LEGAL TRENDS

The Main Trends of Judicial Reform

KONSTANTIN KUBLASHVILI*

Judicial reform that has been underway in Georgia since the beginning of 2005 is large-scaled and covers all the issues related to the arrangement and balanced functioning of the judicial system. All the more or less important steps of the reform are substantially interrelated and it is necessary to implement them comprehensively and gradually to achieve the goal which is the creation of an independent judicial system.

The main directions of the reform are:
– Refinement of the mechanisms for combating corruption in the judicial system and ensuring the effectiveness of their functioning;
– Institutional reorganisation of the judicial system, the creation of a consistent and functionally well-balanced system and, consequently, ensuring the principle of the sequential order of instances;
– Specialisation of judges at the courts of all instances;
– Increase of the number of judges to at least 400;
– Increase of the remuneration of judges and the strengthening and enforcement of guarantees of social and legal protection;
– Perfection of the criteria for the selection of judges and an improvement of the system of their appointment;
– Creation of the system for training candidate judges and permanent retraining of practicing judges and the elaboration of relevant long-term programmes and training courses and putting them into practice;
– Securing opportunities for judges based on career principle;
– Logistics and financial provision of courts;
– Introduction of the institute of Court *Mandaturi* (a person in charge of keeping order) for keeping order at courthouses and session halls;
– Improvement of the organisational functioning of courts, refinement of the system of court management and a mastering of qualification of the court personnel and improvement of their performance;
– Creation of the integrated virtual network of the judicial system, the improvement and perfection of the quality of case proceedings and ensuring the transparency and publicity of court activities through posting public information on the Internet;
– Solution of the problem of protracted court proceedings and minimisation of the practice of cases moving in a circle;
– Refinement of the mechanisms of legal proceedings at the High Council of Justice and of the disciplinary administration of justice, increase of the number of judges therein in

* Chairperson of the Supreme Court of Georgia.

order for at least half of the members of this Council to be judges, and also ensuring the effectiveness of their performance;
– Enhancement and improvement of the relationship of the judiciary with the media and a strengthening of social control over the activities of the judiciary.

I. Institutional Changes

1. District (City) Courts

As previously mentioned, the institutional reorganisation of the judicial system, the creation of a smooth and functionally well-balanced system and, consequently, the securing of the principle of sequential order of instances together form one of the main directions of the reform. To this end, it is envisaged to modernise district (city) courts and to manifest this modernisation with respect to issues related to their jurisdiction and the specialisation of judges. The structure of a district (city) court will be substituted with a new one; that is the court will undergo structural changes with the creation of amalgamated district (city) courts which will consider criminal, civil and administrative cases, falling within their jurisdiction, as first instance courts. After the reform, fifteen enlarged district (city) courts will be established throughout Georgia in the cities of Kutaisi, Batumi, Rustavi, Marneuli, Telavi, Signagi, Ambrolauri and Zestaponi, amongst others. The main advantage of this system is that judges will be specialised in the district (city) courts. It is further significant that all the cases (except for those falling under the jurisdiction of magistrate judges), regardless of their complexity or subject, will be heard by the specialised judges of district (city) courts.

Magistrate Judges

With a view to securing one of the main principles of justice – its availability – the introduction of an institute of magistrate judges will take place. It will be a part of district (city) courts and exercise judicial power in the administrative-territorial units where there are no enlarged district (city) courts. To illustrate, an enlarged district court will be established in Zestaponi with its jurisdiction covering the districts of Sachkhere, Chiatura, Kharagauli, Terjola and Tkibuli with a magistrate judge being appointed in each of these districts. The magistrate judge, then, is the only one who hears the cases.

Whenever necessary, in order to avoid the obstruction of the administration of justice, the chairperson of a district (city) court may assign a magistrate judge to hear a case outside of his territorial jurisdiction; that is, in another administrative-territorial unit of the district (city) court.

Cases of a lesser complexity fall under the jurisdiction of magistrate judges. To this end, and according to Article 14 of the Civil Procedure Code of Georgia, the magistrate judges hear the following civil cases in the capacity of a court of first instance:

1. Property disputes if the value of the claim does not exceed 2,000 GEL.
2. Indisputable (*ex parte*) and simplified cases except for adoption cases and cases on simplified payments and declaring the abeyance of property if the value of the claim or the property exceeds 2,000 GEL.
3. Family-law disputes except for the case of adoption, deprivation of parental rights, affiliation and divorce if there is a dispute between spouses on the custody of a child.
4. Labour-law disputes.

By virtue of Article 6 of the Administrative Procedure Code of Georgia, the Magistrate hears the following administrative cases in the capacity of a body of first instance:

1. On the legitimacy of administrative-legal acts issued by the representative and executive bodies of a village, community, town and city within the district;
2. On the legitimacy of individual administrative-legal acts delivered with respect to administrative offences (this provision will be in force from 1 January 2006);
3. On issues of state social protection;
4. On disputes arisen with respect to the execution of court decisions entered into force;
5. On disputes related to labour relations in civil service;
6. On the issuance of an order for inspecting an entrepreneur's activity on the grounds of a petition of a controlling body.

By virtue of Article 46 of the Criminal Procedure Code of Georgia, the magistrate judges hear the petitions on application or substitution of procedure-law compulsory measures in the capacity of a body of first instance.

Claims (applications) and petitions concerning the civil and administrative cases that fall under the jurisdiction of magistrate judges including the petitions for the application or substitution of procedure-law compulsory measures against an individual, are filed with the court according to the location of a magistrate judge.

2. Court of Appeal

In the light of institutional changes, the reform envisages the creation of the institute of a pure appeal court in Georgia. According to the legislative amendments implemented in the first half of 2005, the appeal court instance has been put into practice since 1 November which changed completely the existing model of circuit courts within the common framework of general courts. According to the system which was functioning previously, the court of the so-called second instance; that is, a circuit court, was not a pure appeal court as far as there were relevant panels for hearing cases falling under their jurisdiction in the capacity of bodies of first instance. With the changes to the law, the competencies of the courts of various instances were identified and delimited, allowing for the full observance of the principle of 'Instanzenzug,' dominating in the West, which is the principle of sequential instances. There are no panels at the appeal courts for hearing cases in the capacity of bodies of first instance and the

court hears all the cases only through the appeal procedure. More precisely, appeals filed against summary decisions of the courts of first instance as, for example, district (city) courts (including magistrate judges), are heard only by the appeal court. With a view to the administration of prompt and efficient justice, the cases where the value of a civil law dispute does not exceed 1,000 GEL are not subject to appeal procedures. As for criminal cases, the court judgements delivered with respect to such crimes that are not subject to imprisonment are not heard through the appeal procedure. An exemption, however, is provided for the protection of fundamental human rights; namely, an individual is entitled to file an appeal and demand acquittal from the charge brought against him.

3. Court of Cassation

The Supreme Court of Georgia has been established as the court of pure cassation instance. The panel for hearing criminal cases of the Supreme Court, which used to hear the particularly grave cases in the capacity of the body of first instance, was abolished. For the time being, the Supreme Court hears only the cassation appeals, what means that the factual circumstances of the case are neither investigated nor assessed at this instance. Although Georgia is not amongst the countries of Anglo-Saxon law where the court judgements are of a prejudicial and binding nature, the establishment of a common judicial practice and its generalisation, however, is of particular significance in the European countries of Continental law from the viewpoint of the application and interpretation of legal norms. The above changes serve this very purpose. The admissibility criteria for cassation appeals are developed and are, in the main, identical to all three fields of justice (criminal, administrative and civil) with these criteria meaning that the Supreme Court considers a case admissible and accepts it for hearing only if the case is significant for the development of justice and for the establishment of the common judicial practice or, secondly, if the decision of the Court of Appeal substantially differs from the Supreme Court practice with respect to similar cases. Furthermore, the ongoing reform took account of the established fundamentals of revision of the democratic countries and decided that action will be taken by the Court of Cassation if the case was considered at the Court of Appeal with substantial breach of procedural rules and if such breaches might have had a major impact on the outcomes of the case. It is worth mentioning that in civil law, the cassation appeals related to property disputes are subject to unconditional admittance if the value of the subject matter of the dispute exceeds 50,000 GEL whilst in non-property disputes the unconditionality of admittance applies only with respect to the disputes related to freedom of speech and expression.

By virtue of the aforementioned changes, the Supreme Court is, in fact, becoming a doctrinal court which can develop justice and establish a common judicial practice more efficiently through the justified interpretation and application of legal provisions. This, of course, will guarantee the speedy and smooth operation of the judicial system in general. On the other hand, these changes will result in the material eradication of the vulnerable problem of case protraction in the judicial system as far as at least 35-40% of the cases that are accepted by the Supreme Court will no longer be admitted and, respectively, the

decisions made by the courts of appeals with respect to the same number of cases will remain in force.

Finally, the principle of the so-called sequential order of instances, which is the significant mechanism of internal control of judicial power, will be guaranteed in the reformed judicial system with particular efficiency. According to this principle, the appeal and cassation (Supreme) courts exercise procedural supervision over the decisions of the courts of first instance in accordance with the established forms of procedure, first through appeal and then through cassation. In other words, the decisions are verified, which is the most important mechanism for revealing cases of breaches of law by judges within the judicial system, especially in terms of fighting corruption wherein it is a crucial mechanism. This mechanism will become more efficient as a uniform judicial practice of the Supreme Court will be developed in the future with this practice becoming more visible and more sophisticated. Although these decisions will not develop into Case Law or become binding for the other courts, the courts of lower instances will have to well substantiate the different from the Supreme Court decisions in order for these decisions to be discussed at the Supreme Court level and for them not to face the risk of being overruled from the very outset.

II. High Council of Justice of Georgia

One of the most important priorities of the reform is the restructuring of the High Council of Justice with a view to increase the number of judges therein and, in general, for the strengthening of the judges' "voices." This body has great authority within judicial power and its terms of reference cover drawing up the budget judiciary, the provision of logistics and its control, the nomination of candidate judges and their submission to the President, the submission of proposals on the dismissal or promotion of judges to the President, the initiation of disciplinary proceedings against judges and the recruitment of court personnel, etc. Until now, however, the judges have always been in the minority at the High Council of Justice. By virtue of the amendments made to the legislative acts in the fall of the year-to-date, the personnel of the High Council of Justice will be increased from 1 March 2006 and will consist of 18 members, 9 of which will be judges. The *ex oficio* members of the Council will also be the Chairperson of the Supreme Court of Georgia, the Chairperson of the Committee of Legal Affairs of the Parliament of Georgia, the Minister of Justice of Georgia and the General Prosecutor of Georgia. Two members of the Council are appointed by the President of Georgia and another four members, three of which are Members of Parliament, are selected by the Parliament of Georgia. The eight members of the High Council of Georgia are elected from amongst the judges of general courts by the Conference of Judges of Georgia after being nominated by the Chairperson of the Supreme Court of Georgia. As a result of these changes, the judges will have a sufficient number of votes for the implementation of all the above listed key authorities of the High Council of Justice. It must also be mentioned that according to these changes, the sessions of the High Council of Justice of Georgia on the disciplinary proceeding against judges will henceforth be chaired by the head of the judiciary power; namely, the Chairperson of the Supreme Court of Geor-

gia. The procedure of formation and activities of the High Council of Justice is compatible with the main directions of the strategy of the reform of the criminal legislation of Georgia which was approved by Enactment No.914 of the President of Georgia dated 19 October 2004.

III. Disciplinary Proceedings

Another and particularly important direction of the reform is within the existing model of disciplinary proceedings. In fact, the mechanism provided for by the law of Georgia on the Disciplinary Responsibility of the Judges of General Courts and Disciplinary Proceedings, is the only one for internal monitoring of the judicial system. The existing model was changed several times, although the result was still not compatible with the recommendations adopted by the European Committee of Ministers on 13 October 1994, entitled Independence, Efficiency and Role of Judges, under which the disciplinary offences committed by judges must be examined by a relevant independent and competent body. At the same time, the examination should take place within a reasonable period of time and not according to the protracted procedure. This very approach is upheld by changes implemented within the framework of the ongoing reform resulting in considerable alterations to the previously existing model of disciplinary proceedings which secure the prompt and efficient operation of this mechanism. Furthermore, the principle of judicial supervision over the disciplinary proceedings has been strengthened. The decisions of the Disciplinary Panel are now appealed at the Supreme Court with a final decision made by the Disciplinary Chamber of the Supreme Court consisting of three judges. It is worth emphasising that, unlike the existing model, the Disciplinary Chamber is authorised to consider the merits of the case in the new system.

As a result of the changes, the procedure for the commencement of disciplinary proceedings against judges and a preliminary examination is being introduced. The stage of initiation of disciplinary prosecution has been abolished and, if there are grounds for the opening of disciplinary proceedings, the investigation of a disciplinary case is begun. After the preliminary examination, the chairperson of either the appeal or the Supreme Court, or the secretary of the High Council of Justice, makes a decision on the termination of disciplinary proceedings or on demanding an explanation from the judges. After discussing the case, the High Council of Justice decides upon the transfer of the case to the Disciplinary Panel; that is, if to bring disciplinary charges against the judge. Further, the structure and membership of the Disciplinary Council of the judges of general courts is also to be changed with a Disciplinary Panel being created within the High Council of Justice. The Panel will consist of six members and include three judges. The Panel members are elected from amongst the personnel of the High Council of Justice for a term of two years. A member of the High Council of Justice, who is also a member of the Disciplinary Panel, participates neither in the session on disciplinary issues nor in the process of decision making.

As previously mentioned, a decision of the Disciplinary Panel may be appealed against the Disciplinary Chamber of the Supreme Court of Georgia. The Disciplinary Chamber (consisting of three judges) which, from its side, is the court of cassation that examines dis-

ciplinary issues of judges, is elected by the plenum of the Supreme Court under the submission of the Chairperson of the Supreme Court. The significant novelty therein is to be stressed once again: the Disciplinary Chamber will examine the decisions of the Panel not only against the breach of judicial proceedings (what is peculiar for the previously existing model), but also within the framework of the appeal as a whole with both factual and judicial grounds and from the viewpoint of the lawfulness of the charged penalty as well.

IV. Mechanisms for Fighting Corruption

The main reason for failure of the judicial reform that was started in 1998 was the complete ignorance of political will and, respectively, of all the necessary mechanisms for fighting corruption. Alternatively, the currently ongoing reform is based on such a will and the most important direction of the reform is the putting into practice of the mechanisms for fighting corruption in the most efficient manner.

The main and, in fact, the only mechanism for fighting corruption within the judicial system is the disciplinary proceedings. Also important is the so-called, and above-mentioned, principle of the order of instances (principle of hierarchy) and procedural supervision over the decisions of the courts of the lower instances. Together with the efficient putting into practice of the above levers, the reform envisages the eradication of corruption stimuli within the judicial system and, to this end, the improvement of the social and working conditions of judges to a maximum possible extent including the increase of remuneration, the establishment of a system of training and a permanent mastering of qualification (with a relevant curriculum and courses) whilst ensuring the conditions of stability and protection without which no qualified, *bona fide* and objective judiciary will be available.

It is worth mentioning that in the course of proper and adequate functioning of the mechanism of disciplinary proceedings, 19 judges have been dismissed since May 2004. They were dismissed, however, not for corruption but, rather, gross violation of the law. Naturally, this is very significant as the activities of such under-qualified judges (who violate material and procedural rights of not only the parties but also the charged person) result in the distrust towards the judiciary and, respectively, the disastrous loss of their prestige. On the other hand, however, it becomes evident that the disciplinary proceedings and the other internal counter-corruption mechanisms are insufficient for the removal of this most serious problem. For this reason, it is necessary to actuate the mechanisms of criminal justice. The efficiency of these mechanisms is proved by statistics dating to 2004 according to which approximately ten judges have been detained for taking bribes and, in general, criminal proceedings were instituted against 15 judges. Despite the fear that the facts of the criminal prosecution of judges can result in the further loss of the reputation of the judiciary, in reality these facts have a controversial impact; that is, the revealing and punishment of corrupt judges will only increase the degree of trust of the people in the judiciary which is vitally essential for the successful implementation of the reform.

V. Court Staff

An essential prerequisite for the success of judicial reform is the radical improvement of the performance of court personnel. Without the implementation of this component of the reform, it will be impossible to secure a smooth and balanced functioning of the judicial system and to restore the trust of people in the judiciary. This reform is doubly important given the fact that it is the court personnel who have direct contact with citizens, they are the ones to first meet the parties at courts and, to some extent, are the face of the judiciary. The reform must result in the elimination of problems that have been characteristic of judges for years; that is, corruption, irresponsibility, offensive treatment towards citizens and inordinacy.

To this end, it is necessary to refresh the current personnel and to employ a new, qualified and honest staff whilst, at the same time, providing them with relevant working (from the viewpoint of logistics) and social (from the viewpoint of increasing their salaries) conditions. This will eliminate corruption incentives within the judiciary and provide a control of personnel activities on the part of the chairpersons of courts and other authorised persons which must be reinforced and become more efficient. Further, it is necessary to enforce and observe the Rules of Ethics and Code of Conduct for the Personnel of General Courts of Georgia and to ensure the adequate reaction to the violation thereof which will greatly facilitate the improvement of case management and provide a relevant working discipline. The budget for the coming year enables us to improve the working conditions of the staff to a maximum possible extent and to significantly increase their salaries. For the improvement of performance, the functions of personnel will be explicitly delimited with the capacities of each employee and, particularly, of assistant judges being employed with maximum efficiency.

The creation of an integrated computer network will become the key lever for the final removal of the internal problems. Through the network, the systems of integrated electronic circulation of documents and that of case management will be introduced which will facilitate the improvement of the level of administration of justice at courts; namely, to minimise the cases of a duplication of workload, to increase the quality of information processing at courts and to permanently improve the qualification of court personnel.

The implementation of each of the abovementioned reforms will make a further significant step towards the elimination of the protraction of cases and for securing the prompt administration of justice.

VI. The Court and the Media

Transparency, publicity and public relations of the judicial system are one of the main preconditions for successful reform. According to the established practice, the judiciary had no direct contacts with the public at large and used to build relations with a particular member of society such as a party to the proceedings or a party filing an action with the court. It is apparent, however, that the relationship between the court and society should

be wider and more diversified with society at large knowing more about the judiciary within a relationship that is not only limited to the provision of information on specific trials by the media. All the changes within the judicial system must be widely discussed by society at large wherein people feel themselves as participants in the process of reform and, as well, responsible for these processes.

A significant step has already been made towards establishing a transparent relationship between the judiciary and society and the institution of a Speaker Judge being actuated at courts. A similar practice is already established in the more advanced countries of the West. Through a Speaker Judge, the court will have the possibility to state its position to society.

The relationship between the judiciary and the media is gradually improving and is oriented on the establishment of a civilised contact between the two. Special seats will be identified at the session halls of all the courts of Georgia from where the trial can be video-recorded and modern audio facilities of most halls will enable members of the electronic media to prepare quality recordings. These changes will exclude the permanent movement of personal video cameras in the hall during a trial which used to hamper the work of judges in maintaining a smooth conduct of the trial.

Together with the implementation of reform, it is necessary to improve the level of awareness of journalists in law who report on the events of the judicial system. Quite often, the media fails to cover the events properly due to a lack of professional training. Through programmes of training, journalists will be provided with information about legislation novelties and other pressing issues of the judiciary.

VII. Keeping Order at the Courts

The current situation within the judicial system demonstrates that it is necessary to strengthen the order at courthouses. In this respect, and based on the experience of many countries, the institution of a *Mandaturi* (a person in charge of keeping order at courts) has been introduced within the judicial system since January 2006. This will, however, not be the absolute analogue to the institution of marshals which is employed by France and the USA. Like marshals, however, the *Mandaturis* will ensure the safety of judges and parties to the proceedings and keep the order at courthouses and session halls during a trial. The *Mandaturis* are subordinated to the chairpersons of the court and that of the session and can resort to physical force and special means, such as firearms, in urgent cases as defined by the law or call police for assistance upon instruction.

With a view to guaranteeing order at trials and in the courthouse, it is envisaged to limit the size of the audience at session halls to the exact number of seats provided. At the same time, the legislation has become more severe and efficient towards people causing disorder during court proceedings. According to the amendments made to Criminal and Civil Procedure Codes, in the case of a violation of the order and showing disrespect to the court, judges are entitled to fine a person between 50-500 GEL, to dismiss a person from

the hall or to hold him in detention for a period of up to 30 days. These orders of the judges are executed by the court *Mandaturi*.

All of the abovementioned (including the allocation of special places for video-recording at session halls) are oriented towards the removal of the situations that hinder a trial and the activities of judges in general which, from its side, will facilitate and ensure the key aspect of the reform which is the smooth execution of justice.

VIII. Budget of the Judicial System

Another significant prerequisite for the implementation of judicial reform is the provision of the reform of logistics. Within the framework of the reform, the salaries of judges must be increased significantly which represents one of the basic guarantees of the independence of judicial power whilst, at the same time, improving the working conditions at courts, advancing logistics and working towards their further approximation to European standards. To this end, the budget of the judicial system will be increased by 20 million GEL; that is from 13 million GEL in 2005 to 33 million GEL in 2006. As a first step, the salaries of judges will be increased to 1,450 GEL (as a minimum salary) at the courts of first instance, to 2000 GEL, on the average, at the courts of appeal and to approximately 3000 to 4000 GEL at the Supreme Court of Georgia.

Further towards reform, all courts will be provided with the best material and technical resources possible. In this respect, particular attention must be paid to the works performed at the Supreme Court where the material and technical resources have been upgraded significantly. The out-of-date computers, with IT facilities one of the most essential parts of modern working conditions, have been replaced with advanced and modernised equipment. Trial halls have been equipped with computers, sound-frequency amplifiers and microphones to provide an optimal element for the proper conducting of court proceedings. Similar conditions will be created at the Tbilisi court of appeal and the united courts in Batumi where major repairs of courthouses and their equipment with the installation of the necessary technical facilities will be completed by the end of January 2006 with these upgrades having been funded within the framework of the World Bank credit.

In 2006, 3.5 million GEL will be allocated from the state budget for major repairs of the Tbilisi City Court with a further 1.5 million GEL to be provided for funding the construction and rehabilitation works at five enlarged model courts in the regions of Georgia. Computers and all other necessary technical equipment have been purchased for the courts in order to avoid their unbalanced, unorganised and inefficient functioning due to technical problems. During 2006, within the framework of financial aid of the United Nations Development Programme and partly with its own resources, the creation of an integrated virtual network of the judicial system, with the aim of solving many current problems therein and ensuring the prompt administration of justice, is planned.

The creation of such an integrated virtual network will solve the problem of the provision of judges with new information such as legislative amendments, normative acts and resolu-

tions of the Supreme Court. Electronic versions of the legislative amendments published in the official publication will be posted on the network the same day and, in this way, immediately accessible to the judges in any region of Georgia.

The creation of an integrated virtual information space will also make it possible to utilise the integrated systems for the electronic flow of documents and also for case management. This will ensure the circulation of procedural, organisational or administrative correspondence which will ultimately support the improvement of the quality of case management at courts; namely, solving the problem of a duplication of workload, enhancing the quality of information processing at courts, ensuring the speed of case management and permanently upgrading the qualification of judges and court personnel. Further, the self-control of courts will be increased to include, for example, the automatic control of the time-frames of proceedings, the violation of the rules of case management and the operative processing of analytical and statistical data. Finally, the publicity of information will be provided by posting the information about resolutions, session schedules and case proceedings on the Internet which will be accessible to any interested citizen. Whilst planning the court budget, the main directions of the Criminal Law Reform are considered which were approved by the order №914 of the President of Georgia dated 19 October 2004.

IX. Human Resources, Training and Re-training, High School of Justice

Even the successful implementation of each of the components of judicial reform will not provide the desired result unless the most important goal is attained; that is, the staffing of the judicial system with impartial, honest, and, most importantly, qualified human resources. In general, the professionalism, honesty and impartiality of a judge represent the main objective of the reform as far as their performance underlies the success of the reform of the judiciary. It is only in adherence of these three principles that judges can restore the trust of the population in the judiciary, fight against corruption through the efficient employment of the mechanism for internal control within the judicial system – the disciplinary administration of justice, providing answers, in principle, to the attempts to interfere in their activities or to exert influence upon them – and, therefore, restore and strengthen the prestige of the judiciary.

Two stages can be identified in this cornerstone of the reform. Firstly, the selection of judges with exceptional attention and responsibility within the framework of the previously existing model during the transition period (during the reform of 2005-2006) and, secondly, the creation of a new system of selection and preparation of judges for the future which should become effective from 2007 within the framework of the High School of Justice.

The first stage envisages significant changes in the composition of the judges' corps and, at the same time, will increase the total number of judges up to at least 400. The results of two examinations of judges held in 2005 showed that human resources amongst lawyers above the age of 30 are rather scarce and it will be necessary to decrease the age requirement in order to appoint at least 150 new judges and to provide complete staffing for the new

The composition of the independent council is approved by the President of Georgia. The High School has its own managerial body and administration headed by a Director.

X. Jurors

According to the revised version of the Criminal Procedure Code of Georgia that is submitted for common-public hearing and will be passed to the Parliament in 2006, it is envisaged that criminal cases of a certain category will be discussed by jurors. This will raise the degree of public trust and faith in court decisions. The court of jurors will consist of 12 jurors who will be selected according to the register of voters.

Any citizen of Georgia (except for the exceptions envisaged by the law) will have an opportunity to participate in the administration of justice and support the judiciary in delivering impartial and fair verdicts. The jurors will decide only upon the culpability or innocence of an individual with the sentence being imposed by judges. The verdict of the court of jurors will be appealed at the Supreme Court only in relation to legal deficiencies occurred during case proceedings. It is worth noting that, according to the proposed law, the verdicts of 'not guilty' made by the Court of Jurors is final and cannot be appealed.

XI. Hearing of Protracted Trials

Together with other problems of the judicial system, citizens are especially dissatisfied with the protraction of case proceedings. This issue is very problematic as far as some cases are protracted for years and they often 'move in a circle' and are returned to the lower instance for hearing anew. A person, for example, who wins a case after some years becomes fatigued from the long procedures and has incurred so many expenses that the verdict loses any sense in the end. This is why another objective of this reform is to solve and to end this complicated issue. The problem, too, is so large-scaled that it is necessary to achieve success in all other directions of the reform and only then these steps taken together will solve the issue of protraction once and for all. In this regard, we can list the following ways of eliminating the protraction of court proceedings:

– increased number of judges up to at least 400 in order to reduce the workload of each judge so that the cases will be discussed more quickly.
– specialisation of judges, their permanent training and mastering of their qualification given the fact that a highly qualified and professional judge will hear a case better and faster.
– system changes in the legislation related to judicial power such as, for example, the creation of the admissibility prerequisite at the Supreme Court as a result of which al least 30-40% of cases will not be discussed as compared to the current situation and the verdicts made by the court of appeal will enter into force.
– amendments to the Criminal and Civil Procedure Codes wherein amendments to the first one have already been implemented and the 30-moth period of court detention has been

system. Constitutional amendments, submitted to Parliament, envisaged the decrease of the minimum age requirement to 28 although, at the same time, all other requirements that are applicable to the candidates remained unchanged; that is, a higher education in law, at least five-years' professional experience, successful examinations and interviews, etc. It is notable that within the framework of the current model, candidates are selected on the grounds of personal merits, honesty, qualification, ability to think independently and other similar criteria with the High Council of Justice paying particular attention to these features of the candidate. The same criteria will be maintained in the future model as well and brings about the question of eligibility. If, for example, a candidate meets all the above-mentioned requirements and passes through the selection criteria but is only 29 years old, should the candidate lose an appointment to office merely because of the age limitation? This limitation, it can be said, isno longer pertinent given the lack of qualified candidates and hinders the development of the judicial system. At the same time, this amendment does not mean that a 28 year-old judge may be appointed directly to the Supreme Court as far as the reform of the judiciary envisages the strict observance of the career principle of promoting judges. Only a qualified and experienced judge, with sufficient years of working experience at the district or appeal courts, will be nominated to the Supreme Court.

In the new model of the selection of judges – at the second stage of the reform, for example – the age limitation will be devoid of any significance since a candidate, once passing the selection procedure, isnot appointed directly to the office of a judge but will be enrolled in the High School of Justice and undergo a complete and fundamental 14-month training (both theoretical and practical) for due performance of judiciary functions. After the completion of the courses, there will be a body of comprehensively trained judges who will be nominated to the President for appointment within a vacant position without any selection process or interview. It is evident that, for judge trained within this programme, there will be no importance placed on whether he or she is 28 or 32 years old.

The creation and functioning of the High School of Justice will solve another important issue envisaged by the judicial reform; that is, the development and application of special programmes necessary for training judges and mastering their qualification which, from its part, is another guarantee for the independence and impartiality of judges. Along with the training of judges, the main function of the High School is to conduct training courses for judges according to a schedule which will be planned in advance from the beginning of the year. During a calendar year, each judge will participate in the training programme at least twice wherein materials prepared by professional trainers will be delivered to them through a special methodology (analysis of legislation, review of the Supreme Court practise, study of the problem based on particular cases, etc.). It is worth mentioning that since 1999 no funding has ever been allocated from the state budget for trainings and no training programme was developed. In the past, the Training Centre of Justice conducted a training programme but only within the funding provided by donors and without a proper co-ordination of this assistance.

The High School of Justice is managed by an independent council which consists of six members, three of whom will be practitioner judges, another two to be nominated by the High Council of Justice and the last one nominated by the General Prosecutor of Georgia.

reduced to 12 months which will become effective from 1 January 2006. Further, amendments to be made to the civil proceedings are currently being prepared which aim to simplify the process in order to eliminate the legal means of protraction of a case by a dishonest party.

– organisational improvement of the performance of the court personnel, improvement of orderliness and mastering of their qualification.

– creation of an integrated virtual network within the judicial system to include the introduction of software for case management and document flow which will greatly enhance the quality and speed of case management.