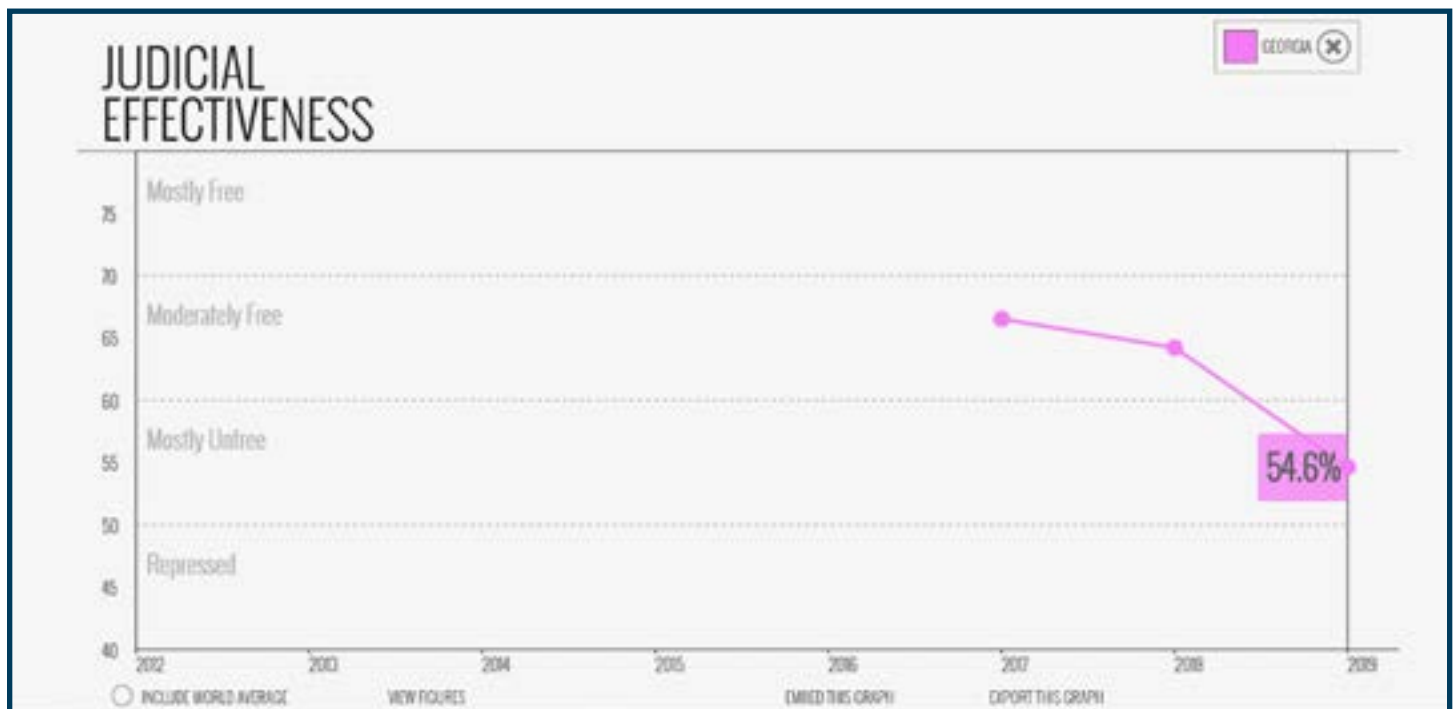


INTERNATIONAL RATINGS POINT TO BACKSLIDING IN THE GEORGIAN JUDICIARY

Representatives of the Georgian judiciary and the executive government have recently referred to reports by various reputable organizations to show progress in the Georgian court system. As a rule, these statements contain incomplete and distorted information; data published by the Heritage Foundation is most often manipulated in this way. Below, Transparency International Georgia presents a review of relevant ratings by international reputable organizations, their annual reports and assessments made by international partners.

THE HERITAGE FOUNDATION

The 2019 Index of Economic Freedom published by the Heritage Foundation shows a 9.6% decline in judicial effectiveness in Georgia compared to 2018.¹ With this decline, Georgia has moved down to the ‘Mostly Unfree’ category in judicial effectiveness. Note: judicial effectiveness is being measured since 2017.



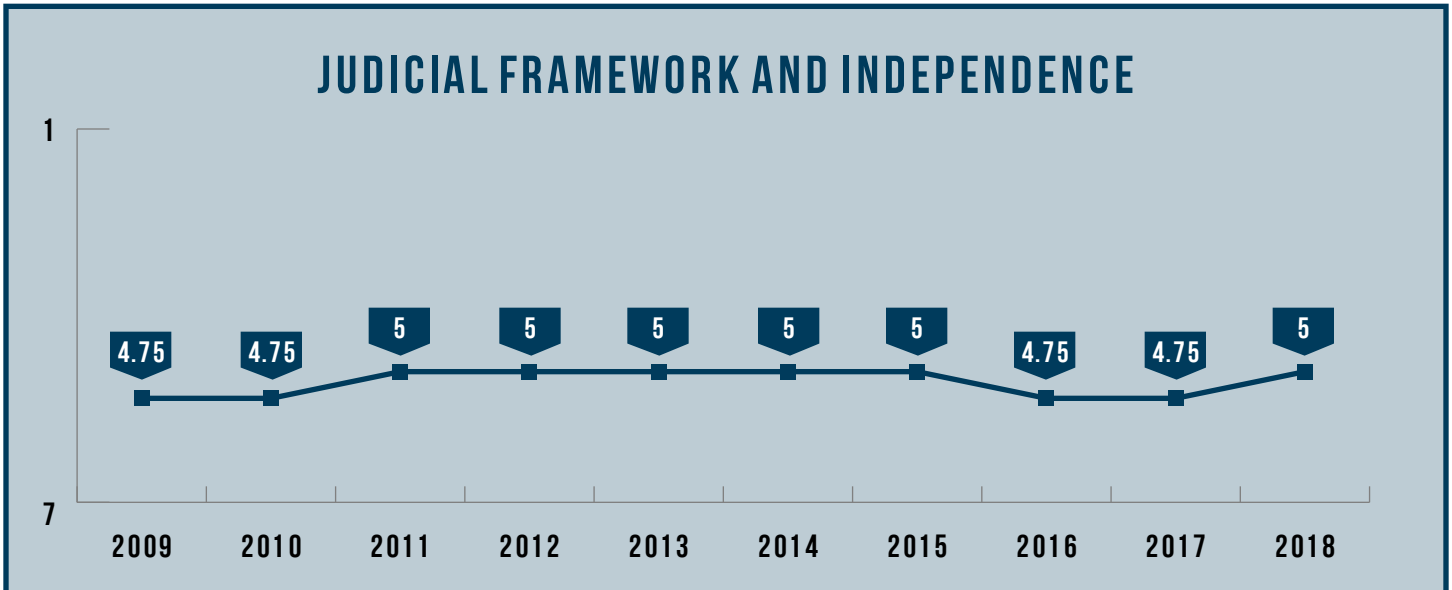
The report notes that Georgia’s overall score in economic freedom decreased by 0.3 points, mainly due to a “sharp drop in judicial effectiveness”. The report also states:

“ Although the constitution and laws provide for an independent judiciary, political pressure threatens impartiality.

1 The Heritage Foundation, 2019 Index of Economic Freedom, available at: <https://herit.ag/2lgljw>

FREEDOM HOUSE

According to data published by Freedom House in 2018, judicial independence in Georgia decreased by 0.25 points compared to 2017.



Note: Assessment is done on a scale from 1 to 7 points, where 1 is 'most independent' and 7 is 'least independent'.

According to the report,² the 2018 decline in judicial independence was due to cases involving Philip Morris and British American Tobacco. As a reminder, the Georgian court made an unsubstantiated decision on these two cases and fined the above companies with GEL 93 and 270 million, respectively. According to an extensive analysis of the court decision on the Philip Morris case published by Transparency International Georgia,³ **the use of expedited court proceedings and alleged procedural violations raise legitimate questions about the existence of corruption risks.**

WORLD ECONOMIC FORUM

Global Competitiveness Index

Of concern were Georgia's results in the 2017 Global Competitiveness Index published by the World Economic Forum,⁴ according to which, Georgia lost 24 positions in judicial independence compared to 2016. Georgia moved from the 63rd position in terms of judicial independence in 2016⁵ to the 87th position in 2017. Even though the country moved 4 positions forward (83rd place) in 2018,⁶ this improvement was not due to an increase in score, which remained at 3.6, same as in 2017.

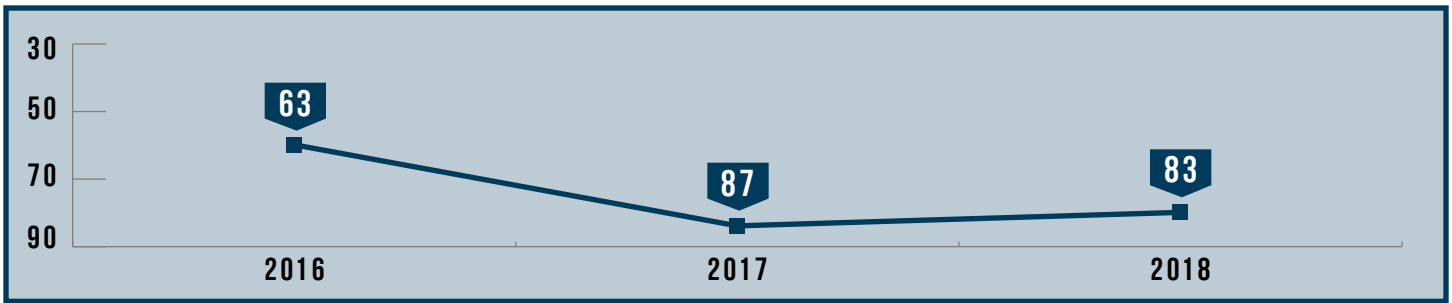
2 Freedom House, 2018, available at: <https://bit.ly/2GOKgy1>

3 The Court decision on the imposition of up to GEL 93 million on Philip Morris raises questions, Transparency International Georgia, 2017, available at: <https://bit.ly/2uRvgH9>

4 Global Competitiveness Index, World Economic Forum, 2017-2018, available at: <https://bit.ly/2IDxV5S>

5 Global Competitiveness Index, World Economic Forum, 2015-2016, available at: <https://bit.ly/2TO00nx>

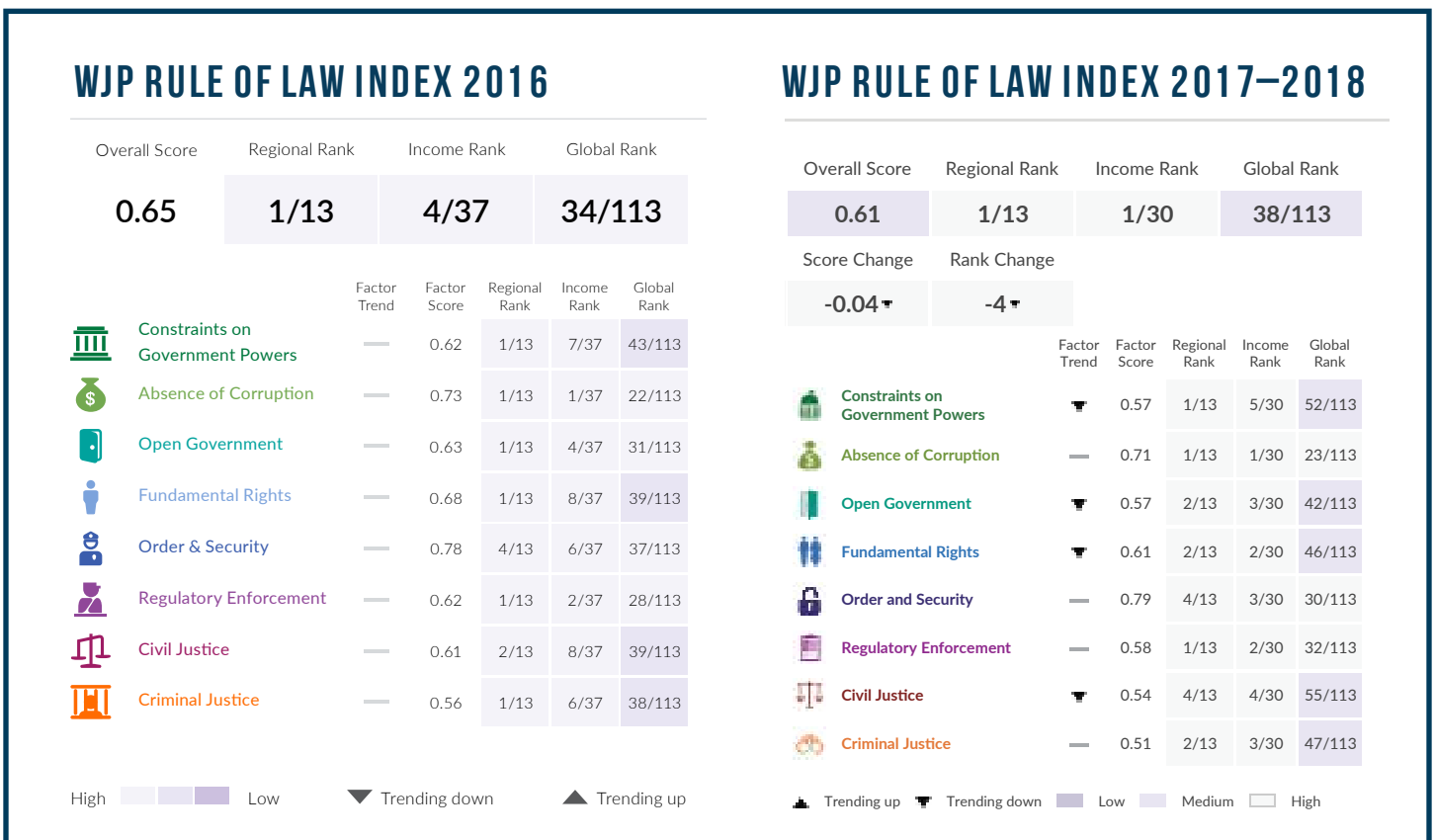
6 Global Competitiveness Index, World Economic Forum, 2018, available at: <https://bit.ly/2yyB22W>



Note: Assessment is done on a scale of 1 to 7 points, where 1 is 'not independent at all' and 7 is 'entirely independent'.

WORLD JUSTICE PROJECT

According to the most recent Rule of Law Index published by the World Justice Project, the situation in Georgia has worsened. Georgia moved from the 34th position among 113 countries in 2016⁷ to the 38th position in 2017-2018⁸. Georgia's ranking in terms of its criminal justice system also worsened; the country ranked 38th in 2016 and moved to the 47th position in 2017-2018. In terms of civil justice, Georgia lost 16 positions, having moved from the 39th to the 55th place.



Note: Countries are ranked on a scale of 0 to 1 point, with 0 indicating weakest and 1 indicating strongest adherence to the rule of law.

7 Rule of Law Index, World Justice Project, 2016, available at: <https://bit.ly/2q4jLaG>

8 Rule of Law Index, World Justice Project, 2017-2018, available at: <https://bit.ly/2yb8izE>

The fact that Georgia holds a leading position in the regions of Eastern Europe and Central Asia is used very often as an argument. While this is true, it must also be noted that many countries in these regions face long-standing challenges to democracy, while some of them have been headed by totalitarian regimes for decades. For example, Georgia is ahead of Bosnia and Herzegovina, Macedonia, Kazakhstan, Belarus, Albania, Serbia, Ukraine, Moldova, Kyrgyzstan, Russia, Uzbekistan and Turkey.

TRANSPARENCY INTERNATIONAL

Corruption Perceptions Index

According to the 2018 Corruption Perceptions Index (CPI) published by Transparency International's Secretariat,⁹ while Georgia's results improved by two points, problems remain in the judiciary. Georgia's results in the CPI have not seen a significant improvement since 2012. According to the 2018 report, Georgia "now faces democratic backsliding, making it both vulnerable to high-level corruption and a country to watch moving forward". The report also states that:



This downturn is due to a lack of accountability of law enforcement, corruption and political interference in the judiciary, state capture and government-sponsored attacks on independent civil society.

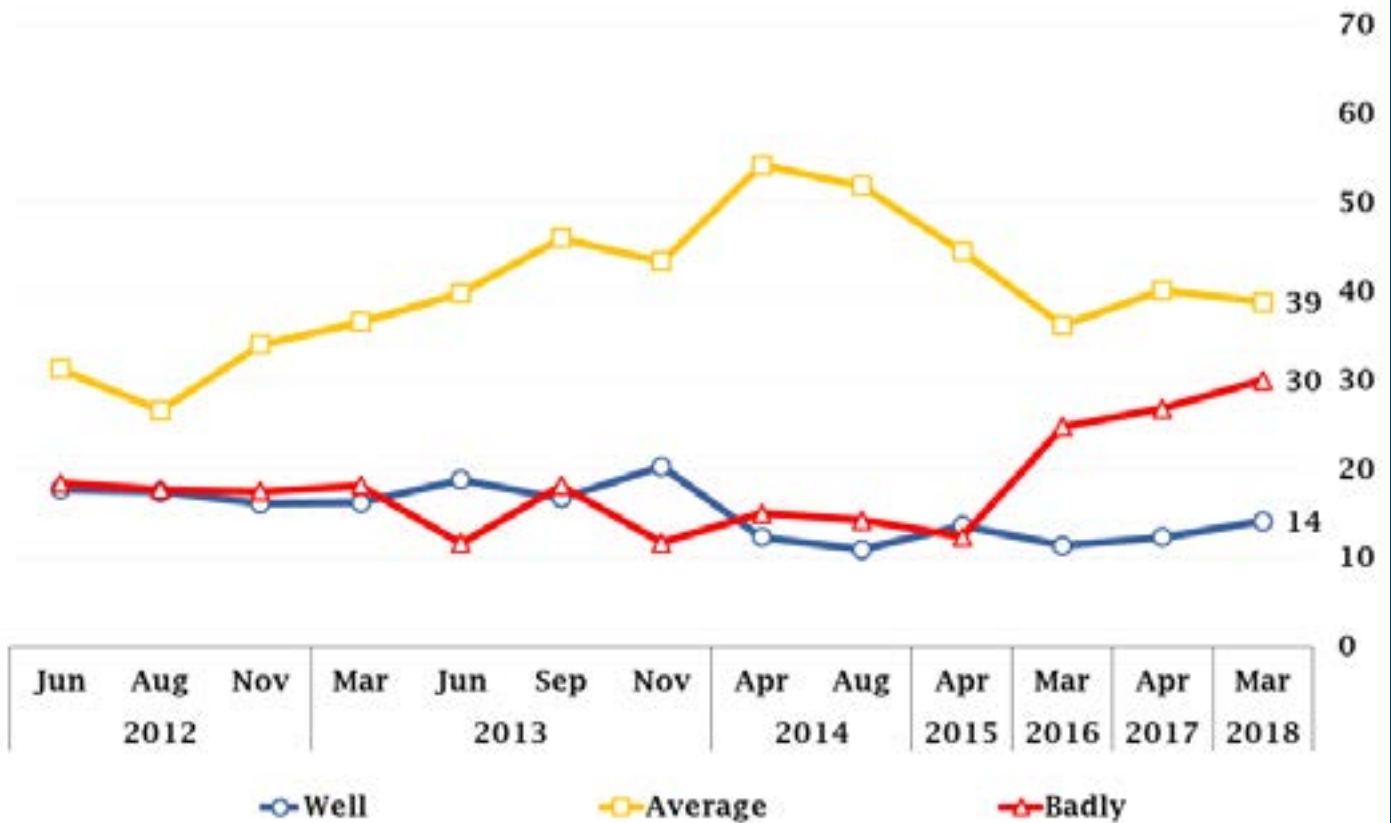
2018 SURVEY OF THE NATIONAL DEMOCRATIC INSTITUTE (NDI)

According to the results of a public opinion survey published in 2018 by NDI,¹⁰ the number of people who say that the court has performed 'badly' has significantly increased since 2015.

⁹ Corruption Perceptions Index, Transparency International, 2018, available at: <https://bit.ly/2S8ouu8>

¹⁰ Public attitudes in Georgia, NDI, 2018, available at: <https://bit.ly/2HTPfdg>

How would you rate the performance of the Courts? (q5)

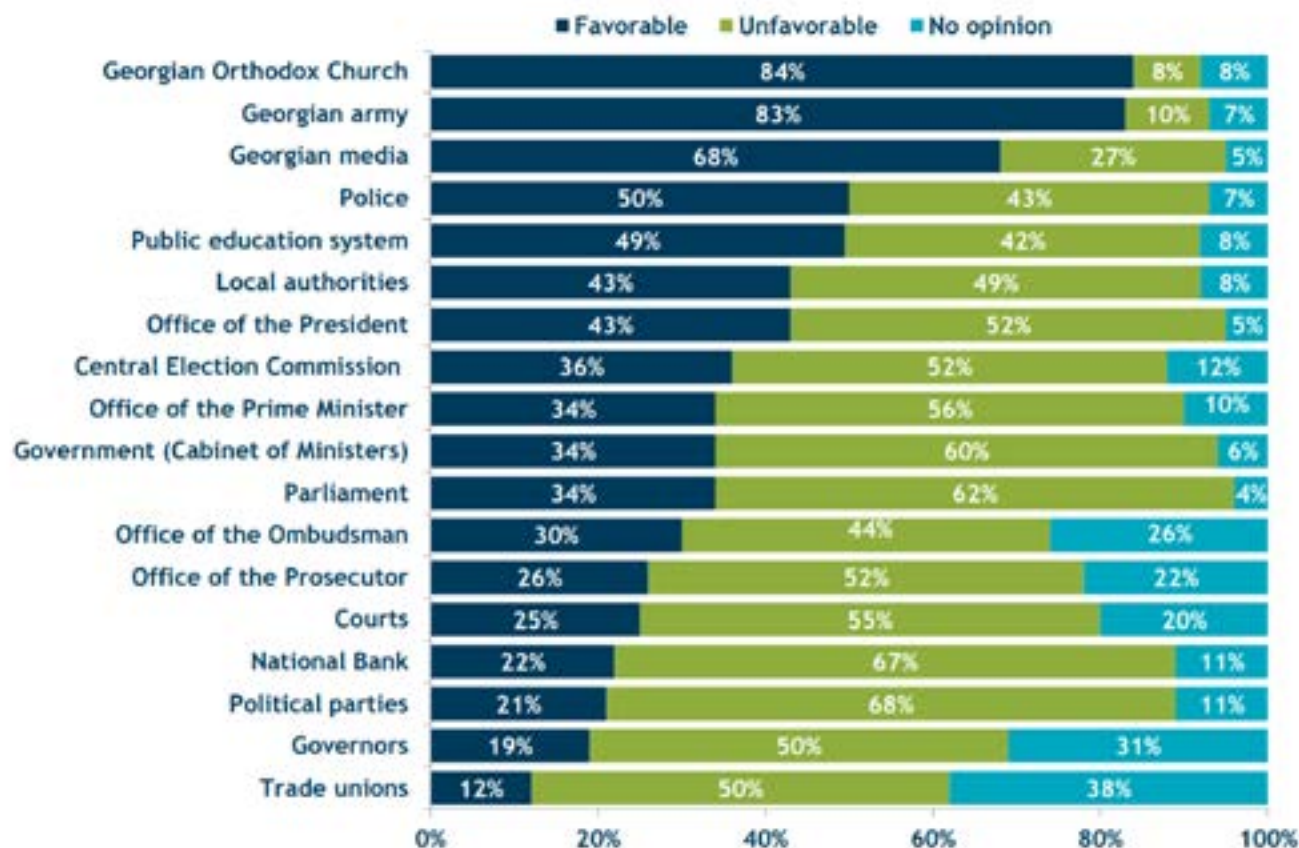


INTERNATIONAL REPUBLICAN INSTITUTE (IRI)

According to a 2018 survey results of the International Republican Institute (IRI),¹¹ more than half of the respondents (55%) is dissatisfied with the work done by Georgian courts, while only 25% is satisfied.

11 Public Opinion Survey, International Republican Institute (IRI), 2018, available at: <https://bit.ly/2xs9nCA>

Please tell me your opinion of the work of the following institutions:



ANNUAL REPORT OF THE US DEPARTMENT OF STATE

The US Department of State monitors the human rights situation in Georgia and publishes annual reports. Analysis of these reports shows that for years the problem of judicial independence has been one of the main impediments to Georgia's democratic development.

The 2017 [report](#) speaks directly about internal and external pressure faced by judges:

“ Although the constitution and law provide for an independent judiciary, there remained indications of interference in judicial independence and impartiality. Judges were vulnerable to political pressure from within and outside of the judiciary.

COUNCIL OF EUROPE COMMISSIONER FOR HUMAN RIGHTS

The Commissioner for Human Rights published a report on January 16, 2016,¹² according to which:

“

[...] Recently, the decision of the HCJ to fill ten vacant judge positions in the Tbilisi Appellate Court by transfer of first instance court judges and not through competition was negatively assessed, as transfers and promotions do not appear to be regulated by specific rules and criteria. Such practices feed suspicion that arbitrary decisions are being taken with regard to the appointment, transfer and promotion of judges, undermining public trust in the judiciary.

JANOS HERMAN

On June 14, 2017, the then-EU Ambassador to Georgia Janos Herman stated at a meeting of the Investors Council that he had information suggesting the existence of corruption and undue interference in court:

“

Based on the increasingly alarming information EU Delegation has been getting recently, there is a misuse of selection, appointment and promotion of the judges, pre-agreement of their cases, flawed procedures, cronyism, corruptions, and undue interference.

IAN KELLY

On March 16, 2018, the former US Ambassador to Georgia stated:¹³

“

According to one opinion, Georgian courts are not fully impartial when making decisions in disputes between the state and private businesses. [...] I think the qualification of judges is one of the problems, when judges do not fully understand all of the details of a case. I think the problem is that judges, in most cases, believe the arguments presented by the state over those presented by foreign businesses.

¹² Council of Europe Commissioner for Human Rights, 2016, available at: <https://bit.ly/2yFPxV1>

¹³ Ian Kelly Comments on the Fining of American Companies Philip Morris and GAA, Tabula, 2018, available at: <https://bit.ly/2RYQ2OI>