



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

The Coalition Negatively Assesses the Ongoing Processes in the Judiciary

On May 11, 2017, the High Council of Justice (HCOJ) appointed 64 judges. Of them, five judges (former judges of the Supreme and Constitutional Courts) were appointed for life, without a probation period. Unfortunately, some of the candidates participating in the selection closed their interviews to public. Among them was Mikheil Chinchaladze, towards whom public interest was especially high. Hence, it is unknown to the Coalition how the interview process went, however the Coalition plans to request and review the assessments of HCOJ members.

The Coalition made a [statement](#) regarding the selection process of judges, stating that the HCOJ was conducting the process extremely hastily, which was worrisome, particularly considering that the legislation regulating judicial appointment are to be amended following the February 15, 2017 [decision](#) of the Constitutional Court. The Parliament has yet to enact the amendments, hence the legislative regulation of this issue is unclear and uncertain. Unfortunately, the HCOJ did not heed the Coalition's call to suspend the selection process and hastily appointed the judges in a situation when half of HCOJ members' mandates expire in June. **The HCOJ's actions leave the impression that the HCOJ used the opportunity to appoint their desired candidates before the current Council's term ends.** Additionally, the HCOJ timed its selection session to coincide with the Coalition's [conference](#) discussing the current problems in the judicial system. It is worth noting that the HCOJ's participation in the

Coalition's conference was agreed upon a few weeks in advance, however the HCOJ members used the HCOJ session as an excuse for not attending the conference, pointing towards the system's closed nature and problems of lack of accountability.

The Council appointed several candidates whose integrity and professionalism are questioned. Among others, the Council appointed Mikheil Chinchaladze, former judge of the Supreme Court, known by the public and in professional circles for his undue influence inside the judicial system. Shortly before his appointment, civil society organizations disseminated a [statement](#) regarding the unreasonably low number of cases heard by Judge Chinchaladze at the Supreme Court, also raising questions regarding his past professional activities. The Council also appointed former judge of the Constitutional Court Otar Sichinava, who participated in the hearings of several high profile cases. It is well known to the Georgian public that on the hearing day of the so called "cables' case," Mr. Sichinava did not appear in court and the media cameras [recorded](#) him near his house in a leisurely setting.

Because of the deficient rules of judicial appointment, the public does not know what factors the Council considered during discussions and on what it based its decision. However, it is clear that the May 11 appointments reinforced questions regarding the reputation of the judiciary and the public trust in it. The Council's decision also demonstrated that the Council is not willing to consider the criticism on the existence of groups of influence within the judiciary and actually reinforces the informal influences of these groups with its decision.

The May 11 voting and appointments confirmed that in reality the amendments to the judicial selection and appointment system introduced by the "Third Wave" do not ensure appointment of candidates whose integrity and professionalism is adequately checked and confirmed. Additionally, **the legislation still leaves the Council legal chances for arbitrary decisions, specifically allowing for appointment without substantiation and argumentation via secret ballot.** It is worth noting that it was at the final stages of hearing the "Third Wave" legislative package and with procedural flaws that changes allowing for the lifetime appointment of these two judges were made. This fact may also point to an agreement among influential groups in the government and the judicial system.

In the nearest future the Council plans to appoint for life two former Supreme Court

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justices (Levan Murusidze and Maia Sulkhaniashvili), who are currently appointed for 3-year probation periods. It must be noted that the legislation has no procedure for automatic re-appointment for life without undergoing relevant evaluations.

The Coalition thinks that the HCOJ's flawed practices of judicial appointment will result in "closing" the judicial system for an extended period and preventing its renewal. Among other factors, this is caused by reforms that are delayed and lack thoroughness from the side of the government and deficiencies in the implementation of the adopted legislation. This causes further strengthening of the influential groups within the judicial system and postpones renewal of the system for many years.