



GYLA Appeals Competence of Extension of Terms of office for Supreme Court Justices by High Council of Justice to Constitutional Court

GYLA is appealing to the Constitutional Court against Article 36 Paragraph 5 of the Law on Common Courts, which gives the High Council of Justice the right to extend the term of office of a Supreme Court Justice appointed by Parliament for a term of 10 years. According to Article 61, Paragraph 2 of the Constitution of Georgia, a Supreme Court Justice is elected by the Parliament of Georgia. Therefore, in order for a citizen to administer justice in the Supreme Court, they must, according to the Constitution, have the legitimacy of a Parliament. When the 10-year term expires, the Supreme Court Justice loses their parliamentary legitimacy; therefore, according to the decision of the High Council of Justice, the administration of justice in the Supreme Court does not comply with the requirements of the Constitution.

GYLA represents the interests of two convicts in the Constitutional Court. The case of both of them was considered on April 5th, 2019, by the Chamber of Criminal Cases, the composition of which included Judge Paata Silagadze. On October 23rd, 2008, Paata Silagadze was appointed the Supreme Court Justice by the Parliament for a term of 10 years. Paata Silagadze's term of office expired on October 23, 2018. Nevertheless, the High Council of Justice extended Paata Silagadze's term of office on October 8th, 2018. Paata Silagadze was the acting Supreme Court Justice by the decision of the High Council of Justice, from October 23, 2018, to June 3, 2019. It was during this period that Paata Silagadze's Chamber considered the cases of those persons whose interests GYLA would represent in the Constitutional Court.

The case of Paata Silagadze is no exception. Like him, the High Council of Justice of Georgia extended the power of Judge Giorgi Shavliashvili also. The latter's 10-year term of office expired on June 18th, 2020. Nevertheless, by the decision of the High Council of Justice, he continues to serve as a Justice in the Criminal Chamber of the Supreme Court. [1] For the Chamber to hear a case, it is necessary to have 3 justices. It is noteworthy that in addition to Giorgi Shavliashvili, the Criminal Chamber of the Supreme Court includes four other justices. Consequently, it is impossible in this case that a reason to extend the term of office to be the maintenance of a quorum in the Chamber.

GYLA considers that the powers of the High Council of Justice to extend the term of office of the Supreme Court Justices run counter to the right to a fair trial under Article 31 paragraph 1 of the Constitution and Article 31 2 of the Constitution, according to which the case should be considered only by the court that has

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jurisdiction over this particular case.

The Georgian Young Lawyers' Association litigates the case with the support of USAID / PROLoG.

[1] <http://www.supremecourt.ge/structure/chamber-of-criminal-cases/>