



Press Release

Presentation of the Report on 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 examines the institutional and legal framework created as a result of amendments within the scope of the so-called 'third wave' and the constitutional reform. The report analyzes key issues, such as the role and the place of the Supreme Court in the judicial system, selection and appointment of the Supreme Court justices, 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 assessment of the appointment of the Supreme Court justices in 2019 and discusses problematic issues identified in this process.

The report includes the following key findings:

- In the selection process of the Supreme Court judges the legislation in force does not provide relevant guarantees to ensure judicial appointment based on the merit principle;
- Three-stage secret ballot used in the selection process of the Supreme Court judges contradicts with international standards, as it excludes the possibility of taking reasoned decision (regarding the compliance of a candidate with the high status of a Supreme Court judge);
- The first stage of 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 judicial candidates comply with formal requirements for the vacancy and they make decisions based only on information provided in the applications of the candidates;
- Significant problematic issues were identified in the process of competition for the selection of the Supreme Court judges, such as the participation of members of the Council in the selection process, despite the existence of a conflict of interest, 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 question marks in the society;
- The Rules of Procedure of the Parliament does not precisely define functional purpose of the working group and does not envisage external experts' obligatory engagement in it. It does not define quota for the experts, Members of the Parliament and members of parliamentary opposition either;
- Procedure for the selection of the Chairperson of the Supreme Court is flawed as, in case two-third of votes is not reached on the first stage, the decision is 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 process and this does not allow for decision-making on the basis of consensus;

- The Chairperson has certain broad powers, and there is also an evidence of the duplication of functions with the High Council of Justice;
- Functions of the deputy chairpersons of the Supreme Court are vaguely defined in the legislation. The need for this position, that actually creates a hierarchy in the Supreme Court, is unclear;
- The legislation grants excessive powers to the Supreme Court Plenum, including the right to file constitutional submission, and the right to determine the amount of a monthly supplement to the official salary of a member of the Supreme Court; Moreover, competencies are duplicated between the Plenum and the High Council of Justice;
- The practice of the Supreme Court shows that under the decree of the Supreme Court's Plenum, 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 Supreme Court's plenum 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 hearing (reporting judge). The rule does not envisage the procedure for selecting the other two members of the panel, which creates the risk of their arbitrary selection.

Taking into account international standards, the report includes specific recommendations in order to support further reform of the Supreme Court of Georgia.

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