



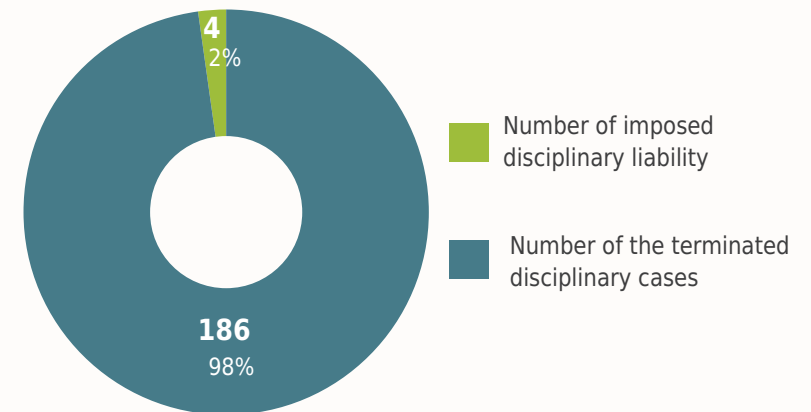
SYSTEM FOR DISCIPLINARY LIABILITY OF JUDGES

Significant steps have been taken under the “Third Wave” of the judicial reform in terms of improving system for disciplinary liability of judges.

Despite positive changes implemented in the legislation, observation on the various processes has shown that positive changes in the legislation have not resulted effectively in practice. Significant shortcomings and challenges in the legislation, remain. Including:

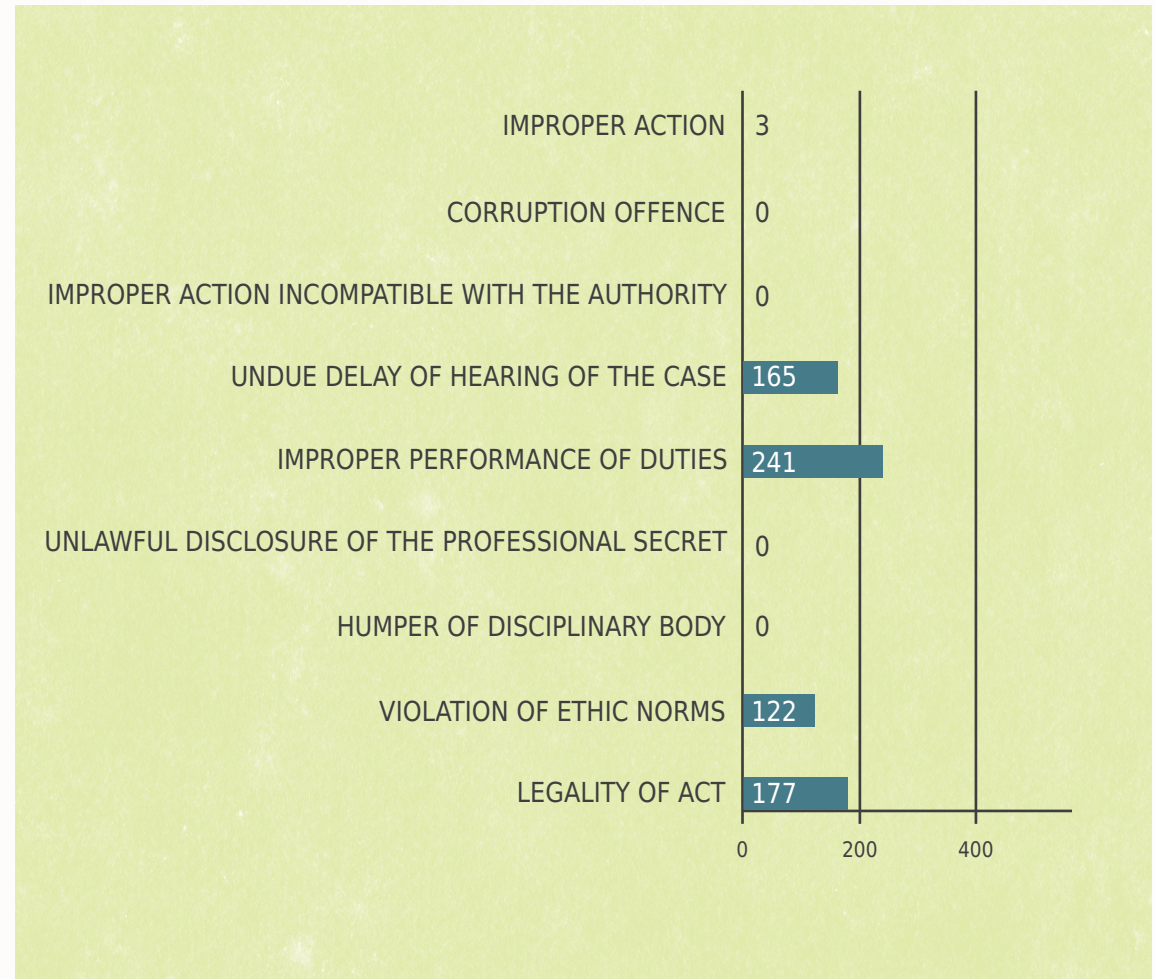
- Types of disciplinary misconduct are still general and not foreseeable;
- Independent Inspector’s institutional independence guarantees need to be enhanced;
- There is a sharp contrast between the number of disciplinary complaints and the number of judges who have been imposed disciplinary charges. In addition, the number of terminated disciplinary proceedings is increasing;

Number of terminated disciplinary proceedings and imposed disciplinary liability



- Despite determining the timeframe for the preliminary inspection and examination, disciplinary proceedings are being conducted in missing the deadlines;
- The decision of the High Council of Justice on the termination of disciplinary proceedings are not uniform, some decisions lack substantiation, and number decisions are completely unsubstantiated; The final conclusions of the Independent Inspector are not available to the public;
- To date none of the judges have exercised their right to the public disciplinary hearing;
- To date none of the members of the High Council of Justice have stated dissenting opinion in relation to the termination of disciplinary proceedings by the Council;
- The legislation does not specify the issue of the relevance and admissibility of the evidence at the initial stage of disciplinary proceedings.

Number of Disciplinary Complaints 2017-2018



What are the next steps?

- The draft law connected to the disciplinary liability of the judges elaborated within the “Fourth Wave” of the judicial reform should be updated and timely submitted to the Parliament;
- The types of disciplinary misconduct should include the actions of the judges which contradict the established norm of the law, and in which there is no obscurity, if the action was carried out with a clear and convincing dishonesty and disrespect for human rights, which caused significant damage (“legal error plus”). In this case, disciplinary responsibility should be imposed if the higher instance court, confirms disciplinary misconduct of the judge (in case of their existence);
- In terms of strengthening the office of the Independent Inspector, it is important to advance the rule for their appointment and dismissal. The law should define the remuneration of an Independent Inspector and increase their capacity;
- The standard for assessment of the collected information and the standard for the case proceedings and the quality of the collected evidence should be defined;
- Independent Inspector should be obliged to publish the conclusions prepared by them by concealing the identification data of the parties;
- The law should define the obligation of the Inspector to periodically publish statistical information on the disciplinary case proceedings;
- Standard of justification for the decision of the Council on termination of disciplinary proceedings should be defined;
- To ensure a fair decision made by the Disciplinary Committee, it is important for the Committee to make decisions with the majority of the general composition.