APRIL 19 AGREEMENT

Another Untapped Opportunity for Justice Reform

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April 19 Agreement -

Another untapped opportunity for justice reform

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Introduction

In 2021, Georgia faced an ongoing political crisis, which neither the March 8 agreement of the previous year[1] nor the parliamentary elections were able to defuse. Against the background of extreme polarization, in order to stabilize the political situation and to shift the conflicts to a formal-political framework, the April 19 agreement (hereinafter referred to as the Agreement) between the parties was an important determinant.[2] This document had the potential to turn into an important instrument for the integration of the current processes into a constructive one, as it allowed the parties to reconcile their common interests and identify specific issues or reforms that could have eased the political crisis.

Unfortunately, the Georgian political spectrum was able to honor the agreement for only 3 months, and on July 28, 2021, the chairman of the Georgian Dream informed the public about the termination of the agreement.[3]

The objective of the present document is not to assess how constructive and reasoned the ruling political party's decision to annul the agreement was. The document also does not appraise the current challenges with regard to all the issues covered by the April 19 agreement. Rather, its objective is to evaluate the implementation of the provisions of the agreement that relate to the rule of law and judicial reform.

The April 19 agreement addressed a number of broad issues related to the justice reform and, as a whole, presented the prospect of a substantive rectification of the judiciary.[4] It should also be noted that in the context of justice system, the central point was also reforming the prosecutor's office and strengthening the agency's political neutrality. The presented document will assess these issues - in particular, what reforms and legislative changes were envisaged in the agreement on justice system and what steps have been taken to implement them.

1. Judicial reform

In order to increase the independence, accountability, and quality of the judiciary, reforms are needed in a number of areas. At the same time, as of the spring of 2021, two important proceedings were taking place in the court system, and if implemented properly, a significant basis/precondition could have been created for revitalizing the system:

- As of April 2021, there was a competition for 11 vacancies in the Supreme Court to fill/renew the composition of judges. Consequently, with the addition of 11 qualified and conscientious

[1] Statement by the facilitators on the political dialogue in Georgia (March 8), available at :https://bit.ly/3dcRk5g.
[2] The way forward for Georgia, the full text of the agreement available at: https://bit.ly/3COYAA7.
[3] The ruling political team explained the annulment of the agreement by the fact that a majority of the opposition MPs refused to sign the document. See Georgian Dream Announces April 19 Agreement Annulled, July 28, 2021, available at: https://bit.ly/3AOO3mg.
[4] The Way forward for Georgia, paragraph 3. Rule of Law /Judicial Reform, p. 5-6, the full text of the agreement available at: https://bit.ly/3COYAA7.

candidates to the Supreme Court, there was still hope for a substantial improvement in the performance of the Supreme Court;

- For this period there was an ordinary possibility of renewing the composition of the High Council of Justice (hereinafter - the Council). In particular, during the spring-summer period of 2021, the term of office of 4 judge- and 5 non-judge members of the Council was expiring. Accordingly, if the Conference of Judges (hereinafter referred to as the Conference) elected 4 judges on the basis of transparent competition and meritocratic principles, and the parliament, in turn, appointed 5 non-judge members on the basis of broad public and political consensus, the 9-member gentrification of the 15-member composition of the Council would substantially increase the trust and legitimacy of the entity.

Unfortunately, instead of taking advantage of these opportunities and reforming the judiciary systematically, in both directions (both in terms of staffing the Supreme Court and appointing Council members), predating trends continued when decisions on system governance and staffing were made in line with narrow corporate and partisan interests. This is well illustrated by the events of the past 7 months:[5]

- In May 2021, at an extraordinary session of the Conference of Judges, 4 judge members of the Council were elected through completely obfuscated procedures;
- Parliament unjustifiably postponed the appointment of 5 non-judge members of the Council and to this day the Council operates with ten members (in the absence of 1/3 of the members) and continues to make important decisions;
- In July 2021, the Supreme Court was staffed with 6 new judges in such a way that the interviews of Candidates at the Council left the impression of selectivity and unequal treatment, and the final decision of the Parliament was not based on political consensus;
- In October 2021, for reasons still unknown, the mandate of two female judge members of the Council was terminated on the basis of a personal statement, and new members were elected by the Conference in a hasty and non-competitive manner on the second day of the self-government elections;
- On December 1, 2021, Parliament appointed four more Supreme Court judges for life in the absence of widespread public involvement and political consensus.

1.1. In-depth reform of the Council, evaluation of the effectiveness of the legislative changes, and continuation of judicial reform through an inclusive process

The main requirement of the agreement regarding the judiciary was the in-depth reform of the Council and the assessment of the effectiveness of the third and fourth waves of legislative changes related to the judiciary. The main aim of the reform was to increase the principles of transparency, good faith, and accountability in the work of the Council, especially in making important decisions such as the appointment, evaluation, promotion, transfer, and liability of judges. By logically interpreting the

[5] The events mentioned in the document are assessed as of December 1, 2021.

provisions of the agreement, in the view of CSOs, through the use of political party collaborative formats, the assessment of the effectiveness of past legislative changes should have been the first step in both the Council reform process and the regulatory and structural improvement of other issues discussed below.[6]

Parliament has not taken effective steps in this direction. Moreover, despite calls from the civil society[7] and international partners,[8] the XXIX Extraordinary Conference of Judges on May 26 appointed new judges to 4 vacant positions, without fundamental reform and a change in the rule of staffing the Council. It is disconcerting that the elections were held in a completely non-competitive environment and the vast majority of judges, without any questions or concerns, supported the four nominated candidates without knowing anything about their visions and plans. It is clear that the strategy of the ruling political power to completely ignore these processes and shift the burden of responsibility entirely to the judiciary was an attempt to evade accountability.[9] Conducting an extraordinary conference and electing judges to the Council through a flawed procedure was in direct misalignment with the spirit of the agreement.

After that, the only way to reshuffle the Council was to select the remaining 5 non-judge members by broad political consensus. The appointment of impartial, conscientious, and competent candidates in light of high public confidence in them and a broad consensus among political parties would significantly change the balance of power in the Council, create a new convergence of gravity with 5 independent members, and leave the influential group in the judiciary with only a shaky advantage. However, in the summer of 2021, the ruling political team, without any justification or explanation, refused to consider the issue of selecting council members by Parliament.[10] As a result, the 10-member council still makes important decisions (eg, nominating candidates for parliament to be elected Supreme Court judges - see below) and excludes the external public involvement in its activities.

It was clear from the outset that the reluctance to initiate the selection of non-judge members of the council was due to the fact that without consensus with the opposition, the ruling party did not have a sufficient number of votes to select the preferred candidates.[11] However, instead of at least starting this process in the legislature and for the parliamentary majority to try to reach a consensus on independent candidates with the opposition parties, the ruling political team simply removed the issue from the agenda. Such inaction by Parliament allows an influential group in the judiciary to further strengthen its power, contrary to existing constitutional logic.

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[6] Coalition Calls on Parliament to Work on Justice Reform, 18 May 2021, Available at: https://bit.ly/3nEAgKe.

[7] Signatory Organizations Call for the Suspension of Election of Judge Members of the High Council of Justice, 20 May 2021, available at: https://bit.ly/3xuf0M8.

[8] Diplomats remind Georgian Dream of responsibilities and call for suspension of appointment of judges, May 22, 2021, available at: http://go.on.ge/294t.

[9] Government inaction is the demonstration of a support for the clan, 28 May 2021, available at:https://bit.ly/3f4ylLA.

[10] Coalition for an Independent and Transparent Judiciary Responds to Scheduling of a Conference of Judges, 29 October 2021, available at: https://bit.ly/3rcGioR.

[11] The appointment of non-judge members to the Council requires the support of at least three-fifths of the total membership of the Parliament (90 votes), Constitution of Georgia, Article 64, Paragraph 2. Currently, the Georgian Dream has 83 votes, see Anri Okhanashvili's latest statement on this issue: https://bit.ly/3p3Xx9i.

It is noteworthy that on October 31, 2021, the second day of the local elections, when the public and media attention was focused on election issues, a conference of judges was held. Two new judge members of the council were elected at the conference so that it was not known in advance to the public which judge members of the council had their term of office terminated and on what grounds. The conference was held in a non-transparent and non-competitive environment, and the arguments for its decisions are still unknown to the public. Naturally, holding the conference in this form and such a context has earned critical acclaim from local [12] and international actors.[13] Given that the composition of the Council and the procedure for selecting members need to be reconsidered, and there are also 5 vacancies for non-judge members, the influential group in the judiciary having guaranteed votes is of particular importance.

As a result of all of the above, a chance for fair and inclusive selection of council members and a substantial reshuffling of the council remained a missed opportunity, with the prospect of fundamental justice reform and gaining high public confidence and legitimacy in the institution coming under a serious threat.

1.2. Improving the rules and process for the appointment of judges

As a result of the waves of reform implemented in recent years, a number of changes have been made in the legislation regulating the selection and appointment of judges.[14] Nevertheless, the current legislation and institutional order still do not ensure the entry of decent, principled and qualified staff into the judiciary.[15] Therefore, the agreement once again stressed the need to improve the rules and process of appointment of judges.

The agreement on the appointment of judges to the courts of the first instance and appellate courts provided for an increase in transparency and merit-based selection, including the need to publish written justifications on selections based on the criteria of good faith and competence.[16] However, neither a vision of reform has been formulated in this regard, nor any legislative change has been initiated in the Parliament. Consequently, the issue of reforming the process of appointing judges in the first instance and appellate courts is not yet on the political agenda. It is also problematic that non-judge members of the Council have no real influence on the decision-making process (see in detail below).

As for the selection and appointment of judges to the Supreme Court, the agreement provided in this regard to refrain from the selection of judges before the initiation of a draft law prepared in accordance with the Venice Commission conclusion of June 24, 2019, and the approval of new regulations. The

[12] The Coalition for an Independent and Transparent Judiciary responds to the appointment of a conference of judges, available electronically: https://bit.ly/3kgEpDB.

[13] See statement by the US Embassy on the Conference of Judges, available online:https://bit.ly/3EOPy6s; Statement by the EU Ambassador to Georgia, Carl Hartzel, on the Conference of Judges, available online:https://bit.ly/3k9FDAa.

[14] Sopho Verdzeuli, Reform of the Justice System in Georgia (2013-2021), Georgian Young Lawyers Association, 2021, p. 32, Available at: https://bit.ly/2UwHEwO.

[15] ibid, p. 45.

[16] The way forward for Georgia, paragraph 3. Rule of Law / Judicial Reform, p. 5, the full text of the agreement available at: https://bit.ly/3COYAA7.

new order should have guaranteed a step-by-step approach to appointments, the possibility of open voting in the Council, and substantiation of Council submissions.

The ruling team initiated a draft law regulating the selection and appointment of judges in the Supreme Court before the mediation process was completed, and Parliament passed it in an expedited manner.[17] Despite attempts by the ruling team to argue the opposite,[18] these changes could not be considered a fulfillment of the agreement due to the fact that at that time the main opposition forces were still in a boycott regime and did not participate in the discussion of the draft law. At the same time, in terms of content, the changes were assessed by the civil sector as another imitation of the implementation of judicial reform.[19] It is also important that the bill did not pass the legal examination of the Venice Commission before its approval.

On April 8, the Speaker of Parliament forwarded to the Venice Commission a bill already adopted by that time, for immediate evaluation on the grounds that it was important to bring the legal framework in line with international standards before filling vacancies in the Supreme Court.[20] According to a report by the Venice Commission published on 28 April, these amendments took into account some of the old recommendations, which were assessed positively. However, given the need for reform and to ensure equality of candidates, the Venice Commission proposed to the Georgian authorities to re-announce the competition for judges.[21]

Bypassing the agreement and the recommendations of the Venice Commission, the Council and the parliamentary majority did nothing to re-announce vacancies, the process, which began in the autumn of 2020,[22] was extended and new candidates were only allowed to apply within the curtailed time.[23]

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[17] Organic Law of Georgia "On Change to the Organic Law of Georgia on Common Courts", 447-IV MS-X MP, 01/04/2021, Information on the process of initiating and adopting this draft law in the Parliament available at: https://bit.ly/3lhZTjN.

[18] Statement by Irakli Kobakhidze, Chairman of the Georgian Dream, available at: https://bit.ly/3HVLhk1.

[19] Coalition Responds to Announced Changes in Supreme Court Staffing Rule, March 29, 2021, available at: https://bit.ly/3nEOBb3; See also the appeal of the Independent Lawyers Group, Rights Georgia and the Social Justice Center to the Venice Commission of the Council of Europe, 14 April 2021, available at: https://bit.ly/3oUeza1.

[20] European Commission for Democracy Through Law (VENICE COMMISSION), Urgent Opinion on the Amendments to the Organic Law on Common Courts of Georgia, Opinion No. 1039/2021 CDL-PI(2021)007, Strasbourg, 28 April 2021, paras 1-2, 8, available at: https://bit.ly/3yUbTgx.

[21] European Commission for Democracy Through Law (VENICE COMMISSION), Urgent Opinion on the Amendments to the Organic Law on Common Courts of Georgia, Opinion No. 1039/2021 CDL-PI(2021)007, Strasbourg, 28 April 2021, available at: https://bit.ly/3yUbTgx.

[22] Decree N1/134 of October 7, 2020 of the High Council of Justice of Georgia: "On Commencement of the Procedure for Selection of Candidates to be Submitted to the Parliament of Georgia for Election of the Judge of the Supreme Court of Georgia", 9 vacancies initially, after the initial appointments by the Parliament (on July 12, 2021, three vacancies remained. available at: http://hcoj.gov.ge/files/pdf%20gadacyvetilebebi/2020/134.pdf; (2) Decree N1/138 of November 2, 2020, 1 vacancy, available at: http://hcoj.gov.ge/Uploads/2021/2/138.pdf; (3) Decree N1/207 of November 20, 2020, 1 vacancy, available at: http://hcoj.gov.ge/Uploads/2021/2/207-2020.pdf.

[23] The possibility of submitting additional applications was provided by Article 2 of the Law adopted by the Parliament on April 1, 2021 (Document Number 447-IV MS-X MP). About 5 months after the start of the competitions, in accordance with this provision, individuals were given the opportunity to submit additional applications from 6 April to 12 April 2021. In the total of two competitions, only 3 candidates submitted additional applications, which, according to the Public Defender, underscores the ineffectiveness and shortcomings of this mechanism. See The Public Defender calls on the Parliament of Georgia to suspend the process of electing judges of the Supreme Court, 25 November 2021, available at: https://bit.ly/3lcz9B6.

It is particularly noteworthy that the selection process for Supreme Court judges in these competitions took place amid fundamental criticism of the current composition of the Council and distrust of the judiciary. As in previous years, the evaluations of the Council members demonstrated inconsistency, unequal attitude towards the candidates and perfunctory attitude.[24] Serious shortcomings regarding the fairness of the process and equality between candidates are described in detail in the OSCE / ODIHR report.[25]

As for the stage of consideration in the legislature, on June 17, 2021, the Council nominated 9 candidates for the position of Judge of the Supreme Court to the Parliament of Georgia,[26] 6 of which were appointed by the Parliament on July 12, 2021, on a position of a judge of the Supreme Court for life.[27] It is important that this decision was not based on a broad political consensus. Consequently, the standards set for making such decisions on the basis of the agreement were unequivocally violated. In the light of shortcomings in the ongoing process of selecting Supreme Court judges in Parliament, the OSCE / ODIHR report's main recommendation is to immediately suspend the selection process of candidates for the remaining Supreme Court positions until fundamental judicial reform is carried out.[28]

Despite all the above, the Parliament held interviews with 4 other candidates for the Supreme Court on November 25-26, 2021. Unlike the hearings held in late 2019, like most NGOs, the Public Defender refused to participate in the selection of candidates for the Supreme Court in Parliament on the grounds that resuming the competition violated the spirit of the agreement.[29]

In November 2021, the EU Delegation in Georgia refused to observe the parliamentary hearing of candidates for the Supreme Court. According to the EU Ambassador, this process did not comply with the April 19 agreement and the conditions set for receiving EU financial assistance.[30] With regard to this process, the US Embassy also reiterated its concern and stressed that the Council's incomplete composition nominated candidates for the Supreme Court without the participation of 5 non-judge members.[31] Despite criticism from international partners, civil society and the parliamentary minority, at a plenary session on 1 December 2021, the Parliament appointed four new judges to the Supreme Court for life.[32]

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[24] The selection of candidates for judges of the Supreme Court is arbitrary and unfair, June 24, 2021, available at: https://bit.ly/30Qc93u.

[25] Third Report on the Nomination and Appointment of Judges of the Supreme Court of Georgia, December 2020 - June 2021, OSCE / ODIHR Report available at: https://bit.ly/3ddfM6Q.

[26] Candidates nominated for Parliament, 17 June 2021, available at: https://bit.ly/35TqDzf.

[27] Parliament Supports 6 Candidates for Judiciary of the Supreme Court of Georgia, Plenary Sessions, July 12, 2021, available at: https://bit.ly/30Swzcw.

[28] The fourth report on the nomination and appointment of judges to the Supreme Court of Georgia, August 2021, OSCE / ODIHR Report, available at: https://bit.ly/3lvpgii.

[29] The Public Defender will not take part in the hearing of the candidates for the Supreme Court in the Parliament, June 30, 2021, available at: https://bit.ly/3mvWo9j. See also The Public Defender calls on the Parliament of Georgia to suspend the process of electing judges of the Supreme Court, 25 November 2021, available at: https://bit.ly/3lcz9B6.

[30] Carl Hartzel - We were invited to Parliament to observe the process of hearing the candidates for the Supreme Court judges, which we refused, 25 November 2021, available at: https://bit.ly/3xBznXB.

[31] Statement by the US Embassy on the Appointment of Supreme Court Judges, November 26, 2021, available at: https://bit.ly/3D5XhvG.

[32] Parliament elects four judges of the Supreme Court, 01 December 2021, available at: https://bit.ly/3lsQkyK.

Consequently, 10 judges have already been appointed to the 11 vacant positions available at the time of signing the agreement, in light of flawed legislative regulation and in the absence of broad political consensus, while the selection and appointment on the remaining 1 vacancy continues.[33]

In summary, the rules governing the selection and appointment of judges do not provide for the actual involvement of non-judge members in the courts of first and second instance and the decision-making process of the appointment of Supreme Court judges. According to the current regulations, only the Council participates in the appointment of judges of the courts of first and second instance and it decides with 2/3 of the full membership. The judges of the Supreme Court are elected through a two-tier system, where the council evaluates the candidates according to the criteria and then, based on the support of 2/3 of the members, nominates the candidates to the parliament, and the parliament makes the final decision by a simple majority. It is true that in order to get 2/3 of the support in the council, the support of at least one non-judge member is required, but the given legislative regulation does not exclude the arbitrariness of the appointing body, which is confirmed by the above examples. The current model does not seek consensus-based solutions and instead allows the incumbent majority (in one case - members of the Council - and in the other - the parliamentary majority) to make decisions based on narrow corporate / party interests.[34]

In order to overcome these challenges, it is necessary for the Council to decide on important staffing issues by a double 2/3 majority. In particular, according to this principle, there must be the consent of 2/3 of the judge-members and 2/3 of the non-judge members to decide a particular issue. The logic of consensus should be strengthened at the stage of appointment of Supreme Court judges by the Parliament as well, and the principle of bilateral appointment should be introduced, which excludes the appointment of the Supreme Court judges without the consent of the opposition.[35]

1.3. Rules for publishing court decisions

Under the agreement, parliament was to adopt legislative changes to ensure access to court decisions. It should be noted that the Constitutional Court considered this issue in June 2019 and ruled that judicial acts belong to a field of high public interest and their access should be ensured. To this end, a draft law was registered in Parliament on July 1, 2021,[36] although it does not fully meet the standards set by the Constitutional Court. In addition, the draft law creates significant administrative barriers to obtaining court decisions in the form of public information. Adoption of the draft law in its current form does not ensure the achievement of the legitimate goals for the protection of which the Constitutional Court has abolished the norms focused on the protection of fully personal data.[37]

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[33] For example, see interview with Tamar Alania, candidate for Judge of the Supreme Court, 16.11.2021, available at: https://bit.ly/3dbCP1X.

[34] Sopho Verdzeuli, Justice System Reform in Georgia (2013-2021), Georgian Young Lawyers Association, 2021, p. 41-45, available at: https://bit.ly/2UwHEwO.

[35] Coalition for an Independent and Transparent Judiciary, New Judicial Reform Perspective, 21 June 2021, available at: https://bit.ly/3iGZwy7.

[36] It should be noted that the execution of the decision was to be carried out by the legislature by May 1, 2020.

[37] The Coalition Calls on the Parliament to Properly and Timely Execute the Decision of the Constitutional Court, 22 November 2021, available at: https://bit.ly/2ZtjlSW.

Moreover, there is an opinion that the adoption of the draft law, without any changes, poses a real threat related to access to court acts, as well as violations of the right to protection of personal data and the overburdening of the judicial branch.[38]

2. Prosecution reform

The April 19 agreement, in the context of the justice system, also focused on the prosecution and the institutional changes to be made to the agency:

- The procedure for appointing the Prosecutor General should be amended per international best practice and the appointment of the Prosecutor General should be ensured through a transparent, impartial process, taking into account the merit-based appointment criteria;
- The next Prosecutor General should be elected by Parliament by a qualified majority of votes, allowing for broad political participation in the process. In addition, legislation should provide for a mechanism to avoid a deadlock.

The Prosecutor General's Office is the most important link in the judiciary. It is the only agency in the country that conducts prosecution. Directly within the agency, the Prosecutor General has virtually unlimited powers and can influence both the strategic management issues of the agency in general and that of individual cases. Against this background, it is critically necessary for the Prosecutor General to be appointed in a transparent, fair manner, where the politicization of the issue and the decision-making based on narrow party interests be shall be avoided. The current rule of selection of the Prosecutor General, according to which the Parliament makes the final decision by a simple majority of votes, has long been the subject of criticism for not insuring the above risks. In particular, it renders meaningless political dialogue between the parties and subjects the matter to governmental control. As a result, despite numerous constitutional and legislative changes in recent years, the political independence and accountability of the prosecution system have not yet been adequately ensured.[39]

The agreement provided an opportunity to start discussing the issue and, in the context of a broad political and public dialogue, to work on ideas for the reform of Prosecution aimed at ensuring real independence of the agency and political neutrality. However, the government did not use this opportunity. At the first stage, the Parliament did commence discussions on the amendments to the Constitution to implement the reform of the Prosecutor's Office, however, with the annulment of the April 19 agreement, this issue was also removed from the agenda.[40]

It is true that the issue of prosecutorial reform in the agreement was relatively narrow and did not adequately address other issues important for its depoliticization, however, these changes would be an important step on the path to democratic reform of the agency. Consequently, while the civil society

[38] IDFI Evaluates Amendments to the Organic Law of Georgia on Common Courts, September 16, 2021, available at: https://bit.ly/3p6JyPV.
[39] The Social Justice Center critically assesses the prosecution reform project, 17 August 2021, available: https://bit.ly/3cRLypB.
[40] See: "On Amendments to the Constitutional Law of Georgia" Constitutional Law of Georgia, available at: https://bit.ly/2TI4JfH.

called for real reform of the prosecution system, along with constitutional changes, the removal of issues related to the election of the Prosecutor General from the draft law once again indicates that the ruling party does not want to reduce political control over law enforcement and justice systems.[41] Which, once again, runs counter to the spirit of the April 19 agreement.

Conclusion

In conclusion, it can be argued that with the agreement of April 19, Georgia had a chance to share Western values in the process of democratization of justice systems. The ruling team did not want to reform the judiciary and the prosecution system and removed the issue of creating politically neutral institutions from the political agenda indefinitely. In addition to the "annulment" of the agreement by the governing party, the rhetoric that has been voiced lately concerning both the above agreement and the strategic partners, in general, excludes the approval of the reforms for the spring session of 2022.

The first trend that emerged after the annulment of the agreement was the emphasis by the ruling force on the misalignment of this document to the country's constitutional framework.[42] However, the public has not yet heard in-depth reasoning and justification about all this. It is also important that the opposition forces do not have a unified approach to the reform proposed as a result of the agreement and, consequently, to its political significance.[43] This is confirmed by the fact that a large part of them did not sign the document until the summer of this year, which technically gave the ruling team the grounds to shift responsibility to the opposition. At the same time, it is important to note that although the Georgian government[44] formally refused assistance from the EU,[45] however, given the terms of the judicial reform and the non-compliance with the agreement in general, it was clear that the country would still not be able to receive assistance.[46]

The statements made on behalf of both the parliamentary majority[47] and the judiciary[48] towards international partners are concerning. The pathos of these statements is almost identical and once again indicates the symbiosis between the judiciary and the ruling team.

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[41] A change in the procedure for appointing the Prosecutor General is essential for the agency's independence and neutrality, September 07, 2021, available at: https://bit.ly/310z6Bh.

[42] Georgian Dream Announces April 19 Agreement Annulled, July 28, 2021, available at: https://bit.ly/3AOO3mg.

[43] ibid.

[44] 7 messages from the Prime Minister and anti-Western groups on EU assistance and judicial reform, 9 September 2021, available at: https://bit.ly/3rfiMaU.

[45] Georgia refused EU assistance, which it could not receive in any case, Vano Chkhikvadze, September 1, 2021, available at: https://bit.ly/3cUFRXU.

[46] Refusal of assistance - Refusal of reforms? - Harsh responses from MEPs, 1 September 2021, available at: https://bit.ly/3cWWJNU. See also "Missed Opportunity" or "All Obligations Fulfilled" - What Can a Country Lose ?, July 19, 2021, available at: https://bit.ly/3cSrOlU.

[47] For example, see statement by Irakli Kobakhidze, available at: https://bit.ly/3InMyk2; See also Annulment of the Charles Michel Agreement - "Georgian Dream" was deceived by international partners?, July 16, 2021, Available: https://bit.ly/3FY8MHg; Ruling Party Attacks on Western Partners Take on a Disconcerting Trend, 17 November 2021, available at: https://bit.ly/3xJplDY.

[48] Statement of the Administrative Committee of the Conference of Judges of Georgia, 04 November 2021, available at: https://bit.ly/3H1KoFZ.

The consequences of the non-fulfillment of the agreement and even deeper political polarization are still felt by society. In the current situation, all the issues that create the potential for the rule of law, security of the population, and state development in the country are neglected from the political agenda.

In the light of the non-transparent and unsubstantiated processes encouraged by the legislature and the judiciary, it is vital to reconsider the importance of the justice institutions' independence in addressing issues on the political and social agenda in the country. Unfortunately, the non-fulfillment of the obligations under the agreement is another missed opportunity to establish independent and impartial justice institutions. Furthermore, today, as the political class and influential figures in the judiciary place insufficient emphasis on the interests of justice and public attitudes towards this system, the only hope remains the principled struggle for independence by individual judges.[49]

[49] The fact that the court is not a monolithic unity where individual judges do not have different, critical positions has been made clear by the dissociation of several judges with the content of statement issued on behalf of the court. For more on this see Coalition Responds to the Protest of Several Judges, 10 November 2021, available at: https://bit.ly/314VoSS.