

# DISCIPLINARY COMMITTEE OF JUDGES OF COMMON COURTS OF GEORGIA

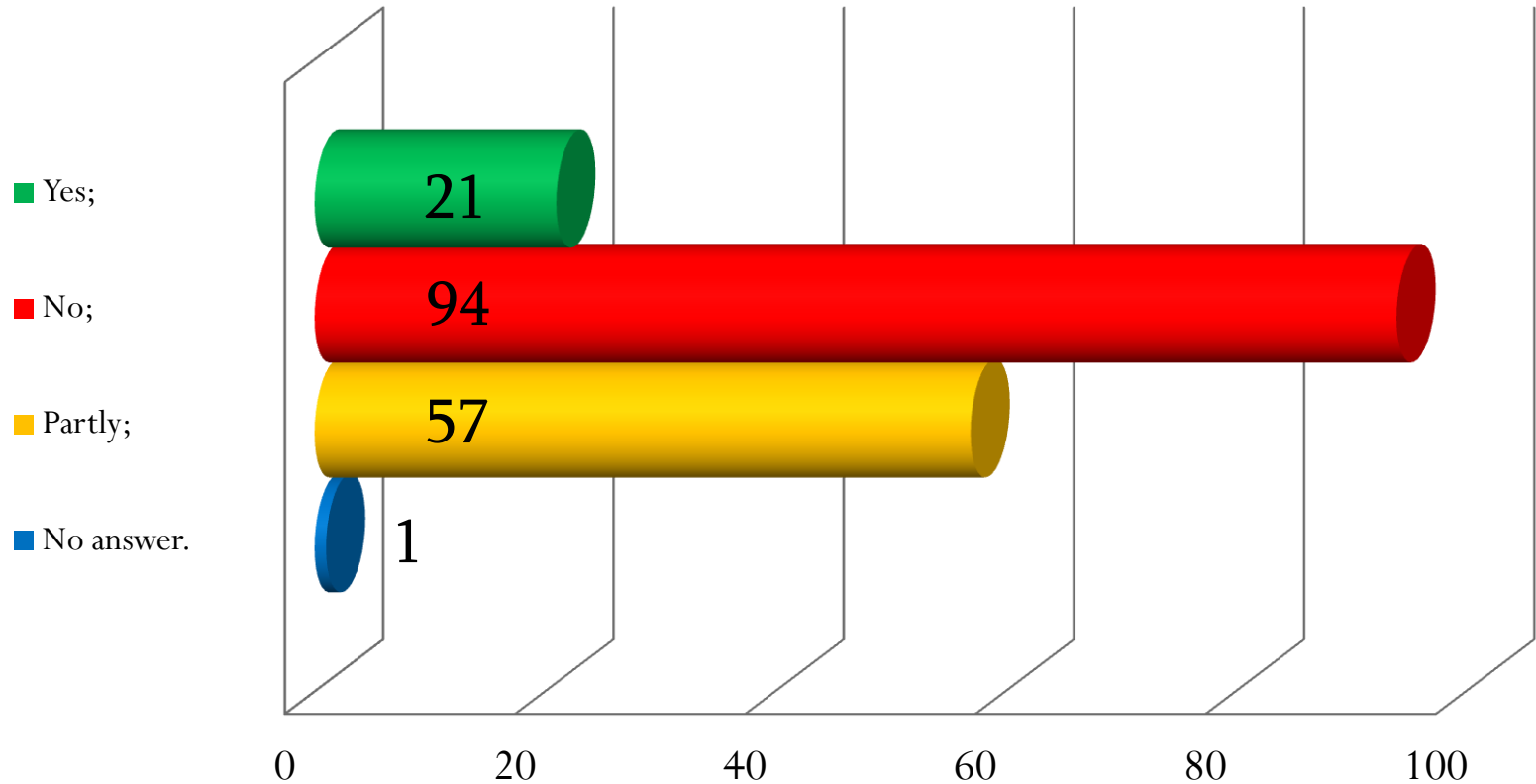


Results of lawyer opinion survey on case proceedings  
against judges of common courts of Georgia

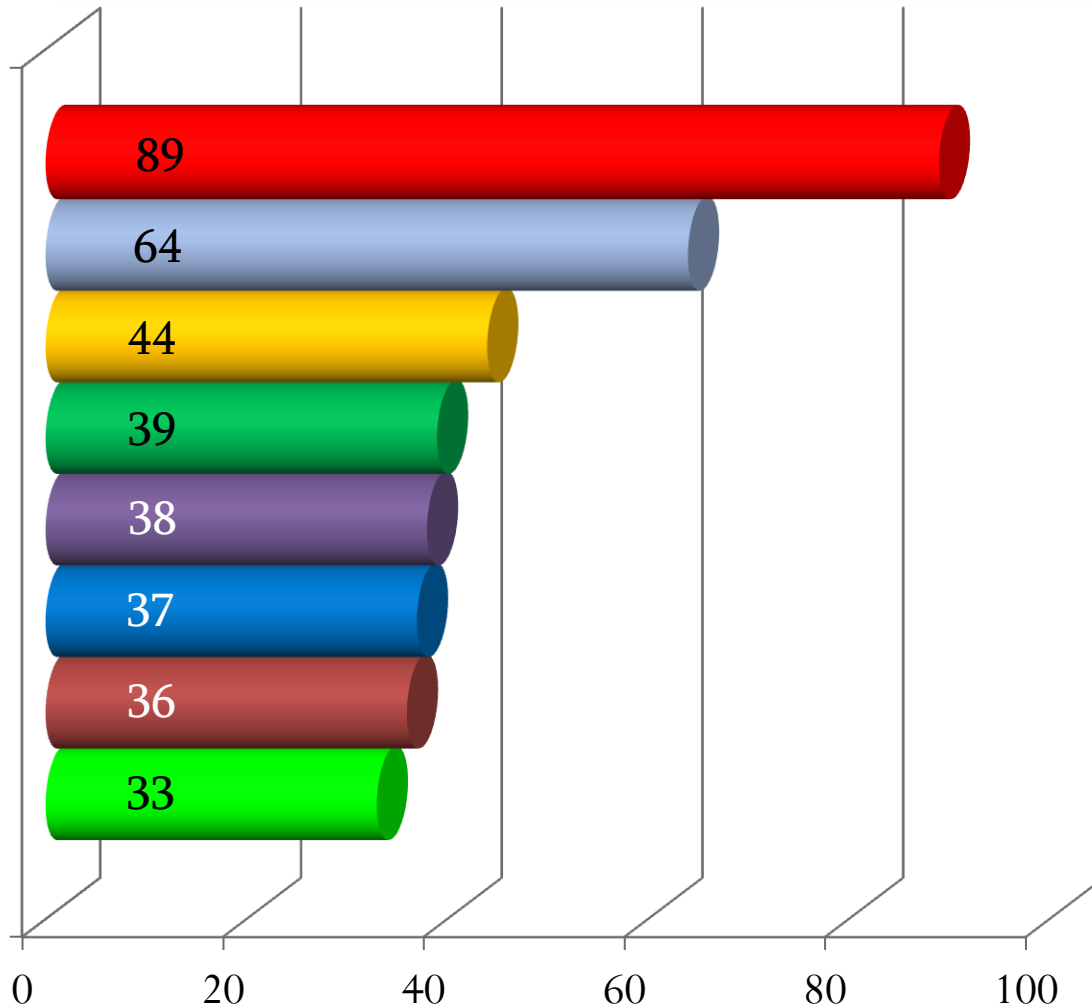
## Lawyer opinion survey on Disciplinary case proceedings

The opinion survey was conducted upon the initiative of lay members of Disciplinary Committee of Common Courts. 173 lawyers took part in the survey, which responded to the questions according to preliminary questionnaire.

# Do you think that the current system of disciplinary liability is effective?



# Which of the following problems do you think really characterizes the current disciplinary system:



- Lack of transparency of the disciplinary process;
- Lack of clarity of the grounds of disciplinary liability;
- Selective approach in processing the disciplinary cases;
- Bias of the disciplinary bodies;
- Unjustified waiver of disciplinary prosecutions against judges;
- Examination of disciplinary cases in camera;
- The application of inadequately lenient sanctions against judges;
- The delay of disciplinary process.

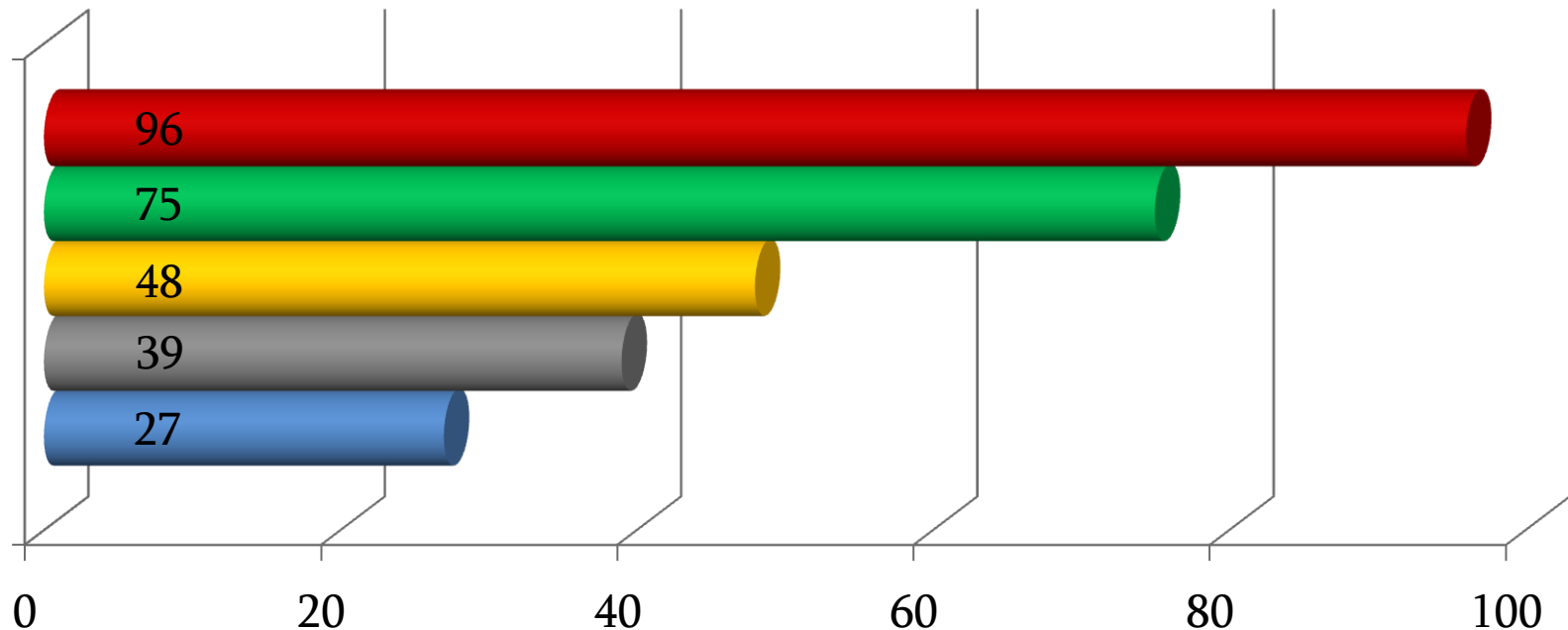
# What is the real problem for the disciplinary proceedings?

## **Comments from individual respondents:**

- Lack of information provided to the author of the complaint;
- Practice (what sanctions are applicable to judges for which conduct);
- Ineffective functioning of the disciplinary process;
- Impunity syndrome;
- Radical reorganization of the High Council of Justice.

## What disciplinary offences do you think can be added to the current list of violations?

- The use of judicial office for obtaining unjustified advantage for oneself or other;
- Refusal of the judge to disqualify himself, when he was aware of legal grounds of disqualification;
- Absence from the work, lateness, or leaving without objective reasons, which resulted in serious hampering of court's work;
- Interference into the work of another judge;
- Spending court resources for personal benefit.



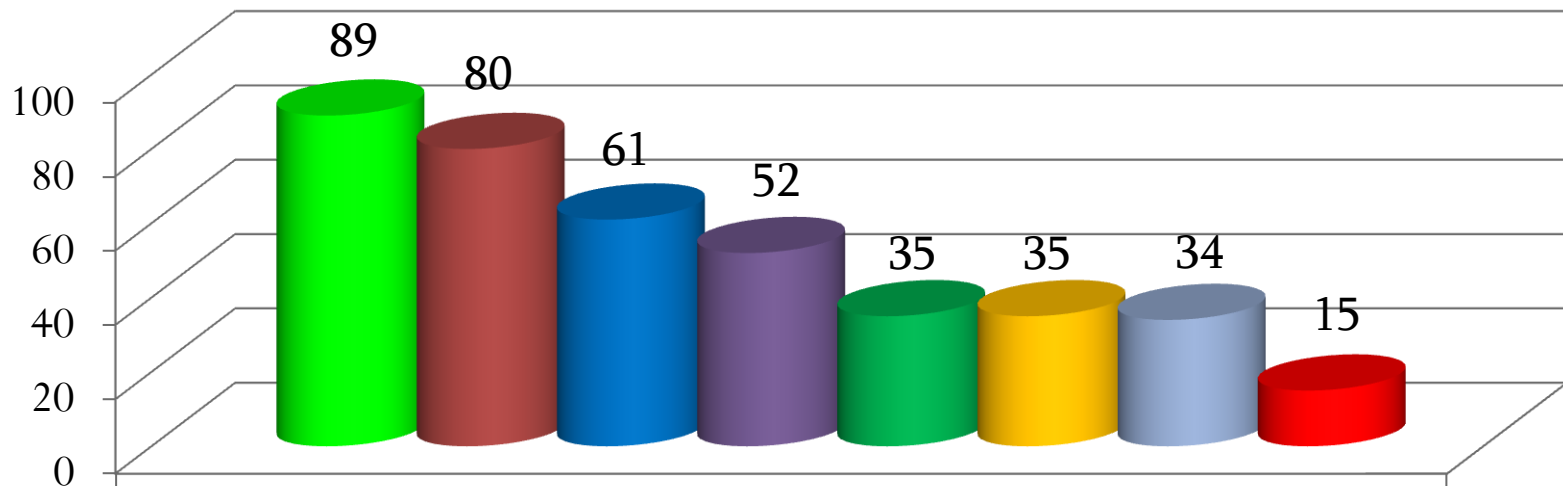
## What disciplinary offences do you think can be added to the current list of violations?

### **Comments from individual respondents:**

- The adoption of subjective, biased and one-sided decision by the judge, e.i. illegal decision due to loyalty towards someone;
- Judges should be financially responsible, if their decisions brought damaged to a party;
- Discrimination of a party to the proceedings or any other type of disrespect;
- Unjust application of fines against participants of the trial;
- New standards of judicial liability should be introduced.

# Which of following disciplinary offences are more frequently encountered?

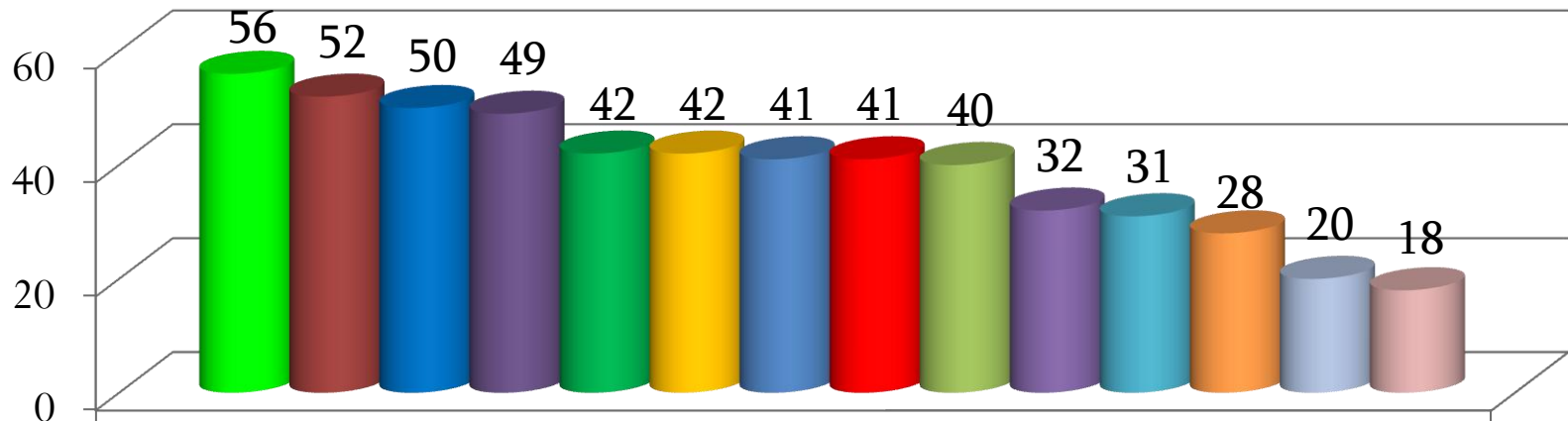
- Unjustified delay of the cases;
- Showing bias during the consideration of the case by the judge;
- Showing prejudice or preliminary view by the judge during the exercise of judicial function;
- Conduct unsuitable for the judge, which undermines the reputation of the courts or trust towards judiciary;
- Communication with the parties or interested persons in violation of the law;
- Failure to fulfill or undue fulfillment of judicial duties;
- Undue/disrespectful treatment of the parties to the proceedings or public;
- Activity incompatible with judicial function.





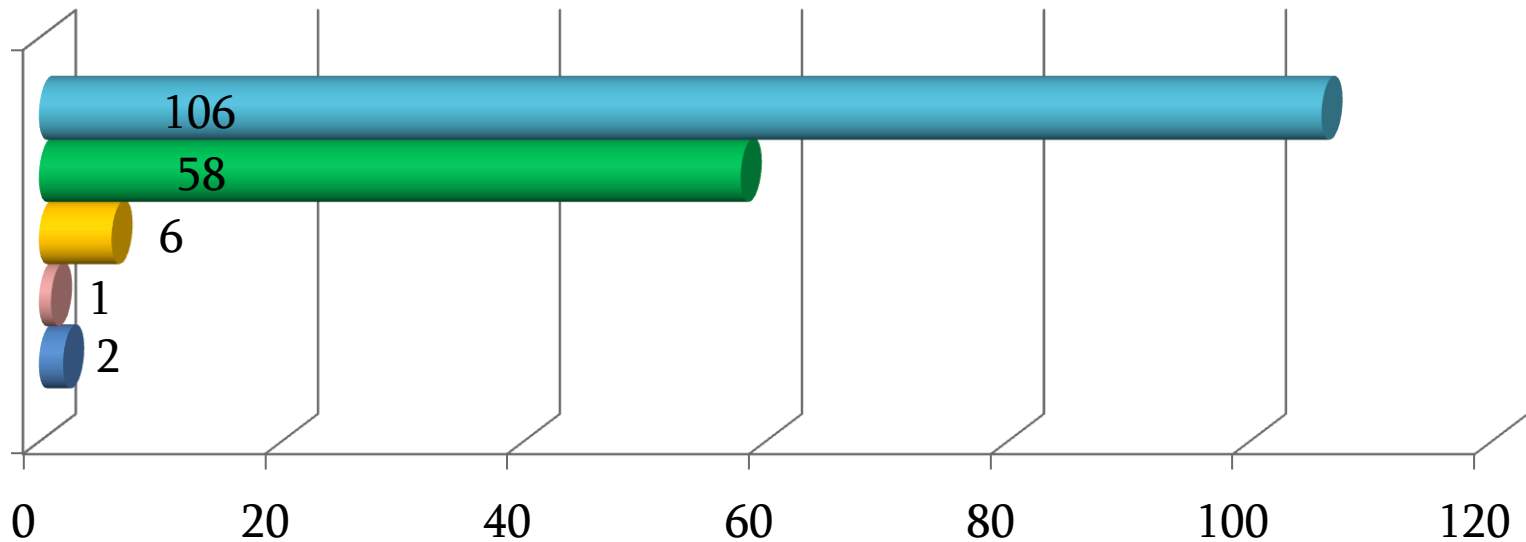
# Can a violation of law during handling of the case by the judge constitute a disciplinary violation and in which cases?

- If the violation of the law is clear and established by superior court or ECHR;
- If is committed intentionally;
- If the judge intentionally violates the right to fair trial;
- If the judge shows clear bias;
- If the judge shows patent unprofessionalism/incompetence;
- If is committed with intention or gross negligence;
- If is committed repeatedly/systematically;
- If the judge did not perform an act mandated by law;
- If it damages the right and legal interests of the parties;
- If the judge exceeded the authority granted by law;
- If the judicial decision is deprived of reasoning mandatory by law;
- If it harms the prestige and reputation of the judiciary;
- If the violation can not be remedied by the same or superior court;
- In no case.



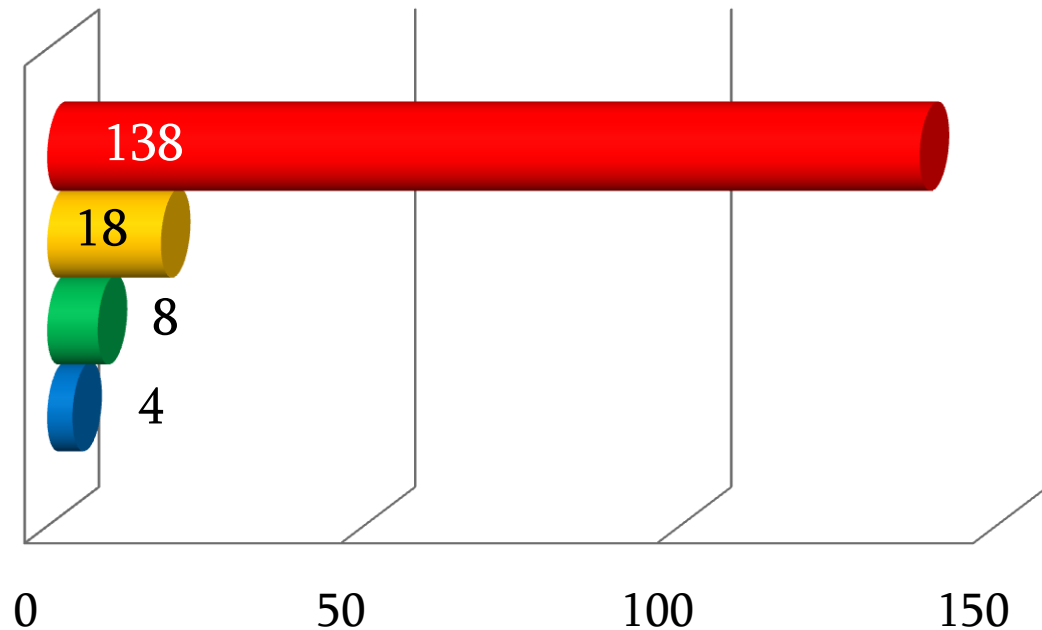
# Who must perform preliminary examination/inquiry of probable disciplinary offence?

- A special unit existing in High Council of Justice exercising independent and impartial investigation/examination;
- High Council of Justice;
- Member of High Council of Justice;
- Staff member of High Council of Justice;
- No answer.



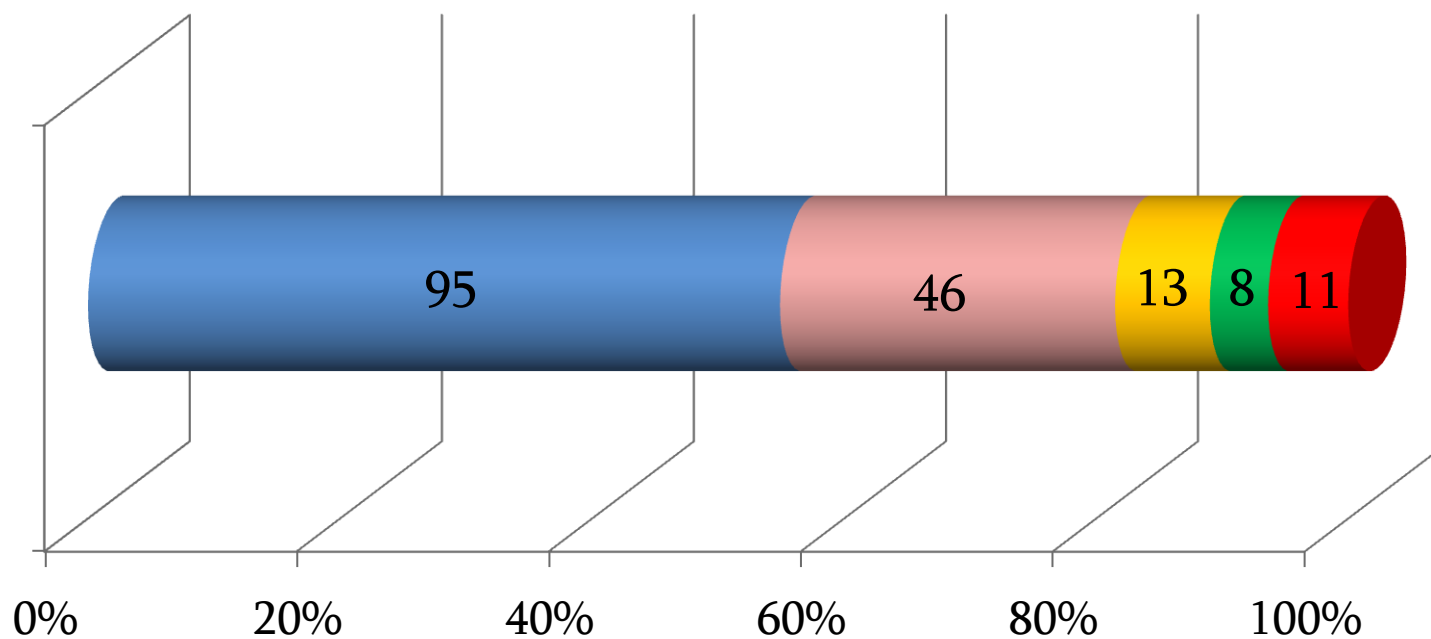
# What should be the maximum time frame for the completion of preliminary examination/inquiry of the disciplinary case?

- Up to 2 months;
- Up to 5 months;
- Up to 1 year;
- No answer.



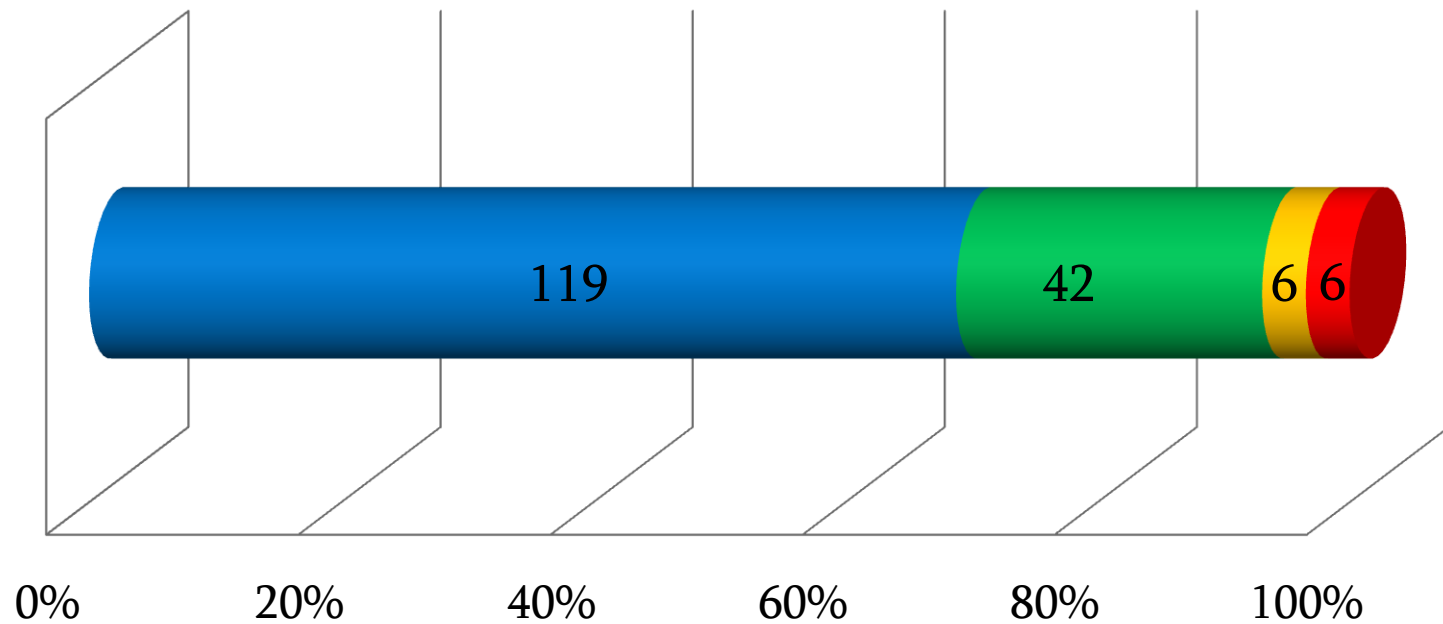
## Sessions of disciplinary committee and disciplinary Chamber should be:

- Public;
- As a rule, public, but can be closed upon request of the judge;
- Public only if requested by the judge;
- Closed;
- No answer.



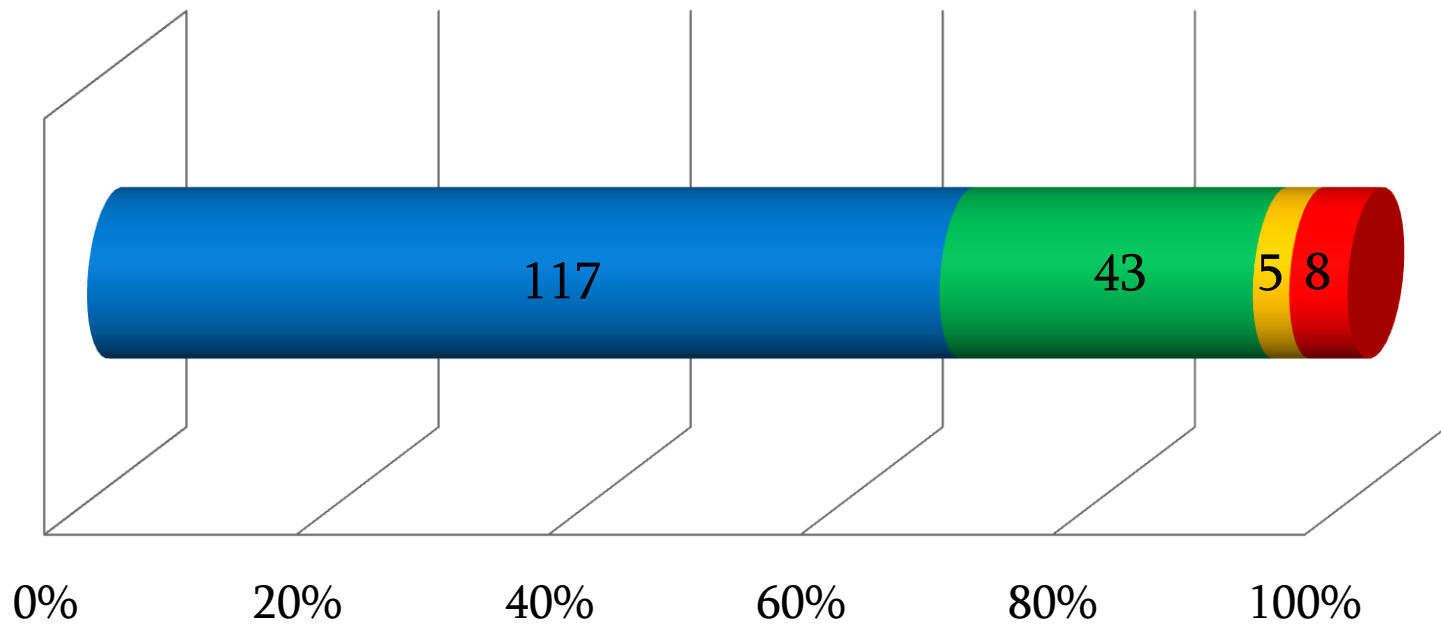
# Decision of High Council of Justice dropping disciplinary prosecution against a judge should be public:

■ Fully;    ■ Without personal data;    ■ Should not be public;    ■ No answer.



# The decisions of Disciplinary Committee and Disciplinary Chamber should be public:

■ Fully;    ■ Without personal data;    ■ Should not be public;    ■ No answer.



# What other problems do you see in the judicial disciplinary case proceedings and what improvements would you recommend?

## Individual comments from the respondents

- Tolerance should not be a policy;
- The cases should be processed openly, all decisions must be public except for special cases; Besides parties should have the opportunity to express and justify their positions;
- Disciplinary proceedings are mainly politicized;
- Judge should be objective and impartial;
- After the reversal of every tenth decision of the judge on appeal, a disciplinary prosecution should be initiated to established lack of competence of the judge;
- There is some sort of syndrome of impunity;
- The judges who are deprived of independence should be removed from judiciary;
- Disciplinary case processing should be carried out lawfully and impartially;
- In which the judges did not show no irony, mocking and rudeness;
- The cases heard by each judge should be reviewed. For judges who used to render illegal decisions is impossible to suddenly become law abiding;
- The proceedings are closed and conducted under excessive secrecy;
- Independence and improvement of professional qualification;
- I wish number of disciplinary cases to be brought to minimum;

# What other problems do you see in the judicial disciplinary case proceedings and what improvements would you recommend?

## Individual comments from the respondents

- Those judges who were sentencing the innocent defendants should be punished;
- I wish the creation of such disciplinary mechanisms which will reduce to a minimum the extent of influence of “interested persons”;
- Rejection of challenges, delay of cases;
- Main problem is the abuse of time;
- I wish more contact from judges side and more sense of responsibility towards their obligation;
- There should be no pressure and humiliation towards lawyers and parties;
- We have received no response to our complaints. The response was that the Council should confirm the decision of its members. The Council has no time limits. In other words the decision on disciplinary cases is inaccessible to the author of the complaint;
- The authors of the complaint are ignored in the disciplinary case proceedings. Frequently, the complaints against judges are shelved and the judges are blackmailed. If the judge does not act as indicated the case may be taken off shelf and judge punished. Therefore it is necessary for authors of the complaint to be involved in disciplinary process, in order not to shelve the cases;
- More effectiveness and transparency;
- The case should be examined and decision taken in participation of the plaintiff, in order to have the complained substantiated.



# What information would you like to see on the website of Disciplinary Committee of Judges of Common Courts - <http://dcj.court.ge/>

## **Individual comments from the respondents**

- The case law should be more accessible, showing the types of cases, which are more widespread;
- All information should be public and open;
- more complete information;
- information about the judges who took illegal decisions;
- Names of the judges punished for case delay and sanctions applied;
- Information about the disciplinary cases. Clarification of decisions - why was the judge punished or acquitted;
- There is no necessity to have disciplinary committee at all;
- Impartiality;
- Number of cases, substance and results;
- Case law, statistics and full decisions;
- names of judges, substance of the cases and results.

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2014 Year