

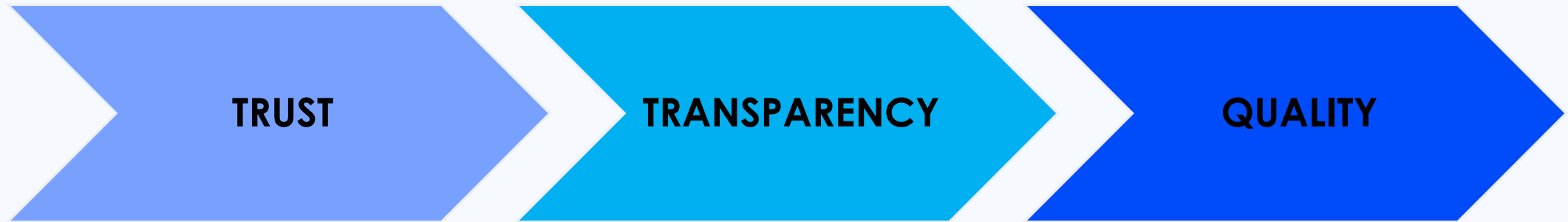


REFORM FOR HUMAN-ORIENTED JUSTICE

Action Plan for More Trusted, Transparent and Quality
Justice System

Proposed by the Georgian Bar Association

ROADMAP





Considering existing institutional framework of Georgian judicial system, the best possible way for increasing society's trust towards judiciary is to democratize judicial proceedings by:

- 1) Strengthening the **jury trial** system;
- 2) Introducing the system of **lay judges** in commercial disputes;
- 3) Promoting **ADR** mechanisms (Arbitration & Commercial Mediation).



To increase transparency of the Judiciary, it is important to make the process of judicial governance, appointments, promotions and disciplinary proceedings more inclusive by:

- 1) Ensuring representation of relevant independent public institutions to the **High Council of Justice**;
- 2) Ensuring representation of the Bar to the Independent Board of the **High School of Justice**;
- 3) Formalizing the **role of the Georgian Bar Association** in the selection/assessment process of judicial candidates.

To increase the quality of justice, it is essential to foster the development of uniform court practices, to ensure quality legal services and to enhance professional competence of judges, lawyers and prosecutors by:



- 1) Further developing and strengthening the Justice Coordination Council (**Bench-Bar**);
- 2) Ensuring the equality under the law by providing quality legal services in all **court instances**;
- 3) Establishing the **Pro-Bono Centre** within the Bar;
- 3) Introducing the system of **narrow specializations** for legal practitioners;
- 4) Setting-up a **synchronized CLE system** for judges, lawyers and prosecutors.
- 5) Promoting **e-Justice** system.

TRUST - JURY TRIAL SYSTEM

- (a) Thorough assessment of a complete **process of jury selection** should be conducted and identified gaps must be timely addressed;
- (b) **Capacity of structural units** of the Judiciary in charge of administering jury trials should be significantly improved;
- (c) Complex **promotion campaign** should be designed and delivered to change society's perception about jury trial and to make the duty of serving as juror the part of civic responsibility;
- (d) **Jury trial related skills** and capacities of judges, defense lawyers, prosecutors should be enhanced via intensive trainings and study-programs;
- (e) **Jurisdiction of jury trial** should be extended to cover all violent crimes at first and on a step by step basis the other felonies as well, in order to give the defendant an effective opportunity to choose trial by jury, including in high-profile and politically sensitive cases;
- (f) In-depth feasibility study should be conducted regarding the introduction of **Grand Jury mechanism** to avoid the perception and/or possibility of controversial and ungrounded charges for certain crimes and criminal proceedings.



TRUST - SYSTEM OF LAY JUDGES IN COMMERCIAL DISPUTES

- (a) Thorough study of relevant European experience of **commercial chambers consisting of professional and lay judges** from business community (for instance – Germany, Austria, Finland) should be conducted and concept paper/action plan should be developed for integrating the model in Georgian court system;
- (b) **Fair and transparent criteria** should be developed for selection of a professional judge based on his/her knowledge in peculiarities of business and economic relations as well as for nomination and selection of reputable business representatives/lay judges with involvement of industrial chamber and business associations;
- (c) Specialized commercial chambers with composition of 1 professional and 2 lay judges should be established within the common courts system via legislative **amendments to the Law on Common Courts and other relevant acts**;
- (d) **Capacity development activities** should be conducted for newly established commercial chambers.



TRUST - PROMOTION OF ADR MECHANISMS

- (a) **Commercial mediation stage** before the first hearing on merits for the disputes under the jurisdiction of specialized commercial chambers should be introduced and promoted;
- (b) **Inter-professional platform** composed of business representatives, attorneys, judges, arbitrator, mediators, notaries, bailiffs, and other stakeholders should be initiated for addressing the challenges concerning ADR practices;
- (c) **ADR communication strategies** should be implemented which will not only be focused on awareness raising but rather will motivate individuals, companies and legal professionals to apply the ADR mechanisms and to enhance the settlement culture.



TRANSPARENCY - HIGH COUNCIL OF JUSTICE REPRESENTATION

- (a) Relevant legislative amendments should be introduced, including in Article - 47.5 of the Law on Common Courts, that will ensure that five members of the HCOJ elected by the Parliament **include the representatives** of the Bar and other independent institutions who will be elected from the list of nominees presented by the said institutions.
- (b) Relevant **internal mechanisms** should be set-up within these independent institutions to ensure objective and transparent selection of best-qualified nominees.



TRANSPARENCY - HIGH SCHOOL OF JUSTICE REPRESENTATION

- (a) Amendment should be made to Article - 66³.4 of the Law of Georgia on Common Courts according to which the High Council of Justice will ensure the **representation of the Bar Association at the Independent Board of the High School of Justice**, from the nominees presented by the Bar;
- (b) Relevant **internal mechanisms** should be set-up within the Bar to ensure objective and transparent selection of best-qualified nominees



TRANSPARENCY - ROLE OF BAR IN JUDICIAL APPOINTMENTS

In order to introduce more transparency in judicial appointments, the role of the Bar in this process should be increased and formalized by:

- ❑ Setting-up a special **evaluation commission within the Bar** composed of prominent and reputable lawyers, academics, civil society representatives as well as other representatives of the legal profession with judicial and prosecutorial background;
- ❑ Development and integration of **special evaluation methodology and criteria** against which judicial candidates will be evaluated by the Bar Commission in order to ensure objective assessment of each candidate in the scale of – “Highly Qualified”, “Qualified” and “Less Qualified”;
- ❑ **Formalized communication mechanism** should be established between the Bar and HCOJ to guarantee that Bar evaluations are properly considered.



QUALITY - STRENGTHENING BENCH-BAR MECHANISM

For ensuring more uniform court practice, more predictable and people-centered justice as well as minimize the risks of bias and corruption within the judiciary, the culture of dialogue and cooperation among key justice stakeholders should be streamlined by:

- ❑ **Further promotion** of the work of the Justice Coordination Council (Bench-Bar);
- ❑ Introducing Bench-Bar mechanism on regional (local) levels by setting-up and **supporting local bench-bar initiatives**;
- ❑ Actively use bench-bar mechanism to promote **common** legal ethics and courtroom demeanor standards.



QUALITY - COURT REPRESENTATION

- (a) Legislative amendments should be introduced that, with consideration of adversarial proceedings, will ensure quality legal services **in all court instances** in order to guarantee the due process and avoid legal errors;
- (b) To enhance access to justice and equality under the law, Bar should set-up a **Pro-Bono Centre** which, based on a referral mechanism, will provide legal services delivered by highly qualified Bar members for the cases outside of the mandate of Legal Aid Service and legal service provider NGOs. This will ensure that indigent and/or vulnerable individuals are not denied the quality justice.



QUALITY - SYSTEM OF NARROW SPECIALIZATION FOR LEGAL PRACTITIONERS

- (a) Special study should be conducted to **identify those areas of law** in which narrow specialization of legal practitioners are advisable;
- (b) Based on the mentioned study, a **system of narrow specialization** should be established and actively promoted among legal practitioners;
- (c) The **special certified modules** and courses should be developed and delivered for lawyers;
- (d) The **registry of narrow specializations** of lawyers should be set-up and publicly available;
- (e) Appointments and promotions of judges should **strictly be based on their relevant specializations** from judicial examination and judicial career.



QUALITY - SYNCHRONIZED CLE SYSTEM

In order to change the current situation of the lack of cooperation and coordination among key justice stakeholders concerning the issues of professional development, a special **permanent working group** should be established composed of representatives of the training centers of Judiciary, Prosecutor's Office and Bar in order to:

- ❑ Regularly define common training needs of judges, lawyers, and prosecutors;
- ❑ Coordinate development of relevant training modules;
- ❑ Periodically monitor progress and shortcomings in CLE process.



QUALITY – PROMOTION OF E-JUSTICE SYSTEM

In order to reduce delays in court proceedings, the special and sophisticated **e-Justice platform** should be developed which, on the one hand, will streamline communication with courts, exchange of documents and online court hearings and, on the other hand, will ensure due process and quality administration of justice.



SUMMARY OF ACTIONS

1. Thorough assessment of jury selection process;
2. Capacity building of structural units in charge of administrating jury trials;
3. Design and implementation of jury trial promotion strategy;
4. Capacity building of judges, lawyers and prosecutors in jury trial skills;
5. Extension of crimes covered by the jury trial;
6. Feasibility study on introduction of Grand Jury mechanism;
7. Study and discussion of European experiences on lay judges in commercial disputes followed by relevant legislative changes, development of selection criteria/procedures and capacity building of new commercial chambers;
8. Introduction and promotion of commercial mediation stage for certain cases;
9. Establishment of inter-professional platform on ADR development;
10. ADR promotion strategy design and delivery;
11. Legislative changes ensuring Bar's and other independent institutions' representation at the HCOJ and Bar's representation at the High School of Justice along with development of internal selection mechanisms;
12. Setting up and development of judicial candidates evaluation commission within the Bar along with establishment of formalized communication mechanism with the HCOJ;
13. Further strengthening and extending bench-bar mechanism on regional and local levels;
14. Legislative changes ensuring quality legal services in all court instances;
15. Setting-up Pro-bono Centre at the Bar;
16. Determine areas of law for narrow specialization, provide relevant courses and create relevant public registry;
17. Setting up a permanent coordination Working Group of training institutions of judiciary, prosecutor's office and Bar.
18. Creation of e-Justice platform.

GEORGIAN BAR ASSOCIATION



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