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დამოუკიდებელი
და გამჭვირვალე
მართლმსაჯულებისთვის
Coalition for
an Independent and
Transparent Judiciary

The Coalition for an Independent and Transparent Justice Calls for Suspension of the Ongoing Judicial Selection/Appointment Process

The Coalition for an Independent and Transparent Justice was closely observing the process of selection of candidates for the 61 vacant judicial positions taking place at the High Council of Justice. We would like to voice our findings and once again indicate the significant gaps revealed during the interviews with the candidates. On the one hand, these gaps make the judicial selection process unreliable and on the other hand, they raise important questions on whether the process is objective and

free of political bias.

The interviews proved that the acting judicial recruitment/appointment system contains deficiencies and the process is problematic. The existing judicial appointment system cannot ensure transparency of the process, accountability of the Council, provision of well-justified decisions and appointment of the persons with outstanding qualification and non-disputable reputation. It was once again demonstrated that the procedure for the selection/appointment of the judicial candidates shall be subjected to statutory regulation. In a democratic state the process of judicial independence cannot be dependent solely on unlimited discretion of the High Council of Justice and integrity of specific members of the Council.

The serious violations that occurred during the process of selection of judicial candidates have raised doubts concerning the legitimacy of the whole process and have posed a significant threat to staffing the judicial system with honorable judges with high qualification and genuine reputation. The deficiencies in the process are particularly risky considering the fact that a significant number of judges are appointed for life.

The interviews revealed that:

- Interviews of judicial candidates did not aim to evaluate the compliance of the judicial candidate with predefined criteria and to conduct the process in a standard manner. The candidates were asked the questions of different complexity that created unequal conditions. In certain cases, the Council members were helping the candidates to provide proper answers by asking them leading questions, or answering the questions on their behalf. In fact, the conducted interviews could not effectively assess the compliance of a candidate with established criteria. This approach did not correspond to the rules prescribed by the High Council of Justice that “authorize the Council members to ask the judicial candidates preliminarily developed questions of similar character.” This raises significant doubts with respect to the neutrality and impartiality of the Council members.

- Regardless of the number of requests made by the non-governmental organizations, the High Council of Justice did not publish the CVs of the judicial candidates. Thus the Council in fact violated the requirement of the law according to which any information about candidates is open to public. The rule for the selection of candidates determined by the Council itself was also violated. According to the existing rule, short CVs of the judicial candidates shall be published on the Council’s official web-page. Publication of CVs aims to enable any interested person to provide the Council with important information about a candidate. This was made impossible because of the failure of the Council to publish CVs.

- In addition, certain members of the Council would often miss the interviews. The absent members cannot obtain comprehensive information about the candidates’ skills, qualification and knowledge. Therefore the individual evaluation of the candidate based on existing criteria by a Council member and his/her participation in the voting process becomes formal and cannot ensure decision making in compliance with the interests of justice. The Council exercised similar practice in the past. Participation of the absent members in the voting process is illegitimate.

- In the majority of the cases, the Council members did not ask the candidates questions that would reveal their attitudes towards the human rights based justice system, as well as attitudes towards democratic values, and ideas of freedom and equality. For example, none of the candidates were asked a question concerning the minority rights. And in the exceptional cases when a candidate was asked a question about the gender equality, it caused laugh and emotional reaction from the side of a

candidate and the Council members that indicates inadequate attitude towards this issue.

- The interviews revealed that some of the members of the High Council of Justice were not familiar with the documents concerning the past activities of specific candidates provided by the Public Defender of Georgia. The rule for the selection of judicial candidates authorizes any interested person to provide the Council written information about the Candidate. Therefore, the Council members were obliged to study and take into account the information provided by the Public Defender.

- Besides, the Council members were sometimes asking the candidates the leading questions that pressured the candidate to answer the question in the manner predefined by the author of the question and therefore restricted his/her right to express his/her opinion independently and free from pressure.

- The whole process of selection of judicial candidates has been flawed by the conflict of interest issues. Mr. Levan Murusidze, the Secretary of the High Council of Justice who himself is a judicial candidate attended several interviews with other candidates. His presence during the interviews created unfair and unequal conditions for the other candidates. This conflict of interests has not been addressed up to present. This is the violation of the Law of Georgia on "Conflict of Interests and Corruption" that should be observed not only by a Council member with the conflict of interests, but also by the other members of the Council, that were obliged to raise the issue of conflict of interests at the Council session and make decision compliant to the law.

- The Council did not properly interview the Secretary of the High Council of Justice in the capacity of a judicial candidate. Instead of checking the compliance of a candidate with the established criteria, the Council Secretary actually used the opportunity to provide explanations with respect to his past decisions in high profile cases. Besides, the majority of the Council members revealed their attitudes and the process itself made the impression that the Counsel Secretary was aware of the questions to be asked. The majority of the Council members did not ask questions that would clarify factual or legal inaccuracies in his answers. They did not follow up on responses revealing neglectful attitude to significant legal principles either.

Considering deficiencies of the observed interviews and problems of the ongoing

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process and the existing system, we call on

The High Council of Justice of Georgia:

- to suspend the ongoing judicial selection/appointment process;

The Parliament of Georgia and the Ministry of Justice of Georgia:

- to proceed with the suspended Third Wave of the Judicial System Reform without delays and elaborate additional amendments to the law that would ensure the establishment of objective, fair, transparent and well-reasoned decision making process.

We believe that the appointment of the unprecedentedly big number of judges, especially in view of life-term appointments, contains risks. The Coalition believes that the High Council of Justice shall continue working on filling the available vacancies only after having undertaken a relevant legislative reform.