



GYLA Presented Results of Trial Monitoring Project

The Georgian Young Lawyers' Association presented the results of its monitoring of criminal cases in Batumi, Kutaisi and Tbilisi City and Appeals Courts on December 4, 2014. The court monitoring by GYLA is funded by USAID through the Judicial Independence and Legal Empowerment Project (JILEP) implemented by the East-West Management Institute.

GYLA's court monitoring project aims to improve the transparency of criminal proceedings in Georgian courts by monitoring court hearings and publishing monitoring reports. GYLA has prepared six court monitoring reports that covered the combined period of October 2011 to August 2014. During the presentation of its sixth report GYLA presented results of its three-year trial monitoring project, including initial problems, changes in trends and existing challenges. Among the findings of the monitoring project, these should be underlined:

At the very initial stages of monitoring, courts seemed to be favoring the prosecution at pretrial hearings, always granting the prosecution's motions and often ordering unsubstantiated preventive measures. This trend began to change after the elections in 2012, and since that time, courts continued to improve in certain aspects. The percentage of unsubstantiated preventative measures has decreased significantly, especially in terms of imprisonment decisions.

The picture has also changed regarding the types of preventive measures used. Since the elections of 2012, courts stopped simply following the prosecution's recommendation and often started ordering bail even though the prosecution requested imprisonment. Since 2014, there has been a more frequent use of measures other than bail and imprisonment, although those other measures are still

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used in only a small percentage of cases. The percentage of the defendants who were ordered imprisonment as a preventive measure decreased from 42% to 37% compared to the previous period, and the percent who were ordered bail decreased from 55% to 52%. The percentage of the defendants who were ordered an alternative preventive measure or who were left without any preventive measure increased from 3% to 11%.

∇[] motions of the prosecution for preventive measures remain unsubstantiated mostly when it comes to bail, rather than imprisonment. One positive change is that the court now often tries to look into the financial capacity of defendant. Courts also no longer grant the prosecution [] motion for imprisonment automatically. Consequently, its decisions imposing imprisonment are more substantiated.

∇[] the 2012 elections, courts no longer only grant the defense motion on presenting evidence if the prosecution agrees. Since 2013, courts also no longer grant all of the prosecution [] motions on pretrial hearings. From 2013 through August 15, 2014, GYLA observed two cases when the court terminated criminal prosecutions during the pretrial hearing. No such cases were observed before 2013.

∇[] also solved the problem of public attendance at jury selection hearings, which are now accessible for everyone. However, courts still do not publish the schedule of initial appearances before the court in advance.

∇[] to searches and seizures, GYLA continues to question the fulfillment of the obligations of law enforcement authorities and courts to not conduct or approve searches and seizures without prior court authorization where urgent necessity is not properly documented.

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During the initial monitoring periods, when judges were extremely passive and approved every plea agreement without taking interest in the fairness of punishment, starting in the second half of the 2013, judges became more active at plea agreement hearings. Judges became even more active in 2014, and for the first time GYLA found three cases in which judges deemed the punishment in a plea agreement illegal and refused to approve the plea agreement. Also, the percentage of plea agreements that ordered fines has decreased. The average amount of fine also decreased, but during the most recent monitoring period (January-August 2014) it increased again.

GYLA remains hopeful that its past recommendations and future conclusions will be followed by judges in both the courts monitored by GYLA and the regional courts of Georgia where the monitoring is not performed. GYLA believes this will encourage the process of improving criminal justice system in Georgia.