



The Coalition's Address to the Parliament

The Coalition for Independent and Transparent Judiciary is concerned by the nomination of candidates for the Supreme Court Justice position by the High Council of Justice (HCOJ) on December 24. The nomination was made without observing any procedure and majority of the candidates nominated are associated with unlawful and unjust justice for the society. It is clear that confirmation of the nominated candidates by the Parliament will bring about further strengthening of clan governance of the judiciary and will make independence of judiciary an impossible feat for the decades to come.

The changes to the Constitution of Georgia, which entered into effect upon the swearing in of the newly elected President, aimed at depoliticizing the appointment of the Supreme Court justices and making this process professional and merit-based. This spirit of the Constitution has not been reflected in the Organic Law on Common Courts of Georgia and to this time there are no clear procedures or criteria by which the High Council of Justice is to nominate candidates. Under these circumstances the High Council of Justice did not wait for legislative amendments and submitted to the Parliament a list of candidates that was drawn up by several judges behind closed doors.

The nomination of the candidates by the HCOJ did not observe the Constitutional objectives and even the minimal procedural standards. Specifically:

- The Constitution of Georgia stipulates that judges are selected based on two criteria – competence and integrity. This Constitutional provision requires legislative amendments that would set the rules for checking the qualifications of the Supreme Court judicial candidates against these criteria. The HCOJ nominated the candidates, rather than wait for adoption of such amendments. As a result, among the candidates nominated there are judges, who – compatibility with these two criteria have not been assessed even formally;
- The Constitution states that the Organic Law sets the rules for judicial appointment and dismissal. Despite this, the HCOJ nominated the candidates before the detailed procedure for nominating Supreme Court judicial candidates was prescribed by law;
- The HCOJ selected the candidates capriciously from a limited group of persons. All of the nominated candidates are acting judges. It is unclear what was the criteria for selecting these judges and/or why other interested persons were precluded from equal participation in a fair, open and transparent competition;
- The ten candidates were nominated upon consultation with only a part of the HCOJ members. Not all members of the HCOJ were informed regarding the identity of the candidates to be voted on. The biographies of the candidates were not discussed at a HCOJ session and there was no substantiation as to why these ten judges were distinguished from the remaining 300 judges currently acting in the judiciary. This shows serious risks of corruption and nepotism;
- The one page letter of the HCOJ to the Parliament does not contain any substantiation regarding the nominated candidates.

The identity of the candidates is important to note. Of the ten, seven are notable for occupying, in past or currently, key positions in the justice system and have influence on all major decisions regarding the management of the judicial branch. The names of Mikheil Chinchaladze, Giorgi Mikautadze, Dimitri Gvritishvili, Tamar Alania, Merab Gabinashvili, Giorgi Tkavadze, and Paata Silagadze have for years been associated with clan governance and corporatism in the justice system. Among them the nomination of the two acting members of the HCOJ, Giorgi Mikautadze and Dimitri Gvritishvili further illustrates that members of the HCOJ abuse this high office for own private interests.

Additionally, among the nominated candidates are the judges who [] certain past decisions have been fiercely criticized by various organizations, including the Ombudsman [] reports. Nomination of these candidates was conducted without studying and addressing a single problem related to the nominated candidates [] biographies.

The only lever to alleviate the existing situation in the judiciary and avert further strengthening and solidification of clan governance rests with the Parliament and the ruling majority. On December 26, after the protests of various public groups and negative reaction from certain members of the ruling Georgian Dream, the Speaker of Parliament made a statement that the Parliament will not make a decision on appointment of Supreme Court Justices in the current session and will return to hearing the issue at the beginning of the spring session.

We command the fact that the ruling government has changed its mind on speedily hearing the issue, however, this is not enough. It is of principle importance, that the Parliament refuse to discuss the existing list of candidates for the Supreme Court appointments.

Based on all of above, the Coalition calls on the Parliament of Georgia to:

- decline the list of the candidates nominated for the Supreme Court appointment;

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- immediately start working on legislative amendments which will bring the rules and criteria for selecting the Supreme Court justices in line with the Constitution and international standards;**
- start the selection process only after adopting the legislative amendments and nominate the candidates anew, following the rules set.**

The Coalition also calls on the Speaker of Parliament, Irakli Kobakhidze and the Chair of the Parliamentary Legal Affairs Committee, Eka Beselia, to meet with the Coalition member organizations and other interested groups without delay, and discuss the Coalition's proposals regarding the selection and appointment of the Supreme Court justices and set a specific plan of action on this issue.