

THE RELATIONSHIP BETWEEN LEGAL INSTRUCTIONS AND FACTUAL CIRCUMSTANCES IN A JURY TRIAL

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Abstract

The jury trial, which has a long history of existence, has not lost its relevance to this day and is given much attention both in Georgia and in many other countries. Although this institution originated in the common law of England, today it operates in various forms in many countries of the world, both common and continental law. The Institute of Jurors has evolved over the years to refine it as a form of administration of justice, to meet modern requirements, and to be an effective mechanism for ensuring a fair trial in today's reality. In this article, I will try to analyze how difficult it is for a jury to properly understand the judge's instructions, as well as the evidence presented by the parties during the trial, and ultimately what is the deciding factor in reaching a verdict for a jury. Whether jurors understand the evidence and how well they act within the framework of the instructions given by the judge – access to these problems actually gives us an opportunity to form an idea of the essence and purpose of the Institute of Jurors. In this article will be reviewed foreign literature, American studies on the above-mentioned issues, as well as an analysis of the experience accumulated so far in Georgia.

Keywords: *Jurors, Judge instructions, Evidence*

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Introduction

Export Diversification is one of the important aspects of the economic policy pursued by the country to re With a long history, the jury trial is still relevant and is given much attention in Georgia and many other countries. This institution originated in the common law of England. Today it operates in various forms in many countries of the world both in common and continental law systems. (Dolidze, 2013).

The Institute of Jurors has evolved over the years to refine it as a form of administration of justice, to meet modern requirements, and to be an effective mechanism for ensuring a fair trial today.

The evolution and decline of the jury system, and in some cases, its abolition and renewal indicate its significance as a political and legal institution. (Widmar, Hans, 2019).

In this article, I will analyze how difficult it is for a jury to properly understand the judge's instructions and the evidence presented by the parties during the trial; and ultimately what is the deciding factor in reaching a jury verdict. The article will also discuss the extent to which the jurors understand the evidence; how adequately they act within the framework of the instructions given by the judge. Studying these issues provides an opportunity to understand the essence and purpose of the Institute of Jurors. In the article, I will review foreign literature, studies conducted in America on the abovementioned issues and analyze the experience accumulated so far in Georgia based on the opinions expressed by Georgian lawyers, prosecutors and judges. .

To what extent can jurors establish facts and render verdicts? At what stage of a regular court hearing do the jurors make decisions? Do they listen to all the evidence to the end? Or do they make intuitive conclusions while the trial is still ongoing? Do the jurors rely on the evidence presented in court? Do they ignore evidence and witnesses they do not perceive ? (Sherrod, 2019)What is their attitude towards the experts' conclusions? How well can they associate the facts and the evidence? The search for answers to these questions has always been problematic throughout the operation of the Jury Institute.

Adam Benforado, a prominent professor of law, recently stated that "the American legal system is based on an inaccurate model of human behavior." To correct these "fundamental shortcomings," he concludes, "our justice system must be reconstructed based on scientific facts." (Sherrod, 2019).

1. Adaptation of evidence to the factual circumstances of the case by the jury;

What activities does the legal system require jurors to perform? In what form is evidence presented to jurors? What are the limitations of presenting evidence? How does the jury analyze and compare evidence, and how is a final verdict made? (Widmar, Hans, 2019).

Numerous empirical studies have been conducted over the last fifty years on the competence and objectivity of a jury trial; they discuss the ways this system works and how jurors exercise their duties (Widmar, Hans, 2019).

Scholars of Politics, Lance Bennett and Martha Feldman (W. Lance Bennett & Martha Feldman, *Reconstructing Reality in the Courtroom: Justice and Judgment in American Culture*, 1981) suggest that jurors perceive court testimony based on their personal experience. To reach a verdict, they have to review various stories, and then compare the gained information with the most convincing evidence presented in court (Widmar, Hans, 2019).

The research by Bennett and Feldman has shown that both adopted social norms and written laws through which jurors perceive a testimony, determine the verdict rendered (Widmar, Hans, 2019).

Bennett and Feldman's hypothesis has also been confirmed by extensive research by social psychologists. While perceiving the events, people intuitively use mental systems, referred to as "schemes" or "scenarios". These systems arise from personal experiences and the cultural environment in which people live. When a person thinks about a particular fact and its consequences, they define them based on existing schemes. These schemes are employed as the basis for the assessment of a physical and social event as typical or abnormal. (Feigenson, 2000).

When the overall picture lacks facts, people try to fill them in based on the information they have about the universe. Different mental schemes create different stories to explain a particular outcome, although some of these stories prove to be more convincing (Widmar, Hans, 2019).

Testimony that does not conform to the views of the juror is scrutinized more sceptically and often not even considered compared to the testimony that has often been revealed in other cases and in human behavior. If jurors have a preconceived notion of a law that does not conform to the judge's instruction, then it is difficult for them to take the judge's instruction into account (Hastie & Dawes, 2001).

Jury deliberations and verdicts are not just mechanical gatherings of facts and their interconnections. The subtle characteristics and normative values of human nature manifest themselves in the perception of facts, whether individually or in groups. Judges and lawyers often argue that a jury only has to establish the facts. However, everyone knows that a juror has to consider the values when analysing the facts. Jury deliberations provide the best way for jurors to bring positions closer and evaluate the facts through the prism of their values (Smith, 1991, Finkel, 1995).

The verdict passed by the jurors is usually considered to be fair. However, the questions arise concerning difficult cases where a great deal of time is devoted to the examination of expert knowledge. It would therefore be logical to delve deeper into the role of experts in jury trials. (Widmar, Hans, 2019).

The following questions should be asked concerning the issue: Do the jurors understand the essence of the expert opinions; do they reasonably and independently apply the disputed factual circumstances, or do they devote the function of establishing the facts entirely to the experts? Do the jurors rely on the external characteristics of the witness expert or do they analyze the credibility of their testimony? Are the jurors confused when the testimonies of the experts of the parties are contradictory? (Widmar, Hans, 2019).

According to an old-fashioned legal expression, experts possess knowledge "beyond the vision" of an average person. Under US federal rule, education and experience are considered to be the sources of expertise. The expert witness is required to "assist those responsible for establishing the facts in understanding the evidence and resolving the dispute." The expert opinion should not replace the role of jurors in the decision-making process. Its purpose is to assist jurors in understanding the facts and resolving the case (Widmar, Hans, 2019).

Jurors do not operate autonomously. The judge decides which expert opinion the jurors are entitled to hear. While making such a procedural decision, the judge relies on legal standards that determine when and under what conditions an expert testimony is permissible. These standards require the judge to assess whether an expert in a given field is competent enough, how relevant their testimony is, and whether they will assist jurors. The testimony of an expert may not be allowed by the judge if it gets too close to the main legal issues to be decided by the jurors. For example, in a rape case, a judge will allow an expert to say that the object of the study has recently had sexual intercourse and that the scabs and bruises on his or her body are signs of forced sexual intercourse. The judge may also allow the expert to state that the initial denial of rape is compatible with post-traumatic stress disorder. But an expert cannot say whether the rape took place or not. Such a conclusion is beyond the scope of a witness examination and is the sole competence of a jury (Boeschen et al., 1998).

Anthony Shapain and Daniel Schumann along with other colleagues conducted research including surveys, with American jurors to examine the reaction of jurors to expert testimonies. Most of the interviewed jurors agreed that the expert opinion was significant for their cases. The jurors took into account the ability of the expert to express complex information easily; the desire of the expert to state the conclusion clearly and the reputation and qualifications of the expert. The research revealed that the jurors were quite demanding and

sceptical of expert opinions. The attitude of the jurors towards the experts was determined by such reasonable factors as the qualification of the expert, argumentation, factual knowledge and impartiality. The results of the study did not agree with the critics' attempts to portray jurors as gullible, naive, or careless people who resort to irrational, superficial, decision-making strategies (Schuman and Champagne, 1997).

Critics of the jury criticize the attitude towards experts based on individual cases when the judge did not give proper instructions to the jury. This circumstance was the reason why the jury gave the expert testimony more importance than to other evidence. In other cases, the jurors did not cope with the conflicting testimonies of the experts. On the other hand, they were influenced by the cross-examination of the experts.

Contrary to individual cases, a number of studies systematically show that jurors' attitude to expert testimony is thorough and sceptical (Widmar, Hans, 2019).

As studies in the United States reveal, jurors cannot be classed as naive. Moreover, they are fairly well-versed in the evidence, including expert opinions, especially if given adequate instructions by the judge.

I share the opinion that it is possible to achieve a better result in this respect. Under the supervision of conscientious judges, better presentation of evidence in court by lawyers and experts invited at their request may alleviate some of the difficulties. Different types of reforms, such as giving the jury the right to record and ask questions may also be helpful (Widmar, Hans, 2019).

Ultimately, the understanding of the evidence by the jurors depends on how adequate are the instructions received from the judge. As well as this the professionalism of the parties is another decisive factor. They can also successfully assist jurors by presenting evidence in court effectively, explaining laws in introductory and closing speeches, amongst other things.

2. The issue of understanding the judge's instructions.

Since no research has yet been conducted on the ability of Georgian jurors' understanding of the instructions of judges, I will review the relevant American studies. The results are mixed. In some cases, the jurors adequately perceive the law. However, the lack of understanding in many cases leads to confusion. One of the real problems is that court rules are overloaded with technical jargon which overshadows seemingly insignificant legal differences. As Professor Peter Thiers points out, some references contain words that are impossible to be understood by a person without a legal education. In addition to specialized vocabulary, legal instructions and references are also frequently presented in a hard-to-understand language (Widmar, Hans, 2019).

The judge's instructions are usually lengthy, containing complex sentences and phrases, perceptible to lawyers but not to "ordinary" people (Widmar, Hans, 2019).

Jurors may also receive restrictive instructions when evidence is presented for one purpose and thus cannot be employed for other purposes (Lieberman & Sales). The most common form is to submit information about the defendant's past convictions to the court. As already mentioned, information about a person's criminal past can be used, by jurors to assess the validity of the testimony as evidence of the motive of the accused or their ability to commit a crime. However, jurors are usually instructed not to perceive this fact as evidence. The tendentious attitude towards the past life of the accused would inevitably have an impact on the present case. Studies show that it is not easy for jurors to follow these instructions. Experiments by Valerie Hans and Anthony Doob showed that in some cases, jurors obeyed the instructions given by the judge although, in most cases, judges who knew about the accused's criminal past were more likely to establish his guilt in the present case than those who knew nothing about it (Hans & Doob, 1976).

This makes it clear once again that the jurors do not and cannot follow the instructions correctly. They are inferior decision-makers.

The adequate presentation of evidence before a jury to facilitate their roles as fact-finders will make it more possible to deliver a fair verdict. This situation requires two main tasks to be performed by both parties - the lawyer and the judge. First, attorneys must present the facts concerning each party clearly. This will make it easy for the jurors to examine the case and determine liability. Also, the judge must explain the applicable law sufficiently and easily to the jurors to make it easy to determine the nature and punishment for the alleged offence (Sherrod, 2019).

Evidence is more convincing when presented as a story rather than a list of inconsistent testimonies or a list of points. For a story to be convincing, it must contain certain information. First, evidence that provides a clear explanation of events; second, world knowledge and life experiences that may be applied to evidence; finally, knowledge of the news structure. With these three elements, jurors can build a satisfying history of what happened in the case leading up to the verdict (Sherrod, 2019).

It has been suggested that misunderstood facts by lawyers and confusing instructions from judges frequently lead to strange and unpredictable verdicts by jurors (Sherrod, 2019).

As for Georgia, the chairperson of the jury session gives preliminary explanations to the jury at the beginning of the substantive hearing of the case (a brief overview of the trial). First of all, the judge explains that “prosecution” means the prosecutor and “defence” means the accused and his lawyer. The judge then clarifies that the evidence that was “accepted” by the judge will become part of the case and, most importantly, the evidence known as admissible can be taken into account when making a decision on the case. The prosecutor is obliged to obtain evidence beyond a reasonable doubt. The judge explains to the jurors their civil duties and that they must decide the fate of the accused. The jurors then hear a brief summary of the case, a description of the action the person is charged with and the qualification of the offence. The judge explains to the jurors that the indictment and the statements it contains are not classed as evidence. The prosecution has an obligation to substantiate the allegations in the indictment by the standard beyond a reasonable doubt. For the accused not to plead guilty, the jurors must presume his innocence. In order to assist in the analysis of the evidence presented in the case, the judge should consider the elements of the crime for which the person is charged. eg. when a person is charged with a crime under Article 108 - premeditated murder. The judge explains when the offence is considered to have been committed intentionally. Moreover, the jurors are given the essence of the direct and indirect intent, negligence and types of negligence. The judge also clarifies that the person will not be held liable if he acted in circumstances contrary to the law and the charge. The judge will also discuss necessary repulsion, extreme necessity, arresting the offender and legitimate risks. Next, the jurors will be given information concerning exculpatory circumstances, namely insult due to age, insult due to mental illness, execution of an order or decree, an error. The judge also describes the sequence of the trial; explains that for the first time, the parties come up with introductory speeches and that the latter are not classed to be evidence. It is the presentation of the evidence which the parties intend to present at the trial. An examination of the evidence begins after the introductory remarks, although the defence has no obligation to present it. The judge clarifies that the evidence beyond a reasonable doubt will firmly convince the judges of the guilt of the accused person. The judge informs the jurors regarding the protest procedure and warns that if the protest is not satisfied, the jurors should not take into account the protested question and answer to it. Judges are also informed that the judge may consult separately with the parties regarding evidence and procedures, but this does not mean that they conceal something from the jurors.

After examining the evidence, the parties have the right to present supporting arguments in their case - a closing statement or the parties’ assumptions as to what conclusions can be drawn from the evidence. The judge explains the following terms: indirect evidence, material evidence, the presumption of innocence. The judge then moves on to explain the rights of the jurors. They have the right to receive an explanation from the judge as to the law to be applied. Moreover, they have the right to hear additional explanations from witnesses concerning the circumstances of the case and the concluding remarks of the parties.

As can be seen, the instructions provided by the judge include information from the general part of the Criminal Code. e.g., types of intent and negligence, circumstances precluding wrongdoing and guilt. However, the composition of the crime and the plot of the case are changed. When explanations are given to the parties, they have the right to appeal to the court and the court can either consider their views or not.

3. Opinions of Georgian practising lawyers on the ability of jurors to understand the evidence and court instructions;

As part of a small survey conducted by me in December 2019 and January 2020, I interviewed 11 attorneys, 2 prosecutors, and one judge who has participated in a jury trial.

Georgian practising lawyers were asked the following questions: “Have you ever had a case in which a jury

failed to understand the judge's explanations about the case? What was especially difficult for jurors to understand? Do you think that the court instructions need to be refined and in what way?" The answers were nonhomogenous.

"Yes, I had an occasion. For example, when a judge clarifies that they are bound to make a decision and comply with an imperative requirement of the law. Jurors did not understand this, they did not understand why they were obliged. They found it difficult to understand legal terminology, did not understand why it is the prosecution's duty prove something and what the lawyer is doing, etc." (Interview with the solicitor A.K., 2020).

"In my practice, jurors found it most difficult to grasp the essence of the proof and work in this direction. It would be good if the court instructions were not just the norms of the law but the definitions of the norm employing the language understandable to a non-lawyer person." (Interview with the solicitor G.S., 2020).

"Yes, I did, concerning the burden of proof and the essence of the presumption of innocence. Following the instructions given by the court, the parties have the right to ask questions to the judges. For example: "Please raise your hand if you don't agree that having been charged, the person in question must have done something wrong. Otherwise, he would not have gone to court." (Interview with the solicitor G.T., 2020).

"Although jurors do not have the specialised education, the selected candidates selected based on their quality of critical thinking, generally do not have a hard time understanding the essential message in the judge's explanations. The parties have the right to make recommendations for further clarification of the explanations, but it is practically impossible to convey the forms of intent more popularly, but still, an attempt in this direction would not be a bad idea." (Interview with the solicitor G.G., 2020).

"Jurors' explanations are mainly limited to the excerpts from the law, which is more or less difficult to analyze by an ordinary citizen who has no legal education. I believe that the explanations should be made in terms understandable to the citizen so that important issues do not remain unclear." (Interview with the solicitor D.S., 2020)

"It is difficult for jurors to understand the explanations of the judge. They do not understand the evidence, what inadmissible evidence is, why they should not share inadmissible evidence; what is the evidence disagreement. They have difficulty with legal terminology." (Interview with the solicitor E.B., 2020).

"The explanations of the judge are only an excerpt from the law and are not compiled in a language understandable to the jury. There is a lot of work to be done in this regard." (Interview with the solicitor P.G., 2020).

"The parties have the opportunity to include, in the jury instructions, the desired explanations of the law to be applied to them. The party can explain the law in introductory and concluding speeches. The court can not make any other explanations regarding the case." (Interview with the solicitor P.M., 2020)

"I have not yet had a case like this in practice. When we talk about legal explanations, naturally, the expectation is that something may be unclear for a non-lawyer. However, if there is a question regarding the explanations, the jury can address the court; this has not happened in my practice. This goal is also focused on the result, to be understandable to the jurors." (Interview with the solicitor L.B., 2020).

"I do not remember such a case, especially at the legislative level. Certain circumstances are explained to the jurors before their selection. After this, a detailed explanation is given to them before the opening speech and a written explanation is given to the jurors after the closing speech. In the case of a request, the jurors are periodically clarified about certain issues. In addition, according to the Code of Procedure, the court is obliged to give explanations about the law to be applied after the jurors go to the deliberation room to make a decision. Therefore, at the level of legislative regulation, the court is involved in the elimination of possible ambiguities amongst jurors," (Interview with the solicitor T.N., 2020).

"In my experience, I could not say that the jurors have a problem understanding the explanations. Moreover, in some cases, they were more fully interested in legal issues than were in relation to the case. Basically, it seems to me that the main issue is the understanding of the interpretation of the provisions of the general part of the criminal law. The instructions should be written in as simple language as possible." (Interview with the Judge of the Rustavi City Court M.M., 2020)

As can be seen, simplifying the judge's instructions (although much work has already been done in this re-

gard) will never be superfluous. It should also be noted that it is important for the judge to be actively involved at every stage of the trial in order to eliminate any ambiguity regarding the law to be applied. It is also clear that jurors may have difficulty understanding legal terminology, although the elimination of this gap depends on the skills of the parties at the jury selection stage, as well as the merits of the case and the judge's professionalism in how he or she conducts the hearing and how well he or she communicates with the jury.

The following questions were also asked: **"In your practice, have you ever witnessed a jury to have difficulty understanding the evidence, especially expert opinions?" "In your opinion, how correctly do the jurors assess the evidence in the case in terms of veracity, relevance and sufficiency?"**

The Georgian lawyers' answers were as follows:

"The judge's instructions are important. For example, regarding the issue of what can be classed as evidence and what cannot; or an obligation to share this or that evidence. Also, in order for jurors to properly evaluate evidence, they must understand the veracity of the evidence, what relevance means as well as the standard beyond any reasonable doubt. American experts have worked with us on this issue for years. Numerous mock sessions and training have been held." (Interview with the solicitor G.T., 2020).

"The judges evaluate all the evidence, according to the discussed standards, from the point of view of an objective observer. This, of course, is assisted by both of the parties and the court, but they still make decisions based on expediency and fairness." (Interview with the solicitor G.G., 2020).

"The jury is not required to assess the truth of the expert's conclusion. If the jury starts this kind of assessment, the impartiality of this institution will be questioned. In practice, the arbitration of the conclusion of the expert examination is explained to the juror by the party, from the point of view beneficial for the party. Here the party must inform the juror of the content of the conclusion." (Interview with the solicitor D.S., 2020).

"Jurors evaluate the evidence only visually. For instance, there is a corpse on the screen. This already has a negative effect on the case. The picture was taken at the scene of the incident, the bloody guns have a much greater impact on the jury than the lawyer's speech. They cannot understand the conclusions of the expert. For example, the expert said that the biological material, the fingerprints did not come from the weapon of the crime. It causes confusion of the jurors who cannot decide what is more important, what they have just heard or the conclusion of a specialist. There was a case when the jury did not accept the opinion of the expert." (Interview with the solicitor I.B., 2020).

"It is difficult for jurors to understand the terminology of an expert. For example, what is a dactyloscopy examination? However, there is such an approach among the jurors: if a knowledgeable man said something, it must be plausible, or if the prosecutor claims something, that must be true." (Interview with the solicitor P.G., 2020).

"Since the verdict of the judges is not substantiated and it is not known to anyone, it is difficult to answer based on which the decision is made, however, all cases are specific, and the evidence is therefore different. However, it can be claimed that judges rely heavily only on the principle of justice and make decisions based on which party the law is fairer to." (Interview with the Judge of the Rustavi City Court M.M., 2020).

"It is difficult to talk about the problem of understanding the evidence when the judges do not substantiate the verdict, the deliberation is secret and it is often unknown to the parties based on which evidence they make the decision. As for the existing practice, I have not had a clear and uncertain ambiguity regarding the conclusions of the expert in my practice." (Interview with the prosecutor L.B., 2020).

"The conclusion of the expert, if explained by the expert using specific terminology, will be difficult for the parties to perceive. That is why the party has the right to meet with the witness, including an expert, and explain to him or her that he or she will speak at the jury trial in an easily comprehensible and thought-provoking manner. However, jurors also have the opportunity to question any witness after the parties have questioned them concerning a matter of ambiguity, and the witness is required to provide detailed information for them to understand. Consequently, in the end, this problem is less problematic." (Interview with the prosecutor T.N., 2020).

As can be seen, practicing lawyers find it particularly difficult to answer how correctly jurors understand the evidence, since a jury trial does not substantiate a verdict and therefore it is impossible to find out what their

reasoning is. A group of lawyers believes that the jurors find it difficult to understand the terminology of the expert therefore they evaluate the evidence superficially. However, much depends on the contingent of jurors selected by the parties, and it should be borne in mind that they are guided by the principle of expediency and fairness while making decisions. The verdict is also rendered based on whom the law is fairer to. It should be noted that according to the Criminal Procedure Code of Georgia, a jury verdict can be appealed on the grounds of questioning an illegal decision made by the chairman of the session. Under the Article 266-2 2 of the CPCGA, a verdict of guilt may be appealed if the presiding judge has made an illegal decision on the admissibility of evidence; the presiding judge has violated the principle of adversarial proceedings, the presiding judge made essential errors when giving explanations before leaving the deliberation room. This legal leverage is classed as a legal control mechanism over the administration of justice.

It is interesting to see the statistics of the Supreme Court concerning the appeal of judgments rendered by jurors. Out of 46 cases reviewed by the jury, 24 cases were cassated in the appellate courts. Out of 23 cases reviewed (one case is not completed at this stage), 10 cases were declared inadmissible, 2 cases were left unconsidered, the verdict was left unchanged in 10 cases, the verdict was annulled concerning the verdict part and returned to the court for reconsideration in 1 case. (<http://www.supremecourt.ge/files/upload-file/pdf/nafici-msajulebis-mier-ganxiluli-saqmeebis-statistika.pdf>)

Conclusion

The institute of jurors is under constant, sharp and multifaceted criticism. One of the major criticisms against jurors is that they fail to realize their civic duties and to understand the instructions given by the judge. (Mavrantonis, 2016) At the same time, the instructions are a key element of a jury trial. The judge gives instructions to the jurors before the hearing of the evidence on the relevant law, after the hearing, and during the hearing of the case. Given the fundamental importance of the instructions, there is a large amount of empirical literature (American research) that focuses primarily on three key issues: How well do jurors understand the instruction? Could the jurors' skills to understand instructions be improved by modifying standard instructions? What effect do court instructions have on jurors and their behaviour? (Devine, 2012).

Unfortunately, research in America reveals that many jurors find it difficult to understand the judge's instructions. Moreover, the jurors do not understand the instructions as well and adequately as they believe they do; or do not meet the judges' expectations regarding the perception of instructions; or as society hopes jurors can follow the judge's instructions (Devine, 2012).

The modification of court instructions includes not using the legal jargon in instructions, simplifying the complex structure of sentences, and giving more clarity to the logical flow of the speech. Studies have also shown that similar changes improve the situation noticeably (Devine, 2012).

It is known historically that the courts were still reluctant to identify ways to help jurors perform their job better. As well as this, it was suggested that a competent adult did not need any special assistance to become an acceptable juror. Attitudes towards this issue changed in the 1980s when there was a growing discrepancy between the expectations of the legal system and the quality of the work done by jurors. A variety of reform mechanisms have been proposed since then to improve the functioning of the jury system. The earliest procedural mechanisms identified were as follows: authorizing jurors to make records, asking questions, pre-instructing jurors before hearing evidence, simplifying instructions, distributing written instructions to jurors and presenting the finalised list of the evidence to the jurors. Later, the jurors were given permission to discuss the case among one another (Devine, 2012).

Finally, it can be claimed that the proper performance of jurors depends, to a large extent, on the skills revealed by the parties. During the selection process, the parties identify the candidates for jurors who should be responsible for resolving the issue of the guilt of the accused. At a later hearing, the defence and the prosecution should present evidence (as well as introductory and concluding remarks) in a way that is easily comprehensible to the jury. The greatest role is played by the judge, who should provide legal instruction to the jurors at each stage of the case, identify issues incomprehensible to the jurors and give them appropriate explanations..

Based on the results of research conducted in the United States (where there is a comprehensive experience concerning the practice of jury work) and the experience accumulated in Georgia (assisted by the views of Georgian lawyers on the problems of the jury system) as a recommendation, it can be said that:

1. First of all, the professionalism and skills of the parties seem to be the decisive factor. It depends on the parties how the case will be presented before the jury, to what extent the principle of adversarial proceedings will be established;
2. I agree with the recommendation presented by the Association of Lawyers in that the quality of presentation of the case by the parties will be enhanced by using effective evidence-based mechanisms such as visuals, examination of evidence-based documents with the help of witnesses and presenting a preliminary list of “necessary” and “non-essential” witnesses.
3. The parties should make every effort to reduce the evidence and witnesses to be examined regarding the case to an optimal minimum. In such a case, even if a party duplicates the list of witnesses presented by their opponent, this will still not be able to prolong the trial.
4. It is also important for a judge to be active throughout the process. As revealed by the research, it is the judge’s time-consuming and painstaking explanations that significantly determine the juror’s ability to adequately perceive the evidence. Most importantly, the judge must ensure that the principle of equality is upheld so that no party is unjustly oppressed, even by the rejection of a motion or protest.
5. Although the judge’s instructions have been elaborated and refined many times, as most Georgian lawyers believe, it would be advisable to take further steps to make the court instructions easily perceivable. This would further improve the jurors’ ability to perceive them within the legal framework.

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