



კოალიცია
დამოუკიდებელი
და გამჭვირვალე
მართლმსაჯულებისთვის
Coalition for
an Independent and
Transparent Judiciary

Coalition Statement on the Selection of Judicial Candidates for the Supreme Court

The Coalition provides an opinion on the process as a result of which the President of Georgia presented several candidates to fill the Supreme Court's vacant seats. According to current legislation, President is authorized to present any candidate which meets the criteria provided in law to the Parliament. The legislation has no particular selection procedure for candidates.

Selection of candidates for the court, which represents the final justice administration instance, has been drawing high public interest. Accordingly this process needs to be

conducted in an open, transparent and careful manner. The current crisis in judicial system increases expectations concerning each and every new judge and doubles obligations of the government institutions, which are responsible for appointments in the judicial system.

The observation of the ongoing processes in the courts make us believe that the system needs free, professional, active, decisive members, who will be able to play a substantial role in the development of the human rights oriented justice system in Georgia. They should also contribute to the protection of judges from external and internal pressures coming from specific influential groups and institutions with an aim to ensure judicial independence and impartiality.

The High Council of Georgia and its members are often criticized for dismissive and unethical statements made in relation to the rights of minorities and gender equality issues in the process of selection and appointment of judicial candidates. President is a guarantor of the constitutional rights. Therefore, it is important that while fulfilling his responsibilities, including participation in the judicial appointments, he has to follow principles enshrined in the Constitution, such as equality, rule of law and human rights protection.

Accordingly, it is essential to carry out appointments in the Supreme Court with proper communication and consultations with all appropriate groups, in order to carefully assess every candidate's attitudes towards democratic values, freedoms and equality ideas. Every member of the judiciary shall be selected based on their devotion to the above-mentioned values.

Unfortunately, the attitudes and values of one of the candidates, Nona Todua who was nominated by President on March, 28, have become questionable. Several sources indicate her homophobic attitudes. She has also made unethical statements which marginalize people who have suffered from the repressive drug policies. More specifically, in the 2011 Commentary on the Special Part of the Criminal Law Nona Todua notes that, "homosexuality and lesbian relations involving adult individuals are not considered to be a crime, however, such type of an act is extremely disgraceful from the ethical point of view." In the chapter on Narcotic Crimes, she notes that "potential drug users are weak, frustrated or selfish individuals searching for pleasure." In the same text Nona Todua also criticizes legal provisions according to which an adult married to a minor who is less than 16 years old is charged with

criminal liability. She notes that a liability for having sexual intercourse with a minor in such a situation may have a negative impact on the condition of the minor.

We believe that appointing persons, whose views contradict the idea of the human rights based justice, to the highest judicial positions, raises questions regarding effectiveness and consistency of the anti-discrimination policy initiated by the Government. The Coalition positively assessed the open and engaging process carried out by the President's Administration to select a nominee for the position of the Chief Justice. However, the recent nominations for the Supreme Court indicate the need to institutionalize the open and participatory format of the process of appointment for the Supreme Court.

We believe that the following recommendations shall be considered in the process of nomination of judicial candidates for the Supreme Court in order to overcome the current crisis in the judicial system and ensure effectiveness of the reforms.

- Openness and transparency of the selection process for the Supreme Court shall be institutionalized in order to establish a good practice;
- The process of selection of candidates shall be open and transparent. This will ensure active involvement of the public and discussions on these issues in order to promote democratic values, respect to human rights and ideas of equality in the highest instance of justice system.
- Under present circumstances, the Parliament of Georgia shall consider the facts that have become public in relation to one of the nominated candidates before making a decision with respect to the candidates for the Supreme Court membership.