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დამოუკიდებელი
და გამჭვირვალე
მართლმსაჯულებისთვის
Coalition for
an Independent and
Transparent Judiciary

The Coalition's Open Letter to the Speaker of the Parliament on the Termination of Authority of Zaza Kharebava, a High Council of Justice Member

Open Letter

Attention: Mr. Irakli Kobakhidze, Speaker of the Parliament of Georgia

This statement concerns the Freedom Monitor investigative report and information circulated by different media outlets (<https://bit.ly/2H3D9Ai>), which reveal that the requirements of the Law of Georgia on Common Courts were violated in the process of selecting Zaza Kharebava, a non-judge member of the High Council of Justice, by the Parliament of Georgia. Under the law, a violation of this requirement is the basis for terminating the authority of a member of the Council.

This case attracted the Coalition interest. We studied documentation supporting Zaza Kharebava selection available on the Parliament website and came to the conclusion that he was confirmed in violation of the law. Correspondingly, we are

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calling on the Parliament to consider this issue and terminate Zaza Kharebava's authority under Point 4, Article 212 of the Parliament Rules of Procedure.

Under Point 3, Article 219 of the Parliament Rules of Procedure, effective at the moment of Zaza Kharebava's nomination (June 2, 2017), a non-entrepreneurial (noncommercial) legal entity is eligible to nominate a candidate for the membership of the High Council of Justice, **if for 2 years prior to the announcement of the competition this organization has been providing representation in court lawsuits.** A similar requirement is envisioned in Point 5, Article 47 of the Law of Georgia on Common Courts.

These norms clearly require a nongovernmental organization nominating candidates to be engaged in court representation, implying legal aid services for physical or legal persons (an authority to represent clients in court disputes).

Zaza Kharebava was nominated by Nonentrepreneurial Noncommercial Legal Entity (NNLE), Charity Humanitarian Center Apkhazeti. The nominating organization submitted certain documentation to prove **that court representation has been one of the spheres of its work** for 2 years prior to the announcement of the competition. All of these documents refer to cases where NNLE Charity Humanitarian Center Apkhazeti was one of the parties, instead of representing someone else's interests. At the moment of submission of documents, the organization nominating Zaza Kharebava did not meet the requirement established in the law. More specifically, no evidence was presented to confirm that **one of the organization's spheres of activities is court representation.** Thus, this organization was not eligible to nominate a candidate for membership of the High Council of Justice, while confirmation of an unqualified organization's candidate by the Parliament clearly violated the Parliament Rules of Procedure and the Law of Georgia on Common Courts.

Point 1, sub-point A of Article 48 of the Law on Common Courts establishes that one of the grounds for terminating a HCOJ member's authority is **appointment of this candidate by an ineligible body or in violation of the rules established in this law."**

In view of these circumstances, the process of selection for Zaza Kharebava violated Point 5, Article 47 of the Law of Georgia on Common Courts, as well as Point 3, Article 219 of the Parliament Rules of Procedure (effective at the moment of his nomination).

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Thus we are addressing you to consider this case and terminate the office of Zaza Kharebava, a non-judge member of the Council, based on Point 4, Article 212 of the Rules of Procedure.

Sincerely,

Giorgi Mshvenieradze

Chair, Coalition for an Independent and Transparent Judiciary

May 14, 2019