

## Coalition for an Independent and Transparent Judiciary

### Report on Performed Activities

(Over the period from 2011 to 2013)

This report reflects the activities performed by the coalition over the period from 2011 through June 2013.

The report provides the information on activities undertaken by the coalition working groups, the steering committee as well as with the involvement of member organizations of the coalition. The report also describes the challenges of technical and essential nature which the coalition and its working groups face at present.

First of all, it must be noted that the coalition was especially effective and successful in organizing public forums. Since its inception, the coalition conducted seven forums in total. Each of them was highly representative, marked with a topicality of themes and the degree of discussions conducted. The results on separate issues raised at forums were also quite successful.

The coalition's activity in terms of issuing public statements deserves to be singled out as well. In most cases, the coalition succeeded in preparing and issuing timely and qualified statements. Considering the mandate of the coalition, those statements were released in regards with every main event in the country. Coalition has repeatedly addressed various relevant subjects with open letters. Bearing in mind the number of member organizations of the coalition and existing procedures, the number and quality of public activities of the coalition can be assessed as positive. However, for a higher effectiveness of the coalition's activity, the work on this issue can be intensified in the future.

#### *1. Forums organized by the coalition*

The **first public forum** was held on 29 July 2011. It concerned the transparency of courts and handling of public information existing in courts.

The **second public forum** was held on 14 November 2011. It discussed the issues of appointment, promotion, reassignment and disciplinary prosecution of judges.

The **third public forum**, held on 21 February 2012, was dedicated to issues of tax and commercial laws. In particular, the forum discussed the amendments to the Tax Code and the Law on Enforcement Proceedings as well as the issues related to alternative methods of dispute resolution.

The **fourth public forum** was organized on 6 April 2012. The topic of the forum was the draft Code of Administrative Offences submitted to the parliament, namely, the application of administrative detention and imprisonment and the conformity of these preventive measures with the human rights standards.

The **fifth public forum**, held on 6 July 2012, focused on the issues of judicial administration. The key topic of the forum was the enhancement of the role of individual judges and the self-government of judges. During the forum, the coalition held the presentation of its report on Judicial System in Georgia.

The **sixth public forum** of the coalition was held on 13 November 2012 and concerned the amendments to be made to the law in the light of judiciary reform. The aim of the forum was to facilitate the exchange of opinions on expected legislative changes between the government and the civil society.

The **seventh public forum** was held on 20 May 2012, regarding a draft on the establishment of a temporary state commission for the inquiry into the shortcomings in judiciary. The forum discussed institutional and procedural issues related to the establishment of the commission.

It is noteworthy that each forum was conducted with the assistance and the involvement of representatives of the US Embassy in Georgia and the US Agency for International Development (USAID). Each public forum was also attended by senior officials of various branches of the authority, which enabled to provide as well as receive information from relevant representatives of the authority.

As regards the results of public forums, the coalition achieved significant success in several areas, including the judicial administration and administrative imprisonment. Even though, in contrast to the court system, no essential changes have yet been made to the legislation on administrative imprisonment, those problems that are characteristic for administrative imprisonment have been identified and communicated to the government and civil society owing to the intensive activity of the coalition.

As regards the judiciary, with the active involvement of the coalition the judiciary started to enhance the functions of individual judges and the Conference of Judges and to eliminate separate instances of the conflict of interests. However, there are a number of issues in this area which the coalition must continue to advocate.

## ***2. Working groups of the coalition***

The following five working groups operate within the framework of the coalition: Court Administration, Criminal Law, Legal Aid, Legal Education, and Commercial Law.

The results of intensive activity of each of these working groups include not only coalition's successful public forums but also other important products created by them. However, the working groups face certain challenges towards more efficient conduct of their activities. These challenges are basically related to the participation of members of the working groups in working group meetings and other activities, and their equal involvement in performing obligations assumed by the working groups. In this regard, the coalition must take step to somewhat refresh and modify the process.

### *2.1. Court administration working group*

The court administration working group was quite active from the very start of its activity within the framework of the coalition. The topics of the first and second public forums concerned the issues falling within the competence of this working group. On the initial stage of its activity, the working group analyzed and evaluated separate issues related to court administration, in particular, the topics related to the appointment, promotion, reassignment of judges and disciplinary proceedings against them. Based on the analysis of these issues, the working group drew up recommendations and communicated them to representatives of the judiciary and other branches of power. It should be noted that as a result of a long and large-scale advocacy campaign, in March 2012, the Georgian parliament adopted significant amendments in regards with the administration of court system. Those amendments restrict non-fixed-term reassignment of judges to other courts, provide for the publicity of decisions made by the disciplinary collegiums, et cetera. These amendments marked the first significant success in the activity of the coalition as a whole.

After that, the court administration working group carried out a more comprehensive evaluation and analysis of the judiciary. Based on this analysis, the coalition prepared the report on Judicial System in Georgia which largely contributed to the amendments that followed. The core part of the report was focused on the analysis of the role of an individual judge and the self-government of judges, the evaluation of their functions and the recommendation. A large part of the draft amendments prepared by the Justice Ministry by the end of 2012, conveyed the spirit of the coalition's above mentioned report.

The activity of the court administration working group was not limited to preparing the report alone. The working group and the coalition continued working on the improvement of the draft amendments prepared by the Justice Ministry. The sixth public forum of the coalition was dedicated to this very issue. The working group was actively involved in consultations that were held on those legislative amendments; moreover, since those amendments were enforced, the working group has been actively monitoring the process of implementation of the legislative changes.

## *2.2. Criminal law working group*

At the outset of the activity of this working group several urgent topics were identified as priorities, including the administrative imprisonment, the preventive measures, the plea bargaining and others.

The criminal law working group, in 2012, prepared Comments and Recommendations on Administrative Detention and Imprisonment which contained remarks regarding the draft Code of Administrative Offences initiated in the parliament. The fourth public forum of the coalition was dedicated to this very topic. Taking into account recommendations drawn up by the working group on this topic, an address was sent on behalf of the coalition to experts of the Venice Commission. Moreover, a meeting was held with representatives of the Ministry of Internal Affairs. Nevertheless, an active advocacy campaign on this issue needs to be continued.

Apart from the administrative imprisonment, the criminal law working group prepared and published a study on the Application of Preventive Measures in Criminal Proceedings, which was based on the research of national and international regulations and court rulings. Concrete recommendations were drawn up as a result of this research. The presentation of this report was held in December 2012. The recommendations provided in the report require the continuation of advocacy process.

The criminal law working group now conducts an analysis of the practice of plea bargaining, which will be completed in the nearest future. By now, the working group has already completed the overview of the legislation, studied 100 cases which ended in plea bargain and conducted in-depth interviews. After the completion of the study, the results and recommendations will be made public for society.

## *2.3 Legal aid working group*

One of the objectives of the legal aid working group was to obtain information about subjects providing legal aid and to study them by territorial, thematic and other aspects. To this end, the legal aid working group identified 32 organizations providing free legal aid. Based on questionnaires completed by some of them (19 organizations), the working group has drawn up a map of organizations providing the legal aid.

Another objective of the legal aid working group is to identify private law firms who will provide free legal service on one or two cases a year as a charitable work. By now, eight law firms and eleven audit firms have been selected which are regarded as the subjects providing service pro bono.

Yet another objective of the legal aid working group is to study the activity of the legal aid service established by the state. As of now, a memorandum on cooperation has been signed.

Also, recommendations have been drafted regarding the amendments to the Law on Legal Aid.

#### *2.4. Legal education working group*

The legal education working group conducted activities in several directions. Among such activities was the work on various possible models designed to complicate the preconditions for the entry of the profession of lawyer; the group also worked on the formulation of opinions concerning the content of the existing education program for lawyers.

At this stage, the legal education working group is engaged in a research of a standard of quality legal education in Georgia. To this end, the group intends to carry out a comprehensive study of the entire law education system, including to conduct a survey of legal aid beneficiaries in order to find out a level of satisfaction among beneficiaries of this service. Moreover, the working group will study educational programs and curricula of leading law schools, work out recommendations on those needs which will ensure a legal education in Georgia which will meet high quality standard. The working group also plans to study effective normative acts with the view of their further improvement and approximation with international standards.

#### *2.5. Commercial law working group*

The third public forum of the coalition was dedicated to the topic which fell within the competence of the commercial working group. The group worked on a draft law concerning the commission on property right violations and shortcomings, focusing on cases of infringement on civil rights and property. The group was coordinated the American Chamber of Commerce whilst the coordinating function is now performed by Article 42 of Constitution. The activity of this group needs to be significantly stepped up in future.

### ***3. Advocacy***

For the aim of advocating recommendations drawn up by the coalition with regard to various issues, representatives of the coalition have planned and conducted various events, including a number of meetings of the chairperson and the deputy chairperson of the coalition with representatives of diplomatic corps. During those meetings, the coalition presented its report on Judicial System in Georgia and communicated its opinions to the diplomatic corps.

Apart from that, the coalition conducted a series of meetings with various political subjects to share its views on the judiciary reform with them and to learn about opinions of political subjects on the same topic.

A meeting was held in the parliamentary committee on legal issues during which the coalition provided its recommendations on the issue of administrative imprisonment.

It is also worth noting that under the aegis of the coalition, four video clips were produced on various topics which fall within the activity of the coalition. One of those clips is dedicated to the coalition's presentation, the second one concerns the administrative imprisonment, the third one focuses on the issue of audio recording in courts and the fourth video clip is about the presentation of the legal aid map.

Davit Asatiani

Lawyers for Independent Profession