



Polish aid



Solidarity Fund PL



HELSINKI ASSOCIATION
for human rights

HELSINKI ASSOCIATION HUMAN RIGHTS PROTECTION NGO

Summary Report

ON COMPARATIVE ANALYSIS OF ACCESSIBILITY OF INFORMATION ON ACTIVITIES OF JUDICIARY DURING 2021-2022

Yerevan, 2022

1. INTRODUCTION

As a member of various international structures, in particular, the Council of Europe, the Republic of Armenia has assumed a number of commitments, in which an important role and significance are attached to judicial reforms. The Soviet judicial system and trial were replaced by fundamentally new approaches to contribute to the increase in the importance and role of human rights and fundamental freedoms. The Ministry of Justice of Armenia initiated a number of measurements and law-drafting functions. Judicial reforms were based on the legal equality and competition of parties to the proceedings, the presumption of innocence, independence of the judge, impartiality and other democratic principles.

The 2019-2023 reform programme also addresses **the internal and external independence, impartiality, and effectiveness of the courts, the improvement of public accountability structures of the judiciary, accessibility, public access, increasing public trust and other related issues.**¹ The positive public perceptions of the judiciary and a high degree of trust are still important prerequisites for establishing a strong and independent judicial system, and respect for that system is a means of encouraging the leading experts who represent it. Therefore, efforts to ensure partnership and effective communication between the judiciary and the public, particularly the civil society, as well as to increase awareness among the public about the role and high mission of the judiciary are important and up to date.

2. BRIEF OVERVIEW

The information available on the Internet about public opinion surveys, perhaps scarce, shows that, although the Republic of Armenia has gone through a long and difficult path to independence and democratic reforms, the justice system of the Republic of Armenia still needs to gain the trust of citizens, be more transparent and accessible to all layers of the public.

The right to an open and fair trial is a fundamental right, but its potential is still underestimated. The presence of court monitors in the courtroom as members of civil society can, on the one hand, play a role of public oversight over the manner justice is administered, as well as provide an opportunity to know how the system works when realizing the aforementioned right.

3. REFLECTIONS OF INTERNATIONAL AND LOCAL ORGANIZATIONS

Both local and international organizations have repeatedly expressed their dissatisfaction, expressing the opinion that after the 2018 revolution, the two branches of government have undergone certain changes, which cannot be said about the judiciary, and the implementation of the planned reforms in the judicial system at the current pace and with the tools used will take a long time, under which conditions the achievement of the expected positive results calls into question.

¹ Ministry of Justice of the Republic of Armenia; Report "On Approving the 2019-2023 Strategy for Judicial and Legal Reforms of the Republic of Armenia and the Resulting Action Plans for 2020" on the course of actions to be performed in the second half of 2020 of the action plans approved by decision N 1441-L of October 10, 2019; 2021;
<https://www.moj.am/legal/view/article/1376/>

E. DENIAL OF FAIR PUBLIC TRIAL

Although the law provides for an independent judiciary, the judiciary did not generally exhibit independence and impartiality. Popular trust in the impartiality of judges remained low, while civil society organizations highlighted that the justice sector retained many officials who served the previous authorities and issued rulings consistently favorable to them. Corruption of judges remained a concern. During the year NGOs continued to report on judges who had acquired significant amounts of property and assets that were disproportionate to their salaries, and they noted that the absence of vetting of all standing judges based on objective criteria – particularly of those in the Supreme Judicial Council and Constitutional Court – undermined the integrity of the judiciary.

To the question if there is an independent judiciary, in the section on Armenia the *Freedom in the World 2022* report released by authoritative international human rights organization Freedom House it is stated **that the courts still face systemic political influence, and judicial institutions are undermined by corruption. The government published five-year judicial-reform strategy in 2019; reforms continued to be enacted in 2021, though progress has been slow.**²

Human Rights

Rule of Law

- strengthening the independence and effectiveness of the justice system;
- supporting criminal reform;
- supporting the penitentiary reform through the enhancement of the health care system in prisons and the development of a fully-fledged probation service;
- raising the integrity in higher education;
- protection of personal data;
- enhancing media pluralism and freedom of expression;
- prevention and fight against corruption, money laundering and cybercrime.

Democracy

The US Department of State's annual report states that although the law provides for an independent judiciary, **it did not generally exhibit independence and impartiality. Popular trust in the impartiality of judges remained low.**

F1 0-4 pts

Is there an independent judiciary?

1/4

The courts face systemic political influence, and judicial institutions are undermined by corruption. Judges reportedly feel pressure to work with prosecutors to convict defendants, and acquittal rates are extremely low. The government published a five-year judicial-reform strategy in 2019; reforms continued to be enacted in 2021, though progress has been slow.

In 2021, the parliament adopted a new Criminal Code and a new Criminal Procedure Code; the codes were drafted based on recommendations issued by the Council of Europe, and are intended to better guarantee the protection of citizens' human rights and improve trust in the judicial system. Both Codes will take effect in 2022.

a

The Council of Europe co-operation activities have focused on supporting Armenia in honouring its commitments as a Council of Europe member state to improve democracy, human rights and the rule of law in the country to guarantee their implementation for its citizens. The main beneficiaries of this co-operation include government agencies, civil society and the general public. **Among a number of key measures, the improvement of the rule of law is possible, in particular, through strengthening the independence and effectiveness of the justice system, and supporting criminal reform.**³

² Freedom House, Freedom in the World, Armenia, 2022, <https://freedomhouse.org/country/armenia/freedom-world/2022>

³ U.S. Department of State, 2021 Country Reports on Human Rights Practices: Armenia, <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/armenia/>; Council of Europe, Office of the Directorate General of Programmes, Armenia, 2022, <https://www.coe.int/en/web/programmes/armenia#%7B%2268853482%22%3A%5B%5D%7D>

Presenting the findings of the analysis of the media materials in the 2014 report of *Judiciary and legal reflection of the Republic of Armenia in the media of electronic issues of the system*, the Protection of Rights Without Borders NGO singles out **the lack of transparency and publicity of the activities of the courts as a number of systemic problems.**⁴

Դատարանների գործունեության թափանցիկության և հրապարակայնության բացակայությունը: Դատարանները ներկայանում են որպես փակ համակարգեր, որտեղ չկա թափանցիկություն և հրապարակայնություն: 22 դատարանները 22 քաղաքացու համար ներկայանում են որպես մեկուսացված միջավայր, որտեղ ամեն ինչ արվում է ստվերային պայմանավորվածությունների շրջանակներում: Եթե հեռուստատեսությանը պետական իշխանության այլ թևերի վերաբերյալ բավարար տեղեկատվություն տրվում է հասարակությանը, ապա դատական նիստերի, հատկապես նախաքննական մարմինների ապօրինությունների մասին տեղեկատվությունը հասարակությունը ստանում է հիմնականում շշուկների տեսքով, որն ավելի է խորացնում առանց այն էլ առկա թերահավատ վերաբերմունքը արդարադատության նկատմամբ:

No noticeable change in the situation has been recorded so far.

The organization addressed the above questions in detail in the “*Report on Judicial and Legal Reforms of 2019-2023*” (June, 2022). The report of the analysis of the process and results of the implementation of the main directions of strategy monitoring, in which, speaking in particular, about the current state of the judiciary and the effectiveness of the courts, it states that although the strategy “intended to take necessary measures to ensure cooperation and effective communication between the judiciary and the public, as well as to raise awareness among the population about the role and high mission of the judiciary, ... as a result of which trust in the judiciary would increase, as well as the attractiveness of the position of the judge would increase, ... it is difficult to cite any outstanding or memorable measurement or action. In broad terms, the wide public remained uninformed about the measurements being implemented, had to be satisfied with official messages, which in no way contributed to the public's perception of the role of the judiciary and increasing trust in it.”⁵

In all these processes, **the Helsinki Association emphasizes the public oversight and participation, particularly through the formation, development and spread of a court monitor institution and a court monitoring culture.**

4. THE PURPOSE OF THE REPORT

In 2022, in partnership with the Solidarity Fund PL, and co-funded by the Polish Development Cooperation of the Ministry of Foreign Affairs of the Republic of Poland, the Helsinki Association initiated the project “*Towards an Independent and Transparent Judiciary in Armenia*” project,⁶ which aimed at **increasing the accessibility of comparative information of judicial institutions through an improved monitoring mechanism and by publicizing the results.** The report presented to the attention of the readers serves that

⁴ „Judiciary and legal reflection of the Republic of Armenia in the media of electronic issues of the system” report, 2021; Protection of Rights Without Borders NGO; chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/http://prwb.am/wp-content/uploads/2017/03/%D4%B4%D5%A1%D5%BF%D5%A1%D5%AB%D6%80%D5%A1%D5%BE%D5%A1%D5%AF%D5%A1%D5%B6-%D5%B0%D5%A1%D5%B4%D5%A1%D5%AF%D5%A1%D6%80%D5%A3%D5%AB-%D5%B0%D5%AB%D5%B4%D5%B6%D5%A1%D5%AD%D5%B6%D5%A4%D5%AB%D6%80%D5%B6%D5%A5%D6%80%D5%AB-%D5%A1%D6%80%D5%BF%D5%A1%D6%81%D5%B8%D5%AC%D5%B8%D6%82%D5%B4%D5%A8-%D5%A7%D5%AC%D5%A5%D5%AF%D5%BF%D6%80%D5%B8%D5%B6%D5%A1%D5%B5%D5%AB%D5%B6-%D5%AC%D6%80%D5%A1%D5%BF%D5%BE%D5%A1%D5%B4%D5%AB%D5%BB%D5%B8%D6%81%D5%B6%D5%A5%D6%80%D5%B8%D6%82%D5%B4_0.pdf

⁵ „Report on monitoring of the strategy of judicial and legal reforms of the Republic of Armenia for 2019-2023”, 2022; Helsinki Association NGO; <https://bit.ly/3PRFuij>

⁶ Announcement; Helsinki Association; <https://hahr.am/helsinki-association-for-human-rights-launches-towards-an-independent-and-transparent-judiciary-in-armenia-project/?lang=en>

purpose, including also a **comparative analysis of the judicial system's activity in 2021-2022 and proposals for reforms.**

During the initiative, monitoring of court sessions in criminal cases was carried out in the seats of the courts of first instance of general jurisdiction in the cities of Yerevan, Gyumri and Vanadzor, with the help of the set of tools recommended in the “*Court monitoring and coverage. External guarantees of a fair trial*” guide (2020).⁷

Monitoring was carried out by groups formed in the mentioned cities, the members of which collected in a systemic way information on the compliance of the observed trials with domestic and international standards of fair trials, as well as uncovered gaps in the criminal justice system, access to necessary information for the public and accessibility of court building infrastructures for vulnerable groups, aimed at suggesting appropriate measures for correction or elimination.

The report presents a comparative analysis of the 2021-2022 situation of the access to information on the activities of the judicial system, as well as new proposals for reforms.

Court monitoring served both as a system of unique practical educational and training methods, with the help of which the participants developed their legal knowledge and experience also reached through workshops and experience exchange meetings with field experts (representatives of the Ministry of Justice of Armenia, judges, prosecutors, lawyers, etc.), as well as the meetings in that format were aimed at becoming a future platform for effective communication, co-operation and increasing the level of knowledge and trust regarding the functioning of the system between the justice system and the civil society.

In our opinion, resolutions of challenges and improvements within the justice system require not so much financial investment or legislative change, but a transformation of mentality and social practices in all spheres of justice and among the wider public. It is worth stressing that the judiciary is not unique in this regard - the idea of citizen watchdog activity can be and has been carried out in many other areas. It is the organisation’s view, however, that changes within the judiciary are of key importance. Overcoming structural problems in this area could have a significant impact on all other areas of governance and directly lead to the increased wellbeing of society. It is also a way to more fully respond to the common need for justice defined by the Constitution of the Republic of Armenia and to implement the principles of justice, presented in Chapter 7 of the Constitution of Armenia.⁸

The methods and processes offered by the organization were aimed at encouraging the will of the youth (and not only) who are an important part of civil society - **to be legitimate claimants of a justice system that is transparent, accessible and meets the basic international standards of human rights and fundamental**

⁷ The guide is intended for representatives of civil society organizations and mass media involved in various fields and interested in or engaged in the court monitoring and coverage. However, it can be used by any person willing to learn about the court monitoring and coverage, and engage in the activity. <https://bit.ly/3FcZlno>

⁸ Constitution of the Republic of Armenia, Chapter 7, Article 162; <https://www.arlis.am/documentview.aspx?docID=1>

freedoms, which, in its turn, will foster the state institutions to improve themselves and to reform judiciary in the country.

5. METHODOLOGY

Court monitoring is a strategic direction of the organization. It is based on the legal education and legal awareness development of the participants involved in monitoring, as well as the wider public. The experience and studies of the organization provide sufficient grounds to conclude that currently there is a low level of legal awareness among the citizens of Armenia and, as a consequence, fear towards the court and mistrust of the justice system. The efforts of the non-governmental organization are aimed at breaking that stereotype of the passive attitude and showing how to effectively monitor the judicial system while respecting and preserving the principle of judicial independence. During the past three years alone, more than five hundred people had the opportunity to learn more about the idea and methodology of court monitoring. During their training, the organization attaches importance on teaching the rights and responsibilities of the monitor. Experience shows that participation in court monitoring is an important educational, civic and existential experience for most.

In that way, **the major goal of court monitoring**, according to the methodology applied, is to obtain trustworthy and broad knowledge and build capacities. This is not another public opinion poll, but a reconstruction of the actual experience of people who have found themselves in court – very often for the first time – yet with no personal interest in the cases observed. It is especially important, since we suspect the causes of the low trust in courts might partly result from a lack of personal experience of the court system and a lack of access to information about the functioning of the justice system, especially when the image of courts among the wider public is mainly shaped by the media, film stereotypes, and, not first-hand experience. Those who took part in monitoring activities document that the direct contacts with courts have helped change their opinion and value them more highly.

To reach the goal, as a result of the study of the monitoring process, as well as international best practices,⁹ a Court Monitoring Mechanism (CMM) was developed. It presents the monitor training process, the frequency and form of monitoring, as well as collaboration, feedback, accountability and advocacy for results.

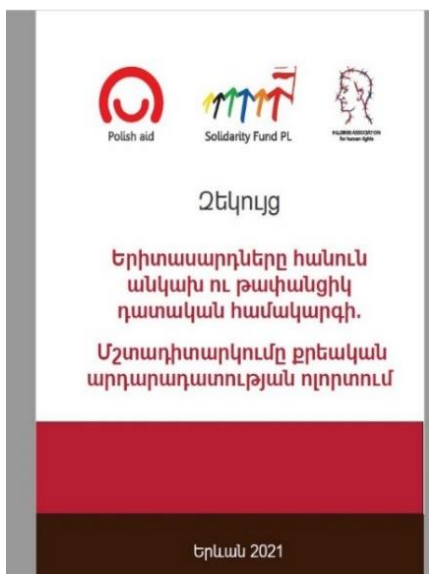
This tool or method is available to anyone who wants to visit the courtroom and follow proceedings; it does not require any deep knowledge of law. Unlike programs implemented by a number of organizations, the monitoring programs implemented by HAHR were aimed at encouraging ordinary citizens, especially young people, rather than legal experts, jurisprudence or legal professionals. It also allows us to reconstruct the perspective of the average citizens who constitute the majority of court users, and not perspectives of

⁹ Trial Monitoring: A Reference Manual for Practitioners, Revised edition 2012; OSCE, ODIHR; <https://www.osce.org/odihr/94216>; Court Watch Poland Foundation, Court Monitoring Methodology, 2013, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://courtwatch.pl/wp-content/uploads/Court_Monitoring_Methodology.pdf

representatives of the justice system, who are *insiders* to the system and have a tendency to accept existing dysfunctions and loopholes as a necessary evil or even something normal, which however, it can slow down, sometimes even hinder and obstacle to the normal course of reforms.

Our methodology obviously has some limitations. Many have expressed the opinion that the organization's volunteer monitors, without an extensive legal background are unable to see the truly important issues, focusing instead on the largely less important “proxy” (e.g. punctuality, judicial demeanor, etc.). At the same time, court monitoring, as a form of public oversight, can really supplement the accountability, and oversight and provision of access to information mechanisms of other bodies – primarily of the State, and also those social environments.

6. DISCOVERED PROBLEMS



Thus, the court monitoring chosen as a tool for studying the functioning of the judicial system in the Republic of Armenia aimed at improvements of the system, and in particular, for uncovering the state of public access to information about it, became the best instrument for involving in the process a large number of people interested in the reform of the judicial system, mostly young people aged from 16 to 30, and thanks to their efforts, to collect necessary information to record the problems and to develop proposals for reforms presented in this report. It was also necessary to compare the information with that obtained through the same means in 2021 and make valid conclusions about whether the system has undergone any changes in the past year, after about 40 institutions of the judicial and legal sphere, domestic and international organizations, and individual people¹⁰ were presented **Youth for an Independent and**

Transparent Judicial System: Criminal Justice Monitoring report about the situation in 2021.¹¹

It was obvious that the problems uncovered last year still persist, namely:

- ✓ **Too heavy workload of the courts;**
- ✓ **Starting the court hearings with considerable delays and with even not any clarification about the delays (which violates the requirement of Article 317 of the Criminal Procedure Code of the Republic of Armenia);**
- ✓ **Delaying court hearings without even starting the hearings (which contradicts the collective logic of many articles of the Code);**

¹⁰ Among them: RA National Assembly, Ministry of Justice, Supreme Judicial Council, Judicial Department, General Prosecutor's Office, Investigative Committee, Chamber of Advocates, Human Rights Defender's Office, Standing Committee on Science, Education, Culture, Diaspora, Youth and Sports, Human Rights Protection and Standing Committee on Public Affairs, Standing Committee on State-Legal Affairs, Embassies of the USA and the Republic of Poland in Armenia, etc.

¹¹ „Youth for an Independent and Transparent Judicial System: Criminal Justice Monitoring” report, 2021; Helsinki Association NGO; <https://bit.ly/395txfs>

✓ **Delaying court hearings without specifying the reasons (which makes the investigation of a case within a reasonable time considered a necessary component of justice incomplete).**¹²

This year, the court monitors also paid attention to the lack of access to justice for people with limited abilities, the complete or partial lack of special skills for examining cases involving vulnerable persons (in particular, licensed interpreters in minority languages in Armenia, etc.), and a number of other issues due to the problems of the building conditions of the courts, and recorded the problems.

We present the recorded problems in the following format:¹³

- Which problems recorded last 2021 year still persist?
- What new problems have been revealed in 2022?
- What positive changes have been recorded between 2021 and 2022?
- **Court of General Jurisdiction of Yerevan city (Kentron and Shengavit seats)**^{14, 15}.
- **Existing problems in 2022 compared with 2021**

- Many cases were heard in open court hearings, but people present could not hear absolutely what was said in the courtroom, since it was equipped with glass walls. It raises doubts regarding the provision of the principle of publicity of court proceedings guaranteed by the Criminal Procedure Code of Armenia, the requirements on the obligation of the implementation of logistical support to courts defined by the Law of Armenia and a basis of subordinate legislation and also the 2018 decision of the Supreme Judicial Council No. SJC-25-D-58.

- There were cases when certain judges forbade videotaping court sessions (sometimes also partially), when only one party of the proceedings was against to videotape.

- The judge presented the defendant his rights and responsibilities in a faint, almost inaudible voice.

- Judges do not clarify the reason for the late start of the sessions. For example, the judge did not explain why he started the court session about 40 minutes late, in the event that he himself appeared at the session late, while other two parties of the trial were already present and waiting for him.

- In addition to delays, cases of starting court sessions before the appointed time were also recorded.

- **New problems uncovered in 2022 compared with 2021:**

- The judge decided to change the order of examination of the evidence just on the spot, questioning the defendant before questioning the witnesses, in spite of the fact that the defense attorney filed a motion to object against it and considered it a violation of the defendant's rights.

¹² Ibid, p. 24:

¹³ To publicize the report as widely as possible and taking into account the fact that the report does not aim at checking the conduct of judiciary as well as the fact that the trials of a number of criminal cases are still in process, we found it appropriate not to have the numbers of the court cases in which the above-mentioned problems were recorded as a result of monitoring. They will be submitted only to the relevant authorities, upon the request of addressees of the problems.

¹⁴ <https://court.am/hy/courts/20>

¹⁵ <https://court.am/hy/courts/22>

- On the occasion of filing a motion for changing the judge, the judge constantly interrupted the defense attorney, trying to provide his explanations on the matter.

- There were cases when papers of another case were brought in to ask the chairing judge to sign, while another case hearing was on. The court monitors considered it a violation of the procedure of the trial and a diversion of the judge's attention from the case being heard.

- Some judges do not use the gavel, for example, to announce the verdict, to establish order in the courtroom, etc.

- Before starting a court session, the bailiff usually warns those present in the courtroom to turn off their mobile phones or put them on silent mode. However, during one of the court sessions, the bailiff himself did not turn off his mobile phone beforehand, and the phone rang loudly during the session.

- During the court session, the defense attorney filed several times the same motion on different grounds and when he again asked for time to file a new motion, although the submitted motion was still granted by the judge, the latter spoke to the attorney in a loud tone. The court monitors present at the session recorded it as a gross violation of ethics by the judge.

- **Positive changes in 2022 compared with 2021:**

- The bailiffs wear their uniforms in a proper manner during the court sessions.¹⁶

- Printed case materials were removed from the court corridor.¹⁷

➤ **Court of General Jurisdiction of Shirak region (Gyumri seat)¹⁸**

- **Existing problems in 2022 compared with 2021:**

- The court session has been postponed for a year, which contradicts the implementation of the trial based on the principle of a fair investigation of the case.

- Because of technical problems several consecutive court sessions scheduled in advance by the same judge were delayed, some of the scheduled sessions did not take place, not start or close on time.

- The previously announced hours for the judge to leave the courtroom for his chamber or for a break were not observed either.

- The defendant was interrogated on-line, while the RA Criminal Procedure Code does not provide for such a procedure.

- The case hearings, which were examined by the same staff of people, were scheduled for the same time. To confirm this information, the members of the monitoring team made some screenshots of the information included in the “DataLex” judicial information system, which are available.

- The bailiffs asked the observers questions which do not respect the requirements of the Law of Armenia on the Service and requirements of decision SJC-25-D-58 of the Supreme Judicial Council. The problem was clarified and resolved after the HAHR representative had a telephone conversation with the head of the court's staff on the matter.

¹⁶ The 2021 report records cases of improper or partial / incomplete wearing of uniforms by bailiffs.

¹⁷ The 2021 report records the fact of the criminal case or case materials in the court corridor.

¹⁸ <https://court.am/hy/courts/60>

- New problems uncovered in 2022 compared with 2021:

- Hearings in the court case were postponed several times due to the failure of the escort battalion to ensure the transportation of the defendant to the court from the penitentiary, because the vehicle was broken down.

- In a court case, the defense attorney filed a motion for an agreed-upon procedure. The defendant did not admit the guilt attributed to him in the indictment, no matter how much the defense tried to convince him to do so. To reach a certain solution, a short break was announced, and those present in the courtroom were asked to leave it. Going inside after the break, the court monitors knew that the defendant admitted the guilt, but after turning off the devices recording the court session, the latter again insisted that he did not admit the complete set of the crime he was accused of in the indictment. All those processes raised the suspicion of the application of psychological pressure on the defendant in the eyes of an impartial monitor.

- The statute of limitations was applied to four of the five defendants in a criminal case, and the criminal prosecution was stopped. The application of the statute of limitations with frequent postponement of court hearings for various reasons caused an impartial observer to have reasonable doubts about a possible abuse of the statute of limitations.

- As a result of frequent appointments and reappointments of judges, the current cases in their proceedings are assigned to the newly appointed judges, which brings to certain related problems, such as, the violation of the reasonable term of the case investigation, the application of the statute of limitations, which may also contain corruption risks, etc.

- Frequent power outages in the administrative building of the court led to the postponement of previously scheduled court sessions and other related problems. For example, upon starting the court session in the condition of the power outage, the chairing judge announced that the session was not being recorded for the mentioned reason, but he did not mention that he was going to carry out the examination of the case according to a written procedure.

- The bailiff did not allow the court monitors to enter the courtroom, reasoning that the defendant did not appear at the hearing and the hearing was not likely to take place. Yet, as it turned out later, the defendant was in the courtroom, which another monitor, who was in the courtroom at that time, confirmed.

- During one of the court sessions, the chairing judge presented the information about the presence of the litigants, which the secretary of the court session should have done, whose function it is considered to be.

- Positive changes in 2022 compared with 2021:

- The court monitors could freely receive information about the court sessions from the court staff or bailiffs.¹⁹

- Increasing the number of judges.

- Changing attitudes towards the court monitors to positive.

¹⁹ The 2021 report records that there were cases when monitors were unable to obtain needed information about court hearings from court staff.

➤ **Court of General Jurisdiction of Lori region (Vanadzor seat)²⁰**

- Existing problems:

• The workload of the courts (judges) resulted in regular adjournments of hearings in the same criminal case.

• Court sessions were started with great delays, even several hours after the appointed time.

• During the investigation of the case under the agreed-upon procedure, an interpreter service was not provided for the defendant who did not have sufficient knowledge of Armenian to understand the ongoing procedure. This proves the imperative requirement for a person who does not know the language of criminal proceedings to exercise his or her rights guaranteed by law.

• It was the litigant who provided necessary technical equipment for the study of the audio and video recordings of the trial. This is exclusively within the scope of duties of the Judicial Department, on the grounds specified.

- New changes uncovered in 2022:

• During the court session, while talking to the person acting as a witness in the case, the prosecutor put psychological pressure on him. That even caused an argument in the courtroom.

• The motions of the defense were rejected more than the motions of the prosecution, which gave some grounds to conclude that the chairing judge did not maintain impartiality.

• The court session was not held at the scheduled time, the chairing judge did not start the session at the specified time, but presented the reason for not holding another session and declared the session closed at the expense of the ongoing session at that time.

• There were cases when the prosecutor or the secretary of the session spoke on the phone just during the court session.

• Cases of low-quality translation by the interpreter present at the court session were recorded.

• In the "DataLex" judicial information system, the information about the court case was either completely absent or presented incompletely.

• The court session monitor located in the lobby of the administrative building of the court did not often work.

- Positive changes in 2022 compared with 2021:

• The court monitors recorded a decrease in the number of cases when judges “started and closed” the next session scheduled in advance during the ongoing hearing of a case, which, for some reason, became known that it would not take place.

• Cases of adjourning court hearings or starting hearings late have also decreased.

7. SUGGESTIONS

Comparing the situation presented in the previous 2021 report on the judicial system and considering the suggestions with the information obtained in the 2022 year, it can be summarized that as a result of monitoring hundreds of court sessions, even with the naked eye, it becomes clear that the situation has hardly

²⁰ <https://court.am/hy/courts/51>

changed, the preponderance of the suggestions remains relevant, therefore it requires a vigilant approach and appropriate solutions from the authorities of the Republic of Armenia.

We are presenting below the suggestions in a brief summary:

• Improving and properly implementing the process of disciplinary actions by the relevant authorities as a means of curbing and eliminating the malpractices as follows:

- conducting or postponing court hearings with an unnecessary and improper procedure;
- interrogating the accused on-line;
- manifestation of an obvious negative or positive attitude by judges towards any party of proceedings;
- unjustified refusal to videotape court sessions;
- violating significantly the previously announced hours for the judge to leave the courtroom for his chamber or for a break;

- scheduling court sessions which are examined by the same staff of people at the same time;
- exerting psychological pressure on the defendants by judges, prosecutors or defense attorneys;
- In case of appointments and reappointments of judges, a violation of reasonable terms for the case examination, application of the statute of limitations, in which case corruption steps are possible
 - the current cases in their proceedings are assigned to the newly appointed judges, which brings to certain related problems, such as, the violation of the reasonable term of the case investigation, the application of the statute of limitations, which may also contain corruption risks, etc.;

• Increasing the number of judges and the level of social insurance of judges (wages, other social guarantees ensuring the independence of the judge) in order to reduce the workload of the courts;

• A need for training of judges, prosecutors and bailiffs, especially aimed at reforming certain disrespectful behavior which have become habitual (attitude, behavior, speech, dressing, etc.);

• Timely and proper provision of access to information in DataLex judicial information system;

• Providing access to information on court sessions by ensuring the uninterrupted operation of judicial information booths installed in the administrative buildings of the courts;

• Providing judges with appropriate modern electronic devices and Internet access (for example, an iPad, a laptop, other) so that they can obtain as quickly as possible necessary information during a court session, and to ensure the normal course of court sessions as well;

• Providing the courtrooms with modern furniture and technical and other equipment, including video-audio equipment necessary for the examination of evidence, and in the case of glass walls of the courtroom, in order to make the proceedings audible to those present, necessary infrastructure for people with limited abilities, etc.;

• in order to ensure uninterrupted operation of courts in cases of possible power outages, equipping them with alternative sources of electricity supply;

• exclusion of other possible technical cases of failure to provide transportation of the defendant from the penitentiary to the court due to a breakdown of the vehicle of the escort battalion;

• Providing licensed translators proficient in the languages of the main national minorities living in the territory of the Republic of Armenia.

The aforementioned problems and suggestions are not perhaps summarize completely the range of phenomena that hinder, disrupt and often harm the administration of justice, but they give a certain idea of

its current state, which it is still facing, and also confirm the need for reform of the sector by giving some suggestions for reform.

8. CONCLUSIONS

To conclude, it can be noted that the participants in the court monitoring projects have become more experienced in noticing and uncovering the most important and deep problems in the judicial system, recording as a challenge also problems related to specific and subtle manifestations of ethics of representatives of the judicial system, such as the attitude, behavior, the manner of speaking, dressing, with which they appeared at the session, and other factors. The work with the experienced regional coordinators of the organization, the use of a flexible court monitoring mechanism, current discussions and meetings with experts in the field have greatly contributed, perhaps in a relatively short period of time, that the participants acquire new knowledge and skills, change their former stereotypical attitude and way of thinking towards the judicial system, be willing to cooperation with the system.

In a broader sense, court monitoring or court watch programs are the best opportunity for civil society to organize the work of court monitors, to follow court proceedings, to systematically record and publicise the results of observations. The need for these programs arose from the experience of defense lawyers and victims who, during the trials of various criminal cases, observed cases of unpreparedness, bias, and sometimes even bad behavior and practices by judges or prosecutors (often by public defenders themselves, sometimes also by advocates).

Such programs can encourage and strengthen the multifaceted response of the public to the existing problems and gaps in the justice system, contribute to the increase of public awareness, identify the needs and necessity of training of judges and prosecutors.

These programs can become part of judicial reforms, system advocacy, joint work with the media, and a mandatory element of community education programs. In that regard, we also emphasize the issue of changing the attitude in the judicial system, and for this, sharing the results and conclusions of court monitoring, open and unfettered discussions and meetings with judges, prosecutors, lawyers and other employees of the justice sector is a necessary and important factor to listen to their opinions, best practices exchange, partnership, as well as for the purpose of formation and continuous development of public trust in the justice system, which is still lacking and is a must in the Republic of Armenia.

The report will be made widely available. To consider this, did not find it appropriate to provide the numbers of the court cases observed by the court monitoring groups on which the above-mentioned problems were recorded, taking into account the fact that the report does not aim to be an appraisal of the practice and code of ethic of representatives of the judicial system, as well as the fact that the trial of a number of criminal cases is still in progress. The numbers with other relevant details will be submitted only to the relevant authorities, upon the request of the addressee of the problem.

*** The project is co-financed by the Polish development cooperation of the Ministry of Foreign Affairs of the Republic of Poland, through Solidarity Fund PL.**