

LACK OF TRANSPARENCY OF REMUNERATION AT THE HIGH COUNCIL OF JUSTICE



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Lack of Transparency of Remuneration at the High Council of Justice

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1. Introduction

Against the backdrop of low public trust¹ and corporatism in the justice system, special importance is attached to the transparent disposal of budgetary resources in the judiciary. One of the fundamental components of judicial independence is remuneration and its regulation in such a way as to neutralize the risks of informal influence on judges and other entities involved in the court administration system as well as the risks of rewarding remuneration according to the corporate interests.

The Georgian legislation assigns important powers to the High Council of Justice in the process of determining the remuneration for representatives of the judiciary. Against the background of the already excessive power concentrated in the Council, the wide discretion to regulate and award wages, which is used vaguely and non-transparently in practice, directly increases the risks of clan culture and undue influence on individuals in the judiciary.

The present document examines the practice of paying wages and bonuses to the members of the High Council of Justice, as well as to the independent inspector, in 2021-2022. The document is based on the analysis of relevant legislation and information requested from public agencies.

It should be noted that access to public information was a serious obstacle when studying the issue, because relevant agencies provided information on remuneration incompletely, in a generalized form, and in many cases, in substantial violation of the deadline set by the legislation.² Such a reality makes it even more difficult to determine the amount of wages paid in the judicial system, and to assess their legitimacy/reasonableness, and ultimately, it creates another example of the non-transparency of the system.

It should be emphasized that the Social Justice Center welcomes the creation of decent working conditions for individuals employed in the court system. Moreover, the organization notes that the official salary amounts determined today by the organic law “On Common Courts” may not create a prerequisite for fair compensation

1 International Republican Institute (IRI) „Public Opinion Survey Residents of Georgia” (March 2022). p.36. (available at: <https://bit.ly/3YIeKFK>, last accessed: 14.02.2023).

2 The Social Justice Center requested information on the amount of remuneration paid to each member of the High Council of Justice and the independent inspector in 2021-2022 (disaggregated by month). The council provided us with public information in the form of annual data, and in the case of judge members – incompletely (only indicating the amount of the bonuses) and in substantial violation of the deadline established by the law. The Supreme Court, instead of providing factual data, referred us to normative acts regulating the issue.

for the judge's work. Accordingly, the objective of the document is not to reduce the amount of remuneration, but to ensure its fairness and the transparency of the decision-making process in such a way that arbitrariness and conflicts of interest by the High Council of Justice are excluded in this process.

During the study of the issue, the following problematic issues were identified:

- The legislation does not regulate in detail the issue of remuneration for the members of the Council and the Independent Inspector, which increases the risks of arbitrariness and conflict of interests in the decision-making process;
- A large part of the bonuses is not based on merit, but are issued without any reason and automatically – they are given every month to all members of the Council;
- Decisions on granting the bonus are, in most cases, unsubstantiated and templated;
- The Council and the Supreme Court provide incomplete public information related to bonus system; the issue of pro-active publication of relevant normative acts is also problematic;
- The majority of the judicial members of the Council receive a triple bonus on the official salary in some months;
- Non-judge members of the Council and the Independent Inspector receive the bonus without the corresponding normative basis;
- The factual salary of the non-judge members of the Council is higher than the amount stipulated by the law;
- The Council violates the legal obligation to publish the decision on granting the bonus to the non-judicial members and the independent inspector;
- The Independent Inspector is not obliged by law to submit a declaration of financial status.

2. Analysis of Legislation Regulating Remuneration in Common Courts

The existence of guarantees of social security and material well-being for representatives of common courts is an important component of judicial independence.³ Social guarantees, on the one hand, protect the judicial system from corruption risks, and on the other hand, create decent working conditions for individuals, working for the judiciary.⁴ Moreover, in order to ensure judicial accountability and neutralize the risk of internal influences, the system of providing judicial authorities with social guarantees must be transparent and understandable to the public.

According to international standards, social security guarantees and remuneration of judicial authorities should be stipulated in legislation, and the discretionary elements in decision-making on this matter are not desirable.⁵ Equipping judges with socio-economic guarantees based on predetermined, foreseeable criteria ultimately serves the interests of fair and impartial justice and creates a basis for both, fair remuneration for work and the independence of individual judge.

Although the international recommendations focus on the social security guarantees of the judge as an individual subject, the issue of providing the court administration bodies and their representatives/members with appropriate guarantees is no less important. The High Council of Justice (hereinafter: the Council) and the Independent Inspector's office play an important role in the administration of the judicial system: the Council makes decisions on all the main issues of the judiciary, and the Independent Inspector participates in the process of imposing disciplinary liability on judges. Accordingly, the issue of social guarantees for these bodies is also of critical importance for the independence of the judiciary.

Social security is a broad concept and includes several rights-based components, including: remuneration, compensation after the expiration of the judge's term of office/retirement age, providing with an apartment, compensation for family members in case of death, etc. Within the framework of the document, a particularly problematic element

3 CCJE Opinion No. 24 (2021): Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems, Strasbourg, 5 November, 2021, p.4. (available at: <https://bit.ly/3IqFVQ1>, accessed on: 14.02.2023).

4 Venice Commission, Report on the Independence of the Judicial System Part 1: The Independence of Judges, CDL-AD (2010)004, Strasbourg, 16 March, 2020, P.7,52 (available at: <https://bit.ly/3YLChpH>, Accessed on: 14.02.2023)

5 *ibid*, p. 10, 46.

of the above is evaluated – the issue of labor remuneration, where the Georgian legislation, in many cases, is vague, and the practice is inconsistent.

According to the “Organic Law of Georgia on Common Courts” (hereinafter: “Organic Law”), the remuneration of a judge consists of an official salary and a bonus.⁶ The amount of official salary of judges of common courts (including the chamber and court chairpersons) is directly determined by law.⁷ The Organic Law delegates the authority to determine the amount of the bonuses entirely to the **High Council of Justice**⁸ (for judges of the first and second instance courts) and the **Plenum of the Supreme Court** (for judges of the Supreme Court).⁹

As for the remuneration of the members of the Council, the legislation distinguishes between the remuneration of the judicial and non-judicial members of the Council. In particular:

- The judge members of the council receive an official salary in the amount determined¹⁰ by the court instance.¹¹ The authority to determine the amount of their bonus as members of the council, like the bonus of judges, has been assigned to the High Council of Justice;¹²
- The remuneration of the non-judge member of the Council is equal to the official salary of the Tbilisi Court of Appeal judge.¹³

Thus, the High Council of Justice has been granted the authority to issue bonuses to both the judges of the common courts and the judge members of the Council. Neither the Organic Law nor the acts issued by the Council, prohibit the judge members to receive the bonus determined for a member of the Council and for a judge of the Common Courts at the same time.

The issue of granting a bonus to those members of the High Council of Justice who are at the same time judges of the Supreme Court is regulated differently. In particular, on the

6 Paragraph 1 of Article 69 of the Organic Law of Georgia “On Common Courts”.

7 *ibid.*, paragraph 2 of Article 69.

8 *ibid.*, paragraph 6 of Article 69.

9 *ibid.*, paragraph 7 of Article 69.

10 *ibid.*, paragraph 2 of Article 69.

11 Judge members of the Council are given remuneration for the exercise of judicial powers and not for their activities in the Council.

12 *ibid.*, paragraph 14 of Article 47.

13 *ibid.*, Article 69, paragraph 2, subparagraph “h”.

one hand, the Organic Law stipulates that the amount of the bonus, added to the official salary of the Supreme Court judge is determined by the Plenum of the Supreme Court,¹⁴ on the other hand, the Council has been given the authority to authorize a bonus to the judge-member of the Council.¹⁵ Therefore, there is no legislative mechanism to ensure that judge-members of the Council do not receive double bonuses.

It is important to note that, unlike judge-members of the Council, the issue of bonuses for non-judge members is not regulated by the Organic Law. The same is the case with the Independent Inspector: the Organic Law only determines the amount of the official salary of the Inspector and equates it to the remuneration of the judge of the Court of Appeal.¹⁶

Current legislation gives disproportionately wide discretion to the High Council of Justice members. They factually authorize bonuses for themselves – they determine its the amount and periodicity, which increases the risks of unfounded and arbitrary decisions.

14 *ibid.*, paragraph 7 of Article 69.

15 *ibid.*, paragraph 14 of Article 47.

16 The amount of remuneration of the judge of the Court of Appeals is 7950 GEL, of which 5000 GEL is the official salary, and 2950 is the bonus.

3. Problematic Definition of the Bonuses

As already mentioned, the legislation envisages the possibility of receiving bonuses for judges of common courts and judge-members of the High Council of Justice, although the concept of bonus, its amount, periodicity, and prerequisites for its issuance are not regulated by the Organic Law. The Organic Law only generally provides that the Council shall grant bonuses to judge members for the effective exercise of their powers. To determine the nature of the bonuses for the judge members, we should focus on the following circumstances:

- According to the Organic Law, the determination of the bonus is not an obligation, but an authority of the High Council of Justice;
- For granting the bonus, although a general content, a certain prerequisite – “effective exercise of powers” – is provided;
- The Organic Law directly indicates the possibility of granting a bonus on a monthly basis only to those members who are judges of the Supreme Court at the same time.¹⁷

Unlike the judges of the Supreme Court, there is no provision in the legislation for monthly bonus for the judges of the first and second instance courts. Despite the absence of a direct prohibition, such a differentiation between the norms creates a logical basis for differently regulating the issue of granting the bonus to the judges of the Supreme Court and the judges of the first/second instance courts. It should also be emphasized that the reference to the monthly bonus is not acceptable even in relation to the Supreme Court judges, since this regulation actually makes the bonus a constituent part of the official salary of the judge and, therefore, contradicts the real merit-based nature of the bonus.

In addition, the fact that the legislation does not directly prohibit the possibility for judges of the first and second instance courts or members of the council to receive a bonus on a monthly basis, but does not directly emphasize it, should be understood as follows: **it is possible to grant a bonus on a monthly basis, if there is an objective basis for this in each case.**

Thus, even if the issue is not completely determined by the organic law, we cannot ignore the general principle of granting the bonus – **it should not be given mechanically, to all members and every month, but to specific members of the Council, according to merit and for the effective exercise of their powers.**

The amount of the bonus depends on many factors, therefore, determining the amount of bonus by the legislative act is associated with certain difficulties, however, it is advis-

¹⁷ Article 18, para. 2, sub-para “K” of the Organic Law of Georgia “On Common Courts”.

able for the legislation to determine, at least, the bases and basic principles of granting bonus. According to the current legislation, the High Council of Justice enjoys an disproportionately wide discretion in determining the amount of bonus and their recipients. Accordingly, they have a special obligation to exercise powers in good faith.

Since the organic law leaves many issues related to the granting of bonuses vague, to illustrate the nature of the bonus, it is appropriate to touch upon the regulatory provision regarding the granting of the bonus in the Law of Georgia “On Public Service”. It is true that the latter does not directly apply to the system of common courts, although considering the more specific regulation of the types of bonuses and the grounds for their acceptance, it may be important for the analysis of this institution. Unlike the Organic Law “On Common Courts”, the Law “On Public Service”, as well as various subordinate normative acts, separates two types of bonuses: salary- and class-based. Unlike salary allowance, class allowance is paid out monthly. Since there is no official-class differentiation among the members of the High Council of Justice, we cannot consider the bonus in the system of common courts to be identical or even essentially similar to the class-based bonus. By its nature, it is more similar to the salary supplement in the civilservice, which is given to individual entities based on strictly defined prerequisites. In particular, the Law of Georgia “On Public Service” defines two alternative prerequisites for an employee to receive a bonus: 1. Performance of overtime work; 2. Assignment of additional functions, including nighttime, rest/holiday and health-risking work conditions.¹⁸

According to the public information received from the High Council of Justice,¹⁹ the normative basis for granting a bonus to non-judge members and independent inspectors is Articles 23 and 26 of the Law of Georgia “On Remuneration of Labor in Public Institutions”. Granting bonus in accordance with the mentioned normative basis is problematic for several reasons:

- Article 2 of the Law of Georgia “On Remuneration of Labor in Public Institutions” defines the scope of the law and establishes the circle of subjects to which it applies. We do not find an independent inspector in the list. Accordingly, Articles 23 and 26 of this law cannot be considered as a legal basis for granting a bonus to the inspector;

18 Article 58 of the Law of Georgia “On Public Service”.

19 Letter N990-3491-03 of the High Council of Justice of Georgia to the Social Justice Center (21.11.22).

- The Law “On Remuneration of Labor in Public Institutions” establishes the same preconditions for receiving the bonus,²⁰ which are defined by the Law “On Public Service”. The Law “On Public Service” does not apply to judges and council members with regard to the labor compensation regulations;²¹
- According to the information provided, the bonus to the non-judge members of the council and the independent inspector is issued on the basis of the law, and the activity of the judicial system is generally regulated by an act with a higher legal force – the Organic Law. However, the Organic Law does not mention that issues related to granting bonuses may be regulated by law. It is recommended that the general regulation of the issue of bonuses (concept of bonus, prerequisites for acceptance, purpose) should be included in the organic law.

To summarize, the legislation regulates the issue of bonuses in the common court system in a non-uniform way. Against the backdrop of legal ambiguity, the High Council of Justice/Plenum is endowed with unbalanced discretionary powers, which creates risks of undue influence on judges and council members, as well as on the independent inspector. Even more problematic is the practice that exists in the system of common courts regarding bonuses, and this issue is analyzed in the next section.

20 According to the first paragraph of Article 23 of the Law of Georgia “On Remuneration for Labor in a Public Institution”, a government employee may be given a bonus for overtime work and/or performance of additional functions, including during night hours, on rest/holidays and for activities in working conditions that pose a risk to health.

21 The Law of Georgia “On Public Service”, Article 4 of subparagraph “c”, “s”.

4. The practice of determining remuneration

In this chapter, the practice of granting bonuses to judges, non-judges and independent inspectors of the High Council of Justice is assessed separately.

4.1. Remuneration to judge members of the High Council of Justice

Determining the adequate amount of remuneration and ensuring transparency in this process is especially important in relation to the judge members of the Council, since their workload is significantly lower than the standard indicator of the workload²² (distribution of cases) of judges of common courts.²³ **In particular, the workload percentage of a judge member is usually only 20%,²⁴ and the percentage of cases allocated to members who simultaneously hold separate administrative positions varies between 5-10%.²⁵**

As mentioned, for the effective exercise of authority, a monthly bonus of 1200 GEL is established for the member of the Council²⁶ (hereinafter – “judge member’s bonus”).²⁷ The said regulation of the Council Decree consists of two contradictory provisions:

- Like the organic law, this decree indicates the effective exercise of authority as a prerequisite for receiving the bonus;
- The Decree expressly states that the bonus shall be paid to judge members on a monthly basis.

As a result, we get the situation that the council actually pre-determines the fact that all judge members will effectively exercise their powers in the future and grants the bonus not by individual decrees but by a general rule – every month.

As of today, 3 each of the 9 judge members of the Council represent Tbilisi city and

22 See the issue through- Social Justice center, Electronic System of Case Distribution in Courts (2020-2021 Assessment Report), 2022 (available at: <https://bit.ly/3lBRhHV>, Accessed on: 14.02.2023).

23 Approved by the decision No. 1/56 of the High Council of Justice of Georgia dated May 1, 2017 – “Rule of distribution of cases in the common courts of Georgia automatically, through the electronic system”.

24 *ibid.*, article 5, paragraph 6, sub-paragraph “a”.

25 *ibid.*, paragraph 7 of Article 5.

26 Each numerical data specified in the document is presented as a gross amount.

27 Paragraph 2 of the Decree N1/6 of January 23, 2020 of the High Council of Justice of Georgia.

Appeals courts and the Supreme Court of Georgia, respectively. According to the public information received from the Council,²⁸ in 2021, a total of 129,600 GEL was granted as a bonus to the judge members of the Council, which means that a monthly bonus of 1,200 GEL was granted to all judge members (including the Chairperson of the Supreme Court). In addition, the Council has not published any decrees of individual content on granting bonuses to judge members, which once again emphasizes that bonuses are issued not on the basis of an individual decision, but on the basis of one general ordinance.

The Organic Law stipulates that decisions made by the High Council of Justice of Georgia must be posted on the Council's website.²⁹ Accordingly, in the part of granting the 1200 GEL bonus, the council clearly violates the requirement of the legislation. **Only a part of the bonuses received by the judge members is published on the website, while the decisions on granting the bonuses to the non-judge members and the independent inspector have not been published at all.**

The Council grants two types of bonuses³⁰ to judges of common courts (except judges of the Supreme Court)

1. Bonus, which is granted to all judges of common courts every month and is a fixed amount during the year – (hereinafter: “judge’s general bonus”).

The 2018 decision of the High Council of Justice,³¹ which does not provide for any prerequisites for judges to receive a general bonus, is the normative basis for granting a general bonus to a judge. In addition, neither the individual decisions³² taken on the issuance of the general bonus contain any kind of, even formal, justification.

As the practice of the Council proves, once a year (in December or January) the amount of the general bonus is renewed by the decision of the Council. In recent years, this bonus has been growing for all subjects. For example: if in 2021 the Chairperson of the Court of Appeals received 1950 GEL as a general bonus, in 2022 the amount increased to 3200 GEL, and from 2023 he/she will receive 4100 GEL per month³³ (currently the

28 Letter N758/2892-03 from the High Council of Justice to Social justice Center (19.10.2022)

29 Paragraph 4 of Article 49 of the Organic Law of Georgia “On Common Courts”.

30 The names of bonuses are chosen conventionally, in order to better illustrate the types of bonuses. So, these terms are not used in legislation.

31 Paragraph 2 of the Decision N1/89 of February 5, 2018 of the High Council of Justice of Georgia.

32 For example: the decision of the High Council of Justice on January 23, 2020, Decision of December 29, 2020, Decision of December 24, 2021 and others.

33 1/3 decree of the High Council of Justice of Georgia of January 16, 2023.

Chairperson of the Tbilisi Court of Appeals is Mikheil Chinchaladze, and the Chairperson of the Kutaisi Court of Appeals is Irakli Bondarenko).

In the form of a table, we present to you the amount of the general (monthly) bonuses of judges of common courts (including judge members of the High Council of Justice) in 2020-2023.

General (monthly) bonuses:	2020-2021	2022	2023
Chairperson of the Court of Appeal	1 950	3 200	4 100
Deputy Chairperson of the Court of Appeal	1 900	3 150	4 025
Chairperson of the panel/chamber of the Court of Appeal	1 800	3 050	3 885
Judge of the Court of Appeal	1 700	2 950	3 745
Chairperson of Tbilisi/Batumi/Kutaisi City Court	2 250	3 500	4 310
Chairperson of the panel/chamber of the Tbilisi City Court	2 150	3 400	4 170
Tbilisi/Batumi ³⁴ /Kutaisi City Court Judge	2 050	3 300	4 030
Chairperson of another city/district court	1 550	2 800	3 540
Judge of another city/district court ³⁵	1 350	2 600	3 260

2. Bonus which is issued once and its amount is not fixed - (Hereinafter: Judge's Special Bonus). We can divide the judge's special bonus into 2 parts:

2.1. Standard special bonus – we find the normative basis for its issuance in paragraph 3 of the above-mentioned decision of the Council of 2018,³⁶ which, unlike the general bonus (paragraph 2), provides for 2 alternative grounds for granting a standard special bonus.

- the workload of the court (judge);
- coordinating internships for students of the Higher School of Justice.

Despite the definition of the prerequisites, most of the decisions of the High Council of Justice on the issuance of a special bonus do not contain justification, or even a blanket indication of which of the above-mentioned alternative prerequisites became the basis for the issuance of the bonus in a particular case.

34 The magistrate judge of the city courts of Batumi and Kutaisi receives the same bonus.

35 Including a magistrate judge.

36 Paragraph 2 of the Decision N1/89 of February 5, 2018 of the High Council of Justice of Georgia.

2.2. The so-called “Holiday” bonus, which is given to all judges of the courts of first and second instance. The practice of the council shows that the issuance of special bonuses usually coincides with the days before the secular/ecclesiastical holidays (April/May, December). In 2022, along with the “New Year” and “Easter” bonuses, the “St. George bonus was granted to all judges of the first and second instance. The Council’s decisions on the granting of holiday bonuses do not even contain a formal justification.

Thus, in some cases, a special bonus is issued to individual judges (standard special bonus), and in some cases, such a decision applies to all judges of the courts of first and second instance (“holiday” bonus). Accordingly, part of the judges (all judges of the courts of the first and second instance during the “holiday” months) receive both a general and a special bonuses in a certain period.

In 2022, the Council published 3 decisions on issuing special bonuses. All three of them were about holiday bonuses and none of them contained the relevant justification. For the 2022 year:

- The bonus for the month of April was 50% of the official salary;³⁷
- The bonus for the month of November was 35% of the official salary;³⁸
- The bonus for the month of December was 100% of the official salary.³⁹

As for the special bonuses granted in 2021, a total of 3 decrees were published. Two of them were related to the granting of holiday bonuses and one was issued for internship coordination (standard special bonus). In this case, the bonuses did not provide the justification either. For the 2021 year:

- The bonus for the month of April was 100% of the official salary.⁴⁰
- The bonus given for internship coordination amounted to 1200 GEL;⁴¹
- The bonus for the month of December was 100% of the official salary.⁴²

In order to better illustrate the types of bonuses of those members of the Council who are also judges of the Court of the First/Second Instance, we present a table:

37 Decree N1/36 of April 18, 2022 of the High Council of Justice of Georgia.

38 Decree N1/129 of the High Council of Justice of Georgia dated November 25, 2022.

39 Decree N1/138 of December 20, 2022 of the High Council of Justice of Georgia.

40 Decree N1/36 of April 16, 2021 of the High Council of Justice of Georgia.

41 Decree No. 1/134 of the High Council of Justice of Georgia dated July 15, 2021.

42 Decree N1/189 of December 17, 2021 of the High Council of Justice of Georgia.

Bonuses for judge members of the Council (judges of the first and second instance).			
General (monthly) bonus		Judge's special (exceptional) bonus	
Council Membership bonus (1200 GEL is given to all members of the Council)	Judge's General bonus (Amount is determined by instance and position)	Standard special (Issued for workload or internship coordination)	"Holiday" special (mainly issued in April, November, and December)

According to public information,⁴³ the judge members of the Council receive both a general and a judge's special bonuses (together with the bonus of Council membership amounted to 1200 GEL). Accordingly, the Council grants a threefold bonuses to the **judge members⁴⁴ who are also judges of the courts of the first/second instance: 1. Council membership bonus; 2. Judge's general bonus; 3. "Holiday" special bonus.**

As for the members of the Council who are judges of the Supreme Court, the amount of the monthly bonus (hereinafter: "plenum bonus") of the judges of the Court of Cassation (including the chairperson and their deputies) is determined by the Plenum ordinance. According to received public information,⁴⁵ the bonuses in 2022 were increased by 1250 GEL compared to 2021. In the form of a table, we present the amount of bonus of the representatives of the Supreme Court in 2021-2022.

General (monthly) bonus	2021 ⁴⁶	2022 ⁴⁷
Chairperson of the Supreme Court	4000	5250
First Deputy Chairperson of the Supreme Court	3800	5050
Deputies of the Chairman of the Supreme Court	3700	4950
Judges of the Supreme Court	3550	4800

A joint analysis of the letters of the High Council of Justice and the Plenum of the Supreme Court states that those members of the Council who are also judges of the Supreme Court are given bonuses by both the Plenum (Plenum bonus) and the Council (Council Membership bonus-1200 GEL).

As for the special bonus, the Supreme Court's letter informs us that no exceptional, one-time bonuses have been granted to the judges of the Supreme Court.⁴⁸

43 Letter N990-3491-03 of the High Council of Justice of Georgia to the Social Justice Center (21.11.22).

44 As a rule, the members of the High Council of Justice of Georgia are not given a standard special bonus, because it has certain prerequisites.

45 Letter N 373-22 from the Supreme Court of Georgia to the Social Justice Center (18.11.2022)

46 Resolution of the Plenum of the Supreme Court of Georgia dated December 18, 2020 N 39PL-2020.

47 Resolution of the Plenum of the Supreme Court of Georgia of December 27, 2021 N 33PL-2021.

48 Letter No. 6-23 of the Supreme Court of Georgia to the Social Justice Center (18.01.2023).

4.1.1. The amount of remuneration of the judge members of the council in 2021-2022

In the form of tables, we present to you the amount of remuneration of the judges of the High Council of Justice in 2022, with reference to official salary and bonuses. **In addition, to illustrate the disproportionality of the bonuses given, the approximate percentage rate of their workload is indicated for each member.**

The two tables below show the amounts of remuneration of the Chairperson of the Supreme Court – Nino Kadagidze and judges – Levan Mikaberidze and Ketevan Tsintsadze in 2021-2022, indicating the official salary and bonuses.

2021	Total Remuneration (per month)	Amount of official salary (per month)	Bonus issued by the Plenum (per month)	bonus issued by the Council (per month)
Nino Kadagidze	12 200	7 000	4 000	1 200
Levan Mikaberidze	10 750	6 000	3 550	1 200
Ketevan Tsintsadze	10 750	6 000	3 550	1 200

2022	Total Remuneration (per month)	Amount of official salary (per month)	Bonus issued by the plenum (per month)	Bonus issued by the Council (per month)
Nino Kadagidze	13 450	7 000	5 250	1 200
Levan Mikaberidze	12 000	6 000	4 800	1 200
Ketevan Tsintsadze	12 000	6 000	4 800	1 200

As for the workload, in accordance with the decree of the Council, taking into account the official position:

- Nino Kadagidze’s workload percentage may decrease to 10%, and in special cases – to 5%. It is important to note that the council does not provide the exact percentage of Nino Kadagidze’s workload as public information;⁴⁹
- Levan Mikaberidze and Ketevan Tsintsadze’s workload percentage may decrease to 20%.

⁴⁹ Social Justice Center, Electronic Court Case Distribution System (2020-2021 Evaluation Report), 2022, p. 22.

Representatives of the Court of Appeals

Levan Murusidze is a judge of the Tbilisi Court of Appeals and he was elected as a member of the High Council of Justice on October 23, 2022. In accordance with the Council's decree, his workload may be reduced to 20%.

The table shows the amount of Levan Murusidze's salary for 2 months (November and December 2022) broken down with reference to official salary and bonuses.

	Official Salary	Council Membership Bonus	Judge's General Bonus	Judge's Holiday Bonus
11.2022	5 000	1 200	2 950 ⁵⁰	1 750
	Remuneration in total: 10 900			
12.2022	5 000	1 200	2 950	5 000
	Remuneration in total: 14 150			

Dimitri Gvritishvili is the chairman of the Administrative Cases Chamber of the Tbilisi Court of Appeals and he was elected as a member of the High Council of Justice on October 23, 2022. According to the decree of the Council, his workload may be reduced to 10%, and in special cases – to 5%.

The table shows the amount of Dimitri Gvritishvili's salary for 2 months (November and December 2022) broken down with reference to the official salary and bonuses.

	Official Salary	Council Membership bonus	Judge's General bonus	Judge's Holiday bonus
11.2022	5 300	1 200	3050 ⁵¹	1 855
	Remuneration in total: 11 405			
12.2022	5 300	1 200	3050	5 300
	Remuneration in total: 14 850			

50 From 2023, the general bonus of the judge of the Tbilisi Court of Appeals became 3745 GEL.

51 From 2023, the salary of the chairperson of the panel/chamber of the Court of Appeals will be 3885 GEL.

Paata Silagadze is the chairman of the Criminal Chamber of the Tbilisi Court of Appeals. He was elected as a judge member of the High Council of Justice on October 31, 2021. His workload may decrease to 10% and in special cases – to 5%.

The table shows the amount of Paata Silagadze’s remuneration in 2022 in the standard and “holiday” months in a breakdown with reference to the official salary and bonuses.

	Official Salary	Council Membership bonus	Judge's General bonus	Judge's Holiday bonus
Standard	5 300	1 200	3 050 ⁵²	-
	Remuneration in total: 9550			
04.2022	5 300	1 200	3 050	2 650
	Remuneration in total: 12 200			
11.2022	5 300	1 200	3 050	1 855
	Remuneration in total: 11 405			
12.2022	5 300	1 200	3 050	5 300
	Remuneration in total: 14 850			

Representatives of the Court of First Instance

Temur Gogokhia is the chairman of the panel at the Tbilisi City Court and he was elected as a member of the Council on May 26, 2021. According to the decree of the Council, his workload may be reduced to 10%, and in special cases – to 5%.

The table shows the amount of Temur Gogokhia’s remuneration in 2022 in the standard and “holiday” months, broken down, with reference to the official salary and bonuses.

	Official Salary	Council Membership Bonus	Judge's General Bonus	Judge's Holiday Bonus
Standard	4 300	1200	3 400 ⁵³	-
	Total Remuneration: 8 900			
04.2022	4 300	1200	3 400	2 150
	Total Remuneration: 11 050			
11.2022	4 300	1 200	3 400	1 505
	Total Remuneration: 10 405			
12.2022	4 300	1 200	3 400	4300
	Total Remuneration: 13 200			

52 From 2023, the salary of the chairperson of the panel/chamber of the Court of Appeals will be 3885 GEL.

53 From 2023, the general bonus of the chairperson of the board/chamber of the Tbilisi City Court became 4170 GEL.

Since July 2022, **Badri Shonia** has been the chairman of the Administrative Cases Chamber of the Tbilisi City Court. He has been exercising the authority of a member of the Council since May 26, 2021. According to the decree of the Council, his workload may be reduced to 10%, and in special cases – to 5%.

The table shows the amount of Badri Shonia’s remuneration in 2022 in the standard and “holiday” months, with an indication of official salary and bonuses.

	Official Salary	Council Membership Bonus	Judge's General Bonus	Judge's Holiday Bonus
Standard ⁵⁴	4 300	1 200	3 400 ⁵⁵	-
	Total Remuneration: 8 900			
04.2022 ⁵⁶	4 000	1 200	3 300	2 000
	Total Remuneration: 10 500			
11.2022	4 300	1 200	3 400	1 505
	Total Remuneration: 10 405			
12.2022	4 300	1 200	3 400	4 300
	Total Remuneration: 13 200			

54 In the standard amount, we will consider the monthly salary received after July 2022, since Badri Shonia has been holding an administrative position since July. Until July, the standard amount of his remuneration would be 8500 GEL.

55 From 2023, the general bonus of the chairperson of the board/chamber of the Tbilisi City Court became 4170 GEL.

56 In April, the official salary and general bonus are small compared to other months, since until July, when Badri Shonia received the salary of the judge of the Tbilisi City Court.

Nikoloz Marsagishvili is a judge of Tbilisi City Court and secretary of the High Council of Justice. According to the decree of the Council, his workload may not exceed 5-10%.

The table shows the amount of Nikoloz Marsagishvili’s salary received in standard and “holiday” months in 2022, with reference to the official salary and bonus.

	Official Salary	Council Membership Bonus	Judge's General Bonus	Judge's Holiday Bonus
Standard	4 000	1 200	3 300 ⁵⁵⁷	-
	Total Remuneration: 8 500			
04.2022	4 000	1 200	3 300	2 000
	Total Remuneration: 10 500			
11.2022	4 000	1 200	3 300	1 400
	Total Remuneration: 9 900			
12.2022	4 000	1 200	3 300	4 000
	Total Remuneration: 12 500			

4.2. Remuneration of non-judge members

Even more problematic is the practice of the High Council of Justice regarding the granting of bonuses to non-judge members. Unlike judge members, the organic law only determines the amount of official salary of non-judge members and does not say anything about their opportunity to receive a bonus.

According to the organic law,⁵⁸ the non-judge member is paid for the performance of his/her duties in the amount of the official salary of the judge of the Court of Appeals. The official salary of the Court of Appeals is 5,000 GEL.⁵⁹

Based on the analysis of public information received from the Council, 2 problematic circumstances were identified:

1. Official salary is a part of the remuneration and does not include a bonus Accordingly, a non-judge member of the Council should receive remuneration corresponding to the official salary of an appellate court judge (5,000 L.) and not the monthly bonus determined by the Council for an appellate court judge (2,950 L.). Despite the above,

⁵⁷ From 2023, the general bonus of the judge of the Tbilisi City Court became 4030 GEL.

⁵⁸ Paragraph 14 of Article 47 of the Organic Law of Georgia “On Common Courts”.

⁵⁹ *ibid.*, Article 69, paragraph 2, subparagraph “h”.

the practice of the High Council of Justice for 2021-2022 shows that the monthly official remuneration of a non-judge member is 7950 GEL. (the total amount of the official salary and bonus of the judge of the Court of Appeals), which is in clear contradiction with the requirements of the organic law;

2. In parallel with the appellate court judge's bonus, the non-judge member⁶⁰ received other bonuses in 2021-2022, about which the council did not issue an individual decree, and therefore, it is not known what became the legal basis for granting the bonuses.

As mentioned in the introduction, despite specifying the request, the Council provided us with incomplete public information. In particular: instead of monthly data showing the amount of remuneration, we were given the total amount of remuneration received during the year. Given that the frequency of bonuses may vary, we cannot determine the monthly amount of remuneration received by a non-judge member.

In the form of a table, we present the annual salary of Tamar Gvamichava, a non-judge member of the High Council of Justice in 2021-2022, with reference to the official salary and bonus.

2021	Amount of remuneration: (annually) – 90 400 GEL	
	Amount of official salary (annually) – 80 400 GEL.	Bonus (annually) – 10 000 GEL.
2022	Amount of Remuneration: (annually) – 104 650 GEL	
	Amount of official salary (annually) 95 400 GEL.	Bonus (annually) – 9 250 GEL.

As can be seen from the tables, in 2022, compared to the previous year, the official salary of a non-judge member increased by 15,000 GEL (annually), while no legislative change was made in the relevant article⁶¹ of the Organic Law (the amount of salary prescribed by law was not increased). This once again confirms that a non-judge member automatically – without a proper legal basis – receives the bonus of an appellate court judge.

4.3. Remuneration of the Independent Inspector

The organic law stipulates that the official salary of the independent inspector is determined in accordance with the remuneration: (official salary and bonus) of the judge of

60 From June 22, 2021 until today, there is only one non-judge member in the High Council of Justice – Tamar Gvamichava, appointed by the President.

61 Paragraph 2 of Article 69 of the Organic Law of Georgia "On Common Courts".

the Court of Appeal.⁶² According to the information received from the Council,⁶³ the amount of official salary and bonus received by the inspector in 2022 is identical to the amount of remuneration given to the non-judge member (7950 Gel), however, unlike the non-judge members of the Council, the legislation allows the Independent Inspector to receive a bonus along with the official salary equivalent of the Court of Appeal.

Despite the above, the practice of the High Council of Justice vis-à-vis granting the bonus is not transparent even for the Independent Inspector. This is confirmed by the bonus awarded to the inspector in 2021-2022, regarding which the Council’s decisions have not been published, and therefore, the normative and factual basis for their issuance is unclear.⁶⁴ For the Independent Inspector, as an important entity participating in the process of disciplinary liability, granting bonuses without justification and without transparency is particularly problematic. The vague system of calculation of labor remuneration undermines its independence and impartiality and also contributes to the strengthening of internal influences in the system of common courts.

In addition, the normative act, which establishes the obligation to submit a declaration of property status for officials, does not include an Independent Inspector in the list of responsible entities.⁶⁵ In light of this legislative loophole, it is particularly important that the Council’s practices with regard to authorizing the remuneration of the Inspector are transparent.

Like the non-judge members, the Council did not provide us with monthly payment amounts for the Inspector. Accordingly, the table below shows the annual amounts of remuneration received by the Independent Inspector – **Zurab Aznaurashvili** in 2021-2022, indicating the official salary and bonus.

2021	Amount of Remuneration: (annually) – 90,760	
	Amount of official salary (annually) – 80,400	Bonus (annually) – 10,360
2022	Amount of Remuneration: (annually) – 104,650	
	Amount of official salary (annually) – 95,400	Bonus (annually) – 9 250

62 *ibid*, article 51¹, para. 8¹.

63 Letter No. 59/51-03 dated January 30, 2023 of the High Council of Justice of Georgia to the Social Justice Center.

64 As already mentioned, the High Council of Justice indicated the law of Georgia “On Remuneration of Labor in a Public Institution” as the basis for granting a bonus to an independent inspector. The law itself defines the scope, which does not include the independent inspector.

65 Resolution N178 of the Government of Georgia of March 29, 2019.

5. Recommendations

Ambiguous legislation and inconsistent practices related to the remuneration of the members of the High Council of Justice and the Independent Inspector increase the risks of informal influence in the judicial system. Legislation regulating the granting bonus undermines both the independence of individual judges and the effective and impartial work of the inspectorate. The current practice of bonus system also raises the risk of corporately motivated decisions within the board. The existing legal mechanisms and practices do not meet the standards of transparency of the court's activities and, accordingly, have a negative impact on the level of public trust in the judicial system.

In order to improve the quality of transparency and accountability of the High Council of Justice, the Social Justice Center considers the following steps appropriate:

- The organic law “On Common Courts” should determine the grounds for granting a bonus to the non-judge members of the High Council of Justice and the Independent Inspector;
- Bonuses should be granted only if pre-defined criteria are met, and not blanketly, to all members of the Council;
- The amount of bonus should be determined by the Council and the Supreme Court individually in all cases – proportionally and adequately to the work performed;
- The obligation for the Independent Inspector to fill in the property status declaration should be determined by the legislation;
- The organic law of Georgia “On Common Courts” should regulate the prerequisites and scope for receiving a double bonus for the members of the High Council of Justice;
- The relevant bodies of the judicial system ensure the availability of information related to labor remuneration in accordance with the legislation.

