



კოალიცია  
დამოუკიდებელი  
და გამჭვირვალე  
მართლმსაჯულებისთვის  
Coalition for  
an Independent and  
Transparent Judiciary

## Coalition's Address to the High Council of Justice

The honorable members of the High Council of Justice,

The Coalition for an Independent and Transparent Judiciary addresses you with regard to the legislative amendments introduced to the process of appointing judges as the time of enacting these amendments is approaching.

As you are aware, upon the swearing in of the newly elected President, a constitutional norm requiring a lifetime appointment of judges will enter into force. Yet another amendment made to the Law of Georgia on Common Law Courts will come into force at that time too, which envisages the appointment of judges for a trial period of three years and the monitoring of their activity during that period. It is also well known that after the enactment of those amendments (probably, on 19 November), the High Council of Justice plans to hold a session **to appoint judges in accordance with the new rule (for a three-year trial period)**.

You are well aware that during past few years, the Coalition has been demanding and supporting the idea of systemic reformation of the process of selection and appointment of judges. This issue remains topical for the Coalition. Therefore, to ensure an objective and substantiated process of selecting and appointing judges, the Coalition has started drawing up a concept and drafting legislative amendments with the aim to propose an alternative to the effective rule to the legislative, judiciary and executive branches in the nearest future.

Moreover, you are familiar with the Coalition's vision about the enactment of the norm on lifetime appointment of judges and applying it to practicing judges as well as about the amendments to the Law on Common Law Courts adopted by the parliament. We believe that they will not be conducive to the process of ensuring the independence of individual judges and the court system in general.<sup>1</sup>

The Coalition considered a decision of the parliament of Georgia to draw up procedures and criteria of monitoring the activity of judges until 1 May 2014 as a positive development. **We believe that the term which the parliament indicated in the transitional provision was a chance for any**

<sup>1</sup> See the Coalition's statement at:  
[http://www.coalition.org.ge/article\\_files/186/Coalition\\_Statement\\_September\\_2013.pdf](http://www.coalition.org.ge/article_files/186/Coalition_Statement_September_2013.pdf)

## Coalition Members:

Article 42 of the Constitution  
Multinational Georgia  
Solidarity to Illegal Prisoners  
Georgia Small and Medium  
Enterprise Association  
Civil Integration Foundation  
Georgian Lawyers for  
Independent Profession  
Business and Economic Center  
Liberal  
Center for Protection of  
Constitutional Rights  
International Society for Fair  
Elections and Democracy  
Association Green Wave  
The Union "21 Century"  
Georgian Young Lawyer's  
Association Human Right  
Center  
Transparency International  
Union of Meskhetian Democrats  
Liberty Institute  
Georgia Bar Association  
Civil Development Agency  
United Nations Association of  
Georgia  
The European Law Students'  
Association  
Civil Society Institute  
Open Society Georgia  
Foundation  
Institute of Democracy  
American Chamber of  
Commerce  
Association of Civic Initiatives  
and Employees Defense  
Eurasia Partnership Foundation  
Institute of Development of  
Freedom of Information  
Human Rights Priority  
Tbilisi Media Club

interested subject to create an agreed, smooth and principally correct system. However, we think that a precedent of the High Council of Justice appointing judges according to the new rule after the enactment of amendments will seriously harm the attempt of improving the court systems as well as the prospects of the development of court system. Hence, we deem it important for the Council to ensure a fair balance between all existing legitimate demands and expectations and to avoid additional risks to the court system.

The member organizations of the Coalition keep a close watch on the activity of the Council and consequently, are aware of all those difficulties which have been characteristic for the process of appointing judges in the Council. It is clear that on the one hand, courts need sufficient number of judges to ensure smooth operation of the system, but, on the other hand, in the existing situation it is crucial to ensure that the system is staffed with dignified cadres and insured against possible risks.

In this difficult and complex process, however, yet another fair expectation exists with regard to the High Council of Judges as the collegial organ – the expectation that it does not apply such a means for the achievement of a legitimate aim which will significantly damage the judiciary in the long term. We view the precedent of appointing judges for a three-year probationary period as such a means. The expediency of the use of this means is further questioned by the fact that the legislature has not yet determined the procedure and criteria of monitoring activity of judges. Consequently, the process of monitoring will be completely ambiguous for judges appointed in accordance with the new rule as well as for the society. One should also take into account that those judges who succeeded in competitions announced in past months were appointed for the term of 10 years, as required by those competitions, and not for a probation period of three years.

Consequently, we believe that the High Council of Justice should refrain from appointing judges for a three-year trial period. However, if the Council believes that the appointment of new judges is necessary to ensure the operation of the court system, Council members must agree on that before the constitutional norm and amendments to the law have entered into force and consequently, the mechanism of probation period has been enacted.