

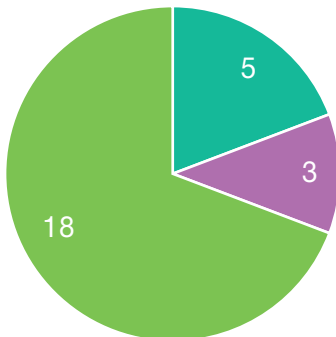
SUMMARY REPORT ON COURT MONITORING OF CRIMINAL CASES IN 2018

In 2018, we monitored 26 criminal cases (106 court sessions) in St. Petersburg and Rostov-on-Don. The trials that we selected for our monitoring concerned human rights issues. A special focus of the monitoring was cases of racial hatred. There were eight such cases in the monitoring. Most of these were cases of hate-motivated violence.

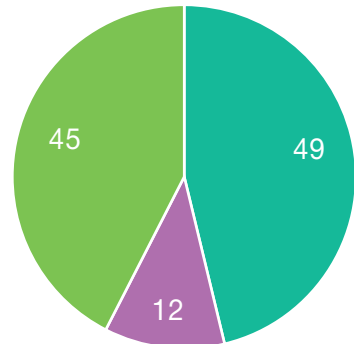
In addition, the monitoring covered cases of stirring up hatred towards social groups (anti-fascists and Marxists, officials), preparation of a terrorist act in the Kazan Cathedral, public calls for extremist activity, stirring up hatred through a joke, libel against a judge, and obstruction of justice.

The number and nature of cases and court sessions

BY CASES



BY COURT SESSIONS



- Violent race hate crimes
- Non-violent race hate crimes
- Other cases of public significance

In the course of the monitoring, we identified multiple violations of the right to a fair trial.

The **principle of publicity of legal proceedings** was violated, in particular:

- In three cases, the sessions began before the scheduled time, as a result of which in two cases the monitors were unable to enter the courtroom.

In order to solve this problem, we recommend that judges consider the public interest for the trial and not begin sessions before the scheduled time even if all the parties have arrived.

- **Long delays in the beginning of court sessions** made it difficult for the audience to come to the courtroom and showed poor organization of the court work. Only 10 sessions began on time, while in the rest of the cases there were delays of 15 minutes or more. The absolute record of 2018 was a delay of one hour and 55 minutes.

Judges should avoid delays in court session beginning and explain the reasons if such delays do occur.

- The monitors recorded one case when the **audience were not allowed to make audio recordings**, which is a violation of the Code of Criminal Procedure.

Judges should not put obstacles to audio recording of court sessions, as this is a gross violation of the Russian law.

- The court website is the main source of information on the hearings, which is why the **absence of information on the hearings on the website** makes it impossible to learn about the trial on time. In Rostov-on-Don, the court websites did not show the trial schedule for a long time, and information about the cases (the defendants' names, the courtroom number) was missing in 37% of cases.

Court staff should ensure the publication of complete and timely information on trials including data on all the defendants regardless of whether they were minors at the time of the crime.

- In 14 cases, the monitors complained about **poor sound** in the courtroom; the judge and the parties to the trial did not speak loudly and distinctly, and the quality of video conferencing was poor, which made it impossible to understand the trial.

Judges should take care of the sound in the courtroom and avoid fast and indistinct speaking, whereas court staff should take care of proper video conferencing quality.

- Bailiffs behaved **improperly with the audience**, refused entry to the courtroom at their discretion, refused to state their name, threatened to charge of an administrative offense, and did not wear badges. In the case of a nationalist where his support group attended every session, they shouted Nazi slogans, and despite their apparent aggression towards other audience and the journalists, the bailiffs remained inactive and ignored their immediate duties to ensure order in the courtroom.
- The monitors were frequently exposed to **undue attention of court staff, bailiffs, prosecutors**, parties to the trial, and other audience; everyone wanted to know why the monitors come to the hearing, who they supported, and whether they were journalists. While such interest might be understood on the part of other audience and parties to the case, there is no doubt that such questions are improper and unnecessary if asked by bailiffs.

The bailiff service should develop and adopt rules of conduct and ethical standards for bailiffs who ensure due court order, in particular, with regard to communication with court visitors and their rights and duties, and there should be regular training. All the bailiffs should wear badges.

- **The principle of equality of the parties was violated** when judges did not explain their decisions or only gave a formal explanation as they dismissed motions, or they stated that “the motion was filed prematurely” and sometimes forgot to consider it, or they refused to consider the motion at all.

Judges should always resolve motions immediately as they are filed and explain the reasons for their decision on the motion.

- **The presumption of innocence was violated** in 42% of court hearings, as the defendants were kept in metal cages.
Metal cages in the courtrooms should be replaced with transparent glass cells with proper ventilation and hearing that enable the defendants and their lawyers to exchange documents.
- **The judges did not always behave professionally;** one judge made an inappropriate joke about the defendant being kept in a cage when he discussed his keeping in the cage and the conditions in the temporary isolation ward, “Probably so that you can’t run away through the video conference”.
- The judges **put time limits for the defendants** if, in the opinion of the judges, they took too long to answer questions.

- In the appeals instance, having discharged a resolution on payments to victims, the **judge did not clarify her decision** even though the victims had questions.

Judges should comply with the requirements of the Code of Judicial Ethics, behave professionally with all the participants to the trial regardless of their status, nationality, religion and other characteristics, and avoid any remarks that would question their professionalism.

- **The principle of impartiality of judges was compromised** by non-professional contacts between the judges and parties to the trial, especially prosecutors. The monitors recorded 19 cases of such contacts; e.g., the prosecutor would make signs to the judge during a court session, change clothes in the judge’s office or smoke with the court secretary.

Judges should avoid any situations where communication with the prosecutor or parties to the trial casts doubt on the judge’s impartiality.

- **We also recorded a violation of the right to an interpreter.** In one case, the judge did not allow the interpreter to be introduced to the defendant. In addition, the interpreter was seated too far from the defendant and did not interpret anything specifically for him; all he did was interpret a few words of the victim from Kyrgyz into Russian for all the parties to the case.

Judges should ensure that defendants can use the free services of an interpreter if they need them.

Therefore, our monitoring in 2018 identified numerous violations of the right to a fair trial, namely, constant delays in the beginning of hearings, long waiting, and unfriendly behavior of bailiffs, as a result of which the public does not come to court hearings, and cases are tried in private without any audience. Poor organization of the court work leads to a violation of the principle of publicity of justice. Keeping the defendants in cages violates the presumption of inno-

cence. Untimely handling of motions casts doubt on the principle of equality of the parties. Inappropriate jokes and the refusal of the judge to explain their decision derogates the judge's professionalism. Close and non-professional contacts with prosecutors (e.g., the prosecutor changing into their uniform in the judge's office) violate a fundamental principle of a fair trial, namely, the impartiality of the judge.

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labeled as foreign agent by Ministry of Justice in 2014

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