



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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Deputy Chairman of Coalition for an Independent and Transparent Judiciary