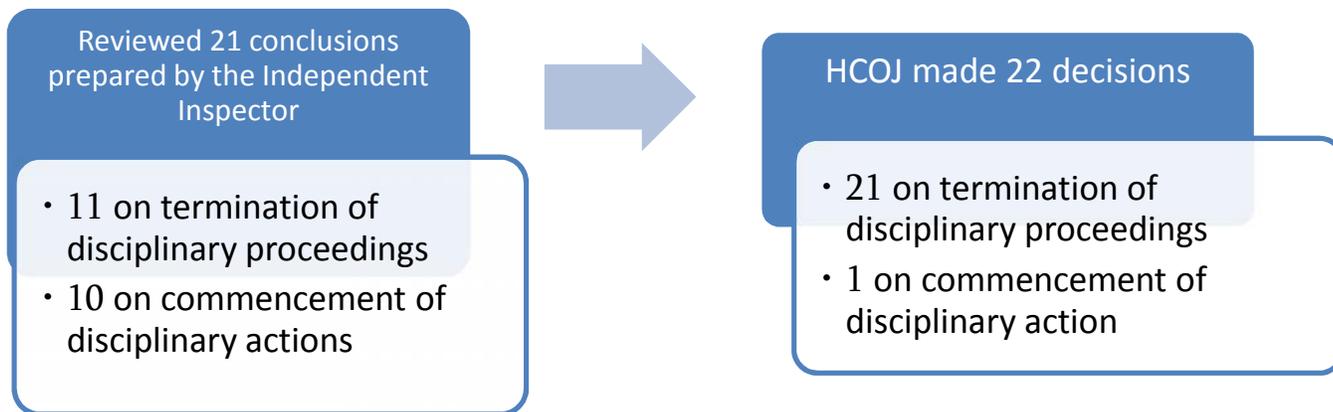
It should be noted that neither any judge has exercised his / her right to challenge the Independent Inspector, nor has an Independent Inspector recused itself.

⁶Two complaints were merged into one proceedings and assigned one number.

10. Statistical Information on the Results of the Disciplinary Hearings

During the reporting period, the High Council of Justice of Georgia held one disciplinary session to review the conclusions of the Independent Inspector. 5 disciplinary cases concerned either the termination of the disciplinary proceedings against judges or the imposition of disciplinary liability. Disciplinary proceedings were terminated in all five cases.

At the same time, at the disciplinary session, the High Council of Justice of Georgia reviewed 21 conclusions⁷ of the Independent Inspector and made 22 decisions.⁸



It should be noted that in 10 out of the 21 conclusions reviewed, an Independent Inspector's report stated the commencement of disciplinary proceedings and the explanation of judges. The High Council of Justice of Georgia did not agree with the 9 submitted conclusions on the commencement of disciplinary proceedings and terminated the disciplinary proceedings against judges.

The cases filed for the commencement of disciplinary proceedings concerned 8 cases of substantial violation of the procedural deadline (among them, 5 cases of ungrounded delay in proceedings and 3 cases of improper fulfillment of the obligations of a judge (Organic Law of Georgia on "Common Courts", in force until January 1, 2020), and 2 cases of expression of obvious disrespect towards parties of the hearing.⁹

From the Conclusions submitted, disciplinary proceedings were initiated only in a single case, alleging the expression of obvious disrespect toward parties of the hearing.

⁷ The High Council of Justice of Georgia reviews 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 first disciplinary session of 2020.

⁸ Regardless of the number of judges indicated in the disciplinary complaint, the Independent Inspector prepares single reports for each disciplinary complaint, which evaluates the actions of each judge individually and submits the 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 the decisions made by the High Council of Justice of Georgia varies.

⁹ In certain cases the authors of the complaints refer to several disciplinary misconducts. Consequently, the number of complaints submitted and disciplinary misconducts varies.

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 Council. At the same time, none of the judges has exercised the right to make the session public.