



GYLA presented the results of the special court monitoring report „The Court During The Pandemic”

The report aimed to identify the challenges and approaches facing the criminal justice system in the context of a pandemic. GYLA have analyzed the legislative regulations in the field of criminal law during this period and 141 criminal sessions were monitored remotely.

The monitoring carried out by GYLA is funded by United States Agency for International Development (USAID) through the project “Promoting Rule of Law in Georgia” (PROLoG), implemented by the East-West Management Institute (EWMI). The project aims at improving the transparency of criminal proceedings and standards of human rights protection in Georgian courts by monitoring court hearings and analyzing factual information collected.

As a result of the report, the following key findings have been identified:

- Within the conditions dictated by the pandemic, the judicial system managed to

switch to remote litigations in a timely manner;

- Initially, from March to May, the publicity and transparency of court sessions were completely restricted, and stakeholders were deprived of the possibility to attend remote court hearings in progress using the technology means;
- One of the major challenges in conducting remote court hearings is technical obstacles, which often result in delayed opening or postponement of court trials;
- The examination of evidence at remote court hearings is problematic as well. There were cases where witnesses questioned during the court hearing were physically present in a police unit. In such cases, witnesses are not protected against the risks of psychological pressure by law enforcement officers who might be trying to ensure that the witnesses provide the court with information that the prosecution craves for;
- During remote court trials, it is literally impossible to examine material evidence. The examination of material evidence means the opening and visual inspection of sealed evidence in front of the parties right in the courtroom so that there is no doubt about a possible replacement of evidence, a substantial alteration in its features or disappearance of significant traces left on the evidence;
- Shortcomings were revealed during several court proceedings that were reviewing video-audio recordings, in particular, the recordings were not perceivable to the parties;
- Defendants who join the court hearings from a penitentiary facility may feel hesitant to boldly and openly speak about any incidents of ill-treatment perpetrated against them, especially in cases where the violence is likely to have been committed by the staff of a penitentiary facility;
- Online litigations may even jeopardize the confidentiality of conversations between the accused and defense lawyers. There were cases when the lawyer's consultation with the accused was audible to third parties during the remote court trial.
- In a remote court hearing, there is a risk that the personal information of the accused and other individuals involved in the case proceeding, as well as any confidential information voiced at closed sessions, might be leaked out and disseminated.

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