



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

A New Perspective on Judicial Reform

The legislative changes of 2013-2021 can be characterized as an illusory and incomplete attempt at an institutional modernization of the judiciary, which ultimately created an imitation of a positive transformation instead of a real and systemic change. The change of government in 2012 was a good precondition for fundamental reforms, but the lack of political will and fragmented legislative initiatives carried out in the last nine years have failed to meet the most important challenge pertinent to the Georgian context. In particular, the reform did not affect the role of real power and de facto influential groups in the judiciary. The result is a clan-based governance, where a small influential group of judges controls the judiciary, not in the interest of justice, but in its private interest.

Now, when the frustration with the outcomes of the judicial reforms is clear, there is a need for radically changing the reform strategy. The steps to be taken should be aimed at a consensus-based management of the judiciary. The reform should also create solid obstacles to the concentration of power.

This requires the following actions:

- High Council of Justice - At the current session, the Parliament should elect five non-judge members. It is important to use this opportunity. Candidates should be impartial, conscientious, and competent. Citizens enjoying high public trust and a

broad consensus between the political parties should be appointed. This will significantly change the balance of power in the Council, create a new center of gravity with five independent members, and leave the Clan with an unreliable advantage of only one vote;

- Procedure for the appointment and dismissal of judges - the Council should make such decisions based on the double 2/3rd vote (according to this principle, a decision will require the consent of 2/3 of the judge and 2/3 of the non-judge members). The logic of a consensus should also be strengthened at the stage of the appointment of Supreme Court judges by Parliament. The principle of bilateral appointments should be introduced. This precludes the formation of a court of cassation without the consent of the opposition;

- The political assessment of the Clan rule by Parliament - a parliamentary commission should be set up for the assessment of the Clan rule, on the basis of which Parliament will adopt a resolution on the problems in the judiciary;

- Renewal of the system - after the reform of procedures for the appointment and dismissal of judges and the assessment of the Clan rule by Parliament, it will be necessary to re-declare trust to a part of the judiciary (who were unjustly appointed to the position) with amended regulations and based on a broad consensus;

Only after this process, is it possible to move to the next stage, which involves a discussion of issues related to procedural and structural improvements.