



Georgian Young Lawyers' Association and Transparency International Georgia presented their second Monitoring Report on the Activities of the High Council of Justice

On February 18, 2014 Georgian Young Lawyers' Association and Transparency International Georgia will present their second Monitoring Report on the Activities of the High Council of Justice (HCOJ). The report mainly covers the period of 2013 and was implemented in the following direction: transparency of the HCOJ activities; the procedural issues and reasoning of the decision; appointment/transfers of judges; composition of the HCOJ.

Following findings have been observed in the monitoring period:

As opposed to previous years, the quality of the HCOJ activities increased considerably. Information had been released in advance about anticipated sessions; monitoring organizations had less problems in terms of retrieving public information, moreover, the HCOJ members were more active in the course of discussing various issues. Public interest to the HCOJ activities has increased and stakeholders were granted unrestricted opportunities to attend the sessions.

Nevertheless, some gross deficiencies are still observed in the HCOJ activities, which result from ineffective legislative regulation on the one hand, and the misinterpretation of applicable legislative norms by the HCOJ on the other hand. Namely:

Transparency of the HCOJ activities

- Transparency of the sessions was especially problematic following the 2012 Parliamentary Elections, until the appointment of the new members of the HCOJ, while a number of decisive decisions were taken by the Council during that period;
- Though the HCOJ released advance information about anticipated sessions, it still failed to observe the 7 days' term for advance publication of the information and agenda;
- The HCOJ did not adequately release adopted decisions within reasonable time periods on its official web-site;
- As in previous periods, due to the failure to submit requested the HCOJ session minutes, the monitoring team was hindered in its implementation of effective monitoring;
- The right of mass media to carry out audio-video recording of the HCOJ sessions was unreasonably restricted in certain cases.

Decision making procedures

- Procedures determining the HCOJ activities are not regulated in details, namely: the terms for case examination; participation of interested parties in the decision-making process; the issue of challenging the HCOJ members; substantiation of decisions and the obligation to examine circumstances of the case before making the decision. These problems were revealed several times in decision-making processes;
- The issue on the application of the General Administrative Code by HCOJ in the decision making process is also unclear, since the HCOJ interprets the scope of the code in an inconsistent and vague manner;
- The opportunity to challenge HCOJ decisions and to carry out court control is not defined as well.

Decisions on the designation of judges

- The whole process on the designation of judges remains to be problematic and defective. Different legislative procedures are envisaged for two diverse categories of

candidates;

- The process is not transparent and unclear legislative regulations prohibit the conduct of the judges' selection process on the basis of an impartial criteria and assessment. As in the previous reporting period, adopted decisions lack reasoning;
- In certain cases, the HCOJ completely misinterprets legislative norms and carries out the judges' appointment process in the format of a two-stage competition.

As a result of monitoring, NGOs submit the following recommendations:

- HCOJ shall observe the high standards of transparency in its activities;
- The legislative regulation of necessary procedures to be adopted by the HCOJ should be elaborated;
- The obligation to substantiate decisions by the HCOJ shall be introduced;
- The possibility of challenging the HCOJ decisions should be incorporated in the legislation;
- The new rule should be elaborated for judges' designation that will ensure impartial selection of candidates and guarantee substantiated decisions.

Georgian Young Lawyers' Association and Transparency International Georgia will continue the monitoring process.