



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

Coalition's Appeal to Parliament of Georgia Right of Accused to Refuse Jury Trial, Based on Substantiated Motion, Must Be Preserved

On 16 January 2013, the Coalition for an Independent and Transparent Judiciary reacted (<http://gyla.ge/geo/news?info=1381>) to the draft law prepared by the Ministry of Justice ([http://www.parliament.ge/files/Draft Bills/6.02.2013/sisxlis-saproces-2.27.pdf](http://www.parliament.ge/files/Draft_Bills/6.02.2013/sisxlis-saproces-2.27.pdf)) concerning the regulation of trials with the involvement of jurors. In particular, under the proposed initiative, a jury trial for an accused persons was an obligation instead of the right (as it is defined in the effective Criminal Procedures Code), because the conduct of a court trial without the involvement of jurors was only possible upon the consent of the prosecutor. Moreover, a prosecutor who did not give his/her consent was not required to justify this decision. The Coalition negatively assessed that draft law after which the government withdrew the draft law from the parliament. That move gave rise to positive expectations. Nevertheless, on 4 March 2013, a new initiative on the issue of jury trial was submitted to the parliament, which is identical to the previous document. Consequently, every opinion of the Coalition about the first draft law remains in force today too.

The draft law to be considered by the parliament now ([http://www.parliament.ge/files/Draft Bills/13.03.13/sisxhlis-saproceso-2.42.pdf](http://www.parliament.ge/files/Draft_Bills/13.03.13/sisxhlis-saproceso-2.42.pdf)) makes the right of an accused person to refuse the hearing of a case by jurors dependent on the prosecutor's consent. This undermines the mechanism benefiting an accused person and awards exceptional influence to the prosecution. It is noteworthy that a recent amendment to the law (https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=1823746&lang=ge) allows jurors to hear those high-profile cases too which are associated with the former senior officials. In the given situation a risk exists that public opinions formed in the society will influence jurors more than evidence presented to courts by the parties.

When public interest is high towards this or that case, the case becomes high-profile too. Consequently, a serious risk exists that the released information affects jurors. In all those countries where jury trial operates,

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

mechanisms are in place protecting jurors from external information in order to ensure the right of an accused person to fair trial and ensure that verdicts are based only on evidence presented to courts. International experience in this regard once again proves that it is necessary to introduce in Georgia effective mechanisms protecting jurors from external information, which, unfortunately, do not exist today.

Bearing in mind that the public opinion about and attitudes towards those criminal cases in which former senior officials are implicated have been largely formed, the Coalition believes that an accused person must have the right to refuse, on the basis of substantiated motion, the involvement of jurors in hearing his/her cases. Otherwise, the Coalition sees risks that the justice will not be fairly served towards mentioned persons.

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