



PRESENTATION OF THE REPORT ON THE INSTITUTIONAL AND LEGAL FRAMEWORK OF THE SUPREME COURT OF GEORGIA

On January 23, Institute for Development of Freedom of Information (IDFI) and Georgian Young Lawyers' Association (GYLA) presented the report "The Supreme Court of Georgia - Analysis of Institutional and Legal Framework".

The study analyzes key issues, such as the role and the place of the Supreme Court in the judicial system, selection and appointment of judges of the Supreme Court, powers of the Chairperson, liability of judges/chairperson, competence of the Supreme

Court Plenum, work of the chambers and distribution of cases. In addition, the report provides an assessment of the process of appointment of the Supreme Court's judges in 2019 and discusses problematic issues identified in this process.

The report includes the following key findings:

- The legislation in force in the selection of judges of the Supreme Court does not provide relevant guarantees to ensure the appointment of judges based on the merit principle;
- Three-stage secret ballot used in the selection process of the judges of the Supreme Court contradicts with international standards, as it excludes the possibility to substantiate the decision (regarding the compliance of a candidate with the high status of a Supreme Court judge);
- The first secret ballot does not enable the members of the High Council of Justice to make informed decisions, as on this stage the members of the Council are only aware of the fact that candidates for judge meets the formal requirements for the vacancy and they make decisions based only on information provided in the applications of the candidates;
- During the competition for the selection of judges of the Supreme Court, significant problematic issues were identified, in particular, despite the existence of a conflict of interest, the participating members of the Council in the selection process, as well as the distribution of votes with the same scheme during the first secret ballot. This once again highlighted the gaps in the legislative framework and raised the questions in the society;
- The Rules of Procedure of the Parliament does not precisely define the functional purpose of the working group set up by the Legal Issues Committee. It does not envisage obligatory involvement of external experts in it and does not define quota for the experts, Members of the Parliament and as well as members of parliamentary opposition;
- Procedure for the selection of the Chairperson of the Supreme Court is flawed since in the first stage if 2/3 of the votes are not reached, the decision will be made by the majority of the full composition of the Council. Therefore, on the second stage of voting, non-judicial members of the Council have no influence on the selection

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process;

- The Chairperson has certain broad powers, and there is also a duplication of functions with the High Council of Justice;

The legislation grants broad powers to the Plenum of the Supreme Court, in addition, competencies are duplicated between the Plenum and the High Council of Justice.

- The practice of the Supreme Court shows that under the resolution of the Plenum of the Supreme Court, a judge of a particular Chamber exercises judicial power in another Chamber. As a result, the judges are authorized to consider cases falling within the jurisdiction of all three Chambers. Decrees adopted by the plenum of the Supreme Court in this regard are identical;

- According to the rule adopted by the High Council of Justice, the case is assigned to the Chairperson of the presiding/reporting judge. The rule does not envisage the procedure for selecting the other two members, which creates the risk of their arbitrary selection.

The study presents relevant recommendations. We hope that the recommendations will be used to support further reform of the Supreme Court of Georgia.

The study was prepared within the framework of a project "Supporting the Reform of the Supreme Court of Georgia" by the generous support of the American People through the United States Agency for International Development (USAID). The contents of this report are the responsibility of "The Institute for Development of Freedom of Information" (IDFI) and "Georgian Young Lawyers' Association" (GYLA) and do not necessarily reflect the views of USAID, the United States Government or East-West Management Institute.