



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

Open Letter of Coalition to Chairman of Parliament, Mr. Davit Usupashvili, Regarding Proposed Amendments to Criminal Procedures Code

The Coalition for an Independent and Transparent Judiciary would like to express its opinion regarding proposed amendments to the Criminal Procedures Code the main part of which concerns possibilities of the defense and which, after it had been vetoed by the president, was returned to the legislature for further consideration. The Coalition would like to express its opinion regarding a number of fundamental issues which, in Coalition's view, must be taken into account for further improvement of the draft law.

It is clear that the quality of criminal justice largely depends on the real equality of parties. Adversary system of criminal proceedings is a principle recognized by the Constitution and is a cornerstone of a number of provisions of the Criminal Procedures Code. However, establishing real adversarial system and achieving equality of parties to a proceeding require that equal rights to parties are ensured.

It is therefore important that the defense, similar to the prosecution, is given the right to file a motion with a court for search and seizure. The draft law, which has been returned to the parliament with the President's comments, envisages the enactment of this possibility from 1 September 2013 instead of 1 September 2014, which we deem more expedient.

As regards the right of the defense to exclusion (meaning, the submission of additional evidence by the defense during the consideration of a case on merit), it constitutes a significant procedural possibility for the defense ensuring the approximation of the possibilities of the defense and the prosecution and therefore, we believe that it must be maintained. The draft law passed in all three readings by the parliament envisaged the deletion of this norm from 1 September 2014. In the comments to the draft law returned to the parliament by the President of Georgia the deletion of this norm is altogether rejected, which we also deem expedient.

We believe that accommodating the remarks by the President alone will not solve all the problems which non-governmental organizations and the

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
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
Human Rights Education and
Monitoring Centre
Foundation for the Support of
Legal Education

Georgian Bar Association have raised in relation to the proposed amendments to the Criminal Procedures Code. A number of shortcomings still remain on the agenda, such as: the granting of the right to the prosecution to conduct a primary investigation of evidence seized upon the motion of the defense, which somewhat conflicts with the Constitution, and the postponement of the rule on the questioning of witnesses in courts.

We call on the legislature to accommodate remarks, on the one hand, and on the other, to ensure timely elimination of significant shortcomings in the Criminal Procedures Code with the involvement of the civil sector, law professionals and representatives of bar association,.

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