



Challenging members of the High Council Justice and closing of interviews at the time of lifetime appointment of judges becomes a trend

The High Council of Justice is examining the applications of 51 current judges for appointment to office for life. These days, the Council is interviewing the judges, a process which has once again revealed an organized attempt of an influential group of judges to hinder the appointment of judges on the basis of critical assessment of their past

activity and competence. This process has also seen a trend of closing interviews by the candidates, which, in a situation of a high public interest, undermines the credibility of the process of judicial appointments.

At the 6 February 2018 session of the High Council of Justice, the majority of the Council members decided to challenge Anna Dolidze, a non-judicial member of the Council, and removed her from the process of lifetime appointment of Judge [Giorgi Goginashvili](#). Anna Dolidze was also challenged at the February 7 session of the Council, which makes us think that challenging members in this form has become a trend.

All the sessions at which the issue of challenge was considered were closed, due to which the interested persons didn't have an opportunity to hear the legal arguments of the Council regarding the reasonableness of challenging the non-judicial member of the Council. However, according to the explanations that the member of the Council, Anna Dolidze, made in the media, she was challenged because of a critical [statement](#) she had [made](#) publicly before the start of the interviews with the judges to be appointed for life.

We believe that the removal of Anna Dolidze from the process of lifetime appointment of judges due to her critical opinion undermines the quality of the ongoing process, prevents the member of the Council from fulfilling her obligation, and once again demonstrates the problem of intolerance to dissenting opinion in the judicial system. The aforementioned public statement of Anna Dolidze was not directed against any concrete judges whose lifetime appointment the Council was to consider at its session. Accordingly, it is unclear how the judges or those members of the Council who supported the challenge to Anna Dolidze could have argued that Ms. Dolidze would not act objectively when making a decision on the appointment of the said judges for life.

According to the law, the issue of challenging a member of the Council should be deliberated on by the full composition of the Council (except for the member of the Council who is being challenged). A decision on challenge may not be based on a statement of one party only according to which the concrete member of the Council will not be objective in relation to them; rather, such a decision should be substantiated. On the other hand, making a decision on challenge requires the presence of a concrete circumstance that brings the objectivity of a decision-maker

under doubt not only for one of the parties but also in the eyes of objective observers. The general evaluation that Anna Dolidze made about the problems in the process of lifetime appointment of judges and about the situation in the judicial system cannot be regarded as a legal basis for removing her from deciding the issue of a concrete judge.

Such a broad definition of the conflict of interests is devoid of a legal basis. In addition, this practice forces members of the Council to make a very dangerous choice between refraining from talking about problems in the judicial system and distancing themselves from the process of making concrete decisions.

In all the aforementioned cases, the High Council of Justice deliberated on the issue of challenge at closed sessions. Neither the law nor the regulations established by the Council provide for examination of the issue of the conflict of interests in the process of appointment of judges at a closed session of the Council.

It is noteworthy that more and more judges are recently demanding to close the process of the interviews, which reflects negatively on the transparency of the Council's work and undermines the public's trust towards the Council's decisions on judicial appointments. Civil society organizations have demanded for years that the High Council of Justice change its rules that allow the Council to close the only open stage of the process of judicial appointments – interviews with candidates, but without any results.

We call upon the High Council of Justice and on the judges taking part in the competition:

- not to allow the paralysis of the functioning of individual members of the Council or of the entire Council due to differing views about the judicial system;
- not to use the institution of the conflict of interest in such a way that might hinder free fulfillment of the functions of members of the Council and expression of critical opinion within the Council;

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- to publicize all the decisions on challenging Anna Dolidze, a non-judicial member of the Council, and their justification;
- to conduct the process transparently and to allow observer organizations to observe the process.

We also call upon the non-judicial members of the Council, who were appointed with the Parliament ☐ quota, to realize their high responsibility related to the lifetime appointment of tens of judges and not to contribute to the implementation of the interests of the influential group of judges by their decisions.

1. Georgian Young Lawyers' Association
2. Transparency International Georgia
3. Human Rights Education and Monitoring Center
4. Georgian Democracy Initiative