



The GYLA responds to changes in the composition of panels of the Court of Appeals that were considering the case of Rustavi 2

In the process of monitoring the examination of the case of Rustavi 2 in the Tbilisi Court of Appeals, the GYLA studied various rulings adopted by the Court of Appeals which confirm changes in the composition of the panels that were considering the case. [\[1\]](#)

From the very beginning, this issue raised doubts, both in the respondent and in the society, that the changes in the composition of the panels that were considering the case may have indicated an attempt to exert influence on the Court and on its decision.

With the aim of studying the issue, the GYLA requested the Tbilisi Court of Appeals to provide information about the changes in the panels considering the case. According to the information provided by the Court of Appeals, due to deterioration of the health of Judge Lili Tkemaladze and on the basis of her letter, **~~a part of civil cases she was considering~~**, including civil case No. 2B/6052-15 (the case of Rustavi 2), were transferred to the Chancellery of the Tbilisi Court of Appeals to be distributed to other

judges by alphabetical order (see the full text of the letter in the annex).

It is clear that the written explanation of the Court of Appeals is not enough to dispel the doubts that arose in the society regarding the changes in the composition of the judges examining this case.

In addition, we should take into account the systemic problems related to the procedure and practice of distribution of cases among judges. The legislation establishes a virtually uncontrolled and unlimited right of the chairperson of a court to assign a case to any judge without observing the procedure of distribution of cases by alphabetical order and to determine the composition of a panel that considers a case. That the procedure of distribution of cases is not subject to control is also confirmed by the information contained in the aforementioned letter. The Court of Appeals explains that “the composition of judges [in the panels] is not determined by a legal act; therefore, we are devoid of an opportunity to provide you with documentation about how the composition of judges is determined in concrete cases.”

Considering the aforementioned, we believe that the High Council of Justice of Georgia, as the body that is responsible for ensuring and protecting the independence and impartiality of the judiciary and of individual judges, should study the changes in the panels of judges examining the case of Rustavi 2 and inform the public about circumstances revealed. The aforementioned is directly related to the independence of the judiciary in the case of Rustavi 2, the public’s trust in it and the reputation of the judiciary, whose protection is a direct function and obligation of the HCOJ.

The GYLA calls on:

The Tbilisi Court of Appeals:

To explain on what legal grounds it assigned only a part of the cases considered by Judge Lili Tkemaladze, including the case of Rustavi 2, to other judges;

The High Council of Justice of Georgia:

To study the reasons and legal grounds for changing the judges who were considering the case of Rustavi 2; to provide the public with full information about the aforementioned; in the event of confirmation of an undue motive in the assignment of the case to other judges, to respond to the aforementioned within the limits of its competence.

[1] The Court of Appeals, with the composition of Natalia Nazghaidze (judge-rapporteur), Ketevan Meskhishvili and Goderdzi Giorgishvili, considered the complaints of Kibar Khelvashi, Panorama LLC, Levan Karamanishvili, Giorgi Karamanishvili, the Sakartvelo TV Company, and the Rustavi 2 Broadcasting Company in connection with a [ruling](#) on securing a claim that had been adopted by the Tbilisi City Court on August 5, 2015.

The issue of admitting appeals regarding the decision of the court of first instance of November 3, 2015, for consideration was examined by the Civil Panel of the Court of Appeals with a different composition: Lili Tkemaladze (judge-rapporteur), Khatuna Arevadze, Vano Tsiklauri. At this stage, the consideration of the case continues with a changed composition (Natalia Nazghaidze – Chairperson, Natia Gujabidze, Shorena Kavelashvili).