

# PRACTICAL RECOMMENDATIONS FOR EFFECTIVE JUSTICE IN GEORGIA

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KEY WORDS: Court, Manage, Judge

Every lawyer knows that sources of law are:

- Legal norms
- Customs
- Decisions of courts.<sup>1</sup>

One of the most important sources of law is case law. Legal norms are like Ariadne's thread for judges and they should come to the fair decisions in every problematic situation by this thread. The court is a body through which legal norms become alive and that's why, court decisions are important in every legal system. Effective and uniform case law is the main and compulsory element of every democratic country.

From year to year, Georgian court system has been changing systematically. Despite the fact, Georgian society has no faith towards our court system. According to various researches, the trust of the society towards the court system a little bit increased in 2012 year (that is quite natural because it was the time of changing government in Georgia), however, nowadays it is still low and this indicator is decreasing from time to time. For example, according to surveys, half of Georgian citizens have totally negative attitude towards the courts of Georgia Georgian.<sup>2</sup>

More interesting is the survey of business associations and companies. Half of private companies (businessmen's) are trying not to appeal their cases at court, because they have no hope for fair decisions and prefer to solve disputes on their own. They also are mentioning that solving problems by court needs a lot of time, energy and costs. That's why, while solving various legal problems they use their friendship and other unformal instruments.<sup>3</sup> This trend is very dangerous for Georgia, because solving cases by informal instruments means solving them with criminal authorities and other illegal instruments.

1 Khubua G., 2017, Law Theory, Meridiani, Tbilisi p. 130-132.

2 Gyla, Justice in Georgia, Tbilisi, p. 5-10.

3 Gyla, Justice in Georgia, Tbilisi, p. 5-10.

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In addition, justice system in Georgia has other, more fundamental problems. The main problem is a lack of effective justice. Nowadays, every court litigation takes too much time that harms private interests. For example, like in medicine, in some cases doctor may make a correct prescription but if patient is taking medicine too late, the result will be harmful. Currently, new investments are made in Georgia, new companies are founded so it is very important to have effective justice, otherwise, the interest of private sector will be in a danger. Main aim of law is to make our life easier and avoid damage, deal with problematic situations.

Unfortunately, the reality is often disappointing, court is overloaded with various cases and every litigation lasts too long. For example, in my practice, on one of the cases, appeal claim was updated in the court in May, but the litigation has not started till now. Moreover, the case has been transferred to a certain judge and because of some procedural reasons, judge has been changed twice. So, we are not waiting for an essential hearing of this case in 2019.<sup>4</sup>

Another big problem is the cases of microfinance institutions and banks. This is another reason why court is overloaded<sup>5</sup>. Another gap is the regulation of Tax Code of Georgia – for debts that have not payed company should claim in a court in order to avoid taxation.<sup>6</sup>

The management system of the court also needs improving. Justice is a service offered by government, like healthcare, education etc. We all are paying taxes and fees for this service. Thus, as any other service, it should be managed properly. Nowadays, our courts are closed and not available for ordinary people. First of all, we should identify what are the main problems of the court management. Then, of course, it needs improving. For example, call center is also overloaded and is not answering to our calls. In case of an answer, the operator is unable give full information and is addressing the author of the call to the assistant of the judge. Mainly the assistant is not answering calls and receiving information about concrete cases often is impossible. In my practice last month, I was unable to receive information from court because of the vacations of the assistant and the judge.<sup>7</sup>

One more problem is qualification of judges. This year we all were watching the process of electing supreme court judges. In some cases we all were disappointed for the answers of judges on a very simple question. For us it should be a sing that Georgian legal education needs fundamental changes, because we think that improving system of justice should start with reforming legal education. Justice system should cooperate with Georgian universities. Nowadays most universities have special memorandums with courts but these memorandums are just formality. It is necessary to build internship program at the court for law students. The program should be oriented on giving practical skills and more attention should be payed to student's interests. Nowadays Internship in court is just formality and students are not involved in real litigations. Moreover, it is not necessary to hire a large number

4 Case N330210018002773513.

5 Nanuashvili N. 2010 traffic jam of Georgian justice, Forbes Georgia p. 1.

6 Tax code of Georgia, [www.matsne.gov.ge](http://www.matsne.gov.ge)

7 Case N330210018202783613.

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of students for internship, more important is the quality of the process and results.

To sum up, in order to reform justice system in Georgia, the following steps should be taken:

1. Building up special instruments that will prevent delaying process of litigation. For example, in case of delays judges should make a special report to the Council of Justice
2. More attention should be paid to arbitration and other alternative instruments for solving cases
3. Whole new forces should be addressed for cleaning up courts from the cases that are delayed, otherwise, any reform will be ineffective
4. The regulation of the Tax Code (mentioned on 2nd p. of this article) must be changed
5. Law programs should include more legal courses on legal theory and practical skills
6. Court system should be managed by professional managers, also it is important to make a full assessment of main problems in the court management
7. Court fee on specific business cases should be increased
8. Internship process needs to be reformed. New internship program should be built for law students. The program should be based on the following principles:
  - defining specific aims of internship at court
  - defining terms
  - defining outcomes
  - making special instruments for checking hot internship works
  - internship should be considered as a professional experience.

## NOTES:

1. Khubua G., 2017. Law Theory, Meridiani, Tbilisi, p.130-132. (In Georgian)
2. GYLA, 2010, Justice in Georgia, Tbilisi p.5-10. (In Georgian)
3. GYLA, 2010, Justice in Georgia, Tbilisi p.5-10 (In Georgian)
4. Case N330210018002773513. (In Georgian)
5. Nanuashvili N. 2010 traffic jam of Georgian justice, Forbes Georgia p.1. (In Georgian)
6. Tax code of Georgia [www.matsne.gov.ge](http://www.matsne.gov.ge) (In Georgian)
7. Case N330210018202783613. (In Georgian)

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4. Tax code of Georgia, [www.matsne.gov.ge](http://www.matsne.gov.ge) (In Georgian)