

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Georgian Young Lawyers' Association Stresses the Importance of the June 9th Common Court Judges' Conference

GYLA would like to highlight the importance of the June 9th Judicial Conference for the continued development of an independent judiciary in Georgia. This opportunity was created by mitigating the political influence on the judiciary after elections, as well as by the will of state authorities reflected in amendments to the Organic Law of Georgia on Common Courts. Civil society, including GYLA, supported the process from the

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beginning. We are observing the current developments and out of concern would like to review the amendments to the new law, which have generated much discussion over the past few days.

The new amendments state “the judicial conference will elect three judges for the membership to the High Council of Justice, who are authorized to occupy the position of a head of the court board or a head of the chamber along with membership to High Council of Justice.” The Parliament of Georgia adopted this last minute norm without the involvement of civil society, declaring it an outcome of political compromise.

Obviously, conciliation is an important and frequently necessary part of the legislative drafting process. We, however, consider that in the case concerned, instead of compromise meaning negotiation on a mostly acceptable and useful decision, no party involved received a positive result. The Parliamentary majority and authors of the draft received a norm, which they report is worse than the original version; the party requesting change revealed its opposition to judicial independence, while also emphasizing that without certain legislative privileges heads of the boards and chambers of the court would not succeed in voting. The issue cannot be recognized as a valuable outcome because it only addresses narrow individual interests, rather than the proper vision of judicial development. NGOs and civil society were excluded from the process, notwithstanding their expression of interest over the past months. The Judicial Conference should conduct elections by the norms, which two judges fairly allege, “is absolutely unacceptable to the judges administering justice idea.”

It should be noted that the “Coalition for Independent and Transparent Judiciary,” which unites more than 30 NGOs, including GYLA, supported the idea of filling the position of the member of the High Council of Justice by heads of judicial board and chambers, which have no administrative function. Instead, they should participate in elections on equal footing with other judges. One of the most important directions of the draft was to eliminate inequality within the judiciary and to put an end to the legislative support of privileged conditions for select judges.

Equality is the decisive principle of justice enshrined in the Constitution of Georgia and other laws. When the principle is violated, the judge should be a guarantee for its protection. In the given case, however, political compromise imposed the obligation of breaching the principle of judicial self-governance on all judges, which will negatively impact the functioning of the judiciary unless a proper solution arises. Furthermore,

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there is also a risk that the norm might promote conflict within judiciary, which regrettably seems to be already evident.

In this situation, each judge has a decisive role and civil function. We hope that at the June 9 judicial conference, through the use of secret balloting, judges will vote for the independence of the judiciary and other reasonable reforms. Society will reflect upon the entire judiciary based on the choices of the judicial conference. Especially, its ability to realize the fundamental needs of the state in setting up a better judicial system, or its decision to compromise the greater good for narrow individual interests.