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Transparent Judiciary



THE JUDICIAL SYSTEM PAST REFORMS AND FUTURE PERSPECTIVES

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INSTITUTE
*Promoting Rule of Law
in Georgia (PROLoG)*

MAIN TRENDS IN THE JUDICIAL SYSTEM (2012-2016)



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General Trend

- Although from 2012 to present, a number of positive changes have been made at the institutional level, the judicial system has encountered new challenges that include **closed system** and **informal negotiations**.
- Such situation makes it difficult to discern the problems that exist in the system or to analyze the situation in the judiciary in a systemic manner.



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Judicial System Reform

- The First Wave of judicial reform was recognized as an important step forward.
- Enactment of the mandatory probationary period for all appointed judges, under The Second Wave of reforms, was received with harsh criticism.
- Despite several important and progressive changes, the final version of the Third Wave legislative package does not reflect majority of the substantive recommendations that were presented by local NGOs and the Venice Commission.



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Activities of the High Council of Justice

- The state of pluralism and representativeness achieved by the diversity of opinions held by judicial and non-judicial members of the Council worsened since 2015.
- For 4 years in a row, the Parliament has failed to elect the 15th member of the Council with participation of representatives of the opposition political parties. The Third Wave of judicial reform reduces the quorum to allow election of all non-judicial members of the Council by the Parliament through a simple majority.



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Judicial Selections/Appointments and Transfers without Competition

- The process of judicial appointments was characterized with lack of transparency, openness; Unsubstantiated decisions.
- Attending public meetings of the Council did not allow us to evaluate the reason why individual members of the HCoJ voted for a certain candidate.
- In the years 2011-2015, The HCoJ decisions about transfer/promotion of judges without a competition were made without any substantiation and as a result of only a formal implementation of procedures.



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Internal Independence of the Judiciary

- Over the recent years it has come to light that there is a group of judges within the judicial corps that holds the leverage for influencing the process of making important decisions about the judicial system.
- The HCoJ and the dominant group of judges do not tolerate criticism from their peers. Such situation undermines independence of individual judges.



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