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ROZSĄDNOŚĆ TERMINÓW ROZPATRYWANIA MAŁO ISTOTNYCH SPRAW

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Adnotacja. Artykuł poświęcono badaniu specyfiki realizacji konwencyjnej gwarancji rozsądności terminów w czasie rozprawy sądowej w sprawach mało istotnych. Przedstawiono szczegółową charakterystykę kryteriów opracowanych przez praktykę Europejskiego Trybunału Praw Człowieka, zgodnie z którymi konkretne terminy procesowe można ocenić jako rozsądne. Dokonano podziału kryteriów racjonalności temporalnej na podstawie cechy funkcjonalno-celowej, gdzie pierwsza grupa obejmuje parametry oceny reakcji behawioralnych uczestników postępowania, natomiast druga grupa kryteriów dotyczy kwalifikacji prawnej sporu i jego znaczenia dla stron (wnioskodawcy). Koncept sądowego zarządzania czasem zdefiniowano jako działalność organizacyjną sądu w zakresie regulacji dynamiki temporalnej rozwoju procesu poprzez zastosowanie najnowszych metod planowania jego przebiegu. Ustalono, że skuteczność sądowego zarządzania czasem jest zobiektywizowana przez pryzmat temporalnego racjonalizmu, który przejawia się w proporcjonalnej relacji między dopuszczalnym-oczekiwanym a faktycznym czasem rozpatrzenia sprawy przez sąd. Stopień racjonalności określa się poprzez ocenę granicznych wskaźników czasu trwania postępowania w sprawie pod kątem ich trafności do parametrów określonej treści, a mianowicie optymalności i przewidywalności terminów postępowania. Dla celów optymalizacji temporalnej procedury postępowania sądowego w sprawach mało istotnych proponowane są innowacje odpowiedniej treści i kierunku.

Słowa kluczowe: rozsądny termin, pojęcie sądowego zarządzania czasem, optymalny termin, przewidywany termin, racjonalizm temporalny, sprawy mało istotne.

REASONABLE TIME OF A TRIAL IN SMALL CLAIMS

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Abstract. The article is devoted to the study of the features of the implementation of the convention guarantee of reasonable time of a trial in small claims. A detailed description of the criteria developed by the ECtHR practice, according to which specific procedural deadlines can be assessed as reasonable, is provided. The criteria of temporal reasonableness are divided according to the functional-target feature, where the first group covers the parameters for assessing the behavioral reactions of participants in the trial, while the second group of criteria concerns the legal qualification of the dispute and its significance for the parties (the applicant). The concept of judicial time management is defined as the organizational activity of the court to regulate the temporal dynamics of the development of the process through the use of the latest methods of planning its course. It is established that the effectiveness of judicial time management is objectified through the prism of temporal rationalism, which manifests itself in a proportional relationship between the permissible-expected and actual duration of consideration of the case by the court. The degree of rationality is determined by evaluating the limits of the duration of proceedings in a case for their relevance to the parameters of a certain content, namely, the optimality and predictability of the terms of the trial. For the purposes of temporal optimization of the procedure for judicial consideration of small claims, innovations of the corresponding content and direction are proposed.

Key words: reasonable time, concept of judicial time management, optimal term, estimated time limit, temporal rationalism, small claims.

РОЗУМНІСТЬ СТРОКІВ РОЗГЛЯДУ МАЛОЗНАЧНИХ СПРАВ

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Анотація. Стаття присвячена дослідженню особливостей реалізації конвенційної гарантії розумності строків під час судового розгляду малозначних справ. Надається детальна характеристика виробленим практикою Європейського суду з прав людини критеріям, відповідно до яких конкретні процесуальні строки можуть бути оцінені як розумні. Здійснюється розподіл критеріїв темпоральної розумності за функціонально-цільовою ознакою, де

перша група охоплює параметри оцінки поведінкових реакцій учасників судового розгляду, тоді як друга група критеріїв стосується правової кваліфікації спору та його значущості для сторін (заявника). Концепт судового керування часом визначається як організаційна активність суду щодо регулювання темпоральної динаміки розвитку процесу через застосування новітніх методик планування його перебігу. Встановлено, що ефективність судового управління часом об'єктивується крізь призму темпорального раціоналізму, котрий проявляється у пропорційному співвідношенні між допустимо-очікуваною та фактичною тривалістю розгляду справи судом. Ступінь раціональності визначається за допомогою оцінки граничних показників тривалості провадження у справі на предмет їх релевантності параметрам певного змісту, а саме оптимальності та передбачуваності строків судового розгляду. З метою темпоральної оптимізації процедури судового розгляду малозначних справ пропонуються нововведення відповідного змісту і спрямування.

Ключові слова: розумний строк, концепт судового керування часом, оптимальний строк, передбачуваний строк, темпоральний раціоналізм, малозначні справи.

Introduction. The conventional paradigm of fair justice does not ignore the temporal factor that is immanently associated with technologies for managing time and improving the efficiency of its use. The provisions of Paragraph 1 of Article 6 of the ECHR guarantee everyone the right to a trial of their case within reasonable time. The absence of unreasonable delays or delays is of great importance for achieving the goals of promptness of proceedings, since its excessive length a priori violates the proportionality in the relationship between the expected outcome and the actual consequences of the impact of the right on public relations, which at the same time contributes to the decline of the authority of the judiciary. Through these, the convention dimension of fair justice obliges the High Contracting Parties to shape their judicial systems and procedural legislation in such a way that the judicial authorities receive the necessary organizational and legal opportunities to consider and resolve the case within dimensional temporal limits. However, the content of the guarantee does not require the establishment of an upper limit on the maximum allowable length of judicial review of a case or quantitative indicators for assessing its occurrence of the system, as indicated in the ECtHR cases was "Katte Klitsche de la Grange V. Italy" (Catte calls de la Grange v. Italy, 1994: § 61) and "H.V. France" (H.V. France, 1989: § 58).

The main part. In order to assess the length of the trial for the reasonableness of the temporal limits of its implementation, it is first necessary to determine the dating, that is, the immediate beginning of the relevant period. As a rule, the starting point is the moment when the competent court opens proceedings on the case. It is widely believed that the movement of a case a priori begins with the court of first instance, if it is endowed with the necessary jurisdiction (Bongiovanni, 2009: 464). However, it is not uncommon for courts of Appeal or Cassation to consider cases as the first, and possibly only instance. In such circumstances, the time-limit should be calculated from the moment the statement of claim is filed and the proceedings are opened by the court, regardless of its place in the judicial hierarchy (Bock v. Germany, 1989: § 35; Poiss v. Austria, 1987: § 50). In addition, the procedural legislation may establish the mandatory administrative form of protection of the violated right. In this case, the transfer of the case to the court is allowed only if you have previously applied to the administrative body. According to the ECtHR, the time interval for the application of administrative and legal means of dispute resolution should be perceived and assessed as a temporal component, part of the overall length of judicial proceedings (König v. Germany, 1978: § 98; Kress v. France, 2001: § 90; H. v. France, 1989: § 31).

The content of constitutional guarantees of Justice does not exclude the possibility of establishing the mandatory pre-trial procedure for Dispute Resolution. However, for small claims, the current Civil Procedure Code does not provide for procedures of this kind. Although, the statement of claim must contain a mention of the fact of taking appropriate measures (paragraph 6 of Part 3 of Article 175 of the Civil Procedure Code). Thus, the course of a reasonable time for judicial consideration of small claims begins to be calculated from the date of acceptance of the statement of claim and the opening of proceedings on the case by the court of first instance. It should be noted that the limit point of reference for the duration of judicial consideration of any case, regardless of its categorical affiliation, is the moment of registration of the statement of claim in the Unified Judicial Information and telecommunications system, which must be carried out on the day of its receipt by the relevant Local Court (Part 2 of Article 14 of the Civil Procedure Code).

Acts of constitutional justice are capable of eventually influencing the dynamics and final results of court hearings, despite the fact that constitutional tribunals/courts are not a priori competent to hear and decide civil cases on the merits (Deumeland v. Germany, 1986: § 77; Pammel v. Germany, 1997: § 55–57). Thus, the guarantee of the reasonableness of the terms of judicial proceedings should be uniformly embodied in both the general and constitutional jurisdictions, but taking into account the specifics of the grounds, the procedure for applying to the Constitutional Court, as well as the specifics of the proceedings provided for by National Law and the execution of decisions taken by it (Süßmann v. Germany, 1996: § 56; Oršuš and Others v. Croatia, 2010: § 109). In addition, the requirements of Paragraph 1 of art. 6 the ECHR fully applies to quasi-judicial procedures, which, although of an unjust nature of origin, are more related to the exercise of the court's control powers, but are still taken into account and evaluated by the ECHR in the context of the reasonableness of the time frame for their implementation (Siegel v. France, 2000: § 37). At the same time, its position is diametrically opposed in relation to negotiations, consultations or attempts to reach compromise and reconciliation between the parties expressed in any other form, which are not covered by the guarantees of the right enshrined in Paragraph 1 of Article. 6 ECHR, and therefore the duration of their course, is taken out of the time-limit of the proceedings (Lithgow and others v. The United Kingdom, 1986: § 198–199; Phocas v. France, 2007: § 72–73).

In the system of convention coordinates of fair justice, the requirement of reasonableness of time-limits is equally mandatory and extends to all stages, proceedings, as well as objectified in the form of the relevant law

enforcement cycles of the appeal and Cassation review procedure (König v. Germany, 1978: § 98; Poiss v. Austria, 1987: § 50; Robins v. The United Kingdom, 1997: § 28–29). The practice and approaches of the ECHR regarding the calculation of the temporal dynamics of judicial proceedings, and therefore the understanding of what moment should be considered the limit for its course, are noted with unanimity. In the case of "*Estima Jorge v. Portugal*" the ECHR noted that the stage of execution of a court decision is an integral part of the overall length of judicial proceedings, so the countdown of a reasonable time will continue until the right approved by the act of justice becomes valid and effective (Estima Jorge v. Portugal, 1998: § 36–38). Thus, the process of indicating the temporal boundaries of a trial ends with the execution of a court decision and is not interrupted when it acquires the status of final (Martins Moreira v. Portugal, 1988: § 44; Silva Pontes v. Portugal, 1994: § 33; Di Pede v. Italy, 1996: § 24). This is due to a number of factors, but the determining factor is that in the convention paradigm of fair justice, the execution stage of judgments is seen as an integral component and a structurally integrated part of judicial proceedings (Hornsby v. Greece, 1997: § 40; Estima Jorge v. Portugal, 1998: § 35).

The concept of "reasonableness" of the term is evaluative, so it is determined by the ECHR in each specific case by investigating and analyzing the actual circumstances of the case for their relevance to the criteria of a certain content, namely: 1) the complexity of the case; 2) the behavior of the applicant; 3) the behavior of a public authority; 4) the importance of the dispute for the parties (applicant) (H. v. France, 1989: § 50; Comingersoll S. A. v. Portugal, 2000: § 78; Frydlender v. France, 2000: § 128; Sürmeli v. Germany, 2006: § 93). The latter represent a complete and mutually agreed system of parameters synthesized by the ECHR in the process of evolutionary interpretation of the provisions of Paragraph 1 of Article 6 of the ECHR. The significance of the criteria is difficult to overestimate, since they objectify the conventional dimension of reasonableness, through the prism of which the temporal limits of judicial proceedings are perceived and evaluated. Recently, in the doctrinal plane, there has been a more pronounced tendency to thematic grouping of the above parameters in order to generally optimize the process of their research and ordering. Many classifications can be noted, but the most rational is the idea of dividing the criteria of temporal reasonableness by functional-target feature, proposed by Professor Frederik Edel of the University of Strasbourg. The first group covers parameters for assessing the behavioral responses of participants in the trial, or so-called behaviorisms, while the second group of criteria concerns the legal qualification of the dispute and its significance for the parties (the applicant) (Edel, 2007: 38).

In order to assess the temporal limits of judicial proceedings for their compliance with convention standards of reasonableness, it is first necessary to find out *the degree of complexity of the case*, which at the same time will allow us to correctly qualify the dispute and determine its legal nature. According to the ECHR, complement factors are objectified both in the plane of law and fact (Katte Klitsche de la Grange v. Italy, 1994: § 55; Papachelas v. Greece, 1999: § 39). This means that in the conventional dimension of fair justice, the factors that have an eventual impact on the degree of complexity of a case are diversified into two main groups. The first one covers legal issues, which should be divided into substantive and procedural law. While the second group deals exclusively with questions of fact. The latter, as a rule, are related to the subject of evidence and the evidentiary activities of the parties, as the ECHR noted in the case "*Humen v. Poland*" (Humen v. Poland, 1999: § 63).

The case-law practice the ECHR has a lot of complication, the presence of which has a decisive effect on the overall length of the proceedings. With them, I will be able to get enough breadth of what is happening in the process, and it is inevitable that they will become aware of both the norms of material and procedural law. At the present stage, it is possible to select and systematize the most common episodes of legal compliance for the purpose of further grouping them according to institutional and subordinating inherence. So, procedural and legal complications usually concern: 1) jurisdiction of foreign conflicts (Beaumartin v. France, 1994: § 33); 2) procedural participation (H. v. the United Kingdom, 1987: § 72); 3) proceedings on the case for the participation of foreign conflicts (Tierce v. San Marino, 2003: § 31); 4) abuse of procedural rights (König v. Germany, 1978: § 103; Acquaviva v. France, 1995: § 61); 5) involvement of translators, specialists, experts or other participants in the judicial process (Capuano v. Italy, 1987: § 30–31; Versini v. France, 2001: § 29); 6) measures to secure the claim (Obermeier v. Austria, 1990: § 72; Mocié v. France, 2003: § 22); 7) procedural succession (Vernillo v. France, 1991: § 34).

In its practice, the ECHR pays little attention to substantive complications. The latter arise as a result of: 1) the application and interpretation of technical and legal norms regulating the procedure for operating technical or natural objects in the field of construction, production, management, etc.; 2) imperfections of standard-setting equipment; 3) gaps and conflicts in legislation; 4) complicity of regulatory regulation of the sphere of public relations in the plane of which the dispute arose, for example, the use of land, other natural resources, transport infrastructure facilities, equipment, equipment or chemical, radioactive, explosive and flammable substances, etc.; 5) aberrant means, methods of expressing the content of normative legal acts.

The next criterion for assessing the temporal limits of judicial proceedings is the conduct of the applicant, who is guaranteed by Article 6 § 1 of the ECHR to refuse active and feasible cooperation with the justice authorities (Erkner and Hofauer v. Austria, 1987: § 68). When calculating the total length of the proceedings, the ECHR prefers not to take into account the delays made due to the fault of the applicant. The latter are the result of abuse of procedural rights and are usually perceived as a manifestation of temporal redundancy. However, this in no way affects the compliance of judicial proceedings with the requirements of Paragraph 1 of Article. 6 ECHR due to the fact that in the convention dimension of fair justice, the state is exempt from liability for any delays in the process due to or otherwise related to the unfairness of the applicant's conduct (Poiss v. Austria, 1987: § 58; Wiesinger v. Austria, 1991: § 57; Humen v. Poland, 1999: § 66).

In general, good faith means diligent and conscientious use of the opportunities provided by the procedural law. If the content of the latter is interpreted through the prism of convention guarantees of the reasonableness of time, it presupposes the obligation of the applicant to use as zealously as possible the procedural means of reducing the length of the trial, while refraining from abuse of rights and avoiding in every possible way the tactics of delaying the process (Unión Alimentaria Sanders S.A. v. Spain, 1989: § 35). Even in view of the fact that the applicant independently forms a strategy of conduct in court and decides to carry out or refrain from carrying out certain actions aimed at achieving the procedural goal necessary for him, however, this still does not exempt the state from the obligation to establish and ensure the effectiveness of the legal mechanism for implementing the system of procedural guarantees for the reasonableness of the trial period, as the ECHR noted in the case "*Mincheva v. Bulgaria*" (Mincheva v. Bulgaria, 2010: § 68).

The applicant's behavior, as a criterion for assessing the reasonableness of the term, is purely evaluative in nature and is determined by the ECHR in each specific case, taking into account the actual circumstances of the case. A study of the case-law on the application of Convention provisions shows that the parties ' behavioral reactions, which are directly affected or potentially capable of influencing the overall length of the proceedings, are determined by factors of both the objective and subjective nature of the origin. The integrity of the exercise of procedural rights and the performance of obligations becomes crucial for the purpose of clarifying the causes of delays in judicial proceedings and summarizing them.

The parties may use the opportunities provided by the procedural law in good faith and diligently, but this does not matter if the temporal limits of judicial proceedings increase objectively – under the influence of factors that arise or exist independently of their will and consciousness, for example: 1) violation of the rules of jurisdiction, when proceedings are opened by a court not authorized to consider it (Beaumartin v. France, 1994: § 33); 2) failure to apply procedures for peaceful settlement of a dispute (Pizzetti v. Italy, 1993: § 18; Laino V. Italy, 1999: § 22); 3) illness, injury, death or other force majeure circumstances (Buchholz v. Germany, 1981: § 49); 4) requesting new evidence (Cardarelli v. Italy, 1992: § 27). At the same time, subjective factors are always the result of abuse and bad faith of one of the participants in the process, for example: 1) unwillingness or unwillingness to represent their position to the court when it is necessary or mandatory in accordance with the requirements of the law (Vernillo v. France, 1991: § 34); 2) deliberate failure to inform about the persons who should be involved in the case (Capuano v. Italy, 1987: § 28); 3) failure to appear at a hearing without valid reasons (Acquaviva v. France, 1995: § 77); 4) repeated and unjustified replacement of lawyers (König v. Germany, 1978: § 103).

The behavior of a public authority is another criterion among those used by the ECHR for the purpose of assessing the terms of judicial proceedings for their compliance with the guarantees of Paragraph 1 of Article 6 of the ECHR. The state bears full responsibility for all structures that form the mechanism of public power in their unity and interrelation. The latter is a set of state bodies, institutions, enterprises through which the tasks and functions of the state are carried out (Martins Moreira v. Portugal, 1988: § 60). The court is obliged to ensure prompt and effective implementation of the guarantee system, paragraph 1 of Article 6 the ECHR, even if it is contrary to the position or interests of the parties vested with a procedural initiative – the right to independently determine the course and direction of the process (Pafitis and Others v. Greece, 1998: § 93; Tierce v. San Marino, 2003: § 31; Sürmeli v. Germany, 2006: § 129). The excessive length of proceedings thus qualifies the ECtHR as a breach of the requirement of reasonableness of time only when delays or delays in the proceedings have been the fault of a judicial authority (Papageorgiou v. Greece, 2020: § 40).

The convention paradigm of fair justice obliges the High Contracting Parties to form and regulate a system of procedural guarantees for the realization of the right to receive a final court decision in a civil case in a timely manner within a reasonable time (Scordino V. Italy, 2006: § 183). However, it is not uncommon for the congestion of the judicial authorities to significantly complicate or completely exclude its implementation. The existence of organizational, legal, material, financial, personnel and other difficulties is not a valid and sufficient reason to derogate or neglect the obligation to strictly comply with the guarantees of Article 6 § 1 of the ECHR (Vocaturo V. Italy, 1991: § 17). The state is exempt from liability if, in the event of an excessive accumulation of a considerable number of cases, it has taken all possible, sufficient and prompt measures designed to redistribute the nomenclature burden for the purposes of optimizing the functioning of the judicial system or its individual links, as the ECHR noted in the case "*Buchholz v. Germany*"(Buchholz v. Germany, 1981: § 51). Most rationalistic methods of effective work of judicial authorities are based on the principle of differentiation and grouping of cases according to a number of features, the most common of which are: 1) the date of receipt of the case materials to the court and the commencement of proceedings (Guincho v. Portugal, 1984: § 40); 2) the significance of the dispute for the parties (Zimmermann and Steiner v. Switzerland, 1983: § 29); 3) the urgency of consideration and resolution of the case on its merits (Unión Alimentaria Sanders S. A. v. Spain, 1989: § 37).

Summing up, it should be emphasized that the criterion of behavior of a public authority is evaluative and is directly related to the degree of good faith of the state in relation to the fulfillment of its positive obligations to comply with convention guarantees of fair justice. The ECHR always tries to consider and investigate the factual circumstances of a case through the prism of the state's responsibility for delays or delays caused by its judicial authorities. However, the current state of case-law on the application of the provisions of Paragraph 1 of art. 6 the ECHR does not allow identifying reference focus factors or creating a system of basic parameters that can be used to objectively assess the degree and nature of the impact of the behavior of public authorities on the overall duration of judicial proceedings. In the vast majority of decisions contextually related to the subject of research,

the ECHR affects only certain, rather peculiar in content aspects of state responsibility related to the shortcomings in the functioning of its judicial system.

For example, in the case "*Lechner and Hess v. Austria*", the ECHR noted that repeated, even systematic elimination, self-removal of judges from participation in the trial, as well as periodic changes in the composition of the court, various kinds of its perturbations are a form of abuse of procedural law in order to increase the overall length of the trial. However, the failure to control the application and hence the dissemination of such practices does not relieve the state of the burden of ensuring the implementation of guarantees of reasonableness, since one of its main tasks is to create the necessary conditions for the proper administration of Justice (Lechner and Hess v. Austria, 1987: § 58).

Any delays or delays caused by the reform of procedural legislation in the direction of temporal optimization and overall acceleration of judicial procedures require an adequate and effective response from the state aimed at ensuring the completeness of implementation and strict compliance with the guarantees of Paragraph 1 of Article 6 of the ECHR. In this context, the ECtHR raises the problem of retrospective operation of the procedural law, when public authorities are obliged to take all necessary and possible measures for the purpose of meeting the requirement of reasonableness of the terms of judicial review of cases whose proceedings were opened before the entry into force of the normative legal act that introduces the relevant amendments (Fisanotti v. Italy, 1998: § 22).

Instead, we are not talking about the responsibility of the state if the reason for the excessive length of judicial procedures was force majeure, for example, a strike by members of Bar Associations, as was the case in "*Papageorgiou v. Greece*" (Papageorgiou v. Greece, 2020: § 47). Under this condition, the nature and direction of actions of public authorities to resolve an emergency situation and overcome its legal consequences become decisive. Therefore, the ECHR a priori assesses the scope and effectiveness of the efforts made by the state to prevent or eliminate delays in the course of judicial proceedings, and does not find out the degree of guilt or its role in the emergence of a crisis state.

The importance of the dispute for the parties (the applicant) is the latest among a number of criteria objectifying the convention dimension of the reasonableness of the time-limits of judicial proceedings. Civil cases are usually differentiated into separate categories depending on the specifics of the subject matter of the dispute, which makes it necessary to consider them expedited. The content of this criterion provides for the court's duty to investigate and analyze the factual circumstances of the case both in order to determine the maximum permissible or acceptable limits on the duration of judicial procedures, and for the significance for the applicant of the potential results of dispute resolution. Even the ECHR is characterized by the practice of differentiating cases by their priority. The degree of the latter, as a rule, is determined by two factors – the peculiarity of the subject of the dispute and the physiological state of the applicant. All complaints that fall into the filtration section of the ECHR are systematized and divided into appropriate groups.

The first group covers cases that, given the specifics of the subject matter of the dispute, are particularly significant for the applicant, and therefore should be considered expedited – within a fairly concise temporal framework, for example: 1) determining the regime of visits and communication of the child with the parent(s) (Paulsen-Medalen and Svensson v. Sweden, 1998: § 37), assigning guardianship (Hokkanen v. Finland, 1994: § 72), guardianship (Niederböster v. Germany, 2003: § 39), adoption (Laino V. Italy, 1999: § 22), since the excessive length of judicial procedures in a given category of cases can lead to irreversible processes in the relationship or become a catalyst for the destruction of the child's established emotional and psychological ties with the parent(s), as the ECHR noted in the case "*Tsikakis v. Germany*" (Tsikakis v. Germany, 2011: § 65–67); 2) the establishment of the legal status of an individual, in particular the restriction of his civil legal capacity, recognition as incapacitated (Mikulić v. Croatia, 2002: § 44), missing or declared dead (Bock v. Germany, 1989: § 49); 3) labor disputes – encompass a fairly wide range of legal conflicts, the majority of which, given the specifics of their legal nature, require an accelerated pace of consideration and resolution by the court, for example, challenging illegal dismissal (Buchholz v. Germany, 1981: § 52), transfer to another place of work (Sartory v. France, 2009: § 33), removal from office (Obermeier v. Austria, 1990: § 77), removal of obstacles to access to the profession (Thlimmenos V. Greece, 2000: § 60), the acquisition or prolongation of the right to exercise a certain type of professional activity (Garcia v. France, 2000: § 14), assignment of pensions (Borgese V. Italy, 1992: § 17), accrual of insurance payments (Mocié v. France, 2003: § 51); 4) compensation for health damage caused as a result of injuries at work (Zawadzki v. Poland, 2001: § 75; Codarcea v. Romania, 2009: § 89), road accidents (Karakaya v. France, 1994: § 31), injuries (Caleffi v. Italy, 1991: § 17; Meryem Çelik and others v. Turkey, 2013: § 55).

The identity of the second set of cases is determined by the threat of the applicant's sudden death due to the criticality or permanent weakness of his physiological state. The latter implies a reduction in overall life expectancy due to the existence of circumstances of an objective nature, for example, disability, the presence of chronic diseases or reaching an advanced age, as noted by the ECHR in the case "*A and Others v. Denmark*" (A and Others v. Denmark, 1996: § 79–81). While the critical factor of the state of Health is immanently associated with the stage and severity of the phase of the course of an incurable disease established by means of Clinical Diagnostics (H. v. France, 1989: § 47). Thus, in the convention dimension of fair justice, strict compliance with the requirement of reasonableness of the terms of judicial proceedings becomes decisive in conditions where there is a real threat of sudden death of the applicant due to an incurable disease or a reduction in overall life expectancy caused by objective factors.

The principle of reasonableness of the time frame for consideration of a case by a court occupies a significant place among the fundamental foundations of the national model of civil proceedings. A time limit is considered

reasonable if it provides for sufficient time, taking into account the circumstances of the case, to perform a procedural action, and corresponds to the task of civil proceedings (Part 2 of Article 121 of the Civil Procedure Code). The rules of simplified claim proceedings oblige the court to consider the case within a reasonable time, but not more than sixty days from the date of opening proceedings on the case (Part 1 of Article 275 of the Civil Procedure Code). In this way, the legislator has established an upper limit on the maximum permissible duration of judicial consideration of small claims, the terms of proceedings for which are significantly reduced. In general, the practice of defining and fixing the temporal limits of consideration of Small Claims at the level of the procedural law is generally accepted and in no way contradicts both the content of the guarantees set out in Paragraph 1 of Article 6 of the ECHR and the case-law on the application of Convention provisions.

In addition to small claims, according to the rules of simplified claim proceedings, the following cases are considered: 1) cases arising from an employment relationship; 2) cases on granting permission by a court for temporary departure of a child from Ukraine to one of the parents who lives separately from the child, who has no arrears in the payment of alimony and who is refused by the second parent to provide notarized consent to such departure; 3) cases for which the priority is a quick resolution of the dispute (Part 4 of Article 19 of the Civil Procedure Code). In addition, the National paradigm of civil proceedings provides for the differentiation of cases classified by the legislator as insignificant within the relevant thematic groups on the basis of the legal specifics of the subject matter of the dispute or its cost measurement, in particular: 1) cases in which the price of the claim does not exceed one hundred times the subsistence minimum for able-bodied persons; 2) cases of insignificant complexity recognized by the court as insignificant; 3) cases on recovery of alimony, increase in their amount, payment of additional expenses for the child, recovery of a Penalty (Penalty Fee) for late payment of alimony, indexation of alimony, change in the method of their recovery, if such claims are not related to the establishment or challenge of paternity (motherhood); 4) cases on divorce; 5) cases on consumer protection, the price of the claim in which does not exceed two hundred and fifty times the subsistence minimum for able-bodied persons (Part 6 of Article 19 of the Civil Procedure Code).

The above-mentioned provisions of the procedural law clearly show that within the framework of the National simplification model, the degree of priority of a case is established solely on the basis of the specifics of the subject matter of the dispute, the prevalence of which is comprehensive. The fact that the current Civil Procedure Code does not provide for certain categories of cases, the total duration of proceedings in which is significantly reduced due to the weakness or criticality of the physiological state of the applicant, gives grounds to speak about the selective nature of implementation, and therefore the regulatory consolidation of requirements covered by the criterion of importance of the dispute for the parties (applicant). Therefore, in order to ensure the completeness and effectiveness of the implementation of the system of convention guarantees of the requirement of reasonableness of the terms of judicial proceedings, it seems appropriate and necessary to supplement the list of cases of simplified claim proceedings with new categories, which, on the one hand, would be given priority, and on the other, would take into account the specifics of the applicant's state of Health at the time of his application to the court, since the given factor objectively determines the need for a significant reduction in both the time intervals for individual procedural actions and the overall length of judicial proceedings.

The results of studying the experience of foreign countries in combination with the analysis of the thematic segment of the ECHR case law allow us to form an indicative list of cases the specifics and pace of proceedings in which are immanently related to the peculiarities of the applicant's physiological state. The highest degree of priority determines the need for their judicial review under a simplified procedure and within reduced temporal limits. Thus, the latter hypothetically include disputes related to: 1) accrual and payment of pension and insurance premiums; 2) receipt and transplantation of human anatomical materials; 3) the use of bioimplants; 4) the removal of anatomical materials from the body of the donor-corpse; 5) the use of xenoimplants; 6) refusal to provide medical care, etc. In addition, the cost measurement of property claims, together with the ability to determine the exact price of the claim, allows us to qualify some of the above disputes as insignificant.

Although the conventional dimension of the reasonableness of the terms of judicial proceedings is objectified through the prism of criteria of a purely formal nature, this does not mean that the problems of reducing the total duration of judicial procedures, together with the universalization and application of time management techniques, are of a minority nature. The need to ensure the effective implementation of guarantees of Paragraph 1 of Article 6 of the ECHR creates the problem of forming an integral and mutually agreed system of means, methods, and techniques for rational use of temporal resources. In this context, the doctrinal understanding of the purely formal, as it may seem at first glance, problem of reasonableness of the terms of judicial proceedings opens up additional opportunities for finding promising ways to solve a number of fundamental problems related to both the implementation of the latest methods of time management, and the Prevention of delays, delays or other kind of temporal excesses that arise during the trial of civil cases.

Within the framework of the European paradigm of fair justice, the member states of the Council of Europe do their best to promote the application at the level of national legal orders of a wide range of techniques and techniques for temporal optimization of proceedings in small claims, so the European Commission on the effectiveness of Justice (hereinafter referred to as the Commission) considers the concept of time management as the main tool and tool for ensuring the effective implementation of convention guarantees of the reasonableness of the terms of judicial review of small claims. The scope of the court's powers and its active position in regulating the time dynamics of procedural actions become crucial in conditions when the law does not provide for an upper limit on the maximum permissible duration of judicial procedures. Therefore, it seems appropriate to pay special attention

to the results of the work of the Commission, on the initiative and efforts of which the trial Time Management Center (hereinafter referred to as the center) was established. Functionally, the Center is designed to collect, store and summarize information in order to determine the prerequisites and find out the most typical causes of delays, delays and other types of temporal excesses. In addition, among the tasks facing the Center is the development of appropriate recommendations, standards, as well as assistance to the member states of the Council of Europe in their implementation by consolidating judicial time management tools at the level of the procedural law (Revised SATURN guidelines for judicial time management (3rd revision), 2018).

The concept of time management provides for the organizational activity of the court to regulate the temporal dynamics of the development of the process through the use of the latest methods of planning the course of judicial proceedings. The latter are the result of a symbiotic combination of various procedural and legal means, techniques for defining and fixing the time intervals for performing individual procedural actions in order to make the most productive use of the temporal resource. An important achievement of the Center is that it has developed a set of parameters for assessing the level of effectiveness of judicial time management, which characterizes the effectiveness and purposefulness of the court's influence on the dynamics of the process. Efficiency is objectified through the prism of temporal rationalism, which manifests itself in a proportional relationship between the permissible-expected and actual duration of the trial. The degree of rationality is determined by evaluating the limits of the duration of proceedings in a case for their relevance to the parameters of certain content, namely, *the optimality and predictability* of the terms of the trial.

The results of monitoring the maximum duration of proceedings in various categories of cases allow us to establish an acceptable period of their judicial review, which, taking into account the existence of a number of objective factors related to the price of the claim, the method of protecting the violated right, the significance of the dispute for the parties, its complexity, can be carried out in a simplified manner, under an accelerated procedure. For example, the procedural form of consideration of small claims is simplified claim proceedings in accordance with the rules of which the court considers cases within a reasonable time, but not more than sixty days from the date of opening proceedings on the case (Part 1 of Article 275 of the Civil Procedure Code). However, the upper maximum acceptable limit of the maximum allowable length of judicial proceedings is not always reflected at the level of procedural legislation. Then the indicator of optimal terms of proceedings in certain categories of cases is determined based on the results of monitoring and studying the materials of judicial or other law enforcement practice. However, within the framework of the National Legal order, the sixty-day period for judicial consideration of small claims is considered optimal. If we speak more generally and in the context of the content of program and analytical documents of the center, then optimality implies the existence of a kind of temporal standard, which is formed by calculating the ordinary duration of judicial proceedings for certain categories of cases, which is acceptable, generally, meets the interests and allows you to meet the needs of the parties, other participants in the process.

Predictable should be considered a period whose maximum duration is known in advance to each of the participants in the process and cannot change at the discretion of the court or under the influence of subjective factors, for example, deliberate abuse of procedural rights in order to delay the judicial procedure. Predictability allows the parties to predict in advance and determine for themselves the moment of completion of the process, which becomes essential in the context of meeting the requirements of the principle of legal certainty and ensuring the effective implementation of the system of guarantees of judicial protection of legitimate expectations. In addition, they have the right to directly influence the temporal dynamics of the course of judicial proceedings, through its acceleration or deceleration through the use of a number of procedural and legal means. The results of the service of the latter are objectified in the form of both lawful actions of the parties, for example, diligent and conscientious execution of procedural obligations, active cooperation with the court and other participants in the process, extensive use of the latest methods of planning and time management, and illegal, when the opportunities provided by law are used to the detriment of the interests of Justice. We are talking about various types of abuse of procedural rights, the direct consequence of which is the delay or even interruption of the judicial proceedings.

The question of the functional purpose of procedural deadlines in the mechanism for implementing convention guarantees of fair justice remains open. If we examine them from the point of view of the concept of judicial time management, then there they are perceived exclusively through the operational and instrumental prism-as a temporal standard and a means of ensuring the timeliness of judicial proceedings. In this context, the problem of ways of regulatory action arises, that is, how procedural deadlines can influence the course of proceedings on a case and achieve a state of its temporal balance. The total length of the trial is a kinetic projection, a time dimension of an extensive system of diverse interactions and connections that arise between the parties and other participants in the process. The court additionally influences the formation and dynamics of the development of such relationships by setting time intervals for the implementation of procedural actions, as well as taking other measures of temporal regulation for the purposes of, firstly, ensuring timely movement and consideration of the case on its merits, and secondly, compliance with and effective implementation of the requirements provided for in Paragraph 1 of art. 6 ECHR (Revised SATURN guidelines for judicial time management (3rd revision), 2018). Therefore, pre-defined procedural deadlines are the only effective, universal procedural and legal tool for achieving the goals and objectives of civil proceedings related to ensuring the efficiency of judicial proceedings and strict compliance with convention guarantees of the reasonableness of its terms.

The Center's activities have had a decisive influence on the evolution of the concept of judicial time management both in the context of generating its basic theoretical postulates and in the direction of producing applied time

management techniques. The latter, in particular, were formed based on the results of the study and on the basis of generalization of the thematic segment of the ECHR practice in the relevant direction. Analysis of the content of the "guidelines for judicial time management" (Revised SATURN guidelines for judicial time management (3-rd revision), 2018), the Framework Program "A new objective for judicial systems: the processing of each case within an optimal and foreseeable timeframe" (2004), and a number of other program and analytical documents of both the commission and the Center (compendium of "best practices" on time management of judicial proceedings, 2006; Guide for Implementing the SATURN time management tools in courts, 2015; Implementation Guide "Towards European Timeframes for Judicial Proceedings", 2016) allows us to conclude that it is the predictability and optimality of procedural terms, through the prism of which temporal rationalism is objectified, that form in their unity and interrelation the narrative that determines the latest context, namely the vectors and dynamics of the development of the concept of reasonableness of Terms court proceedings. From the point of view of the modern European paradigm of fair justice, any procedural term cannot be considered reasonable if it is not predictable and optimal, necessary and sufficient for the consideration and fair resolution of the case by the court. At the same time, some of the above properties of the temporal resource, in particular its necessity and sufficiency, belong to the number of evaluation categories, and therefore are determined by the court in each specific case by studying and analyzing the actual circumstances of the case for their relevance to the criteria of a certain content, namely: 1) the complexity of the case; 2) The applicant's conduct; 3) the conduct of a public authority; 4) the importance of the dispute for the parties (the applicant).

Conclusions. Summing up, it should be noted that in today's conditions, the temporal component of the European paradigm of fair justice is undergoing gradual transformation. An external manifestation of that is the tendency to rethink and also structurally and functionally perturbate the system of the criteria for assessing the total length of judicial proceedings for their procedural commensurability. The application of the latter for the purposes of determining the relevance of individual procedural time-limits to the content of convention guarantees of fair justice, ensuring temporal optimization of judicial proceedings in cases of minor complexity, in particular minor ones, differentiating them by the degree of priority, variety, and effectiveness of legal remedies and countering excessive length of judicial process indicate the dynamism of the concept of reasonableness of time. The latter, like any legal matter, is able to evolve in the law enforcement plane, and undergo qualitative modifications and transformations. It should be noted that this is not the issue of denying or departing from the concept of reasonableness of terms. Rather, the question arises concerning the place of the concept of time management in the system of convention guarantees of fair justice and the nature of its correlation with the reasonableness of time as one of the fundamental requirements of the right to fair trial.

Based on the results of the study of effectiveness indicators of the functioning of the judicial systems of the ECHR member states (Revised SATURN guidelines for judicial time management (3rd revision), 2018), the Center has developed the system of qualitative parameters for assessing the degree of completeness of compliance and with the requirements of reasonableness of the time periods of judicial proceedings, the modality of legal proceedings, the presence of urgent and reduced proceedings and, as a result, the practices of dividing cases into urgent or priority ones, the existence of simplified forms of justice administration and differentiation of disputes according to the claim price criterion were also considered. The latter, among those mentioned above, make it possible to create relatively favorable conditions for applying the latest methods of time planning and management, thus increasing their efficiency.

The establishment of the institution of small claims is aimed at ensuring organizational and temporal optimization of the procedure for judicial consideration of certain categories of cases consolidated on the basis of the cost measurement of the claim subject. Taking into account the simplified procedure for their consideration and solution, a fairly wide range of opportunities opens up for testing the tools and techniques of temporal resource management developed by the Center. In addition, the diversification of the tools and techniques catalog, the lack of a system and consistent algorithm for their application actualize the problem of overcoming the methodological backlash, which becomes particularly important in the context of the prospects for implementing the relevant methods in to the national legal system. Those techniques that are relevant and fully correlate with the current state, patterns and latest trends in the development of the national model of civil proceedings should applied first of all.

To achieve the goals of temporal optimization of the procedure for judicial consideration of small claims, it is necessary to take the steps designed, firstly, to ensure the implementation of basic standards and methods of judicial time management, and secondly, to provide a mechanism for implementing the latter through the development of a set of tools and techniques for their implementation, in particular:

1) redistribution and reduction of judicial case load by: a) popularization and widespread use of alternative methods of small claims resolution; b) introduction of the procedural filters for judicial consideration of small claims; c) consolidation of mandatory preliminary use of administrative or other forms of protection of the violated right in combination with the expansion of the range of jurisdictional powers of the relevant bodies; d) informing and training judges in techniques and methods of rational time management; e) generalization of statistical data on changes in indicators of the case load level; f) monitoring the available number of cases, their categorical affiliation, as well as forecasting the growth rate of cases in the future;

2) the application of procedural means and techniques for regulating the maximum duration of proceedings in a case, which provides for: a) simplification of the procedure for judicial consideration of small claims, the volume of procedural actions should proportionally correlate with the complexity of the case; b) the active position

of the court, which directs the course of the process and determines its temporal dynamics; c) avoiding pauses, delays, and interruptions of proceedings in a case, except the situations of an emergency nature or for reasons of procedural expediency; d) introduction of appropriate schedules and plans; e) assigning the case for consideration, setting preliminary dates and time periods for the first or next court sessions, taking into account the temporal capabilities and interests of the parties; f) using standardized electronic forms of procedural documents and the means of information and telecommunication interaction; g) implementation of the e-trial strategy combined with the active use of interactive forms of participation in the trial;

3) using a set of organizational and legal means to ensure the timeliness of the case movement and trial completion, through: a) the activity of the judicial administrator (manager), who simultaneously acts as an assistant and consultant to the judge on the use of time management techniques; b) the effective functioning of the system of restrictive, legal, and compensatory means for procedural protection and prevention of any kind of temporal misuse, the consequence of which are or may become delays, and interruptions of the case considering procedure; c) the application of formal, organizational, and financial incentives to the judges who strictly adhere to the requirements of timeliness and reasonableness of the terms of judicial proceedings; d) the determination of measures of procedural and legal responsibility for provoking delays and interruptions of the process;

4) ensuring the timeliness of judicial proceedings by setting an upper limit on the maximum allowable duration of proceedings in a small claims, according to the requirements of optimality and predictability of time periods.

The court can encourage the positive temporal dynamics in case consideration applying the means of temporal regulation of both the total length of judicial proceedings and the time intervals for performing individual procedural actions. Therefore, their successful implementation will create favorable prerequisites for further constitutive transformations on a complementary basis.

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