

# THE RIGHT TO TRIAL WITHIN A REASONABLE TIME AND THE CHALLENGES OF RESPECTING IT IN THE CRIMINAL PROCEDURE

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## Abstract

The concept of "fair judgment and in a reasonable time" is integral to the administration of justice and the protection of human rights. This abstract explores the dual principles of fairness and timeliness within judicial processes, emphasizing their importance in ensuring that legal outcomes are just, equitable, and efficient. Fair judgment necessitates impartiality, transparency, and adherence to the rule of law, ensuring that all parties receive an unbiased and equitable hearing. Mean while, delivering judgments in a reasonable time is crucial to prevent undue delays that can exacerbate stress, financial burden, and uncertainty for the involved parties. The balance between thoroughness and efficiency is examined, highlighting the challenges faced by judicial systems globally, including caseload pressures and resource constraints. Additionally, the impact of delayed justice on public trust in legal institutions is discussed of Republic of North Macedonia. This analysis underscores the need for systemic reforms, such as procedural streamlining and technological innovations, to enhance the capacity of courts to deliver fair and timely judgments, thereby upholding the principles of justice and maintaining societal trust in the legal system of Republic of North Macedonia.

*Keywords:* fair, judgment, reasonable time, legal system.

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## 1. Introduction

The principles of fair judgment and delivering justice in a reasonable time frame are cornerstone values of any effective and respected legal system. These concepts are enshrined in numerous international human rights instruments, such as the Universal Declaration of Human Rights and the European Convention on Human Rights, reflecting their universal importance.

Fair judgment is predicated on impartiality, transparency, and adherence to established legal standards. It requires that judicial officers make decisions based solely on the merits of the case, supported by evidence and legal reasoning, without influence from external pressures or biases. This ensures that all parties receive equal treatment and that justice is administered without favoritism or prejudice. A fair judgment upholds the rule of law, reinforcing public confidence in the legal system and protecting individual rights.

Delivering judgments within a reasonable time frame is equally crucial. Justice delayed is often equated with justice denied, as prolonged legal proceedings can have profound negative impacts on individuals and society. Lengthy delays can exacerbate the stress and financial burden on parties involved in legal disputes, potentially deprive individuals of timely remedies, and hinder the administration of justice. Furthermore, excessive delays can erode public trust in the judicial system, leading to perceptions of inefficiency and incompetence.

Balancing fairness and timeliness presents a significant challenge for judicial systems globally. Courts frequently grapple with high caseloads, limited resources, and complex procedural requirements, which can contribute to delays. Addressing these issues requires a multifaceted approach:

**Procedural Reforms:** Simplifying and streamlining court procedures can reduce unnecessary delays. This might include revising rules of procedure to eliminate redundant steps, improving case management practices, and fostering alternative dispute resolution methods to resolve conflicts outside the traditional court system.

**Technological Innovations:** Leveraging technology can significantly enhance the efficiency of judicial processes. Digital case management systems, electronic filing, and virtual court hearings can reduce delays and improve access to justice. These technologies also facilitate better record-keeping and case tracking, enabling more efficient court administration.

**Resource Allocation:** Ensuring that courts have adequate resources, including personnel, funding, and infrastructure, is vital. Investments in training for judicial officers and court staff can also improve the overall efficiency and quality of judicial processes.

**Monitoring and Accountability:** Implementing systems to monitor case progress and hold judicial officers accountable for undue delays can help ensure that cases are resolved in a timely manner. This might involve setting benchmarks for case duration and regular reviews of court performance.

**Public Awareness and Engagement:** Educating the public about their legal rights and the judicial process can help manage expectations and encourage the use of available legal resources effectively.

The interplay between fairness and timeliness underscores the need for continuous improvement and innovation within judicial systems. Ensuring that justice is both fair and prompt requires an ongoing commitment to reform and adaptation in response to changing societal needs and technological advancements (Radolović, A. 2008).

## **2. Length of proceedings**

In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] tribunal ...” In requiring cases to be heard within a “reasonable time”, the Convention underlines the importance of administering justice without delays which might jeopardise its effectiveness and credibility (H. v. France, 1989, § 58; *Katte Klitsche de la Grange v. Italy*, 1994, § 61). Article 6 § 1 obliges the Contracting States to organise their legal systems so as to enable the courts to comply with its various requirements. The Court has repeatedly stressed the importance of administering justice without delays which might jeopardise its effectiveness and credibility (*Scordino v. Italy* (no. 1) [GC], 2006, § 224). Where the Court finds that in a particular State there is a practice incompatible with the Convention resulting from an accumulation of breaches of the “reasonable time” requirement, this constitutes an “aggravating circumstance of the violation of Article 6 § 1” (*Bottazzi v. Italy* [GC], 1999, § 22; *Scordino v. Italy* (no. 1) [GC], 2006, § 225). For the length of execution proceedings, see section on “Execution of judgments”. (Guide on Article 6 of the Convention – Right to a fair trial)

## **3. Determination of the length of the proceedings**

As regards the starting-point of the relevant period, time normally begins to run from the moment the action was instituted before the competent court (*Poiss v. Austria*, 1987), unless an application to an administrative authority is a prerequisite for bringing court proceedings, in which case the period may include the mandatory preliminary administrative procedure (*Kress v. France* [GC], 2001).

Thus, in some circumstances, the reasonable time may begin to run even before the issue of the writ commencing proceedings before the court to which the claimant submits the dispute (*Vilho Eskelinen and Others v. Finland* [GC]). However, this is exceptional and has been

accepted where, for example, certain preliminary steps were a necessary preamble to the proceedings (*Blake v. the United Kingdom*, 2006, § 40). For the case of a civil-party claim, see *Arnoldi v. Italy*, 2017, §§ 25-40.

Article 6 § 1 may also apply to proceedings which, although not wholly judicial in nature, are nonetheless closely linked to supervision by a judicial body. This was the case, for example, with a procedure for the partition of an estate which was conducted on a non-contentious basis before two notaries, but was ordered and approved by a court (*Siegel v. France*, 2000, §§ 33-38). The duration of the procedure before the notaries was therefore taken into account in calculating the reasonable time.

As to when the period ends, it normally covers the whole of the proceedings in question, including appeal proceedings (*König v. Germany*, 1978, § 98 in fine), and thus both interim and final decisions (*Mierlă and Others v. Romania (dec.)*, 2022, § 78). It extends right up to the decision which disposes of the dispute (*Poiss v. Austria*, 1987, § 50). Hence, the reasonable-time requirement applies to all stages of the legal proceedings aimed at settling the dispute, not excluding stages subsequent to the judgment on the merits (*Robins v. the United Kingdom*, 1997, §§ 28-29), meaning that the final determination of costs and expenses may be covered within the period under examination (*Čičmanec v. Slovakia*, 2016, § 50). The execution of a judgment, given by any court, is therefore to be considered as an integral part of the proceedings for the purposes of calculating the relevant period (*Martins Moreira v. Portugal*, 1988).

Where the pronouncement of a decision at a public hearing and the drafting of the full text of the decision take place at separate times, the proceedings are not deemed to have been completed until the final reasoned decision is deposited at the registry of the the court that gave it, or until the parties concerned are notified of the decision, including where a lengthy period elapses between the pronouncement of the decision and its notification to the parties (*Mierlă and Others v. Romania (dec.)*, 2022, §§ 78 and 82).

Lastly, as regards the intervention of third parties in civil proceedings, the following distinction should be made: where the applicant has intervened in domestic proceedings only on his or her own behalf the period to be taken into consideration begins to run from that date, whereas if the applicant has declared his or her intention to continue the proceedings as heir he or she can complain of the entire length of the proceedings (*Scordino v. Italy (no. 1) [GC]*, 2016, § 220). ( Guide on Article 6 of the Convention – Right to a fair trial)

#### **4. Assessment of the reasonable-time requirement**

Obligation on member States: they are required to organise their judicial systems in such a way that their courts are able to guarantee everyone's right to a final decision on disputes concerning civil rights and obligations within a reasonable time (*Comingersoll S.A. v. Portugal [GC]*, 2000, § 24). Assessment in the specific case: The reasonableness of the length of proceedings coming within the scope of Article 6 § 1 must be assessed in each case according to the particular circumstances (*Frydlender v. France [GC]*, 2000, § 43), which may call for a global assessment.

The whole of the proceedings must be taken into account:

While different delays may not in themselves give rise to any issue, they may, when viewed together and cumulatively, result in a reasonable time being exceeded (*Deumeland v. Germany*, 1986, § 90). Thus, although the length of each stage of the proceedings (approximately one and a half years) might not be considered unreasonable as such, the overall duration may nonetheless be excessive. ( *Drašković Dragoljub*, 2018)

A delay during a particular phase of the proceedings may be permissible provided that the total duration of the proceedings is not excessive (*Pretto and Others v. Italy*, 1983, § 37).

The national authorities may have remained active throughout the proceedings, with delays being caused by procedural defects (*Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 213).

“Long periods during which the proceedings ... stagnate” without any explanations being forthcoming are not acceptable (*Beaumartin v. France*, 1994, § 33).

The assessment of whether the time taken was reasonable may also have regard to the special characteristics of the proceedings in question (see *Omdahl v. Norway*, 2021, §§ 47 and 54-55, concerning the division of a deceased person’s estate between the heirs, which took more than twenty-two years). 487. The restrictions necessitated by a pandemic, such as the COVID-19 health crisis, may have an adverse effect on the processing of cases by the domestic courts although this cannot in principle release the State from all responsibility for the excessive length of the proceedings in question. The applicability of Article 6 § 1 to preliminary proceedings or interim measures, including injunctions, will depend on whether certain conditions are fulfilled

If the State has introduced a compensatory remedy for breaches of the reasonable-time principle and the remedy, examined as a whole, has not caused the applicant to lose “victim” status for the purposes of Article 34 of the Convention, this constitutes an “aggravating circumstance” in the context of a violation of Article 6 § 1 for exceeding a reasonable time.(Guide on Article 6 of the Convention – Right to a fair trial).

## **5. Respect for the principle of reasonable trial time in RMV**

In the Republic of North Macedonia, respecting the principles of fair trial and delivering justice in a reasonable time frame faces several challenges. These challenges are multifaceted, involving institutional, procedural, and resource-related issues. Institutional Challenges.

- **Judicial Independence:** Ensuring the independence of the judiciary from political influence remains a significant concern. Political pressures and interference can undermine impartiality and the fairness of trials.
- **Corruption:** Corruption within the judicial system can affect the fairness of trials. Efforts to combat corruption are ongoing, but the perception and instances of corrupt practices continue to be an obstacle. Procedural Challenges.
- **Complex and Outdated Procedures:** Legal procedures in North Macedonia can be complex and outdated, leading to inefficiencies and delays. Streamlining these procedures is necessary to reduce the time it takes to resolve cases.
- **Case Backlog\*\*:** The courts face a significant backlog of cases, which delays the delivery of justice. High caseloads for judges and insufficient administrative support contribute to these delays.
- **Resource-Related Challenges**
- **-Limited Resources:** The judiciary often operates with limited financial and human resources. This affects the capacity to handle cases efficiently and impacts the overall quality of the judicial process.
- **Training and Professional Development:** There is a need for continuous training and professional development for judges and court staff to ensure they are equipped to handle cases effectively and efficiently.

Technological and Administrative Challenges

- **Insufficient Use of Technology:** The integration of modern technology into the judicial process is still in progress. Enhancing digital infrastructure, such as electronic filing systems and digital case management, is essential for improving efficiency.

- **Administrative Inefficiencies:** Administrative processes within the judiciary can be slow and bureaucratic. Improving administrative practices is crucial to support faster and fairer case resolutions.

Efforts and Recommendations for Improvement To address these challenges, several efforts and recommendations can be considered:

- **Strengthening Judicial Independence:** Implementing measures to protect judges from political and external influences is vital. Ensuring transparent appointment and promotion processes based on merit can help enhance judicial independence.
- **Combating Corruption:** Strengthening anti-corruption measures within the judiciary, including stricter enforcement of ethical standards and transparent disciplinary processes, can help restore public confidence.
- **Procedural Reforms:** Simplifying and updating legal procedures to eliminate unnecessary steps and delays can enhance the efficiency of the judicial process. Implementing alternative dispute resolution mechanisms can also help reduce the burden on courts.
- **Resource Allocation:** Increasing funding and resources for the judiciary, including hiring more judges and administrative staff, can help manage caseloads better. Investing in the training and development of judicial officers and court staff is also essential.
- **Technological Integration:** Expanding the use of technology in the judiciary can improve efficiency. Implementing comprehensive digital case management systems, electronic filing, and virtual hearings can reduce delays and enhance access to justice.
- **Monitoring and Accountability:** Establishing robust mechanisms to monitor case progress and hold judicial officers accountable for undue delays is crucial. Setting clear benchmarks and regularly reviewing court performance can help ensure timely case resolutions.
- **Public Awareness and Engagement:** Increasing public awareness about legal rights and the judicial process can help manage expectations and encourage effective use of legal resources. Engaging with the public through outreach and education initiatives can also foster greater trust in the judicial system.

By addressing these challenges through comprehensive reforms and continuous improvement efforts, North Macedonia can strengthen its judicial system, ensuring fair trials and timely delivery of justice for all its citizens ( Buzarovska et al. 2021).

## 6. Conclusions

In conclusion, ensuring fair judgments delivered within a reasonable timeframe is imperative for upholding the principles of justice and the rule of law. Timely resolution of legal disputes not only respects the rights of individuals involved but also fosters trust in the judicial system and promotes social stability. To achieve this goal, it is essential for jurisdictions to implement efficient court procedures, allocate adequate resources, and uphold procedural safeguards. By prioritizing fairness, efficiency, and accountability, societies can strengthen their legal systems and ensure that justice is not only served but is seen to be served in a timely manner.

In the Republic of North Macedonia, the pursuit of fair trials conducted within a reasonable timeframe is not just a legal imperative but also a fundamental pillar of democracy and human rights. The right to a fair trial, enshrined in both domestic and international legal frameworks, is indispensable for safeguarding individual liberties, ensuring accountability, and upholding the rule of law.

However, challenges persist in North Macedonia's judicial system, particularly concerning delays in the adjudication of cases. Prolonged legal proceedings not only burden the individuals involved but also erode public trust in the judiciary and impede access to justice. These delays can stem from various factors, including structural inefficiencies, insufficient resources, procedural complexities, and backlog management issues.

Addressing these challenges requires a multi-faceted approach. Firstly, there's a need for reforms aimed at streamlining court procedures, enhancing judicial efficiency, and optimizing resource allocation. Investing in the modernization of court infrastructure, adopting technology-enabled case management systems, and increasing the number of judges and court staff can contribute to expediting the resolution of cases.

Moreover, ensuring the effective implementation of procedural safeguards, such as the right to a speedy trial, adequate legal representation, and access to evidence, is essential for upholding fair trial standards. This entails providing adequate training for legal professionals, improving legal aid services, and promoting public awareness of legal rights and procedures.

Additionally, promoting transparency, accountability, and judicial independence is vital for enhancing public confidence in the judiciary. Establishing mechanisms for monitoring and evaluating judicial performance, addressing corruption risks, and fostering a culture of accountability among judicial actors can bolster the integrity of the legal system.

Collaboration between state institutions, civil society organizations, and international partners is key to advancing reforms and strengthening the protection of fair trial rights in North Macedonia. By prioritizing the principles of fairness, efficiency, and accountability, North Macedonia can build a more resilient and responsive judicial system that upholds the rights and dignity of all individuals.

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