



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

Statement on the Closure of Court Hearings in Common Courts of Georgia and Other Related Problems under a State of Emergency

On March 13, 2020, prior to the declaration of a state of emergency, the High Council of Justice (HCOJ) adopted [recommendations](#) to prevent spreading of the Novel Coronavirus. The recommendations are related to the measures to be implemented in the court system to ensure a gradual transition of court proceedings to a remote regime. This is a positive development. However, it is important to ensure openness of court proceedings and enable court monitors and other interested parties to observe trials.

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Openness of court hearings is an important aspect of fair trial for parties to proceedings. Public hearings are important for both fulfilment of rights of individuals as well as for the society at large. The public nature of court proceedings protects parties from the administration of justice behind closed doors, in the absence of public oversight.

The recommendations adopted by the HCOJ also refer to the restriction of the number of attendees of court hearings, including representatives of media. This, naturally, does not imply the closure of proceedings and a complete prohibition of attendance. However, the majority of Tbilisi City Court judges have been fully restricting attendance of proceedings. The practice has been inconsistent with this regard. Some criminal trial judges allow representatives of monitoring organizations to attend trials, while the majority of judges restrict their attendance by wrongfully citing the regulations. Thus, they disregard the existing regulations and establish a faulty practice.

Under the Presidential [Decree](#) N1 adopted on March 21, 2020, “court hearings envisioned in the Criminal Procedure Code of Georgia, can be conducted remotely, by electronic means of communication.” Conducting court proceedings remotely by electronic means of communication does not imply a complete or a partial closure of hearings. This regulation is aimed at preventing a contagion among participants of proceedings. This objective does not imply holding court hearings in disregard of the standards established in the Constitution of Georgia and Criminal Procedure Code.

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The Presidential Decree and the HCOJ Regulation do not provide a legal basis for the restriction of the right to fair trial. The disregard of the principle of open hearings is a grave violation of the rights of the parties to the proceedings. At the same time, the restrictions established by judges essentially violate the right to public information for persons who are interested in attending trials. The practice of full or partial closure of proceedings, except for specific cases established in the legislation, contradicts the principles of the rule of law and undermine individuals' right to fair trial.

The Coalition is calling on the HCOJ and Court Chairs:

- to immediately address the detected shortcomings of court proceedings with an aim of preventing the violation of one of the most important elements of the right to fair trial – the principle of openness, and avoiding a full restriction of openness of court proceedings;
- while holding hearings remotely, as established by the Presidential Decree, to ensure interested persons' (including court monitors') uninterrupted access to court proceedings, in addition to providing for the participation of parties.