Response from Georgia

“First Study Commission of IAJ-UIM

Questionnaire 2015

“The relationship between effective management of the courts and the delivery of justice by independent judges”

In preparation of the questionnaire 2015 the presidency of the First Study Commission decided to
(a) identify possible aspects of the topic;
(b) examine already existing opinions, statements etc. on these aspects; and
(c) formulate questions regarding the different aspects (taking into account already existing opinions, statements, etc).

a) Possible Aspects:
1. Case allocation:
   1. who allocates the cases;
   2. how they are allocated.
2. Management measures:
   1. increasing output;
   2. diminishing handling time;
   3. fostering coherence.
3. Performance appraisal:
   1. quality;
   2. quantity;
4. Working conditions
   1. in general (workload measures, office hours, regulations concerning holidays, etc.);
   2. time for writing judgments;
   3. time allocated to professional development;
   4. resources (law clerks, etc.)
   5. position / competences of the president of the court / chamber
   6. problems regarding the judicial deliberation

b) Existing Documents¹
1. 1st Study Commission Conclusions 1981
   The Bangalore Principles of Judicial Conduct, ch. 216, 217
   Recommendation CM/Rec (2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, in part. ch.18, 24, 43
   International Bar Association (IBA) Minimum Standards of Judicial Independence, in part. ch 11

2. 1st Study Commission Conclusions 1997
   1st Study Commission Conclusions 1998
   1st Study Commission Conclusions 2000 (ad 3. coherence)
   cf. also Recommendation No. R (94) 12 of the Committee of Ministers to member states on independence, efficiency and role of judges, in part. ch. 17

   cf. also Opinion no 1 (2001) of the Consultative Council of European Judges (CCJE) for the

¹ The focus of the exploration was laid upon earlier Conclusions of the First Study Commission. Those documents can be found on the website www.iaj-uim.org The opinions of the Committee of Ministers can be found on the website https://www.coe.int/t/cm/home_en.asp The opinions of the Consultative Council of European Judges can be found on the website www.coe.int/ccj All documents (except Op. no 17 of the CCJE) can be found in Stephan Gass, Regina Kiener/Thomas Stadelmann, Standards on Judicial Independence, Berne 2013 (weblaw.ch) as well.
attention of the Committee of Ministers of the Council of Europe on standards concerning
the independence of the judiciary and the non-removability of judges;
African Commission on Human and Peoples’ Rights Principles and Guidelines on The
Rights to a fair Trial and Legal Assistance in Africa, Independent Tribunal, in part. lit. g
Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and
Central Asia, in part. ch. 27;
THE BANGALORE PRINCIPLES OF JUDICIAL CONDUCT, in part. ch. 40, 42;
1st Study Commission Conclusions 1995;
1st Study Commission Conclusions 2000;
See also for Europe: Thomas Stadelmann/Stephan Gass/Richard McCombe, Performance

4. 1st Study Commission Conclusions 2000
1st Study Commission Conclusions 2001 (ad 2. presidents)

c) Questions:

answer the questions

Please answer the questions for your judicial system drawing, to the extent possible, on
your own actual experiences.

0. Preliminary Question: Are there any aspects [see a) above] missing regarding our topic for
this year, which should be treated?

1. Please specify – in note form – your case allocation system (in particular who is responsible
for case allocation and how it is done, whether account is taken of any special abilities or
interests of the judge and how the appearance of impartiality or neutrality is maintained).
What are the advantages of your system? What are shortcomings of the system, especially
regarding judicial independence?

2. What measures to increase output and/or diminish handling time are in use or planned in
your Courts?
How do these measures affect judicial independence?

3. Do you have performance appraisal, regarding quality or quantity of judicial work
performed? What are the advantages of these measures? What are
disadvantages/shortcomings, especially regarding judicial independence?

4. Please identify shortcomings of the actual working conditions? What are positive effects of
measures taken, regarding working conditions?
[Please take into consideration the different aspects mentioned above at a) 4.]

Question regarding the selection of the topic for 2016

According to the guidelines of the First Study Commission, the presidency of the commission calls
on the member associations for proposals for topics for the following year well in advance of the
next meeting. We therefore invite you to deliver proposals within the deadline mentioned below. If
proposing a topic, please add some keywords to describe your topic.
Deadline: 5th of July 2015

Address: Please send your answers to first_sc@iaj-uim.org

The presidency of the First Study Commission of IAJ-UIM

3 http://www.osce.org/odihr/73487.
According to “Rule of distribution cases in general courts and allocating an authority to other judges” of Georgian law, in the general courts cases are allocated by a sequence of case entry and queing of judges.

In order to improve the aforementioned system, it is planned to inculcate an electronic program of distributing cases, according to which, the distribution of cases will be by their volume and principle of random selection.

According to Organic law of Georgia “About General Court”, the High Council of Justice of Georgia is providing quality and effectiveness of justice in the system of Georgia’s general courts.

To date, the legislation of Georgia has not envisaged performance evaluation of judges of common courts. Constitutional amendment of October 15, 2010 instituted the appointment of judges for life in Georgia; however, before lifetime appointment of judges the law may envisage appointment of judges for a fixed term, but for no more than 3 years. This amendment became effective since November 17, 2013.

The Parliament of Georgia made amendment to the Organic Law of Georgia on Common Courts on November 1, 2013, according to which the legislator instituted performance evaluation and monitoring of judges the following way: a judge of appellate and district (city) courts shall be appointed for the term of 3 years. No earlier than 2 months, and no later than 1 month before expiration of this term the High Council of Justice of Georgia takes into account the analysis of monitoring results, and makes a decision on appointing a particular judge for life, until reaching the statutory age. If the judge is not appointed for life, his/her judicial authorities shall be terminated after serving a three-year term, in accordance with the regulation established by this law.

According to Organic law of Georgia “About General Court“, activity of the judge is evaluated by two main criteria: honesty and competence.

Hence abovementioned, now Georgia has a system, which envisages performance monitoring of judges of common courts of Georgia (except the justices of the Supreme Court) during the three-year trial period before their appointment for life, which may create serious threat to the independence of judges and, in general, to the independence of the judiciary.

An increase of flow of cases and insufficient quantity of the judges can be identified as a shortcomings of working conditions of the system of general courts of Georgia.

Judges Association of Georgia