

# A Glimpse into the Shengavit District Court General Jurisdiction in Yerevan from the Eyes of International Observers

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Following a series of two-day court observation trainings across Armenia, the Helsinki Association for Human Rights (HAHR), in cooperation with the Eurasia Partnership Foundation and the Human Rights Power, planned and implemented a joint workshop at the Ibis Hotel in Yerevan with journalists, human rights activists, civil society organization members, and representatives from educational institutions on July 22, 2021. More than 50 young people from seven different regions actively participated in the workshop. After a short introductory session, the participants visited the Shengavit District Court of General Jurisdiction, where they were able to apply their training by observing five criminal trials and subsequently discussing their observations in groups at the conclusion of the workshop.

Additionally, two interns with HAHR, Cameron Cushner (USA)<sup>1</sup> and Elisa Muchar<sup>2</sup> (Austria), served as international observers conducting a comparative study on Armenian legal institutions during the event. While Cushner and Muchar were unable to follow the proceedings completely due to the language barrier, they diligently noted observations of the courthouse setting, interviewed both participants and organizers of the event, and conducted further research on the Armenian criminal justice system.

Initially, Cushner and Muchar observed barriers to access the court building, which appeared to lack wheelchair ramps. Considering that visitors must climb a staircase from the street level in order to enter the courthouse, access thereto is not handicap accessible. Moreover, no notable elevator access within the courthouse, where courtrooms are located

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on several floors, could be observed. This violates applicable national law, specifically the Accessibility of Buildings and Constructions for Persons with Disabilities Act (*Շենքերի եւ շինությունների մատչելիությունը բնակչության սակավաշարժուն խմբերի համար*).<sup>3</sup> Similar to its more comprehensive American and Austrian counterparts, the Americans with Disabilities Act (ADA) and the Federal Disability Equality Act (*Bundes-Behindertengleichstellungsgesetz*), respectively, Armenian legislation stipulates that public buildings must be handicap accessible. Unfortunately, non-compliance with the Accessibility of Buildings and Constructions for Persons with Disabilities Act is prevalent and rarely addressed by the authorities. With regard to courthouses, this issue proves especially problematic as the right to a fair trial presumes equitable access to judicial buildings for everyone. Renovations are necessary in order to guarantee that parties' rights are not infringed in the future.

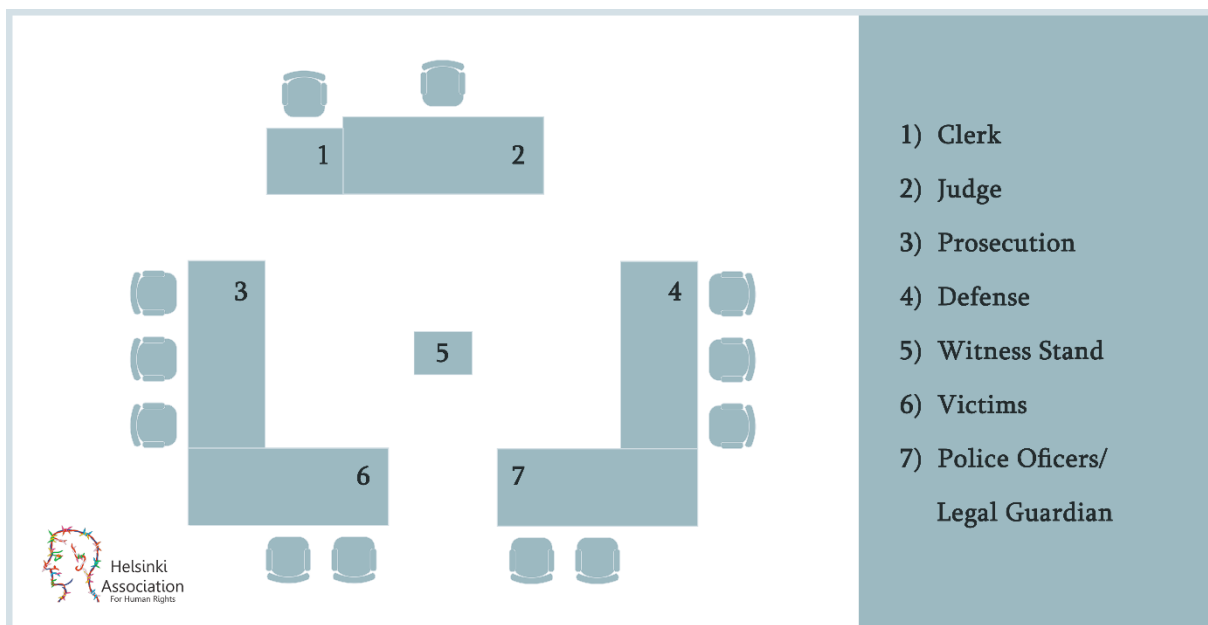
Another issue the observers noted were the piles of documents carelessly deposited in the corridor of the third floor and visible from the courthouse's atrium. While both the reasons for the storage choice and its duration remain unclear, the simple fact that apparently important documents were stored in an exposed and unorganized fashion is problematic as such practices contribute greatly to the miscarriage of justice by creating a high probability of evidence going missing and creating opportunities for ill-intentioned authorities to 'misplace' evidence for the purpose of impeding justice.

Upon entering the courtroom, Cushner noted stark differences in the courtroom layout compared to the United States. Unlike the US, where all criminal trials are conducted as jury trials, Armenia does not employ a jury system. Consequently, courtrooms are not equipped with jury boxes. Instead, the courtroom layout is virtually symmetrical, with the judge assuming a central role and the prosecution and defense seated to their left and right, respectively. This setup resembles the majority of Continental European courtrooms used for minor criminal infractions. In case of more serious offenses, it is common for juries or lay judges to participate in the proceedings. Cushner further remarked that witness stands

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<sup>3</sup> <https://www.arlis.am/DocumentView.aspx?DocID=30091>

in the United States are affixed to the judge’s bench as opposed to being a permanent fixture facing the judge. This difference in layout is a direct result of the difference in the nature of trials between the two countries. Predominantly inquisitorial, the Armenian criminal justice system requires the judge to actively participate in the questioning of witnesses, which is facilitated by the central position of the witness stands. Muchar, on the other hand, who is more acquainted with the criminal justice systems of Continental Europe, found the presence of a flag in the courtroom surprising. While most European courtrooms display their respective national emblems, flags are generally only flown outside the courthouse. For an illustration of the District Court of General Jurisdiction sample courtroom layout as observed in Shengavit, refer to the graphic below.



Moreover, Muchar noted that the presence of at least one bailiff throughout the hearings appeared to be required by standard procedure. Austrian courts do not employ bailiffs. In case of violent crimes, such as aggravated assault and battery, police officers ensure the protection of the trial participants. In Armenia, two officers are placed right next to the defense in such cases in addition to the bailiff standing in between the judge’s table and the defense. Cushner and Muchar also observed that the police officers guarding the defendant were sitting worryingly close to the defendant and their legal counsel. This proximity might prove highly problematic in instances where the defense confers during

the proceedings as the officers could overhear confidential information. Such consultations are often urgently required for the defendant to be effectively represented. Consequently, if the defendant chooses not to confer with their legal counsel for fear they might be overheard and that the information overheard might harm their case, the adequate defense of the defendant might be obstructed.

Overall, the atmosphere inside the courthouse felt very informal compared to the courts in Cushner and Muchar's respective home countries. Standards of acceptable dress were far more casual, with clerks wearing short skirts and defense counsel choosing to forgo suits. Both female and male judges wore the same court dress consisting of a simple, black robe and no headgear. Footwear varied and seemed to be exempted from any formal regulations as one of the female judges donned a pair of open toe crocodile-embossed leather pumps. Prosecutors appeared to be wearing a certain uniform made up of black slacks and a white button-down shirt with shoulder patches, although the use of the latter was inconsistent. In all the hearings observed, lawyers and defendants wore outfits fitting of the category "business casual." Muchar also noted that one of the bailiffs was chewing gum throughout the hearing.

For the international observers, some of the deficiencies of the Armenian criminal justice system became abundantly evident during their visit to the Shengavit District Court of General jurisdiction, be it the issue of inadequate storage of court documents, accessibility, or the close proximity between the police officers and the defense in the courtroom. From their observations, Cushner and Muchar deduced that citizens are denied equitable access to fair trials and an urgent need for action exists. However, it seemed as though the authorities responsible were entirely unconcerned with any of the shortcomings observed, which strongly suggests that change may only be achieved through public pressure and the work of civil society groups such as HAHR.

In this context, the court observation project and active participation of numerous Armenian youths therein becomes even more important as public scrutiny might be the only way to effectively ensure the independence and fairness of the Armenian judiciary. Civil society organizations will continue their training and court observation activities and, thus, help fight for justice in Armenia.