



# **GYLA presented the results of the Main Tendencies and Challenges Outlined Through Four Year Criminal Trial Monitoring**

The aim of the report is to identify practical and legislative flaws, as well as positive trends, as a result of attending criminal court trials and analyzing identified cases. The given four year monitoring report covers issues relating to criminal proceedings from

March 2016 to February 2020 and key trends revealed since the launch of the monitoring to the present day.

The main findings of the report relate to the tendencies revealed on preventive measures, proper judicial control over investigative actions and plea bargaining, gaps in different stages of the process, The report pays special attention to the tendencies on domestic violence, drug crimes and crimes related to social background.

### **The report revealed:**

-In the last two reporting periods, the number of defendants appearing before the first court hearing with the status of the detainee has been significantly rising. In particular, 518 (76%) out of 686 defendants appeared in court as detainees, which is 8 percent higher than in the previous reporting period, and it is 20 percent more if we compare the data to the statistics prepared two years ago;

-The proper judicial control over the lawfulness of arrests is still an issue, which might be due to legislative flaws. In the majority of cases, judges did not examine the lawfulness of detention;

-The monitoring shows that the rate the Prosecutor's Office is requesting detention is increasing. In particular, in the reporting period from March 2017 through February 2018, the rate of motioning for remand defendants in custody was 45%, in subsequent years, it increased by 15 percent, then by 6 percent, finally accounting for 66%;

-The Prosecutor's Office, in the majority of cases, appeals to the court for remand detention whenever a person is charged with domestic violence or domestic crime. During the court monitoring, in the period from February 2017 to February 2018, the Prosecutor's Office requested the imposition of remand detention as a measure of restraint in 79% of cases, in the period of March 2018 - February 2019 - in 90% cases, and in March 2019 - February 2020 - in 87% cases;

-The rare use of alternatives to detention and bail still remains a problem. From 1332 court hearings the court applied personal surety in merely 8 cases, the agreement on not to leave and proper conduct in 28 cases, no restraint measures in 51 cases. In the rest of the cases, the court imposed bail or remand detention as a measure of restraint;

-The last three reports prepared by GYLA have highlighted the growing rate of the unsubstantiated imposition of remand detention. For example, in the reporting period from March 2018 through February 2019, 49 (15%) out of 322 detention were unsubstantiated, while in the reporting period 2019-2020, 69 (21%) remand detention out of 334 were unjustified;

-The formality of reviewing the two-month remand detention prescribed by the law is still a problem. The court rarely replaces the detention with a lenient form of preventive measure even in the cases where the risks identified at the moment of imposing the remand detention as a measure of restraint have been minimized. During the reporting period from March 2018 through February 2019, the court left the custody unchanged in 195 (92%) out of 213 cases, while in the reporting period of the following years, the judges did not replace remand detention in 182 (96%) out of 190 cases at the court hearings reviewing the detention.

-Based on the information obtained from 4 court, the prosecutor's office appealed to the court to review searches/ seizures carried out under urgency in 49,272 cases, while the court rejected only 676 (1%) appeals.

-GYLA studied 194 court rulings issued by the Courts approving the searches and seizures, often tend to be identical in the reasoning part. The majority of the rulings do not indicate the need for urgency and almost nothing is said about the dangers or risks that might have been caused if the operation had been delayed.

-The court approves a plea agreement during a court hearing mostly in a way that the judge does not discuss how lawful and fair the sentence stipulated in the plea agreement motion is. According to the data of the last year, the monitoring shows a slight improvement in this regard. In particular, if in previous years the lawfulness and fairness of the plea agreement was examined in 2-3% of cases, in the reporting period of March 2019 through February 2020, the rate amounted to 9%;

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-The GYLA's court monitoring of the last four years has revealed a growing trend of acquittals. Furthermore, according to the official statistical data provided by the common courts, the rate of acquittals has increased, in particular, in 2016 the number of acquittals was 3%, in 2017 - 4%; in 2018 - 8%; in 2019 - 10%, and in the 6 months of 2020 - in 9% of cases;

-Prolonged criminal court hearings are a significant shortcoming identified by the GYLA's court monitoring. The monitoring has identified a number of cases that have been deliberated for years without a specific legal outcome. There are also cases of violation of the timeframes provided by the legislation, as well as cases when there is no direct violation of the timeframes prescribed by the law, yet the objective observer may develop the impression that the case is reviewed without adhering to reasonable timeframes

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