



## The Acting Chief Justice is violating the Law

According to the Constitution, the Supreme Court appoints three out of the nine members of the Constitutional Court.<sup>[1]</sup> It was through this procedure, that Constitutional Court Justice Maia Kopaleishvili, whose term ended on December 5, was appointed.

According to the law, a new Justice should be appointed no earlier than one month and no later than 10 days prior to the end of a Constitutional Court Justice  term.<sup>[2]</sup> However, tThe Supreme Court has failed to appoint Justice Kopaleishvili  replacement to this date, thus violating the law. Acting Chief Justice Mzia Todua is the main person responsible for this transgression, since **it was her obligation to present a candidate to the Plenum of the Supreme Court.**<sup>[3]</sup>

To elect a candidate as a Constitutional Justice a 2/3 vote of those present is needed.<sup>[4]</sup> It is publicly known that the number of Supreme Court justices is critically low, but there is no minimum number of justices set for the Plenum  decision to be lawful. Hence, this factor cannot be considered as a valid argument for non-performance of

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duties by the Acting Chief Justice and the Plenum. At this moment there are 12 members in the Plenum (10 justices of the Supreme Court and Chairs of Tbilisi and Kutaisi Appeals Courts).

Notably, a Constitutional Court Justice [1] 10 year term, once exhausted, cannot be extended, according to current legislation,[5] including for the purposes of finalizing pending cases. Considering this, the failure to replace the retired judge in a timely manner creates additional challenges for Constitutional justice.

The Coalition calls on the Acting Chief Justice and the Plenum to appoint a new justice to the Constitutional Court in the shortest time possible.

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[1] Constitution of Georgia, Art. 60.2

[2] Organic Law of Georgia on Constitutional Court, Art. 16.5

[3] Organic Law of Georgia on Common Courts, Art. 18.4

[4] *ibid.*

[5] Organic Law of Georgia on Constitutional Court, Art. 18