



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

The Coalition assesses the increase of power to Mikheil Chinchaladze as a danger of the cases` random distribution principle

Coalition for an Independent and Transparent Judiciary expresses concern about the decision made by the High Council of Justice of Georgia on the 30th of April of the current year. According to this decision, the narrow specialities of the judges was determined in the Chambers of Tbilisi Court of Appeals, and the power for single-handedly distributing the judges into narrow specialities was granted to the Head of the Court, Mikheil Chinchaladze. In spite of the fact that the law does not grant this right specifically to the Head of the Court, by the incorrect practice established since 2006, the judges in the Tbilisi Civil Court are assigned to specific specialities by the Head of the Court, which, in its turn, creates tangible risk for the interference of the Head of the Court in the process of case distribution.

A new rule for distribution of cases was made in the frames of the Justice reform Third Wave A and was put in action throughout the country since 31st of December 2017. Creating a new system of the case distribution in common courts represents one of the most important reforms of the previous years as it must answer the

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numerous challenges related to the impartiality and independence of the court. The rule of the case division between judges must, in the first place, ensure the process protection from external interferences. The most noteworthy and problematic detail in the new model of case distribution is the power of the Head to determine the composition of judges in subspecialities. The program divides the cases between the narrow specialities judges, although, the decision as to who will be a part of the specific specialities, is only for the Head of the Court to decide. This problem is intensified by the fact that in the short period of time the Head of the Court can change the composition of judges in narrow specialities without any kind of substantiation. The regulation mentioned creates serious risks of interference on behalf of the Head of the Court.

Determining the composition of judges in narrow specialities is especially problematic while hearing the case in the Appeal Court, where, as usual, the cases are discussed by the collegial composition of three judges. By the edition of the currently active rule of dividing the cases electronically in a random way, while distributing the cases in the Court of Appeals, the electronic program chooses only one person from the collegial composition – the speaker judge. Accordingly, the risk of interfering in formation of the collegial composition, considering the circumstances of the unsubstantiated and easy rearrangement of judges in the narrow specialities, is very high.

On numerous occasions the coalition has expressed its negative attitude towards the roles of the Heads of the Court, who are appointed to their positions in a vague and non-transparent way and represent a privileged group of judges viewed as controlling superiors. **In the light of all this, the coalition negatively evaluates the further increase in power of the Head of the Court and believes that in case of creating narrow specialities, the authorization of determining the composition by the legislation should be granted to the High Council of Justice instead of the Heads.**