



დაამოუკიდებელი ინსპექციის საბსაქუნი

OFFICE OF INDEPENDENT INSPECTOR

Statistical Report

Fourth Quarter of 2020

**Tbilisi
2021**

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Introduction

In pursuance with the Organic Law of the Independent Inspector's Office, the Quarterly report has been prepared, which includes the activities of the latter from the 1st of October to December 31, 2020.

The statistical information enshrined in the document is processed according to the case categories, court instances, disciplinary misconduct and conclusions. In addition, information about the authors of the complaint and data about the judges are analyzed.

Despite restrictions imposed by Covid-19, the referral rate has not decreased compared to the previous quarter. It is noteworthy that a hotline was launched in November at the Office of the Independent Inspector, which allows any interested person to receive information about disciplinary proceedings remotely.

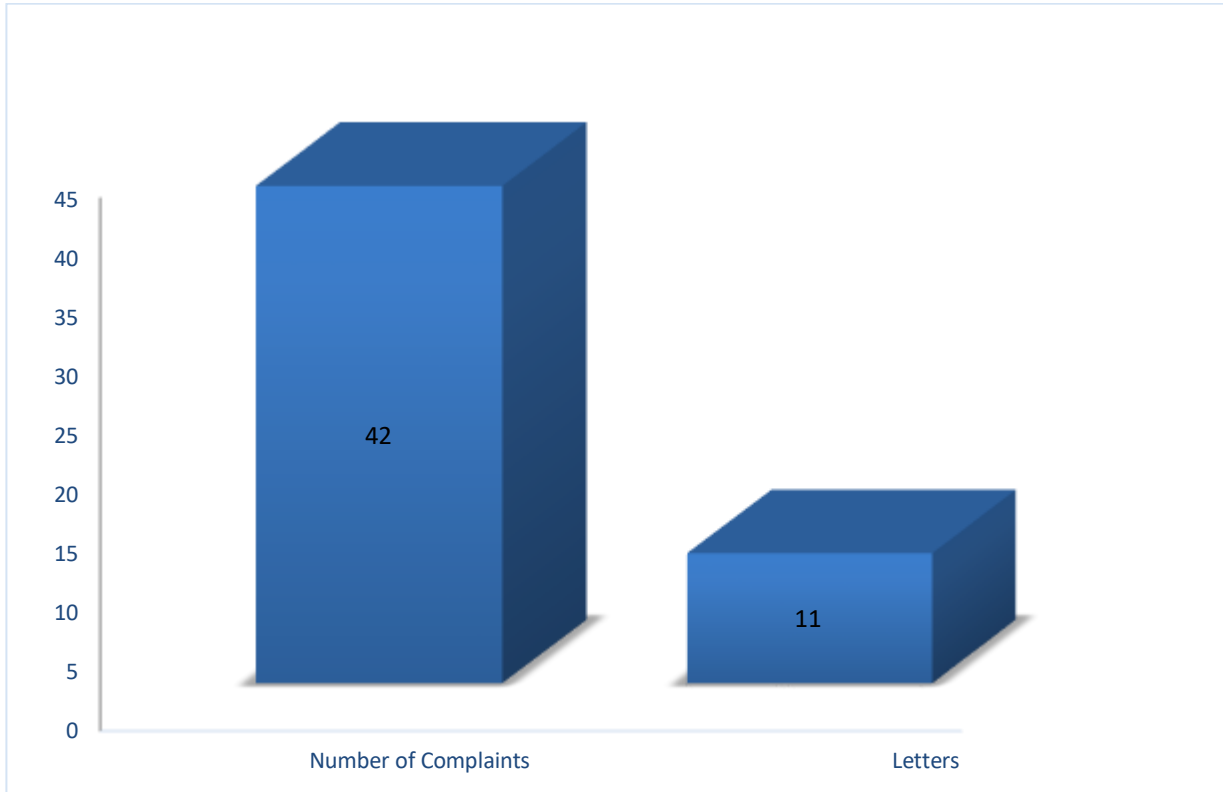
During the reporting period, the Office of the Independent Inspector discussed the prepared document on the key directions of strategic development with the representatives of the judiciary, international and non-governmental organizations. The presentation of the document developed as a result of recommendations and opinions, was held online, after which the independent inspector approved and published the latter on the website of the office.

It is noteworthy that the Office of the Independent Inspector worked remotely in the current quarter and provided both the investigation of incoming complaints and the professional development of the team. To this end, a number of trainings or workshops were held during the reporting period, including: a series of training on reasoning, supported by EU Judiciary support Project; An online meeting on personal data protection was also held with the support of the Council of Europe and in partnership with the European Network of Justice Inspection Authorities.

1. General Statistical Information

The Office of the Independent Inspector received 42 disciplinary complaints from 01 October to 31 December 2020.

During the reporting period, 11 complaints were submitted without fulfilling the requirements of the complaint form, after which the complainants were sent the latter with detailed instructions for filling them out.



In order for the Independent Inspector's Office to investigate the complaints, 51 letters were sent and the relevant information required for the preliminary investigation was requested.

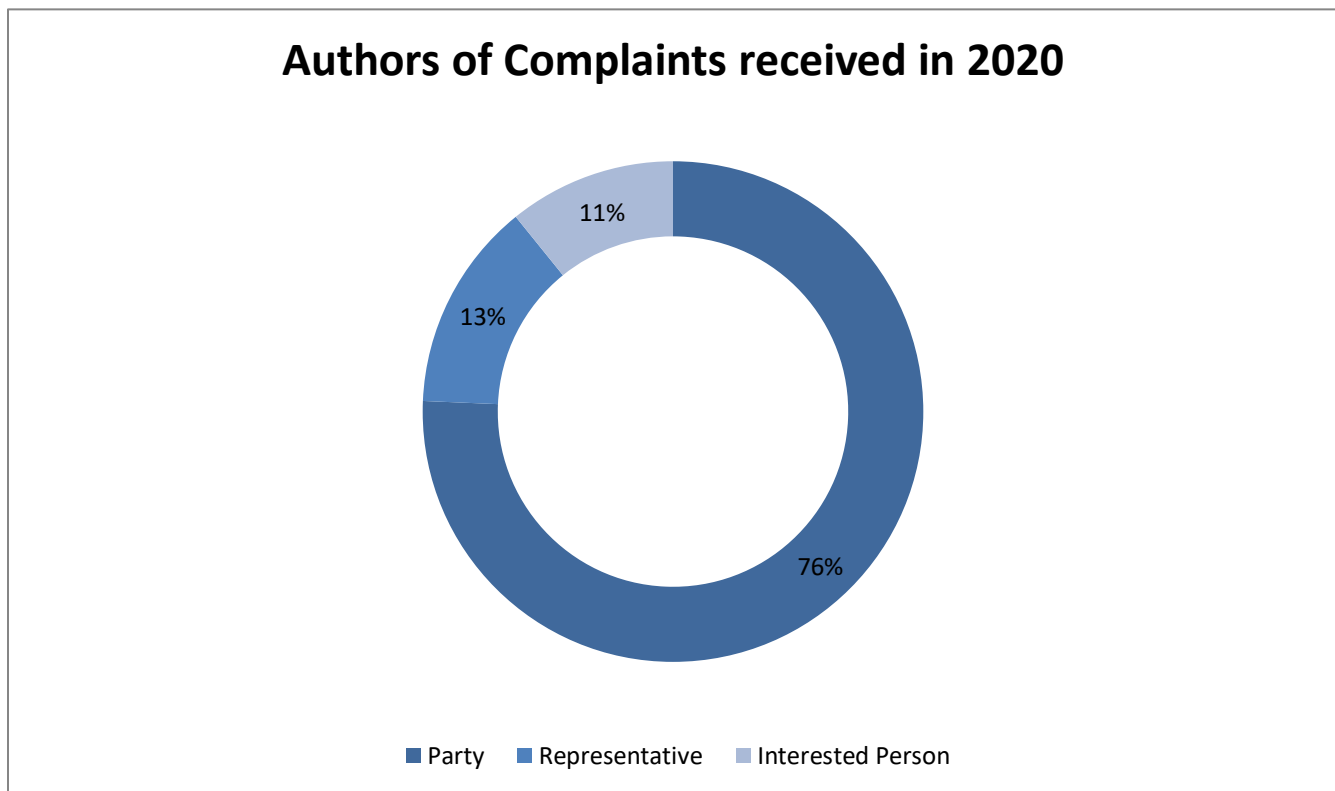
At the same time, it should be noted that up to 20 citizens received consultations during the reporting period through the hotline launched on November 27, 2020.

2. Statistical Information on the Authors of Disciplinary Complaints

The statistical information about the authors of the complaints has been processed in pursuance with their status in hearings.¹

Compared to previous quarters, the number of complaints by the authors of the complaint has changed significantly, namely: the number of complaints filed by the parties to the current dispute has increased (by 26%) to 76%. Also, the number of complaints submitted by interested parties increased (by 4%) and amounted to 11%. The number of complaints filed by the representatives decreased by 27% and amounted to 13%.

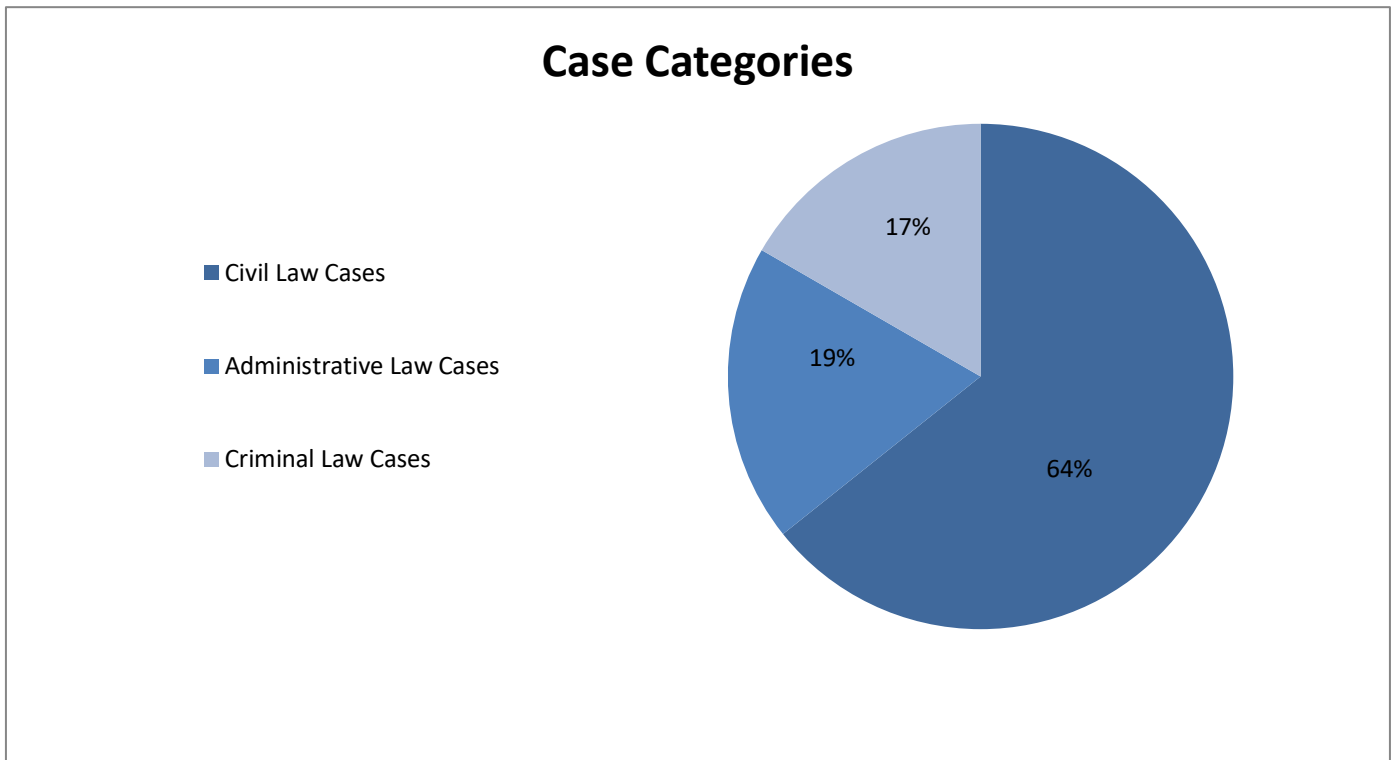
During the reporting period, an investigation was launched into one case based on the report card. However, the disciplinary proceedings have not been initiated on the basis of information spread in the media and / or on the proposal of the Public Defender.



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 might be initiated on the basis of information disseminated in the media and based on the report cards.

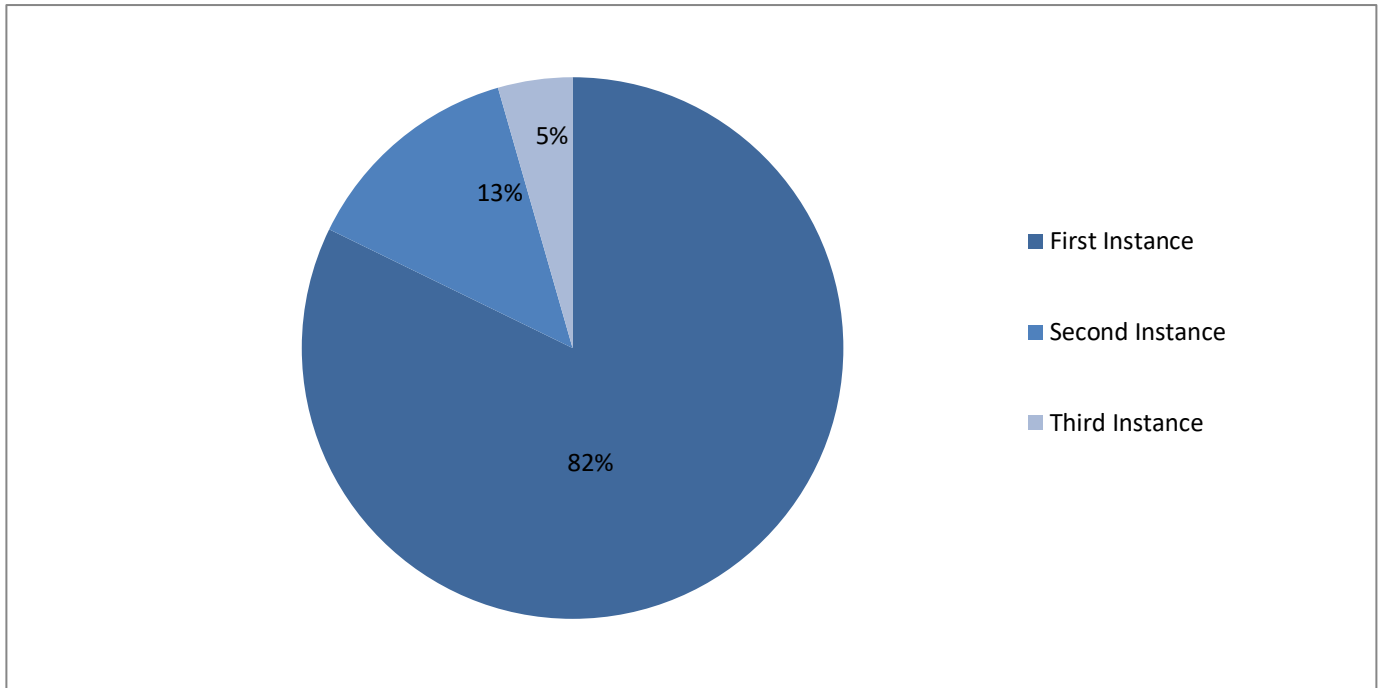
3. Statistical Information by Case-Categories

The number of complaints received in the fourth quarter of 2020 in terms of the quantitative distribution of cases is similar to the data in the third quarter. The majority of complaints received in this quarter are in the category of civil law cases, although their number increased by 4%. Compared to the previous quarter, the number of complaints in administrative law cases decreased by 4%, while the number of referrals in criminal law cases still stands at 17%. The disciplinary proceedings were initiated on the basis of a report card in one case, on the grounds of hindering disciplinary proceedings by a judge, which does not derive from any category case.



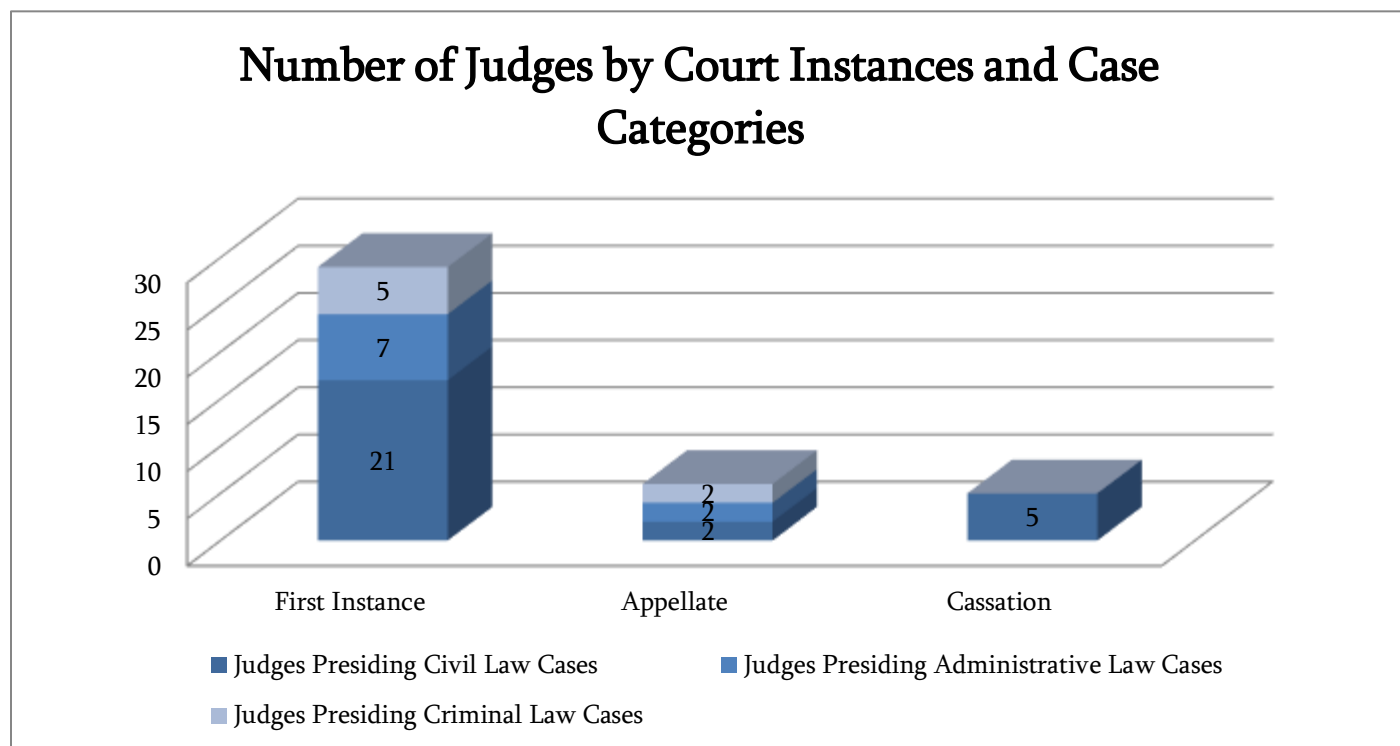
4. Statistical Information by Court Instances

The Complaints Study found that in the fourth quarter of 2020, 82% of complaints were filed against first instance judges, which is 5% more than in the third quarter. The number of complaints against judges of the Court of Appeals is 13%, while the number of complaints against judges of the Supreme Court of Georgia is 5%. Compared to the previous quarter, these data are 4% and 1% less, respectively.



5. Statistical Information by Judges

During the reporting period, 42 complaints pending before the preliminary investigation concerned 39 judges.² The number of complaints against judges is divided according to the case categories and court instances as follows:



Analyzing the number of incoming complaints and the data on judges, we can assume that the data for the third and fourth quarters are different. About 54% of complaints in the fourth quarter concerned the first-instance civil judges, up to 15.7% from the previous quarter. The number of complaints against administrative law judges of the same instance increased by 5% compared to the third quarter. It is also important to note that the number of appeals against first instance criminal judges in the fourth quarter is still up to 13%.

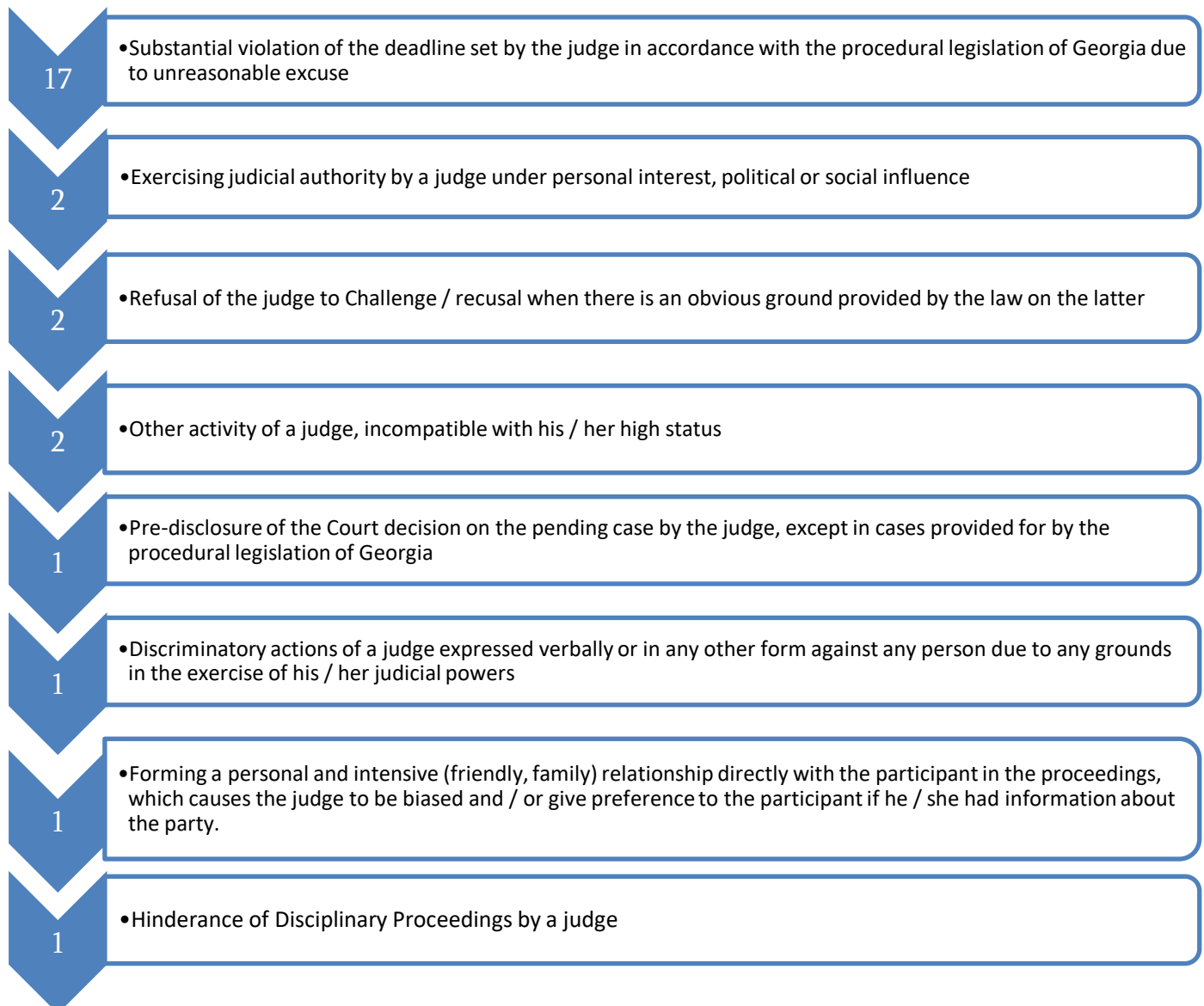
As for the second instance, the number of complaints against civil law judges decreased by 7.7% compared to the previous quarter, while the number of complaints against administrative law and criminal judges decreased by 2%. As for the complaints against judges of the Court of Cassation, both in the third and fourth quarters, no complaints were filed against judges of criminal and administrative law, while the number of complaints against judges of civil law cases increased by 7%.

² It should be noted that some judges review three or two categories of cases. In addition, several complaints have been filed against same judges. Accordingly, the number of judges differs from the number of judges by case categories.

6. Statistical Information on Disciplinary Misconducts

Article 75¹ par. 8 of the Organic Law of Georgia on Common Courts sets out 20 different types of disciplinary misconducts. Complaints concerned only the actions reflected in 8 different sub-paragraphs. Most complaints were filed on the basis of violation of the procedural deadline; Exercising judicial authority under personal interest, refusal of recusal and improper performance of the duties. It should be noted that in 16 complaints, the authors of the complaints indicated solemnly on the legality of the act, out of which 10 complaints were combined into a single proceeding and were assigned the same number,³ whilst in 2 complaints, in addition to legality, the complainants also pointed out the facts of possible disciplinary misconduct.

However, during the reporting period, one complaint was filed in accordance with the requirements of a complaint form, although the elements indicated in the complaint did not correspond to any type of disciplinary misconduct.



³ According to the decision of the Independent Inspector, in accordance with Article 75⁹ of the Organic Law of Georgia on Common Courts, disciplinary complaints against one judge on the same ground were merged into one proceeding.

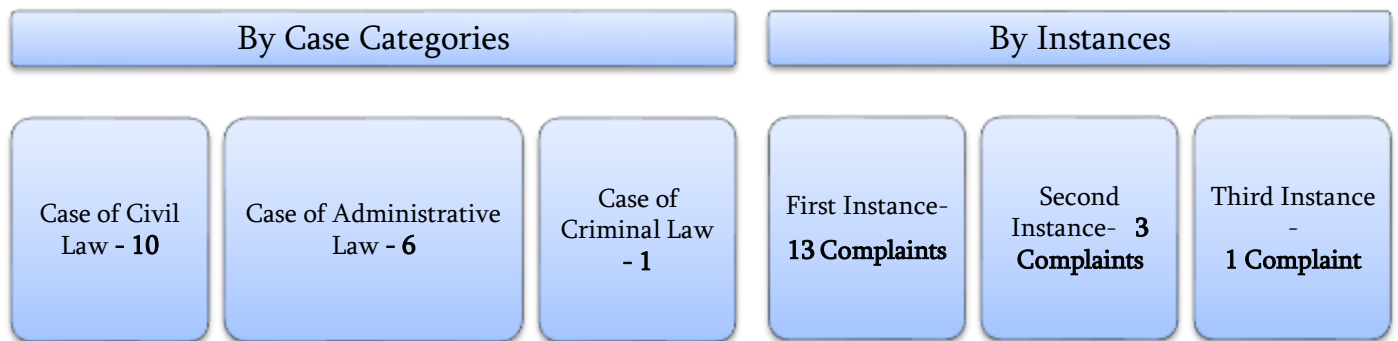
7. Statistical Information by the Types of Misconduct and Case-Categories

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 45 disciplinary complaints by the types of misconducts.

7.1 Violation of Procedural Deadline

Preliminary investigation has been conducted on the basis of 17 complaints on substantial violation of the deadline due to unreasonable excuse set by the judge in accordance with the procedural legislation of Georgia.

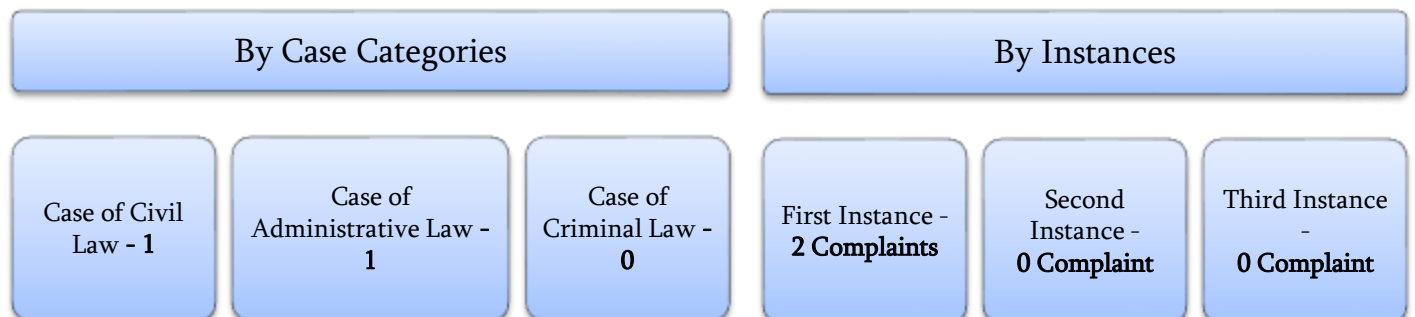
These complaints mainly concerned civil and administrative law cases, which were mostly heard by the judges of the first instance.



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

The type of misconduct – Exercising Judicial Authority by a Judge under personal interest, political or social influence, has been the subject of discussion in 2 complaints.

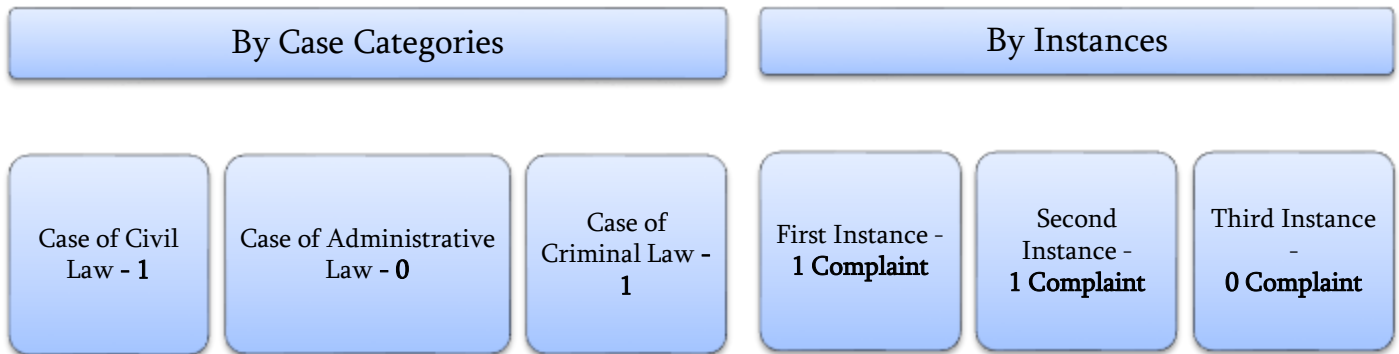
These complaints concerned only the judges of the first instance court presiding civil and administrative law cases.



7.3 Refusal of the Judge to Challenge / Recusal when there is an Obvious Ground provided by the Law on the Latter

There were two complaints filed on the basis of refusal of the judge to challenge / recusal. These complaints concerned both district / city and appellate court cases.

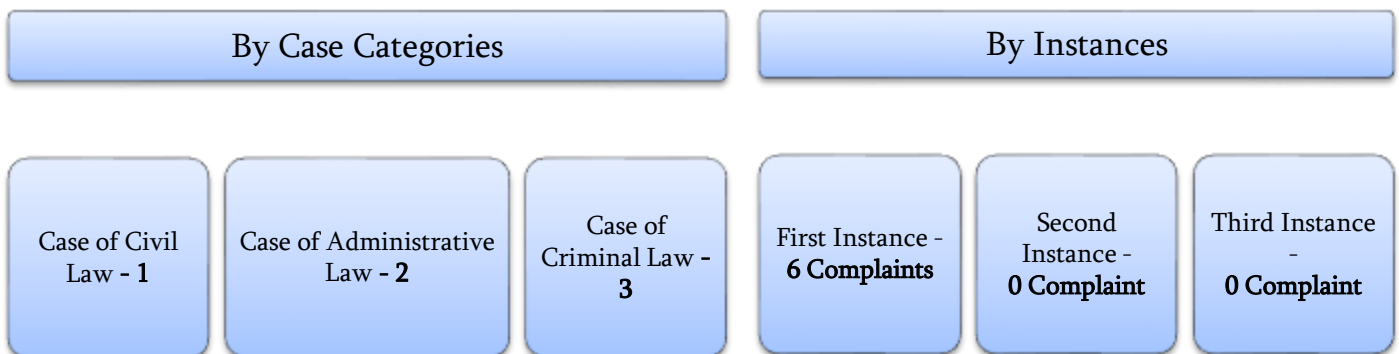
The complaints concerned civil and criminal law cases.



7.4 Other Types of Misconduct

In the Office of the Independent Inspector, disciplinary proceedings were conducted on 6 complaints related to Improper behaviour of the judge, discriminatory actions, pre-disclosure of the court decision and hinderance of disciplinary proceedings.

In these cases, most of the complaints concerned criminal law cases, while only the first instance judges were appealed.

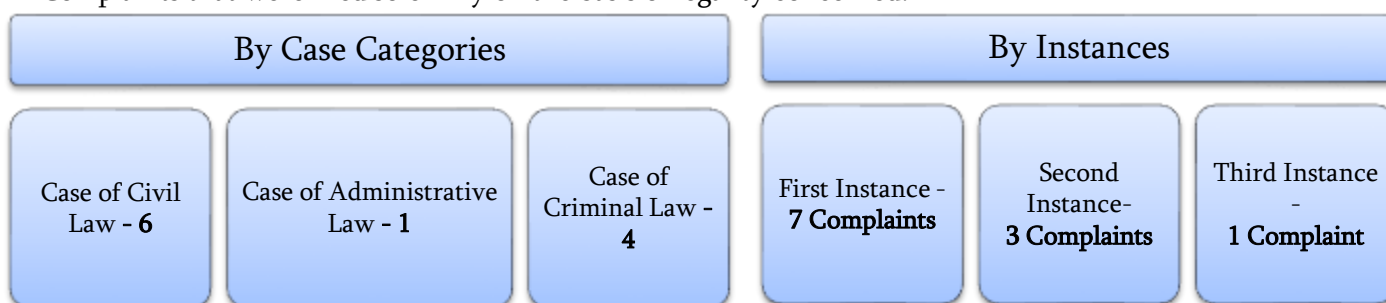


8. Statistics on Decisions of an Independent Inspector

During the reporting period, the Independent Inspector conducted a preliminary investigation into 53 complaints.⁴ As a result of the investigation of the mentioned complaints, out of 22 complaints, the independent inspector made 16 decisions to terminate the disciplinary proceedings.⁵ Among them:

- 11 decisions were made on 20 complaints to terminate the disciplinary proceedings as the complaint concerned only the legality of the act rendered by the judges;
- On 1 complaint, 3 decisions were made to terminate the disciplinary proceedings as the complaint was filed in violation of the deadline set for the initiation of disciplinary proceedings;
- In 2 complains, 2 decisions were made to partially terminate the disciplinary proceedings, as part of the claims in the complaints concerned the legality of the act rendered by the judges, and part of the claims concerned the fact(s) of possible disciplinary misconduct, which proceeded into the disciplinary proceedings⁶

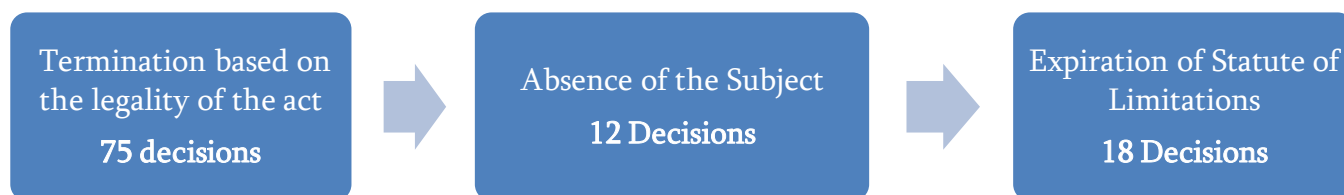
Complaints that were filed solemnly on the basis of legality concerned:



It should be noted that the defect was not identified in any of the cases.

From January 1, 2020, the independent inspector periodically makes a decision to terminate the disciplinary proceedings. Significantly, based on the findings prepared in the fourth quarter of 2018-2019, the Independent Inspector made 155 decisions on termination of disciplinary proceedings, namely:

- 12 decisions due to the expiration of the term of office;
- 18 decisions due to the expiration of the statute of limitations for disciplinary action;
- 1 decision on the grounds that there was a decision made by the body conducting the disciplinary proceedings against the same judge due to the same action;
- 75 was terminated in its entirety because the complaint requested a review of the legality of the act. In addition to the above, the disciplinary proceedings in 49 cases were partially terminated, only in part of the law, and on the basis of the same complaints, the High Council of Justice of Georgia made relevant decisions after reviewing the results of the preliminary investigation in the disciplinary session.



⁴ Preliminary investigation of the disciplinary case on 8 complaints received in the II quarter and 45 complaints received in the III quarter was completed in the III quarter. Decision / conclusions were prepared accordingly. Disciplinary proceedings were initiated, though not completed, over 12 complaints received in the third quarter.

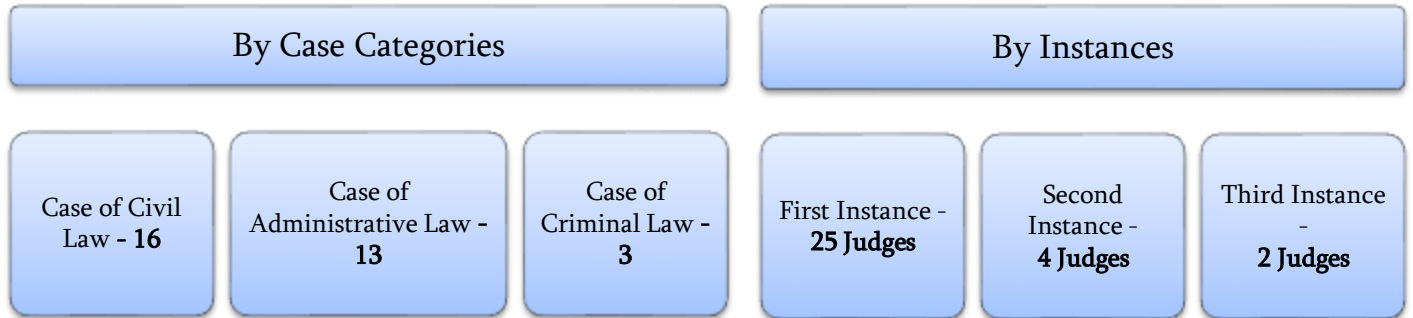
⁵ Decisions are made with respect to individual judges. Consequently, the number of complaints differs from the number of decisions made. However, 10 complaints were merged into one proceeding. A single disciplinary case number was assigned and a single decision was made on the mentioned cases.

⁶ Disciplinary proceedings have been partially terminated on some of the cases in accordance with Article 75¹², par. 1 letter D of the Organic Law of Georgia on Common Courts. Other alleged misconduct in the complaints are subject to disciplinary proceedings and preliminary investigation of the circumstances of the case or the relevant conclusions are prepared in accordance with the law.

9. Statistical Information on the Drawn Conclusions

During the reporting period, an independent inspector prepared 32 findings on 32 complaints against 31 judges.

The conclusions referred to 22 cases of alleged violation of the deadline, two cases of disrespect, 5 cases of personal interest, one case of refusal to challenge / recusal, one case of forming a relationship, one case of discriminatory action, one case of hindering the disciplinary proceedings.



It should be noted that no judge exercised the right to challenge an independent inspector, just as the right to recusal was not exercised by an independent inspector.

10. Statistical Information on the Results of the Disciplinary Hearings

During the reporting period, the High Council of Justice of Georgia held 2 disciplinary sessions to review the findings of the independent inspector. 1 disciplinary case on termination of disciplinary proceedings against a judge or imposing disciplinary liability was discussed at the session. The judge in this case was imposed by disciplinary liability.

At the same time, at the disciplinary session, the High Council of Justice of Georgia reviewed 91⁷ conclusions⁸ of the independent inspector and made 104 decisions.⁹ Including 98¹⁰ decisions to terminate disciplinary proceedings and 6 decisions to initiate disciplinary proceedings against a judge and to request an explanation.

Significantly, in 14 of the 91 findings reviewed, there was an independent inspector's report on the initiation of disciplinary proceedings against the judge and the request of explanations in relation to a number of facts. The High Council of Justice of Georgia did not agree with the 9 facts mentioned in the conclusions on the initiation of disciplinary proceedings and terminated the disciplinary proceedings against the judges, and initiated disciplinary proceedings against the judges in connection with the 5 facts mentioned in 5 cases and requested the explanations.

The findings on the initiation of disciplinary proceedings, which were terminated by the decision of the High Council of Justice, 8 cases referred to the substantial violation of the deadline and one case of expression of obvious disrespect towards the party. Meanwhile, the decisions to initiate disciplinary proceedings and request explanation from the side of the judge referred to two cases of substantial violation of the deadline, one case of exercising judicial authority under personal interest, one case of expression of obvious disrespect and one case of hinderance of disciplinary proceedings. At the same time, the High Council of Justice did not agree with the termination of disciplinary proceedings by the Independent inspector and initiated the latter. The aforementioned case referred to the improper performance of the duties of the judge.

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. However, none of the judges exercised the right to make the hearing public.

⁷ As a result of merger of 4 complaints in 2 cases, 2 conclusions were prepared. Accordingly, 91 conclusions prepared on the basis of 93 complaints were submitted to the High Council of Justice of Georgia.

⁸ The High Council of Justice of Georgia reviews the findings in accordance with the date of registration of the complaints. The conclusions prepared on the basis of the complaints for 2018-2019 were discussed at the sessions.

⁹ Regardless of the number of judges indicated in the disciplinary complaint, the independent inspector prepares one report on one disciplinary complaint, in which it 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.

¹⁰ 13 of them due to 2/3 of the inadmissibility of the decision to terminate the disciplinary proceedings.