



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

The Coalition is assessing new rules for nomination and selection of Supreme Court justices

The Coalition for an Independent and Transparent Judiciary reacts to the legislative changes on the selection of Supreme Court justices by presenting a concluding opinion on the content and process of adoption of the amendments.

The anticipated significant increase in the number of Supreme Court justices raises the importance of the process of their selection. Decisions on the composition of the Supreme Court may have a critical impact on the Georgian justice system for several decades in the current context of public mistrust, systemic crisis and the presence of a group of influential judges. The Coalition has been raising these issues in the process of development of legislative amendments.

The ruling party did not demonstrate a strong will to create a legislative framework that would establish practical and effective barriers for the group of influential judges. Throughout the process of developing legislative changes, the Parliament did not express readiness to consider deserved, rational and justified criticisms or suggestions made by local stakeholders. The draft amendments developed by the Parliamentary majority were revised only after receiving highly critical assessments

from international organizations.

Despite certain changes made to the initial draft, the Coalition finds [amendments to the Law on Common Courts of Georgia](#) concerning nomination and selection of Supreme Court justices, unsatisfactory. We believe that the adopted law allows the influential group of judges in the High Council of Justice (HCOJ) to adopt convenient decisions regarding nominations. In light of the Council's shaken reputation and the level of mistrust in the processes that took place in December, the adopted amendments may not convince qualified individuals outside the court system that if they decide to apply, the selection process will be fair and objective.

This critical assessment of the draft law by reputable international organizations ([Venice Commission](#) and [OSCE ODIHR](#)) largely coincides with the Coalition's position. The Embassy of the United States, the EU Delegation and the Council of Europe Office in Georgia submitted a joint position paper regarding these amendments. The authors of the draft law considered only part of these suggestions. However, several key recommendations were omitted:

- Candidate nomination based on an open ballot and justified decisions.

Decisions reached through secret ballot exclude the possibility of justified decisions and contain risks of power abuse by members of the HCOJ. The first round of the secret vote is particularly troublesome, because at this stage the candidates are selected based on completed application forms and supporting documentation only.

- Avoiding conflicts of interest. The Chair of the HCOJ or an Interim Chair, in cases, when he/she is an applicant, still can:

- facilitate HCOJ meetings and manage the process;

- have access to data on competitors, including information related to their health conditions.

- **Adequate involvement of non-judge members in decision-making concerning nomination of candidates.** Candidates are nominated by 2/3 of the full composition of the HCOJ. Considering the number of judge members, the votes of only two non-judge members are sufficient for the nomination of candidates. This is not enough for adequate engagement of non-judge members in the decision-making process.

- **Engagement of civil society in the work of the Legal Committee Working Group.** The Legal Committee creates a working group to establish compliance of nominees with the requirements for the office of a Supreme Court justice set in law. **The composition of this working group is not defined at the statutory level.** The Coalition believes that representatives of civil society should be included in the working group.

The selection of candidates equipped with qualifications, experience, and personal qualities corresponding to the high status of Supreme Court justices requires the following:

- The High Council of Justice shall carry out the selection competition based on the principles of objectivity, transparency, and openness;
- All members of the Parliament, despite their political affiliation, should reflect about their responsibility in developing an independent, transparent, and accountable justice system, and support only qualified candidates;
- At the beginning of the process, the Parliamentary majority should make a statement that Supreme Court justices will be appointed based on a political consensus;
- The current Parliament should not fill in more than 50% of vacancies in the Supreme Court.