

1. What are the main problems the Judiciary experienced at a general level in your country as a consequence of the legal reforms approved in order to cope with the COVID-19 pandemic?

Even though, without exaggeration, Pandemic caused unprecedented challenges for Georgian Judiciary and rights related to Article 6 of ECHR, Georgian Court System managed to adapt to this exceptional situation and protect rights of court users' rather properly.

To reduce the threat of wide spreading of coronavirus and the danger it has posed to public health, on 21th of March 2020, the President of Georgia declared the State of Emergency in the entire territory of Georgia, which has effected Georgian Judiciary on broad-spectrum. The High Council of Justice was quick to react and on March 23 issued Order on measures to be taken in the judiciary to prevent the spread of the new virus as well as to protect constitutional rights of Georgian Citizens. The High Council of Justice, among other things, recommended to the common courts to conduct court hearings with the help of online platforms. The main challenge the judiciary faced in this time was to equip sufficiently courtrooms with necessary technologies that could guarantee distance hearings and to provide channel for electronic communication and exchange of documents to the parties.

2. Did the legal reforms approved in your country in order to cope with the COVID-19 pandemic affect Rule of Law and Human Rights principles? If any, pls. enumerate them.

State security and public safety can only be effectively guaranteed in a democracy, which fully respects the rule of law and human rights.

Therefore, for preventing the abuse of emergency powers by authorities, Georgian legislation provided supervisory mechanism, particularly parliamentary oversight over the executive Decree declaring the State of Emergency in the entire territory of Georgia. The Presidential Decree restricted certain fundamental human rights and freedoms enshrined in Articles 13, 14, 15, 18, 19, 21 and 26 of the Constitution of Georgia. In particular, the measures adopted by the Decree, among others, include establishing special rules of isolation and quarantine; suspension of international passenger air, land and sea traffic; special regulations on passenger transportation inside Georgia; suspension of visiting of penitentiary institutions; special regulations on public service delivery and administrative proceedings; restriction of assembly, manifestation and gathering; establishment rules and conditions of education other than those established by the relevant laws of Georgia, restrictions on the right to property.

3. As to the judicial organisation of your country, what impact had the legal reforms approved in order to cope with the COVID-19 pandemic? More specifically, what were their effects on the powers of the Minister of Justice, Council for Judiciary, Heads of Courts, Heads of Prosecution Services, Judges, Prosecutors, Court Administrators, Court Managers?

The legal reforms approved in response to Covid-19 pandemic did not effect on the powers of the above-mentioned persons.

4. As far as Court activity, Court proceedings and trials are concerned, what was the impact of legal measures adopted? Pls. provide relevant information distinguishing between civil, criminal and administrative cases.

Court proceedings and trials were conducted online (remotely in electronic format) with the participation of the parties to the proceedings. In sum, 8529 cases were heard in this manner. More specifically, the statistical information may be disaggregated as following: 271 civil law cases, 5957 criminal cases, including cases concerning preventive measures and 2301 administrative law cases. It is noteworthy, that parties involved in mediation have the opportunity to resolve the conflict remotely with the help online dispute resolution system.

5. Did “urgent” cases receive a different treatment and in this framework was a special legal definition or specification of “urgency” introduced for Court proceedings and trials?

A list of urgent cases, requiring urgent examination, was not specified. Only for civil law cases both parties consent was necessary to conduct online hearing. Thus, those cases postponed where one or both parties were against it.

6. Did the amount of money and, more generally, the value at stake in the case play a role in the treatment of it?

The amount of money and the value at stake in the case did not play a role in terms of the treatment of it. Such cases were not prioritized.

7. As far as criminal cases are concerned, did cases concerning arrested defendants receive a different treatment?

According to the Council of Justice Order and recommendations “On measures to be taken in the judiciary to prevent the spread of the new coronavirus” the courts shall adjourn hearings taking into account the time limits established by the procedural legislation, except for the cases to be considered within a short period of time.

The cases concerning arrested defendants in most of the cases were regarded as the ones to be considered within a short period of time. Therefore it received regular (in this case different) treatment.

8. What was the impact of such legal reforms on legal deadlines and procedural timeframes?

The parties to the court proceedings were enabled to fully exercise their rights despite the limited functioning of the justice system. Therefore, as a result of legal reforms carried out in response to Covid-19 procedural timeframes and deadlines in court proceedings were not suspended or extended. Exclusion of the possibility of starting the run of procedural and judicial deadlines and suspension of the run of the deadlines that have started was not envisaged by the legal reforms.

Nevertheless, it is noteworthy that Ordinance No 181 issued by the Government of Georgia, on the approval of Measures to be Implemented in connection with the Prevention of the

Spread of the Novel Coronavirus (Covid-19) in Georgia sets different procedures for electronic case management, administrative proceeding and release of public information. According to the article 13, the timeframe established by law for the submission and review of administrative complaints shall be suspended; The timeframe established by the legislation of Georgia for releasing public information and personal information were suspended; The deadlines for the conduct of competitions in the administrative bodies, where a competition cannot be conducted in accordance with the legislation of Georgia due to the state of emergency, were suspended; For the duration of the state of emergency, public institutions, natural persons and legal persons were empowered to use electronic documents and/or electronic signatures created in accordance with the conditions other than those provided for by the Law of Georgia on Electronic Documents and Electronic Trust Services; The State Inspector shall be authorised to suspend the review of cases of offences, the limitation periods for review, the imposition of administrative penalties, the timeframes for delivering or forwarding decisions made regarding administrative offences, and for enforcing decisions on the imposition of administrative penalties, and for appealing decisions made regarding administrative offences determined by the Law of Georgia on Personal Data Protection, if the circumstances of a case cannot be examined comprehensively, fully, objectively, and in a timely manner; Administrative proceedings initiated for issuing scoping opinions and environmental decisions provided for by the Environmental Assessment Code (during which public reviews provided for by the Code could not/cannot be held for the purposes of the prevention of the possible spread of the novel coronavirus) were carried out without public reviews, and public participation in the administrative proceedings and the possibility of submitting by the public of opinions and comments were ensured in writing and/or by electronic means, in accordance with the procedures established by the Code.

9. What is the role played in your country by IT, e-filing, smart and remote working in the management of cases as an effect of legal measures approved in order to cope with the COVID-19 pandemic? To what extent these measures are applicable also to the activity of Public Prosecutors?

All necessary measures were taken to ensure that cases are considered in electronic format throughout the country, namely electronic program, enabling the participation of the parties in the court proceedings, was provided. As a result of the Emergency Situation in the country, justice system was shifted to remote working. This implies that court hearings were held electronically and the participation of the parties to the court proceedings was ensured via specific program. According to the Order and Recommendation issued on March 23 by the Council of Justice, most of the employees were recommended to work remotely. Only persons, whose absence would hinder the proper functioning of the court, were excluded from this recommendation. As for the electronic case management system, it functioned without obstructions. In terms of e-filing, it should be highlighted that parties to the court proceedings were provided with the opportunity to file lawsuits, case files and other relevant materials via electronic court registration web-page (www.ecourt.ge) without service fee.

These measures are also applicable to the activity of Public Prosecutors. More than 3000 court hearings have been held with the remote participation of prosecutors, the judgment have been made for about 500 cases, both by the plea agreement and the substantive hearing. The rules for receiving correspondence at the prosecutor's office have also changed. Citizens had the opportunity to send applications via e-mail at kancelaria@pog.gov.ge. 328 letters and applications have been received by e-mail, and 1543 letters and applications through special boxes. All of them were responded to within the timeframe set by law.

10. What is the role played by your Association in the drafting of such legal reforms? Was your Association consulted by the Government before adoption of the aforesaid measures?

The High Council of Justice was actively involved in the process of the adoption and implementation of the measures adopted in response to Covid-19 pandemic. Eight member of the High Council of Justice is also the member of the Georgian Judges' Association. Respectively, the Association also played role in the drafting of legal reforms.

11. Did the Government consult the High Council for the Judiciary and/or other judicial institutional instances or representatives before adoption of the aforesaid measures?

Special working group was established where Chair of Supreme Court of Georgia, Secretary of Council of Justice, Head of the prosecutors office and Georgian BAR Association were presented, which coordinated implementation of the aforesaid measures.

12. What is the attitude of Bar Associations and Lawyers vis-à-vis such legal reforms?

At the very beginning of the Pandemic, a meeting was held between the Chairperson of the Supreme Court, the Chairman of the Bar Association, the Secretary of the High Council of Justice, the Prosecutor General, the Director of the Legal Aid Service, the Deputy Minister of Justice and the Deputy Director of the Special Penitentiary Service. The parties discussed the situation in the country with regard to the prevention of the spread of the new coronavirus and the ways in which justice can be administered fairly and smoothly. During the meeting, the parties agreed that the judiciary will move to the most remote mode of proceedings. All of them agreed, that switching to a remote justice system is a challenge that today has no alternative.

Eventually, lawyers acknowledge the difficulties that were associated with electronic proceedings, such as participation of translator in the proceeding, given that it takes a lot of time due to the absence of synchronic translation; inspection of material evidence; holding closed hearings; examination of witnesses, more specifically, due to lack of computer skills or internet resources they join electronic proceedings with the parties to the case and they might be instructed regarding the statement he/she should give, this is particularly problematic in connection with police. Nevertheless, members of Bar Association and Lawyers stated that practice of online court hearing was sufficiently meeting needs of the parties and even in post-virus era it is possible to introduce electronic proceeding with regard

to certain categories of disputes (for example, non-contentious proceedings) or certain stages of proceeding, such as opening and closing arguments of the parties and preliminary hearings.