



High Council of Justice members who supported decisions based on clan principles must resign

The process of selection of the Supreme Court judges and the lifetime judicial appointment of Levan Murusidze have fully confirmed that there is a crisis within a part of the judicial system and its managing body – the High Council of Justice, and that the power of the so-called clan has no bounds. In recent years, the Council has been blatantly abusing the powers bestowed upon it by the Constitution, and has made virtually no decision based on the interests of justice. The extremely difficult situation that has taken shape within the management of the judicial system is the direct result of irresponsible decisions made and coordinated actions taken by the judicial members of the Council and some of its non-judicial members appointed by Parliament. The recent, extremely flawed and non-transparent process of nomination of 10 candidates for the Supreme Court membership as well as the lifetime judicial appointment of Levan Murusidze by the Council has once again revealed the real interests of influential groups working within the Council, and their methods of operation.

It is our opinion that the current composition of the Council does not have any potential to improve the judicial system because:

1. The judicial system is currently managed by members of a so-called clan, who have unhealthy influence and all levers of ruling the system. Their recent decisions have only served to consolidate their own power and catered to their parochial, personal interests;
2. For years, the Council of Justice and members of the influential group of judges

have resisted all crucially important progressive initiatives that aimed to improve the judicial system. Moreover, within the framework of the third wave of reforms, Parliament amended the law in a way that caused the system to become even more closed and further strengthened its clan-based rule;

3. The influential group is constantly combating any dissent within the High Council of Justice and the judicial system in general. Over the years, the judges who were critical of the system, have been gradually pushed out of the system (by rejecting their appointment or using a disciplinary mechanism against them);

4. Members of the influential group enjoy support on the part of certain branches of the government and some MPs;

5. The majority of the influential group members have a poor reputation among the broad public because of many politically motivated cases they considered in the past. For example, Levan Murusidze, who was granted a lifetime appointment yesterday, participated in the cases of Sandro Girgvliani and Sul Khan Molashvili. With regard to these cases, there are decisions made by the European Court of Human Rights: in one case, the judicial process conducted by the court is harshly criticized while in the other, the state itself admits to violating human rights. Precisely the appointment of judges who have this kind of a reputation can be considered one of the reasons why the public trust towards the court is constantly decreasing according to opinion polls;

6. It is a significant problem that there is no efficient system of accountability functioning within the judicial system, which would ensure that decisions are not made to benefit small interest groups. In these conditions, the likelihood of using influence for bargaining and making decisions damaging for the court increases.

7. The level of qualification and the knowledge of human rights among the judicial members of the Council of Justice and other influential judges is unsatisfactory. They show no gender sensitivity either and their statements concerning female members of the Council are often discriminatory and completely inappropriate for the high-ranking position of a judge.

The decisions recently made by the Council (lifetime appointment of Levan Murusidze and nomination of judicial candidates for the Supreme Court) are a clear manifestation of the problems listed above. **Given this situation, we believe that the judicial and non-judicial members of the Council, who supported these decisions, do not have a moral right to be members of the High Council of Justice. Correspondingly, they must voluntarily resign from both the Council**

and their judicial positions. We also believe that the most prominent members of the influential group – Mikheil Chinchaladze and Levan Murusidze – must resign from their judicial positions as well. Without such changes, it is hard to imagine any prospects for the development and strengthening the independence of the judicial system.

It is our opinion that the composition of the High Council of Justice must be renewed, and Parliament must appoint its non-judicial members based on a strong political consensus. This is the only guarantee for independent selection of members. The issue of nominating the Supreme Court judges must be suspended until the new composition of the Council is approved. The renewed Council must present the list of candidates to Parliament.

Transparency International Georgia

Institute for Development of Freedom of Information (IDFI)

Georgian Young Lawyers' Association (GYLA)

Human Rights and Monitoring Center (EMC)

Georgian Democracy Initiative (GDI)

International Society for Fair Elections and Democracy (ISFED)

Partnership for Human Rights (PHR)

Article 42 of the Constitution

Open Society Georgia Foundation (OSGF)

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