

**European Judges and Public Prosecutors for Democracy and Fundamental Rights – MEDEL – Magistrats européens pour la Démocratie et les Libertés,**  
Gathering in Prague on 16 and 17 June 2006 for the Meeting of their Administrative Council,

Representing within their Administrative Council 15 national associations and about 15.000 judges and public prosecutors,

- Having regard to the fact that the Republic of Georgia is a Member of the Council of Europe and has ratified the European Convention on the Protection of Human Rights,
  - Given that the Republic of Georgia is a Member of the Organisation for Security and Cooperation in Europe (OSCE);
  - With a view to the Republic of Georgia's commitment for defending human rights, for the rule of law and for adopting Europe-wide standardised legal practices;
  - having regard to the principle of the independence of the judiciary stressed in all international legal acts, such as the „Basic Principles on the Independence of the Judiciary“<sup>1</sup>, by the European Charter of the Statute for Judges of July 1998, and the Recommendation of the Committee of Ministers to Member States on Independence, Efficiency and Role of Judges<sup>2</sup>
  - Having regard to the continued support provided to the Republic of Georgia by the European Union, by the Council of Europe, and by the Organisation for Security and Cooperation in Europe (OSCE), for the establishment of the Rule of law and of good governance, for the Reform of the judiciary, and for the professional training of judges in this country;
- A. Whereas the government of Georgia fired a majority of all judges in the country without appeal in order to recruit new judges, close allies to the Government; the Government suggested to most of those put off that they should better retire and accept continued pensions until the end of their term rather than risk disciplinary action under the pretext of an alleged infringement;
- B. Whereas the Government presents the arbitrary dismissal of judges as its fight against corruption in the judiciary, although it is precisely such action that leaves judges in fact scared and obediently complying with the Parliament's, the Government's, and prosecutor's wishes;
- C. Whereas the European Parliament refers to improper influence being brought to bear on judges by officials belonging to the Council of Justice and the

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1 adopted by the 7<sup>th</sup> UN Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985

2 Recommendation No. R (94) 12

Prosecutor General's Office (Written Question E-3299/05 by Mr WIERSMA to the EU Commission)

- D. Whereas an independent judiciary is an indispensable prerequisite for stopping arbitrariness in law implementation and for building up a democratic, peaceful and prosperous society;
- E. Whereas the suspension of four judges of the Supreme Court of Georgia, not for corruption but for their opposition to their dismissal, hints at a proper breach of the Constitution unveiling the failure of the judicial reform in Georgia; in fact their suspension was decided pursuant to a disciplinary procedure on the grounds of an alleged mis-interpretation of a criminal procedure rule ;
1. Stresses that it is important to respect democracy and the rule of law notably in the reform of the judiciary, which would oblige the government to fight against corruption with measures under the rule of law, implying a correct law suite and admissible proofs ;
  2. Insists that justifying disciplinary prosecution with mis-interpretation of a procedural rule infringes against the principle of appropriate action and the independence and impartiality of judges;
  3. Stresses that a possible mis-interpretation of the law by a single judge in a given case could only be appreciated by a legal appeal to a superior court;
  4. Calls upon the EU Council, the EU Commission, the Council of Europe, and the Organisation for Security and Cooperation in Europe (OSCE) to give better and more sustained guidance towards a reform of the judiciary in Georgia that would respect the rule of law, independence of the judiciary, and transparency of procedures relating to the position of judges;
  5. Instructs its President and its Secretary General to forward this resolution to the President of the Council of the European Union, to the High Representative of the European Union, to the EU-Commission, to the President of the European Parliament, to the Secretary General of the Council of Europe, to the President of the Parliamentary Assembly of the the Council of Europe, to the Secretary of the Venice Commission, to the President and the Secretary General of Organisation for Security and Cooperation in Europe (OSCE), to the President of the Parliamentary Assembly of the OSCE, to the Director of the Office for Democratic Institutions and Human Rights (ODIHR), as well as to the President, the relevant authorities, and the President of the Parliament of the Republic of Georgia.