



## The Coalition Left the Working Format offered by the Speaker of Parliament of Georgia

The Coalition for an Independent and Transparent Judiciary has left the Parliamentary Speaker's working group for designing Supreme Court Justice selection procedures and criteria because the format did not serve as a means for discussing genuine legislative changes, which are to ensure a merit-based approach to the selection process and its transparent and impartial conduct. The unequivocal position of the Speaker during the working meeting made it clear that he does not intend to come up with a draft that would preclude unilateral nomination of Supreme Court Justice candidates by the dominant clan of the judiciary. The Speaker's position is a clear testament to his and the influential judges' concerted action, hence making continued

work in the format offered meaningless.

Given the importance of the Supreme Court and its role in the judicial system, it is crucially important that the candidates are selected based on objective criteria and lengthy and transparent procedures. Towards this objective, the Coalition has provided its [opinions](#) to the working group in writing and these opinions are largely in line with the opinions presented by the US Embassy and EU delegation.

Additionally, the Coalition considers that prior to detailed discussion of the individual provisions of the draft bill, it is essential to reach an agreement on five key issues below:

1. 1 It is crucially important that the legislation duly guarantees the possibility of those persons to be selected for Supreme Court Justice position who do not have judicial experience, but have substantial experience in the field of law. The possibility of participating in an open competition must be afforded not only to current and former judges, but also to other legal professionals (advocates, prosecutors, etc.), ensuring openness of the judicial system. The proposed working draft establishes a requirement of having passed the judicial qualification examination, which significantly limits the pool of persons who can participate in the competition;
- 2.
3. 2 The draft law does not envisage the norms of conflict of interests that would ensure the objective and impartial conduct of the selection process. It is imperative that those members of the High Council of Justice (HCOJ), who themselves decide to participate in the competition for selecting Supreme Court Justices, have their membership of the HCOJ suspended, so as to eliminate the possibility of their involvement in the processes of candidate reviews and decision-making regarding themselves or other competitors;
- 4.
5. 3 The proposed draft contains a vague preliminary vote, which may endanger the objective conduct of the competition and selection of the best candidates. It is crucial to remove the provision on creating a “long list” based on the preliminary vote, since this gives the clan an opportunity to staff the 45 candidate-long list with only their preferred candidates at the very early stage and exclude candidates who may have the support of the remaining members of the HCOJ;
- 6.

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



7. 4 The proposed draft calls for decision-making by a 2/3 majority of the HCOJ, which does not ensure a possibility for the non-judge members of the HCOJ to influence the decision-making. It is imperative that decisions are made with 2/3 support of the judge members AND 2/3 support of non-judge members of the HCOJ. Also it is crucial that the decisions are duly substantiated;
- 8.
9. 5 It is important that the Parliament fully assesses the accordancy of the nominated candidates to the legislation and the Constitution and for this purpose a working group should be created under the Legal Affairs Committee, as provided for by the Parliament's current by-laws.

Unfortunately, the position expressed by the Parliamentary Speaker makes it clear that he objects to the above key issues, which are central to ensuring genuine legislative changes and staffing the highest court of the land via an objective and open process. The Parliamentary Speaker has a principled position regarding voting, and the formula he offers gives the dominant clan in the judiciary a full possibility to determine the nomination of specific candidates in the name of the HCOJ all by itself. This position again illustrates the Parliamentary Speaker's and the ruling party's unconditional support for the clan.

In this situation, where the working group only has a formal nature and its sole purpose is to legitimize the process of creating a favorable legislative environment for the clan, the Coalition refuses to continue its participation in the working group.