



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

Assessment of the Hearings of Supreme Court Judicial Candidates at the Parliament Legal Committee

In December, 2018, the High Council of Justice (HCOJ) nominated 10 Supreme Court judicial candidates selected through a non-transparent procedure. This caused a public outcry, which obstructed an attempt of the dominant group of judges (so called Clan) to appoint individuals loyal to the existing system for life as Supreme Court justices. Afterwards, the Parliament developed legislation establishing procedures for the appointment of Supreme Court justices. Despite the fact that some of the recommendations made by local and international organizations were considered in the bill, the law, which was finally adopted, still received criticism.^[1] Under the new regulations, the High Council of Justice submitted the list of 20 candidates to the Parliament. The selection process was widely criticized.^[2] The final list included influential judges, their preferable candidates, and individuals associated with the ruling party.^[3]

The process of hearings in the Parliament Legal Committee was transparent. In addition to MPs, representatives of academia, the Bar, State Legal Aid Service, Public Defender Office, and nongovernmental organizations were allowed to freely participate. Citizens had an opportunity to send questions to the Chair of the Legal

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Committee, who then asked candidates these questions on the record.

The questions were concerned with issues of law and values, candidates' experience and judicial decisions on specific cases. Some candidates failed to answer simple legal questions. With minor exceptions, the quality of their legal reasoning was problematic, and responses were not well argued. Some candidates refused to answer questions posed by specific individuals.^[4] In some cases they evaded questions, citing unjustified and unrealistic reasons. This was a sign of disrespect to the Parliament and the process and deserves a clearly negative assessment. The processes of nominating candidates for the Supreme Court and the Parliamentary Committee hearings further illustrates the problems in the judiciary. A majority of candidates do not adequately assess the challenges faced by the Georgian judiciary, fail to see the past and current problems or do not wish to discuss these problems; a significant portion of the nominees openly support the dominating the judiciary, and avoid expressing dissenting opinions, which does not reflect well on their moral integrity. The Supreme Court sets judicial policy, establishes common legal practice and protects rights as the last instance. Its members must possess outstanding legal reasoning and personal integrity. The absolute majority of the present nominees fail to meet these standards.

The Coalition considers that appointment of incompetent and dishonest candidates vitiates the open, transparent and constructive process in the Georgian Parliament, and vanquishes hopes for revitalizing the Georgian judiciary and restoring public trust for some time. We call on the legislators, in line with the Venice Commission recommendations, not to fill all vacant positions and to appoint only the minimum number of judges necessary for the Supreme Court functioning. At the same time, when electing a candidate to the Supreme Court bench for life, they must fully comprehend the great responsibility and take into consideration the knowledge, fidelity to judicial values and skills the candidates have demonstrated during the Committee hearings. We call on the parliamentary majority to negotiate with the opposition and agree on the candidates, rather than unilaterally appoint justices to the Supreme Court.

[1] For more details, see the Coalition for an Independent and Transparent Judiciary statement Coalition is Assessing New Rules for Nomination and Selection of

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Supreme Court Justices A to be found
http://www.coalition.ge/index.php?article_id=207&clang=1

[2] For more details, see the Public Defender Statement on Selection of Supreme Court judges to be found at <http://www.ombudsman.ge/eng/akhali-ambebi/sakartvelos-sakhalkho-damtsvelis-gantskhadeba-uzenaesi-sasamartlos-mosamartleta-archevastan-dakavshirebit>

[3] From the list of 10 people nominated in December, the following ended up on the list of 20 people submitted to the Parliament: Giorgi Mikautadze, Tamar Alania, Merab Gabinashvili, Nino Kadagidze, and Paata Silagadze. The list also included Shalva Tadumadze, Prosecutor General and Mamuka Vasadze, Deputy Prosecutor General.

[4] Shalva Tadumadze refused to answer questions asked by Giorgi Mshvenieradze, while Paata Silagadze ignored questions posed by Eka Beselia and Levan Gogichaishvili.