

Statement

We call to Armenian authorities to take constant measures for safeguarding perceivable independence of judiciary.

The independence of courts and judges still remain pivotal obstacle to establish justice in the country. According to data provided by the Freedom House the score for the independence of judiciary in Armenia has not been changed since 2009 (it persists to have 5.50) and the public trust towards judiciary did not increased¹.

The distracting root for independence of judiciary in Armenia is the procedure of appointment of judges through which the executive is given the power of control over judiciary.

The Kiev Recommendations of Judicial Independence define “Where the final appointment of a judge is with the State President, the eventual discretionary powers related to the appointment of candidates should be limited to those nominated by the selection body. Refusal to appoint such a candidate may be based on procedural grounds only and must be reasoned²”.

Although proposals for candidacy of judges are made by the judicial self-governing body Justice Council, it is the President of the country who decides whether he wishes to appoint the candidates or not. The President of Armenia retains the discretion to accept or reject nominations for judicial appointment or advancement without specifying any reason for doing so.

The second aspect negatively affecting on judiciary and putting pressure on the ability of judges to make decisions independently is the unpredictability of disciplinary procedure practice of judges in the RA. The international organizations have alerted that the current legislative regulations and the practice of the disciplinary measures in Armenia are in contradiction with the international standards, they are unclear and unsure to secure the unduly intervention into justice administration. In 2014 the Venice Commission raised its concerns about the existing disciplinary proceedings stating that the grounds for disciplining judges are vague and there is no right for a judge to appeal against the disciplinary decisions.

Unfortunately, the indicated problems and namely, the decisive role of the president for selection of judges was not limited and fully eliminated by the proposed Constitutional reform package. The president is authorized to select candidates for the first instance and appellate courts.

The indicated problems on disciplinary procedure, as well, were not addressed properly at local level, and disciplinary sanctions continue to be used against judges as a pressure from the judicial hierarchy or from the executive power.

¹ Freedom House, Nations in Transit 2015: Armenia, https://freedomhouse.org/sites/default/files/NIT2015_Armenia.pdf, page 78

² Kyiv recommendations on judicial independence in Eastern Europe, South Caucasus and Central Asia, Part II, Point 23

For this, we claim from the RA authorities to define and prohibit in the Constitutional reform package the decisive power of the president for the selection of judges and to insure the independence of judiciary through relevant legal regulations and practice in a line with the international standards and recommendations, including the recommendations of the Universal Periodic Review for Armenia.

Helsinki Committee of Armenia



Protection of Rights without Borders



Helsinki Citizens' Assembly Vanadzor Office

