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დამოუკიდებელი  
და გამჭვირვალე  
მართლმსაჯულებისთვის  
Coalition for  
an Independent and  
Transparent Judiciary

## The Coalition Demands an Objective and Transparent Process of Judicial Appointment

For years we, the non-governmental organizations have been pointing out substantial deficiencies of the judicial selection and appointment rules, based on which the HCOJ appoints judges through ambiguous and unsubstantiated decisions. Consequently, it is impossible to assess objectivity of the HCOJ decisions as well as the overall process for the contenders as well as outside observers. Such a system creates real possibilities for the members of the HCOJ to appoint any candidate they desire, who formally meets the set criteria, without any public control and oversight.

It is well known that The Third Wave of Judicial System Reform package is already initiated in the Georgian Parliament, which, among others, contains certain changes to the rules of judicial appointment. Adoption of these amendments would improve the system of judicial appointment to a certain degree, but will not eradicate the main problem, which is related to substantiation of the HCOJ decisions. Hence, even under the reformed legislation we see risks of abuse in the judicial appointment system.

Despite the fact that deficiencies of judicial selection and appointment are largely related to legislation, it is important to appropriately evaluate the role and responsibility of HCOJ in this process.

The Coalition member organization regularly observe the work of HCOJ, and based on this it is clear that it has been problematic for HCOJ to effectively execute its duties and make decisions. The discussions at HCOJ often turn out unhealthy and unethical, and the decision making process and the strategies for collecting a number of votes by the HCOJ members for making decisions raise more and more questions in the society. Given these circumstances, the Coalition assesses the ongoing large scale judicial selection competition as particularly problematic.

It is important to note that watchdog organizations as well as the office of Public Defender have over the years prepared numerous reports on judicial system, which strongly criticize and evaluate individual cases and current and former judges.<sup>[1]</sup> The European Court of Human Rights also points out violations of fundamental rights in the judicial system in its various decisions.<sup>[2]</sup>

Unfortunately, given the ongoing processes at the HCOJ and the deficient legislation, the Coalition sees the risks that judicial positions may once again be filled by persons, whose judicial practice has raised multiple questions and criticism. The issue is particularly grave given the life-time appointment system of judges in Georgia.

The Coalition takes into consideration the critically low number of judges in the Georgian justice system, which, in conjunction with the sharply rising number of cases, is reflected in the quality of justice and requires timely action from HCOJ. In this situation the Coalition particularly underscores the importance of HCOJ's members fulfilling their duties with integrity and high sense of responsibility. The process has to be carried out in full compliance with the procedures and has to avoid any plausible conflicts of interest, including participation of such a HCOJ member in the discussions

who himself has applied to HCOJ for appointment.

The Coalition calls on the High Council of Justice and its individual members to:

- ensure open, transparent and objective process of judicial appointment;
- carefully consider the critical reports on the judicial system;
- conduct full, multidimensional and objective study of judicial candidates' backgrounds and adequately reflect the findings in their decisions.

The Coalition also calls on the Parliament and Government to:

- conduct timely and unhindered process of adopting the initiated legislation;
- timely plan and execute the substantial reform of judicial selection and appointment process, which rules out the possibilities for manipulating the system and appointing unsuitable candidates in the system.

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[\[1\]](#) Georgian Young Lawyers Association, May 26 – Analysis of Human Rights Violations Related to the Dispersal of the Rally, 2011, pp.125-126

[\[2\]](#) Enekidze and Girgvliani vs. Georgia, paragraphs: 257-261, 267, 276