

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Petition of the Coalition to the Parliament of Georgia

The defendant's right to refuse a jury trial based on a substantiated motion must be maintained

On January 16, the Coalition for an Independent and Transparent Judiciary made a [statement](#) in response to the [draft law](#) prepared by the Ministry of Justice regulating application of a jury trial. In particular, according to the initiative application of jury trial constituted a mandatory requirement rather than the right of a defendant (as stipulate by the Criminal Procedure Code), as prosecutor's consent was required for a

jury trial waiver. Further, prosecutor was not required to substantiate the refusal to waive jury trial. After the Coalition criticized the draft law, it was withdrawn from the parliament. It engendered certain expectations; however, on March 4, 2013, the parliament was submitted with a new legal initiative about jury trial, which was content-wise analogous to the previous one. Consequently, all comments of the Coalition about the initial draft law are still relevant.

According to the [draft law](#) currently under the parliament's consideration, right of a defendant to refuse jury trial will depend on prosecutor's consent, which weakens the mechanism that works in favor of a defendant and provides prosecution with a special power of influence. Notably, under [recent amendments](#) to the law, the jury trial also applies to highly publicized cases with former high-level officials involved. Under the given circumstances, there is a risk for a pre-conceived strong public opinion to outweigh evidence presented by parties at the trial.

When a case is of high public interest, it is highly publicized as well. Therefore, jurors are susceptible to reports about the case. All countries where jury trial exists have mechanisms to protect jurors from the influence of outside reports, which eventually ensures defendant's right to fair trial, for verdict to be based solely on evidence examined at the trial. Relevant international experience confirms once more that mechanisms for protecting jurors from outside influence must be introduced in Georgia.

As public opinions and attitude is usually conceived to a certain extent about criminal cases where former high-level officials have been charged, the Coalition believes that the defendant's right for a substantiated refusal to jury trial must be maintained. Otherwise, due administration of justice in these proceedings will be jeopardized.