

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Calls for Revision of the Draft Law that Regulates Sentencing

[GYLA is addressing the parliament of Georgia](#) with regard to a draft law replacing [the consecutive sentencing by concurrent sentencing](#). GYLA welcomes liberalization of criminal justice policy; however, it believes that several important issues remain in the draft law that need to be further improved.

The legal draft stipulates that when there are multiple crimes involved, period of imprisonment shall equal the length of the longest sentence. Consecutive sentencing can still be applied in part or in full in cases that involve recidivism. GYLA believes

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that the draft law should not limit unjustifiably freedom of a judge to resort to alternative rules of sentencing, including when a case involve recidivism. This means that a judge must be able to evaluate individual circumstances of the case, defendant's record and all other relevant factor and decide whether to apply consecutive sentencing in part or in full, or concurrent sentencing. We believe that a general rule a priori implying that a judge will resort to concurrent sentencing in all cases that do not involve recidivism, fails to address the existing challenge.

GYLA believes that differentiation between rules of sentencing according to individual categories and combinations of crime is more appropriate. [Similar model was envisaged by the initial draft elaborated by the Ministry of Justice](#), which contains provisions from the Criminal Code adopted in 1999. In particular, concurrent sentencing depended to combination of crimes: in cases that involved a less grave crime and a grave/particularly grave crime, it was up to judges to decide whether to resort to concurrent sentencing or consecutive sentencing in part or in full, whereas in an event of a grave or particularly grave crimes, it was up to judge to decide whether to apply consecutive sentencing in part or in full. Such differentiation is only logical, as when there are multiple crimes involved, their categories and the degree of social danger must be taken into account. More caution must be exercised in an event of grave or particularly grave crimes. In all cases that involve particularly grave crimes for instance, the law should not provide for an opportunity to impose only a sentence prescribed for a single crime.

GYLA believes that draft law initiated in the parliament by the Government of Georgia need to be essentially revised, in a way that brings it closer to the initial draft law elaborated by the MoJ that tied sentencing to individual categories of crimes.