Georgian Young Lawyers' Association

TBILISI CITY COURT CRIMINAL CHAMBER MONITORING REPORT

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GYLA thanks Georgian Court System for its cooperation in the process of court monitoring.

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GOAL AND METHODOLOGY

The goal of the Georgian Young Lawyers Association (GYLA)'s court monitoring project is to increase the transparency of Georgia's criminal trial process by observing and reporting upon what actually occurs in Georgia's courtrooms. While the fairness of the Georgian justice process and the independence of Georgia's judiciary have been strongly questioned, particularly as concerns criminal justice, so far no organization has systematically collected and *publically* reported data that could be used either to support or refute the criticism expressed. And while particular cases may be cited as examples of what many believe to be systematic problems with the criminal trial process, the overall state of the process cannot be understood without wider observation, greater fact-gathering and more in-depth analysis.

In order to "measure" the performance of the courts against the requirements of the Georgian Constitution and Georgian procedural law, as well as against internationally accepted standards of professional conduct, GYLA devised a set of checklists. GYLA's observers have used these checklists to monitor how well and how consistently the procedures and guarantees prescribed by the Georgian Constitution and by Georgian law are put into practice by the courts. More specifically, GYLA has used this set of checklists to measure compliance with the following due process and fair trial rights:

- Right to public hearing
- Equality of parties
- Right to an interpreter
- Right to liberty
- Right to a reasoned decision
- Prohibition against ill-treatment

In designing the checklists, GYLA fashioned both close-ended questions that call for simple yes/no answers, as well as open-ended questions which allow monitors to record and explain more of what they observed. This allowed monitors to gather objective, measurable data, and at the same time record meaningful, spontaneous events and testimony. While some of this information may not easily fit into a data table, all of the information appearing in the GYLA report is taken from monitors' direct observations at court.

GYLA's initial monitoring effort was designed to cover only the Tbilisi City Court; however, in the future GYLA plans to expand the program to other selected courts throughout the country. To implement the program, GYLA recruited and trained three monitors who possess a legal education. The monitors went to the courthouse every day and attended court hearings at random, usually two to four hearings per court visit. Given the complexities of the criminal trial process, GYLA's monitors attended individual court hearings and reported on what they observed in those hearings; they did not follow single cases from start to finish. The monitors witnessed the statements and behavior of the courtroom actors which indicated their compliance or noncompliance with the due process requirements of Georgian and international law, and recorded those observations. According to the methodology GYLA did not study and analyze case materials and judgments.

They, working with experienced GYLA attorneys, then collated and analyzed the information gathered and generated "findings" based on the analysis. The findings represent the core offering of GYLA's monitoring report. The findings will, at some later point, provide the basis for recommendations by GYLA designed to bring Georgian criminal proceedings into compliance with Georgian law and internationally accepted due process norms. At this stage of its development, the monitoring project does not aim to analyze the quality of judgments made by the court on the merits of the cases observed.

This report presents the findings of proceedings monitored by GYLA at the Criminal Cases Panel of the Tbilisi City Court during October, November and December 2011. During this period, three GYLA observers monitored 283 proceedings. These proceedings included 101 hearings on first appearance (preventative measures); 66 pre-trial hearings; 50 plea agreement hearings; and 66 main trial hearings.

GYLA hopes that the data acquired through this monitoring process and the findings reached through its data analysis will help provide a clearer picture of what is happening inside Georgia's courts and will inform the debate on justice reform.

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KEY RIGHTS AND FINDINGS

Right to a Public Hearing

The right of a defendant to a public hearing before a court is provided by Article 85 of the Georgian Constitution,[1] Article 6 of the European Convention on Human Rights,[2] and Article 10 of the Georgian Code of Criminal Procedure (CPC).[3]

The right to a public trial includes not only the right of a defendant to have the public present at his or her criminal trial and connected proceedings, but also the right of the public to be informed about the case and have the opportunity to attend. The right assumes an obligation on the part of the court to ensure that the contents of the hearing are not only open to the public but are understandable to the individual citizen. This means, among other things, that the court must publicize in advance the dates of hearings, the full name of the defendant, and the specific offense or offenses with which the defendant is charged.

Findings

GYLA monitors found that courtrooms were generally open to the public and that anyone wishing to attend a proceeding was able to do so.

GYLA did note, however, a number of shortcomings involving the right to a public trial. In nearly half of the proceedings GYLA observed (158 of 283), the court failed to properly publicize the date and time of the proceeding.[4]

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[1] Georgian Constitution Article 85.1: Cases before a court shall be considered at an open sitting. The consideration of a case at a closed sitting shall be permissible only in the circumstances provided for by law. A court judgment shall be delivered publicly.

[2] European Convention on Human Rights Article 6.1: In the determination [...] of any criminal charge against him, everyone is entitled to a fair and public hearing [...]. Judgment shall be pronounced publicly by the press and the public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

[3] Criminal Procedural Code of Georgia (CPC) Article 10, Para 1: The trial shall, as a rule, be oral and public. Closing certain hearings shall be permissible only in cases provided for by this Code; and CPC Article 10, Para: 2: Every decision made by the court shall be publicly announced.

[4] The court publicizes the information about cases by posting it on the large screen in the

This figure includes all of the 101 first appearances observed.

GYLA found that in three of the 125 publicized case proceedings, the court published incomplete information about the case; for example, the notification of the proceeding did not list all the articles of the Criminal Code with which the defendant was charged. In one case, the court publicized inaccurate information: the criminal offense listed was not the offense with which the defendant was actually charged.

GYLA noted that judges in some proceedings failed to speak loudly and clearly enough for those in the courtroom to understand what they were saying. The monitors noted this to be true in 9% (26 of 283) of the observed proceedings. For some reason, this was more likely to be the case in first appearances than in other hearings.

Fifty-two of the 283 proceedings GYLA observed involved some sort of final resolution of the case. Fifty of these were plea agreements; two were decided at the conclusion of a main trial hearing. In all 52 cases, the court publically announced the final decision and gave the legal basis for the decision.

Special Findings Related to Georgia's First Jury Trial

During this reporting period, GYLA attempted to monitor the jury selection in Georgia's first jury trial – the case of Revaz Demetrashvili.[5] Though GYLA's monitor appeared at court on time to attend the jury selection proceeding, he was not allowed in the courtroom. The court *Mandaturi* (bailiff) told the monitor that there were no open seats left in the courtroom. Since this was the first case in Georgia's modern history where a jury would be deciding the fate of an accused, GYLA believes the court should have taken all reasonable measures to allow as many people as possible to observe every stage of the proceeding. These measures could have included adding seating inside the courtroom and setting up a monitor in another room where interested citizens could watch live transmissions of the proceedings.

lobby of the court building and on its official website. GYLA only monitored publicized information inside the court buildings.

[5] This case is not counted in the statistics shown in the annex. GYLA monitored portions of the trial because of its importance to Georgia's legal development.

EQUALITY OF PARTIES

Equality of the parties (sometimes called "equality of arms") means that the parties in a criminal case are treated equally in the proceedings and are placed in an equal position to present their case.[6] Equality of the parties is especially important in criminal trials, where the prosecution is supported by the resources and power of the state and the defense begins at a disadvantage. The principle of equality of the parties helps ensure that the defense has the ability to present its case on equal footing with the prosecution; it requires that the defense be given adequate time and facilities to prepare its defense, the right to legal counsel, and the right to call and examine witnesses.

Findings

GYLA found that the judges monitored were generally successful in maintaining courtroom environments that, at least to outward appearances, were neutral and respectful to the parties.

- In none of the proceedings monitored did the judge act in a fashion that could be considered overtly intimidating to any of the parties present.
- GYLA found that in all 30 (of the 66) main trial hearings observed where witnesses were involved, witnesses were properly excluded from the courtroom when other witnesses were testifying.

There were two main trial hearings where too-active questioning of witnesses by the judges put their judicial neutrality into question. In addition, in both cases the judge did not follow the CPC's rule that a judge not ask questions of witnesses without the parties' permission[7]. In one of these two hearings, the judge asked thirty-seven clarifying and substantive questions of a single witness.

[6] See Georgian Constitution Article 42.6: The accused shall have the right to request summons and interrogation of his/her witnesses under the same conditions as witnesses of the prosecution; European Convention on Human Rights Article 6.3: Everyone charged with a criminal offence has the following minimum rights: ..(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.

[7] CPC Article 25.2: "[…] In exceptional cases, the judge shall be authorized to ask a clarifying question, if this is necessary for ensuring a fair trial".

Disturbingly, the decision-making of judges during the proceedings *suggested a bias in favor of the prosecution*. In this regard, GYLA noted the following:

- At the first appearance stage, the court *always* adopted the prosecution's position on preventative measures, both as to pre-trial detention and bail:
  - The court imposed pre-trial detention in *all* of the 55 cases where the prosecution requested it.
  - In *all* of the other 46 cases, the court imposed bail *whenever* it was requested by the prosecutor but *only if* the prosecution requested it. Further, in *all* of the 46 cases, the amount of bail finally imposed by the judge was *identical* to the amount requested by the prosecution.
- In *all* 66 of the pre-trial hearings monitored, *all* of the prosecution motions related to the admissibility of evidence were granted by the presiding judge; by contrast, the *only* defense motions granted were those motions agreed to by the prosecution (13 of 17 defense motions). The court denied *all* of the defense pre-trial motions to which the prosecution objected.
- In *none* of the 66 main trial hearings monitored did the court acquit the accused.

In terms of the relative activity of the parties, GYLA found that the prosecution was by far the more active party in most cases:

- In the 66 pre-trial hearings monitored, the prosecution made 66 motions related to the presentation of evidence while the defense made only 17. The defense very rarely challenged prosecution motions; out of the 66 prosecution motions filed in pre-trial hearings, the defense challenged only 6. The court ruled against the defense in all six instances and upheld all of prosecution's motions. Of the 17 defense motions, the court upheld only those 13 motions agreed to by the prosecution; the four defense motions that were not agreed to by the prosecution were all rejected by the court.

A party has the right to recuse the judge only at the beginning of each proceeding phase – be it first appearance, main trial hearing, etc. GYLA observed the beginning of 204 separate proceedings. GYLA noted that in a significant percentage of cases – 39% (79 of 204) – the court failed to inform the defendant of his or her right to recuse the judge.

RIGHT TO BE ASSISTED BY AN INTERPRETER

The Georgian Constitution,[8] the Georgian CPC,[9] and international conventions to which Georgia is a party[10] provide that a person who does not know the language of the proceedings must be given an interpreter at state expense.

Findings

During the monitoring period, GYLA observed six proceedings where an interpreter was required. In one of these six proceedings the defendant's right to interpretation was violated. This was because the interpreter did not provide interpretation to the defendant throughout the full course of the proceedings, but only from time-to-time and only when the judge gave specific instructions to do so. Furthermore, the language proficiency of the interpreter was questionable at best, since he was observed trying to learn legal terms used during the trial from the individuals sitting around him in the courtroom.

RIGHT TO LIBERTY

The right to liberty is one of the most important guarantees of an individual in a democratic society, protecting him from the State's despotic or arbitrary action. This right is enshrined in the Georgian Constitution and international and domestic law, particularly Article 18 of Georgian Constitution,[11] Article 5 of the European Convention on Human Rights,[12]

[8] Georgian Constitution Article 85.2: Legal proceedings shall be conducted in the state language. An individual not having a command of the state language shall be provided with an interpreter.

[9] CPC Article 38.8: A defendant shall have the right to the services of the translator/interpreter on the expense of the State during questioning and other investigative actions, if he/she has no knowledge or has no sufficient knowledge of the language of the criminal procedure or if he/she has a physical disability that rules out any communication with him/her without an interpreter.

[10] European Convention on Human Rights Article 6.3: Everyone charged with a criminal offence has the following minimum rights: ...(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

[11] Georgian Constitution Article 18, Para. 1: Liberty of an individual is inviolable; Para. 2: Deprivation of liberty or other restriction of personal liberty without a court decision shall be impermissible..

[12] ECHR Article 5.1: Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure

and Article 205(1) of the Georgian CPC.[13] According to this domestic and international law, the grounds for placing and keeping a person in pre-trial detention are limited to: a) the risk of fleeing; b) the risk of undue interference with administration of justice; and c) the prevention of commission of a new crime.

Findings

GYLA found that in the 101 first appearances monitored, the court imposed pre-trial detention in 54% of the cases and bail in the remaining 46% of cases. In *no case* was the defendant allowed to go free on his own recognizance.

GYLA found that the courts used only two types of forced measures: pre-trial detention and bail pending trial. The Georgian CPC, however, lists many other types of forced measures of lesser severity that should be considered by the court, such as: personal suretyship, agreement to not leave an area, and supervision over the behavior of a military serviceman by the military command. In the cases monitored, *none* of these types of forced measures was used, even in cases involving only minor crimes. In GYLA's view, in many such cases one of the less strict measures could have been considered a reasonable measure.

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prescribed by law:
(a) the lawful detention of a person after conviction by a competent court;
(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfillment of any obligation prescribed by law;
(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority of reasonable suspicion of having committed and offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts, or vagrants;
(f) the lawful arrest or detention of a person to prevent his affecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

[13] CPC Article 205.1: Detention, as a preventive measure can be used exclusively in cases where it is the only means to:
a) to prevent absconding and obstruction of justice by the defendant;
b) to prevent obstruction in obtaining evidence;
c) to prevent commission of a new crime by the defendant.

GYLA found that the court imposed pre-trial detention in *all* of the 55 cases where the prosecution requested it; in *all* other cases, bail was imposed. (It is worth mentioning that in one case that reached the main trial stage the court granted a defendant's motion to change pre-trial detention to bail, but this was only after the prosecution had agreed to this change.)

GYLA further observed that bail was imposed exclusively at the prosecution's request. *Whenever* the prosecutor asked for bail, the judge ordered bail; *whenever* the prosecutor did not ask for bail, the judge did not order bail. Further, in *all* of the 46 cases in which bail was imposed, the amount of bail finally imposed by the judge was *identical* to the amount requested by the prosecution.

RIGHT TO A MOTIVATED (REASONED) DECISION

The right to a fair review of a case includes a requirement that the court make a motivated (reasoned) decision. The right is guaranteed by the CPC,[14] and is articulated in a number of European Court of Human Rights (ECHR) judgments.[15] It derives from the general principle that citizens should not be subject to arbitrary decisions of the court, and applies not only to the court's ultimate decision at trial but also to the court's rulings at every stage of a case.

The Georgian Criminal Procedure Code regards pre-trial detention as the most severe forced measure. For this reason, Article 198(3) of the Code requires that the prosecutor, when submitting a motion for use of a forced measure, substantiate the appropriateness of the forced measure being requested and the inappropriateness of other less strict forced measures. When making a decision, the Court must consider whether other less severe measures may also be appropriate and also take into account the personality of the defendant, his/her occupation, age, health conditions, family and financial status, the reimbursement of financial damages, and whether the conditions of any previously imposed forced measure were violated.

[14] CPC Article 194.2: The court decision shall be well-grounded.
[15] See, for example, *Hiro Balani v. Spain*, no. 18064/91, Para. 27 (9 December 1994).

Findings

As noted above, GYLA's methodology called for the monitoring of individual hearings and not individual cases moving through the system. This means that GYLA monitored many proceedings in which the court was *not* required to give a final, reasoned decision on the day GYLA was present in court to observe the proceeding. However, since first appearances usually require the court to reach a decision on preventative measures on the day of first hearing, GYLA decided to focus its monitoring of the right to a reasoned decision on court decisions in first appearances.

GYLA found that in only a small percentage of the cases observed did judges provide their reasoning for imposing pre-trial detention. They gave their reasons for imposing pre-trial detention in only 33% (18 of 55) of the cases observed.

GYLA also found that the court rarely required the prosecution to provide a rationale for requesting pre-trial detention. In 62 of the 101 first appearances monitored, the prosecution used the argument of "presumable continuation of crime," but in only 11 of those 62 cases (18%) did the prosecution explain the grounds supporting its argument.

In 21 of the 101 first appearances monitored, the prosecution used the argument of "possible interference with justice and destruction of evidence," but in only two of these 21 cases (10%) did the prosecution refer to any specific fact to support its claim.

In only 41% (19 of 46) of the first appearances in which bail was imposed did the court provide what GYLA believed to be sufficient rationale for imposing bail.

In only 41% of the first appearances in which bail was imposed did the court attempt to determine the defendant's financial status before determining bail.

In only 41% of the first appearances in which bail was imposed did the prosecution provide the court with information related to the defendant's financial status to be used in the determination of bail.

PROHIBITION AGAINST ILL-TREATMENT

The prohibition against ill-treatment is enshrined in the Article 17 of the Georgian Constitution,[16] Article 3 of the ECHR[17] and Article 4 of the Georgian CPC.[18] The prohibition against ill-treatment protects an individual from torture and degrading treatment.

In order to make this right meaningful, a defendant should be clearly informed of the right and be given a meaningful opportunity to complain of ill-treatment to a neutral judge. This logically places an obligation on the court to give the defendant both notice of the right and an opportunity to be heard. The obligation can be seen as being even greater when a defendant is in custody, and therefore in the complete physical control of the authorities.

Findings

GYLA found that in 28% of first appearances observed (28 of 101), the judge *did not explain* to the defendant his/her right to lodge a complaint about torture, inhumane or degrading treatment. GYLA also found that in 28% of the first appearances observed, the judge *did not make any effort to find out* whether the defendant had a complaint about torture, inhumane or degrading treatment.

GYLA found that in 64% plea agreement hearings observed (32 of 50), judges failed to explain that should the defendant decide to file a complaint alleging torture, inhuman or degrading treatment, it would not delay a plea agreement which had been concluded in compliance with the law.

In 18% of the plea agreement hearings (9 of 50), GYLA found that although the judge provided some explanation of the accused's right to complain of ill-treatment the explanation was not complete. In some cases, the court did not ensure that the plea agreement was reached without violence, coercion, deception or upon other illegal promise, or that the defendant was

[16] Georgian Constitution Article 17.2: Torture, inhuman, cruel treatment and punishment or treatment and punishment infringing upon honor and dignity shall be impermissible.
[17] European Convention on Human Rights Article 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.
[18] CPC Article 4.2: "It shall be impermissible to influence the freedom of the will of a person by means of torture, violence, cruel treatment, deception, medical treatment, hypnosis, as well as by means affecting the memory or mental state of a person. [...]".

given an opportunity to receive qualified legal assistance. In other cases, the court did not give a full explanation of the accused's rights to be free from violence, coercion and deception in reaching his plea.

CONCLUSIONS

GYLA found that in the majority of proceedings it monitored, the court met its obligation to provide a public trial. The notable exception to this was first appearances, where the court failed in its obligation by never providing advanced notification to the public regarding the time and place of proceedings.

While GYLA found that in most main trials the court observed the adversarial principle by allowing the parties to ask witnesses questions without undue judicial interference, there were examples where the court forgot its neutral role and took too active a role in witness examination.

GYLA found that judges could do a better job explaining essential rights to defendants at all stages of the proceedings, especially when it comes to the right to complain about ill-treatment at the hands of the authorities and the right to recuse the judge. Many judges also need to speak more loudly and clearly during proceedings to ensure that all those attending, both the parties and the public, fully understand what is happening in the courtroom.

While monitoring indicated that the court was, for the most part, providing a courtroom environment that provided the appearance of equality between parties, the monitoring of *decisions* provided disturbing evidence that the courts heavily favor the prosecution. This was especially evident in the monitoring of first appearances. In *every single case* GYLA monitored, the court did exactly what the prosecution asked when it came to the imposition of preventative measures. In *every* case where the prosecution asked for pre-trial detention, the court ordered pre-trial detention. In *every* case where the prosecution asked for bail, the court ordered bail. The court rarely provided sufficient rationale for imposing pre-trial detention. In bail cases, the court *always* imposed the exact amount of bail requested by the prosecution, never anything less. Moreover, in making these bail decisions, the court made little or no effort to determine the defendant's financial status or to justify the bail figure it ordered.

It is especially troubling to note that in none of the 101 first appearances GYLA monitored was the accused released on his or her own recogni-

zance; *all* defendants – even those charged with only minor crimes – were given detention or bail. This fact provides strong support for those who claim that judges are not acting according to their individual assessments regarding the need for preventative measures, but instead are rigidly adhering to the so-called "zero-tolerance policy" of the government.

The court's preference shown to the prosecution continued into the other phases of the criminal trial process. GYLA observed that in pre-trial motion hearings the court *always* granted the prosecution's motion to admit evidence, but only granted the defense motion when the prosecution agreed to it. Perhaps most importantly, in all cases where the court delivered a final decision on the merits, it found the defendant guilty.

While observing what appeared to be bias by the courts in favor of the prosecution, GYLA also noted that the prosecution was overall more active than the defense in the proceedings. For example, in the 66 pre-trial hearings monitored, the prosecution made 66 motions related to the presentation of evidence while the defense made only 17, and the defense rarely challenged prosecution motions.

Preventative Measures – Number of hearings attended: 101

Was the announcement published outside the courtroom?	**101**	**100%**
Yes	0	**0%**
No	101	**100%**
Did the judge make announcement about the hearing of the case?	**101**	**100%**
Yes	99	**98%**
No	2	**2%**
Was the judge speaking in terms understandable for the public?	**101**	**100%**
Yes	80	**79%**
No	21	**21%**
Could anyone attend freely?	**101**	**100%**
Yes	101	**100%**
No	0	**0%**
Did the judge/secretary state the names of the parties?	**101**	**100%**
Yes	97	**96%**
No	0	**0%**
The observer was unable to record data	4	**4%**
Did the judge explain to the accused an accused person's right to recuse a judge?	**101**	**100%**
Yes	61	**60%**
No	34	**34%**
The observer was unable to record data	6	**6%**
Did the judge use intimidation against any of the parties?	**101**	**100%**
Yes	0	**0%**
No	101	**100%**
Was there any other reason to believe the judge was biased?	**101**	**100%**

Yes	0	**0%**
No	101	**100%**
Did the defense counsel attend the hearing?	**101**	**100%**
Yes	69	**68%**
No	32	**32%**
Was the defense counsel appointed at State expense?	**101**	**100%**
Yes	6	**6%**
No	18	**18%**
Not mentioned during the proceedings	77	**76%**
Was the defense counsel appointed under mandatory rule?	**101**	**100%**
Yes	6	**6%**
No	19	**19%**
Not mentioned during the proceedings	76	**75%**
Was the defense counsel invited?	**101**	**100%**
Yes	48	**48%**
No	4	**4%**
Not mentioned during the proceedings	49	**49%**
Was there a translator invited when necessary?	**101**	**100%**
Yes	6	**6%**
No	0	**0%**
There was no need for a translator	95	**94%**
Was a forced measure imposed?	**101**	**100%**
Bail	46	**46%**
Detention	55	**54%**
Personal suretyship	0	**0%**
Agreement to not leave an area and behave properly	0	**0%**
Supervision of the behavior of a military serviceman by the military command	0	**0%**
Did the judge explain to the defendant his right to lodge a complaint or lawsuit about ill-treatment?	**101**	**100%**
Yes	67	**66%**

No	28	**28%**
Explained this right in general	6	**6%**
Did the judge ask the defendant whether defendant wished to lodge a complaint or motion about the violation of his/her rights?	**101**	**100%**
Yes	66	**65%**
No	28	**28%**
Explained this right in general	7	**7%**

Pre-trial hearings – Number of hearings attended: 66

Was the announcement published outside the courtroom?	**66**	**100%**
Yes	58	**88%**
No	6	**9%**
Unknown because the hearings continued in the same courtroom without a break between the hearings and the observer did not check whether the information was posted outside the courtroom	2	**3%**
Was the judge speaking in terms understandable for the public?	**66**	**100%**
Yes	66	**100%**
No	0	**0%**
Could anyone attend freely?	**66**	**100%**
Yes	66	**100%**
No	0	**0%**
Did the judge/secretary state the names of the parties?	**66**	**100%**
Yes	63	**95%**
No	3	**5%**
Did the judge make an announcement about the hearing of the case?	**66**	**100%**
Yes	66	**100%**
No	0	**0%**

Did the judge explain to the accused an accused person's right to recuse a judge?	**66**	**100%**
Yes	33	**50%**
No	33	**50%**
Did the prosecutor make a motion for presenting evidence?	**66**	**100%**
Yes	66	**100%**
No	0	**0%**
Was the motion granted?		
Yes	66	**100%**
No	0	**0%**
Did the defense agree to the prosecutor's motion?		
Yes	59	**89%**
No	6	**10%**
not express position	1	**1%**
Did the defense make a motion for presenting evidence?	**66**	**100%**
Yes	17	**26%**
No	49	**74%**
Was the motion granted?	**17**	**100%**
Yes	13	**76%**
No	4	**24%**
Did the prosecution agree to defendant's motion?	**17**	**100%**
Yes	13	**76%**
No	3	**18%**
Partially	1	**6%**
Did the defense claim that it did not have proper time and facilities to prepare its defense?	**66**	**100%**
Yes	2	**3%**
No	64	**97%**
Is there a reason to believe that any of the parties experienced problems with obtaining evidence?	**66**	**100%**

Yes	3	**5%**
No	63	**95%**
If yes, which party experienced problems?	**3**	**100%**
Prosecutor	0	**0%**
Defense	3	**100%**
Is there a reason to believe that any of the parties was not provided with the possibility to present evidence?	**66**	**100%**
Yes	2	**3%**
No	64	**97%**
If yes, which party experienced problems?	**2**	**100%**
Prosecutor	0	**0%**
Defense	2	**100%**
Did any of the parties complain about access to materials or the handover of written evidence?	**66**	**100%**
Yes	6	**9%**
No	60	**91%**
If yes, which party experienced problems?	6	**100%**
Prosecutor	4	**67%**
Defense	2	**33%**
Did the judge approve the list of evidence submitted by the prosecutor?	**66**	**100%**
In full	66	**100%**
In part	0	**0%**
Was not approved	0	**0%**
Did the judge approve the list of evidence submitted by the defense?	**17**	**100%**
In full	11	**64%**
In part	3	**18%**
Was not approved	3	**18%**

Main Trial Hearings – Number of trials attended: 66

Was the announcement published outside the courtroom?	**66**	**100%**
Yes	47	71%
No	19	29%
Did the judge make an announcement about the hearing of the case?	**66**	**100%**
Yes	64	97%
No	2	3%
Was the judge speaking in terms understandable for the public?	**66**	**100%**
Yes	66	100%
No	0	0%
Could anyone attend freely?	**66**	**100%**
Yes	66	100%
No	0	0%
Did the judge/secretary state the names of the parties? (This question was relevant only in the six observed hearings that were the first hearing in the main trial.)	**6**	**100%**
Yes	6	**100%**
No	0	**0%**
Was the judgment publicly announced?	**2**	**100%**
Yes	2	**100%**
No	0	**0%**
Did the judge explain to the accused an accused person's right to recuse a judge? (This question was relevant only in six cases.)	6	**100%**
Yes	4	**%**
No	2	**%**
Did the judge use intimidation against any of the parties?	**66**	**100%**
Yes	0	0%

No	66	100%
Were witnesses present in the courtroom before their examination?	**30**	**100%**
Yes	0	**0%**
No	30	**100%**
Did the judge ask questions to witnesses?	**30**	**100%**
Yes	5	17%
No	25	83%
Did the judge interrupt any witness?	**5**	**%**
Yes	1	**%**
No	4	**%**
If yes, which party?		
Prosecution	1	**%**
Defense	0	**%**

Plea agreements – Number of hearings attended: 50

Was the announcement published outside the courtroom?	**50**	**100%**
Yes	20	40%
No	26	52%
Unknown because the hearings continued in the same courtroom without a break between the hearings and the observer did not check whether the information was posted outside the courtroom	4	8%
Did the judge make an announcement about the hearing of the case?	**50**	**100%**
Yes	50	100%
No	0	**0%**
Was the judge speaking in terms understandable for the public?	**50**	**100%**
Yes	45	90%
No	5	10%

Could anyone attend freely?	**50**	**100%**
Yes	50	100%
No	0	0%
Did the judge explain to the accused an accused person's right to recuse a judge?	**50**	**100%**
Yes	20	40%
No	11	22%
The hearings attended were adjourned hearings and it was unknown whether the accused had this right explained at previous hearings; thus, the above question was irrelevant in these cases	19	38%
Did the judge use intimidation against any of the parties?	**50**	**100%**
Yes	0	0%
No	50	100%
Did the judge explain to the defendant that lodging a complaint about ill-treatment would not impede the approval of a plea agreement concluded in accordance with the law?	**50**	**100%**
Yes	9	18%
No	32	64%
Explained this right in general	9	18%