



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

Coalition addresses Parliament with legislative proposal concerning selection/appointment of judges

The Coalition for Independent and Transparent Judiciary has addressed Parliament with a legislative proposal concerning proper regulation of the process of selecting and appointing judges. The goal of the amendments is to make the appointment of judges, whether probationary or permanent, require substantiation, meet impartiality and transparency requirements and be based on the principle of merit.

In order to address the existing flaws, the Coalition, within the framework of the „*Make Courts Trustworthy*“ campaign, demands that the following changes be made:

- The assessment of judicial candidates using the system of points should become substantiated, a detailed procedure for candidate assessment should be established. It should be defined in detail on what information the Council members should base their decisions whether a specific candidate meets the

criteria of competency and integrity established by the law. Despite the introduction of the system of points, there is still no obligation to substantiate the assessment of a candidate, and this must change;

- It should be established by the law that the candidates be interviewed at an open session of the Council and what share of the candidates' assessment shall be credited to their interviews. The possibility of conducting interviews with the judicial candidates at a closed session is provided for by the decision of the High Council of Justice. We believe that this seriously undermines the transparency of the process of selection of judges, correspondingly, the open nature of interviews should be established by the organic law. In addition, the process of interviewing candidates is not sufficiently formalized, which allows for a wide range of possibilities of arbitrariness to take place at the interview stage;

- The voting procedure should be abolished and a candidate who receives the best assessment should be appointed to the position of a judge. The law envisages making the decision regarding the appointment of a person to the position of a judge through voting, which allows the Council members to not consider the objective assessment results, the points received by candidates and to appoint judges based on their subjective, unsubstantiated decisions when casting their votes. It is expedient that the final decision concerning the appointment of judges be made in accordance with the number of points received by candidates;

- Both for probationary as well as permanent appointment, the law should define an effective mechanism of appealing the rejection of judicial candidates. In addition, it is important that it is defined by the law that the Qualification Chamber hears the disputes concerning judicial appointments in accordance with the procedures envisaged by the Organic Law on General Courts while administrative proceedings shall apply if the law does not rule otherwise.

Nomination of Supreme Court Judges

According to the amendments to the Constitution of Georgia, Parliament elects the Supreme Court judges for life based on the nomination by the High Council of Justice. It is the Coalition's opinion that, before the High Council of Justice is vested with the powers to nominate the Supreme Court judges, it is important to reform the legislation

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



regulating the work of the High Council of Justice, the procedures of the selection of judges by the Council and its decision-making process. The law should also guarantee that the Council's activities are transparent and its decisions are impartial and based on the principle of merit.

The issue of nomination of the Supreme Court judges by the Council requires additional regulation through the Organic Law of Georgia on General Courts:

- The criteria for selecting judges established by the Organic Law on General Courts should be extended to apply to the appointment of the Supreme Court judges as well. Furthermore, additional requirements that would only apply to the judicial candidates for the Supreme Court, should be established;

- The candidates should be selected through an open competition. Any information about the candidates received and processed by the Council should be public. The continuation of the competition should only be possible two months after the registration of candidates in order to allow for public discussions about the candidates to be held and information about these candidates be obtained, processed and given to the Council. In addition, the interested persons, who register in advance, should have an opportunity to pose questions to the candidates during their interviews;

- The selection of the Supreme Court judges should be made in accordance with the procedures established for the selection of judges of courts of lower instances, which, in turn, need to be improved. Specifically, the system of points for assessing candidates based on the criteria of competency and integrity should be extended to the Supreme Court judges, the sources and evidence supporting the assessment need to be established and the interviews with the candidates should be held at the Council's open session;

- It should be envisaged by the organic law that the High Council of Justice shall nominate to Parliament of Georgia the three judicial candidates for the Supreme Court who received the best assessment. The procedure of the selection of the best candidates should be similar to the procedure of selecting judges of courts of lower instances. In addition, should Parliament reject a candidate, the Council should only be able to nominate the same candidate twice;

- The requirements of passing qualification examinations and studying at the High School of justice should not apply to the Supreme Court judicial candidates,

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



as this will heighten competition and provide more professionals with an opportunity to participate in the competition of selecting judicial candidates for the Supreme Court;

- **It should be possible to dispute the process of assessment of candidates by the Council at the Qualification Chamber of the Supreme Court.** However, the rejection by Parliament of Georgia of a person nominated for the post of a Supreme Court judge cannot be appealed;

- **The law should contain a detailed procedure for the election of a candidate by Parliament.** Specifically, the maximum term for the consideration of candidates by Parliament, the possibility for interested persons to attend and pose questions, the timeframe and procedure for interested persons to submit to Parliament the information about candidates should be established.

The Coalition for Independent and Transparent Judiciary is responsible for the content of the press release. It does not necessarily reflect the views of the East-West Management Institution, USAID or the US Government.