



Statement of NGOs about the Constitutional Court's Ruling

On September 16, 2015 the Constitutional Court of Georgia announced its ruling in Giorgi Ugulava's case. We issue this statement in light of the recent developments around the case.

Over the past two days there have been different reports about involvement and participation of Judge Merab Turava in the Court's deliberations of the complaint. The Constitutional Court was scheduled to announce its decision on September 15, 2015, but the announcement was delayed after Merab Turava failed to appear to sign the ruling, citing health problems. The court then clarified that it was not authorized to announce the ruling without signatures of all judges presiding over the case, which was followed by Turava's ambiguous and vain arguments to justify his absence. On September 16, after Turava ultimately refused to sign the document, the court made the decision to announce the ruling in absence of his signature.

A Judge of the Constitutional Court is legally mandated to participate in proceedings and sign the subsequent ruling, no matter what his/her position may be. In addition, the court must schedule the proceedings in a manner that would ensure adequate fulfillment of the above obligations by a judge. Developments around the complaint have raised certain suspicions considering that Judge could not provide any valid reason for his failure to live up to his obligations.

By law decisions of the Constitutional Court are adopted by majority of votes. All judges (despite their dissenting opinion, if any) must sign the ruling before it is promulgated. First part of the requirement has been met and clearly, the ruling has been adopted by the Court.

As to implementation of the ruling, the Constitutional Court rules about

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constitutionality of a legal norm concerned as opposed to resolving a particular criminal case. In addition, the court's decision is not merely directed to any particular individual, including the claimant; rather, it is equally applicable to all persons in identical situation. In this light, the only way to enforce the Constitutional Court's ruling in favor of a concrete individual is by common court's decision. Under the applicable legislation, a restraining measure ordered against a defendant can only be invoked by motion of the defendant or upon the initiative of presiding judge. The law does not envisage any other procedures for revoking a restraining measure.

In conclusion, we'd like to state that recent developments around the Constitutional Court is detriment to interests of justice and diminishing of public trust in the system as well as in individual judges. To protect independence and reputation of the Constitutional Court, it is imperative that all state institutions realize its importance and role in legal stability of the country. In addition, to ensure proper and transparent functioning of the Constitutional Court, its decision-making procedures must be unambiguous and systematic. The Constitutional Court and its judges must work towards ensuring that environment in which the court operates is free from political and other inappropriate influences.

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Human Rights Education and Monitoring Center (EMC)

Transparency International Georgia

International Society for Fair Elections and Democracy (ISFED)

Open Society - Georgia Foundation

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