



Joint Statement of the Georgian Young Lawyers' Association and the Unity of Judges of Georgia on the Decision made by the High Council of Justice

Georgian Young Lawyers' Association and the Unity of Judges of Georgia would like to jointly comment on the meeting held on March 18, 2014, in the High Council of Justice of Georgia and express their disapproval of the HCoJ members completely ignoring the information about alleged pressure against judges in 2005-2006. In particular, the HCoJ disregarded findings of the Committee of Human Rights and Civil Integration referred to it by the parliament of Georgia on December 13, 2013. The document focuses on premature termination of the authority of members of the following Supreme Court members: Merab Turava, Nino Gvenetadze, Tamar Laliashvili and Murman Isaevi.

Findings prepared by the parliamentary committee says that these judges were subjected to illegal and arbitrary disciplinary prosecution in 2005-2006 by previous authorities on political grounds. During the disciplinary prosecution, judicial independence guaranteed by the Constitution of Georgia and the rights of judges were grossly violated.

The findings also note that during the disciplinary prosecution the judges were summoned a number of times and forced to submit letters of voluntary resignation. The findings support with evidence claims about political prosecution by all three branches of the authorities against the judges.

Notably, the document also cites the criticism by the Venice Commission and other reputable international organizations about dismissal of the judge on disciplinary grounds.

During the meeting non-judge members of the HCoJ presented findings about disciplinary prosecution against the judges, providing in-depth analysis of legal aspects of the case. The findings were accompanied by draft decision of the HCoJ qualifying these developments as violation of judicial independence. The draft decision also criticized the practice of pressuring judges prevalent in previous years. It was also the opinion of non-judge members of the HCoJ that the council should also apply to the parliament with a proposal of legislative amendments that would allow reviewing of the decision made in the disciplinary case in light of the recently uncovered circumstances.

We believe that the HCoJ's assessment of facts cited in the findings would not equal to the revision of the decision made years ago in the disciplinary case. However, judge members of the council maintained otherwise, which was eventually the reason why none of the recommendations prepared by non-judge members of the HCoJ were endorsed. We believe that in light of the nature and urgency of the issue and considering the functions that the HCoJ has been delegated by law, it should have discussed legal aspects of the facts and issues raised in the findings, which would have served as grounds for the council to take further actions within the frame of its competence. Judge members of the HCoJ could have endorsed the position of non-judge members presented during the meeting. For instance, the fact that it is prohibited to promise pensions and other benefits to judges in exchange for their voluntary resignation, forcing and convincing them to resign; the fact that it is prohibited to use procedural violations to curtail independence of judges, intimidate and suppress them, etc.

Furthermore, the High Council of Justice could have discussed the need of legal amendments in the system of disciplinary proceedings and elaborated subsequent

recommendations or presented legislative proposal to the parliament. Instead, members of the council noted that legal drafting falls under the exclusive powers of the parliament. Such approach towards that the council's policy is inconsistent, considering that on a number of occasions the council prepared legal drafts and expressed its position about legal drafts pending before the parliament.

We believe that the High Council of Justice should do as much as it can in each individual case to protect judges, restore their rights that have been violated and implement necessary reforms in the judicial system. The Councils should employ consistent, similar and principled approach toward important matters of justice, which has nothing to do with any political interests or narrow interests of a group. It is the only way for the HCoJ to fulfill its highly responsible constitutional functions and successfully handle challenges before the judicial system.