



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მარლთმსაჯულებისათვის

Statement on the Selection of Candidates for the European Court of Human Rights

On August 29, the Government [selected](#) two new candidates for the European Court of Human Rights to substitute for the candidates rejected by the Council of Europe. The Coalition believes that the composition and rules that govern the work of the Governmental Commission are still unjust, as is the outcome of its work, which does not correspond to the requirements of the Council of Europe's Parliamentary Assembly [Resolution](#) on Nomination of Candidates and Selection of Judges.

It is well known that the Council of Europe Parliamentary Assembly has twice rejected the list of candidates submitted by the Special Government Commission. The Coalition's statements concerning the [first](#) and the [second](#) competitions underline the problems that were observed during the competitions to select judicial candidates. Our participation in the work of this Commission has convinced us that the assessments made by representatives of the different branches of Government

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intended to unconditionally support preliminarily selected candidates and ensure their presence on the list to be submitted to the Government. The repeated failure of the Commission to perform its task did not encourage a belief that during the third time the same Commission would conduct a fair competition while following the same procedure. Therefore, the Coalition refused to take part in the third competition. The Georgian Bar Association also [declined](#) to take part in the Commission under the current circumstances.

As expected, a Governmental Commission composed of nearly same members and following the same procedures did not carry out an objective competition and select candidates that would overcome doubts that the entire process was politicized. This conclusion is supported by a strongly negative [assessment](#) of the competition by the Public Defender. During interviews candidates were asked questions which did not correspond to the objectives of the competition and/or implied some sort of political revenge. For example, Tea Tsulukiani, Chair of the Special Governmental Commission, accused an applicant, the former Representative of Georgia in the Council of Europe, of having contributed to the rejection of the list submitted by the Commission in January 2017 and asked him to provide an [account](#) on this issue.

The [biographies](#) of candidates selected by the Commission during the third competition leave it unclear how these candidates correspond to the requirements of a highly regarded judicial position at the European Court of Human Rights and why they were given a higher assessment than other candidates. According to the regulation governing the Commission's work, the Commission is not obliged to justify its decisions. Also, the public does not have access to audio recordings of interviews. This makes the process less transparent and allows the Commission leeway for power abuse.

The current procedures allowed a situation in which qualified representatives of the bench and highly reputable lawyers received low assessments, while candidates with doubtful reputations and qualifications, and criticized by the public on numerous occasions, were included in the list to be submitted to the Government.

As an example, Tamar Alania, an acting judge since 2006 and a High Council of Justice member for the period of 2013-2017, has actively supported many [decisions](#) that were rightfully criticized for illegality and power abuse, pushing the justice system into a deeper crisis. Tamar Alania is considered to be a member of the powerful 'clan' of

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judges who currently fully influence the judiciary. Despite this, Tamar Alania's candidacy was proposed to the Government of Georgia for the [second time](#).

The list of candidates submitted to the Government also includes Otar Sichinava, a former Constitutional Court judge whose qualification and professional reputation have become questionable. Mr. Sichinava intentionally [skipped](#) a high-profile hearing, failed to act in accordance with his judicial authority and obstructed the proceeding. Despite this fact, Mr. Sichinava was included in the list of two candidates finally selected by the Government.

The Coalition believes that the competition has once more revealed major deficiencies in the rules of the composition and work of the Commission. Similar to previous occasions, the Government representatives were given a chance to act in a way that would artificially exclude strong candidates to benefit preliminarily selected ones.

In view of the above, we believe that the selection process carried out at the national level for the third time does not correspond to the requirements of the Council of Europe's Parliamentary Assembly [Resolution](#) on Nomination of Candidates and Selection of Judges, according to which politicization of the selection of judicial candidates has to be avoided. The Coalition believes it is highly probable that the list submitted by Georgia will be declined in Strasbourg, thereby damaging the country's image and interests.