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*Working Session 4: Rule of Law*

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*Georgian NGO 'Article 42 of the Constitution'*

An independent and free judiciary is a vital pre-condition for the development of democracy in the country. Georgia has made legislative reforms and changes and took significant steps towards establishing judicial independence in the country. However, many critics argue that the Georgian judiciary has not achieved judicial independence and more work needs to be done in this field.

The constitution and law of Georgia provide the special legal norms for an independent judiciary. However, according to the various reports about the judiciary of Georgia problems continued within the judicial system includes court independence, quality of investigations, parity of the sides, and substantiation of court decisions at various stages of consideration.

Many NGOs argue that judicial authorities continued to act in favour of the ruling party, in some cases even without an actual directive to do so, particularly if there was a perceived government interest in the case. Despite the reforms within the justice sector undertaken by the Government of Georgia, the public remains sceptical of their efficacy, and are highly dubious that such reforms will result in an independent judiciary.

In 2010 Tbilisi City Court litigated 26, 172 criminal cases (22% more than in the previous year) and only 3 of them were the verdicts of not guilty, which amounts to 0.1 percent for the reporting year. The number of verdicts of not guilty has impact of increased numbers of prisoners in Georgia, which is very progressively developing in recent years. In addition, judicial practice in criminal proceedings shows that plea bargain agreement has almost completely taken the whole criminal justice system over.

Statistics show that recent years the numbers of cases lodged before the European Court of Human Rights have increased. The violations of fundamental human rights guaranteed by the European Convention on Human Rights are various, but it should be mentioned that on almost every cases there is possible violation of Article 6 of the European Convention on Human Rights.

I would like to express concerns of Human Rights House Tbilisi about the independent and free judiciary in Georgia. We hope that Georgian government will implement all the necessary activities for the establishment independent and impartial judiciary in Georgia.

Concerned about mentioned situation in Georgia, we ask upon the OSCE to monitor:

- The right to fair trial guaranteed by the international conventions and constitution of Georgia is ensured and respected by the government.