



საია და EMC: სასამართლო სისტემის
რეფორმის დამკვიდრებული ხედვა
შესაცვლელია

GYLA AND EMC: THE ESTABLISHED VISION OF JUDICIAL REFORM NEEDS TO BE CHANGED

On October 8, 2020, the Venice Commission published its opinion on the latest legislative amendments regarding the composition of the Supreme Court. ^[1] Although the Parliament itself requested an evaluation of the project, it did not wait for the opinion and adopted the changes on September 30. As expected, this hasty move by the legislature was negatively assessed by both the Venice Commission and the EU ^[2] as well as the co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) ^[3].

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It is noteworthy that the Venice Commission was critical of the Georgian judiciary system in general rather than only the forced process. It stressed out the special context and the significance of the problems. It was said that the situation in the country is specific. ^[4] The report openly states that, given the past context, the High Council of Justice has failed to gain public trust and recognition. ^[5]

After many years of effort, such sharp assessments reinforce the criticism within the country of the chosen path of justice reform, which is reflected in the formal-legal and narrowly legal changes. This puts the need for systemic change on the agenda once again.

It is regrettable that despite such a situation, the mainstream vision of judicial reform is still trying to create a sense of progress through single legislative modifications. Attempts to change the situation by amending procedures (substantiation of the decision, the secrecy of the ballot, etc.) only have the resource of giving additional legitimacy to the existing order. At the same time, the Georgian judiciary, which is in the grip of clan rule, refuses to protect the rights of its citizens, to ensure their social and political interests. Problems accumulated over decades require clear choices to change the situation, creating a new and fair logic of power distribution.

It is clear to us that the effectiveness of a management system based on the principle of majority (majoritarianism) only serves to increase injustice and strengthen existing centers of power. Therefore, we see the solution in arranging inclusive, consensus-based decision-making mechanisms. At this point, this is the only issue on the agenda that needs to be discussed in such a way that it ultimately turns justice in the interests of the public, not the clan or the ruling party.

The Human Rights Education and Monitoring Center (EMC)

Georgian Young Lawyers' Association (GYLA)

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- [1] European Commission for Democracy Through Law (Venice Commission), Opinion on the draft organic law amending The Organic Law on Common Courts, Strasbourg, 8 October 2020, Opinion No. 1001/2020, CDL-AD(2020)021-e, Council of Europe website, available at: <https://bit.ly/34HKVKH>, updated: 09.10.2020.
- [2] Statements by the Spokesperson, Georgia: Statement by the Spokesperson on the selection process of Supreme Court judges, 05/10/2020, website of EU, available at: <https://bit.ly/3luEQYZ>, updated: 09.10.2020.
- [3] Crucial issues still need addressing over the appointment of Supreme Court judges in Georgia, 9 October 2020, Council of Europe website, available at: <https://bit.ly/34FUQAx>, updated: 10.10.2020.
- [4] Venice Commission, cited conclusion Par. 18.