

საია-მ სისხლის სამართლის პროცესების გონივრულ
ვადაში განხორციელებასთან დაკავშირებით ხარვეზები
გამოავლინა

GYLA DISCOVERED SOME FAULTS REGARDING REASONABLE TIME DURING CRIMINAL PROCESSING

The aim of the report is to identify gaps in the legislation and practice, as well as positive trends, by attending criminal court trials and analyzing identified cases. GYLA's new report, Monitoring of Criminal Trials Report N14 will present the results of more than 2700 court proceedings from March 2018 to March 2019.

This time GYLA will present the main findings in the direction of delaying the trials:

- The court hearings were adjourned in 456 (41%) cases out of 1103. In most cases, the delay in the proceedings was due to the absence of witnesses from the prosecution (30% of the postponed proceedings) or the conclusion of a plea agreement (18%). Among other reasons, the absence of a defense lawyer (13%) or a prosecutor (10%) was recorded.

- The monitoring has shown that court hearings were mainly (in 38% of the cases) delayed for up to 30 minutes. Frequently, the court proceedings were delayed for more than 30 minutes - 26%. In the majority of the cases, the reason for the lateness was the court (36%) or another court trial in progress in the same courtroom (17%). As a result of the lateness of the parties, the commencement of the court trials was delayed in 11% of the total cases.
- GYLA is monitoring several cases proceedings that have been deliberated for years without a specific legal outcome. The cases are the so-called "The Case of 7th November"[\[1\]](#) (been considered on the merits since 2015), "The Case of Suits"[\[2\]](#) (been considered on the merits since 2016), "The Case of Former Heads of Batumi Prison"[\[3\]](#) (been considered on the merits since 2014).
- In the Case of Former Heads of Batumi Prison" the timeframes for the consideration of the case proceedings as stipulated by the legislation has been violated in relation to the latter. In the remaining two cases, it is true that the court did not directly breach the timeframes set by law, yet the proceedings being in progress over the years create the impression in the eyes of an impartial observer that the administration of justice is hampered.
- In contrast to the above, there were cases where the court scheduled non-custodial case hearings in a hasty manner. In particular, in the case of Mamuka Khazaradze, Badri Japaridze and Avtandil Tsereteli, the judge speedily scheduled the hearings without taking into account the interests of the defense.[\[4\]](#) At almost all court trials, the defense counsel reiterated his dissatisfaction with that regard and later filed a motion on the recusal of the judge on the grounds that the case was being considered hastily. The judge later reduced the number of court trials and scheduled them on average twice a week.
- Another case is so-called "Rustavi 2 case", where accused are Nika Gvaramia, Kakhaber Damenia and Zurab Iashvili.[\[5\]](#) At the first, the court unilaterally determined the dates of the hearing, not to take into account the position of the defense. The defense lawyers said that other processes coincided with these dates and demanded to set another time for hearings. Despite protests from the defense, the judge adjourned the hearings at very close intervals.[\[6\]](#) 10th of January, the judge declared self-recus, the reason given was the confrontation between him and the accused took on a personal character and he may not have been able to proceed objectively.[\[7\]](#) The case was then referred to another judge, after which the approach was changed and the hearings were not marked with such intensity.[\[8\]](#)

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[1] Giorgi Ugulava (former mayor of Tbilisi), Ivane Merabishvili (former Minister of Internal Affairs), Davit Kezerashvili (former Minister of Defense), Zurab Adeishvili (former Prosecutor General, then Minister of Justice), Mikheil Saakashvili (former President of Georgia) are the defendants into the case; The charges are as follows: Article 333, paragraph 1 of the CC; Article 25, Article 182, paragraphs 2 and 3 of the CC; Article 25, Article 194, paragraph 3 of the CC; Article 333, paragraph 3 of the CC; Article 333, paragraph 2 of the CC; Article 194, paragraph 3 of the CC; Article 333, paragraph 3 of the CC; Article 333, paragraphs 2 and 3 of the CC.

[2] Mikheil Saakashvili and Teimuraz Janashia are defendants in the case; The charge is Article 182, paragraph 3 of the Criminal Code.

[3] The former director of the Batumi Prison №3 and his deputy are defendants in the case.

[4] On 27 December 2019, the Judge scheduled the dates of the subsequent court hearings, namely, 9 January, 14 January, 15 January, 17 January, 20 January, 22 January, 27 January, 29 January, 30 January, 3 February, 6 February, 10 February, 12 February, 17 February, 19 February, 25 February, 28 February, 4 March, 6 March, 10 March, 12 March, 17 March, 19 March, 23 March, 25 March. The court hearings were scheduled to begin at 11 a.m. and continue throughout the day. The defense objected to the intensity of the court proceedings, but the judge did not change the above schedule at the initial stage.

[5] Nika Gvaramia (Former General Director of Rustavi-2), accusation – article 182, paragraph 2, “a” and “d” and paragraph 3, “b” of the CC. Article 221, paragraph first

of the CC, article 362, paragraph 2, “b” of the CC, article 194, paragraph 3, “c” of the CC and article 220 of the CC.

Zurab Iashvili (Director of the Intermedia Plus), accusation - article 362, paragraph 2, “b” of the CC, Article 221, paragraph first of the CC.

Kakhaber Damenia (Former Finance Director of Rustavi2), accusation - article 182, paragraph 2, “a” and “d” and paragraph 3, “b” of the CC.

[6] On 3 January 2020, the Judge scheduled the dates of the subsequent court hearings, namely 6 January, 10 January, 13 January, 20 January, 23 January, 25 January and 7 February.

[7] The reason for the dismissal, according to the judge, was insult to the court, which was expressed by Mr. Gvaramia in a briefing and Facebook status in the title of obscene words for the judge (for ex. bastard), and the court considered insulting Gvaramia's statement about his inadequacy.

[8] On 24 January 2020, the Judge scheduled the dates of the subsequent court hearings, namely 30 January and 17 February.