Volume 22, Issue 1
June 2024

ISSN 1731-8297, e-ISSN 6969-9696
http://czasopisma.uni.opole.pl/index.php/osap

ORIGINAL ARTICLE
received 2023-08-25
accepted 2024-02-23
published online 2024-07-17

The principle of effectiveness against the background of the principle of the right to a fair trial in the judgements of the European Court of Human Rights

Zasada efektywności na tle zasady prawa do sprawiedliwego procesu w orzecznictwie Europejskiego Trybunału Praw Człowieka

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Citation: Kułak-Krzysiak. Katarzyna. 2024. The principle of effectiveness against the background of the principle of the right to a fair trial in the judgements of the European Court of Human Rights. *Opolskie Studia Administracyjno-Prawne* 22(1): 55–69. DOI: 10.25167/osap.5207

Abstract: The European Court of Human Rights (Hereinafter referred to as ECtHR) has jurisdiction over 47 countries and it is considered to be one of the most effective mechanisms for the protection of human rights in the world. In Recommendation Rec(2004)20 of the Committee of Ministers of the Council of Europe of 15 December 2004 on judicial review of administrative acts – with reference to the right to an effective remedy provided for in Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) – the principle of effectiveness is primarily identified.

The guarantees provided by the norms of national law and confirmed in the norms of international law allow citizens to appeal to international tribunals in pursuit of claims alleging violation of rights. Violation of the principle of effectiveness results in the infringement of one or more rights guaranteed by national and also international law. This paper aims to determine what the effectiveness of proceedings is according to the norms of international law and how it is interpreted in relation to the principle of the right to a fair trial.

This article aims to define what the effectiveness of proceedings is according to the norms of international law and how it is interpreted in relation to the principle of the right to a fair trial. The research goal of this article is to analyze the legal provisions regarding the effectiveness of court proceedings. The article will ask whether the judicial process can be effective? What is the efficiency of judicial proceedings? What features must the judicial

proceedings meet to have the characteristics of efficiency? What activities are being undertaken by international authorities to increase the efficiency of the judicial process, and do these activities have an impact on solving the problem? The issue of efficiency of judicial proceedings is very important. Hence the attempt to answer the questions above.

The article presents the genesis of the institution of efficiency and its evolution in recent years as well as attempts to compare it over the years.

Keywords: party, effectiveness, reasonable time of proceedings, court proceedings, tribunal

Abstrakt: Europejski Trybunał Praw Człowieka (dalej: ETPCz) obejmuje swoją jurysdykcją 47 państw i jest uważany za jeden z najskuteczniejszych mechanizmów ochrony praw człowieka na świecie.

W rekomendacji Rec(2004)20 Komitetu Ministrów Rady Europy z 15 grudnia 2004 r. o sądowej kontroli aktów administracyjnych w nawiązaniu do przewidzianego w art. 13 Europejskiej Konwencji o Ochronie Praw Człowieka i Podstawowych Wolności (EKOPCz) prawa do skutecznego środka ochrony prawnej naruszonych praw i wolności (right to aneffective remedy) – została wyróżniona zasada efektywności.

Gwarancje zawarte w normach prawa krajowego, potwierdzone w normach prawa międzynarodowego, umożliwiają obywatelowi odwoływanie się do trybunałów międzynarodowych w celu dochodzenia naruszonych praw. Naruszenie zasady efektywności skutkuje naruszeniem jednego lub kilku praw zagwarantowanych w przepisach prawa krajowego, a równocześnie prawa międzynarodowego.

Niniejszy artykuł ma na celu określenie, czym według norm prawa międzynarodowego jest efektywność postępowania i jak jest interpretowana w odniesieniu do zasady prawa do sądu. Celem badawczym niniejszego artykułu jest przeprowadzenie analizy w zakresie przepisów prawnych dotyczących efektywności postępowania sądowego. W artykule postawione zostało pytanie: czy postępowanie sądowe może być efektywne? Co to jest efektywność postępowania sądowego? Jakie cechy musi spełniać postępowanie sądowe, żeby miało cechy efektywności? Jakie działania podejmują organy międzynarodowe, żeby zwiększyć efektywność postępowania sądowego i czy te działania mają wpływ na rozwiązanie problemu? Zagadnienie efektywności postępowania sądowego jest bardzo ważne, stąd próba udzielenia odpowiedzi na powyższe pytania. W artykule przedstawiona została geneza instytucji efektywności i jej ewolucja w ostatnich latach oraz próba jej porównania na przestrzeni lat.

Słowa kluczowe: strona, efektywność, szybkość postępowania, postępowanie sądowe, trybunał

Introduction

The right to a fair trial is enshrined in Article 6 of the European Convention on Human Rights (ECHR) and it represents one of the most fundamental guarantees for the respect of democracy and the rule of law on the European continent (Rozakis 2006: 115). One of the basic human and citizen rights is the right to lodge complaints (Bajorek-Ziaja 2010: 13)). The European Court of Human Rights (ECtHR) in Strasbourg is an international court. It was es-

tablished to examine complaints lodged by persons claiming that their rights guaranteed by the Europen Convention for the Protection of Human Rights and Fundamental Freedoms have been violated (Jurnal of Laws 1993: 284). The ECHR was drafted by the Council of Europe to create a collective system for the protection of the human rights provided for in the Universal Declaration of Human Rights, adopted by the United Nations in 1948 (The European Court 2013: 1). This Convention was ratified on 4 November 1950 and is an international agreement wherein the member states of the Council of Europe undertake to respect the rights and freedoms enshrined in the Convention. Poland signed the Convention on 19 January 1993.

According to the ECHR, every case in court must be heard within a "reasonable time" (The European Court 2013: 3–5). The principle of having a case processed without undue delay is part of the concept of the effectiveness of proceedings.

1.

How can one establish whether a given court proceeding is effective? Effectiveness of proceedings is an extremely complex issue, and one that is difficult to put into practice.

A decade ago, a doctrinal study on the European principle of effectiveness was published, comparing the legal orders of the European Union and the European Economic Area (EEA) and assessing in parallel the impact of the case-law of the Court of Justice of the European Union (ECJ2) and the Court of the European Free Trade Association (EFTA Court) on the national legal orders with a special focus on Iceland. At that time, it was argued that a silent revolution had taken place in the European legal order since that judicial made legal principle had become its pivotal cornerstone for the protection of individual rights not only within the EU but also in the EFTA–EEA countries (Iceland, Norway, Liechtenstein) (Méndez-Pinedo 2021: 5). The research questions are therefore the following: What does effectiveness mean as a principle in our field of EU law? What does a survey of relevant scholarship reveal on the matter? (Mendez-Pintedo 2021: 7).

Effectiveness is one of the key principles determining the manner in which administrative court proceedings should be conducted. This concept entails for the entity conducting the proceedings a number of obligations related to the specific procedure that needs to be followed in order to review an appealed administrative decision. It can be said that effectiveness is the restoration of the state of lawfulness – from the moment a case is brought to court to the moment a judgement is issued and then enforced – as quickly and as cheaply

as possible and in compliance with the rules of procedure. According to Kmieciak, the concept of effectiveness of judicial-administrative protection presupposes that law is observed by the court itself and respected by administrative authorities at the stage of enforcing the court's judgment (Kmieciak 2006: 214). The effectiveness of protection provided in the sphere of public administration is also one of the four basic requirements that the European Committee for Legal Cooperation of the Council of Europe recognizes as components of the right to a fair trial (right to a court) (Kmieciak 2010: 21).

Stelmach claims that a law that does not meet at least the "minimum" conditions of effectiveness (even if it is formally in force) becomes, to all intents and purposes, non-existent (Stelmach 2010: 958). The fundamental problem therefore is whether an existing or a new law will work, make things easier for individuals, provide the necessary guarantees, establish clear rules of conduct, or whether it will become a negative influence. A law should be effective, which means it must be implementable – it must have the power to act.

2.

The ECtHR does not act as another instance and cannot overturn or amend domestic judgements that violate the fundamental human rights protected by the ECHR (Cichoń 2005: 177). Complaints to the ECtHR may only concern matters within the competence of public authorities, i.e. state or local government or administrative bodies, courts, etc. In the case of excessive length of proceedings, a court may award damages to the aggrieved party.

The rights and freedoms protected by the ECHR are enshrined in the text of the Convention and in Additional Protocols. The right of individual complaint is of fundamental importance for the effective protection of the substantive rights and freedoms secured under the Convention (Bajorek-Ziaja 2010: 37). The fact that individuals use protection measures provided for by international law shows that those who believe they have been wronged by national authorities, look for opportunities to pursue their rights and interests outside their home country (Banaszek 1997: 6).

In addition to developing a catalogue of civil and political rights and freedoms, the Convention has created a system for monitoring compliance with the obligations adopted by States Parties to the Convention. The ECHR imposes an obligation on states to ensure that they respect all the rights and freedoms set out in the Convention which pertain to the citizens subject to their jurisdiction.

For the long period of time from the establishment of the ECtHR until the early 1980s, nothing indicated the need for a fundamental reform of the rules governing the activities of this Court or, more broadly, the entire mechanism

for monitoring compliance with the Convention (Bisztyga 1997: 63). In the case of Poland, the ECtHR can consider complaints received after 1 May 1993. Since 1980, the number of cases brought before the institutions of the ECHR has been growing steadily. This has made it increasingly difficult to keep the length of proceedings before those institutions within acceptable limits. This problem has been considerably exacerbated by the admission of new Member States to the Council of Europe after 1990, of which there are now 47. The number of cases registered annually by the Commission increased from 404 in 1981 to 4750 in 1997. By 1997, the number of unregistered or provisional case files opened annually by the Commission reached over 12,000 (The European Court 2013: 2). The figures for the ECtHR, in which the number of cases brought per year increased from 7 in 1981 to 119 in 1997, reflect a similar trend (The European Court 2013: 2). As a consequence of this increase, Council of Europe member states ratified Protocol No. 11 (*Journal of Laws* 1998: 962) to the ECHR. The reform involved simplification of the structures established by the Convention to decidedly shorten the proceedings before those institutions, to increase the effectiveness of protection measures, to facilitate access for individuals, and to maintain the existing high quality of the human rights protection system.

In the three years since the entry into force of Protocol No. 11, the Court's case-load increased in an unprecedented manner from 5,979 applications registered in 1998 to 13,858 in 2001, a rise of approximately 130% (The European Court 2013: 2). Protocol No. 15 to the ECHR entered into force on 1 August 2021. The Protocol had been designed to improve the efficiency of the ECtHR, among others, by accelerating the resolution of cases. Adopted in 2013, it had waited for ratification by the States Parties to the Convention until 2021. The primary objective of the Protocol was to strengthen the standards of human rights protection.

An application to the ECtHR may be brought by any person who, in their opinion, has been the victim of a violation by the State party of the rights under the Convention (Bajorek-Ziaja 2010: 27). Complaints about the excessive length of proceedings can be lodged on the grounds that there has been a violation of the right to a fair trial. The violation of the right to a fair trial is closely related to the violation of the right to the effectiveness of proceedings before an administrative court.

Before lodging a complaint with the ECtHR, regarding an administrative matter, one should first exhaust all possible domestic remedies. This requirement follows from Article 35, paragraph 1, of the ECHR, which reads as follows: On the question of when an applicant should first refer to the Constitutional Court (Trybunał Konstytucyjny) and only then to the ECtHR, the Court ruled

in the case of Zbigniew Pachla v. Poland (Judgement of 8 November 2005 as to the admissibility of application no. 8812/02 by Zbigniew Pachla v. Poland) in the Judgement of 8 November 2005 (Bajorek-Ziaja 2010: 28).

As of 1 February 2022, the deadline for submitting a complaint to the ECtHR is four months from the date on which the final decision was taken at the national level. This means the deadline for lodging a complaint has been shortened, as previously it was 6 months. The new four-month deadline applies to complaints for which a final national decision was taken on or after 1 February 2022.

Since the number of complaints filed with the ECtHR is constantly growing, the waiting period for a reply to a complaint is several months. The procedure for lodging a complaint is set out in the Declaration of Recognition of the Competence of the European Commission of Human Rights and the Jurisdiction of the ECtHR (*Journal of Laws* 2010: 286).

3.

As per 31 December 2019, the largest percent of cases pending before the ECtHR concerned the Russian Federation (25.2%), Turkey (15.5%), Ukraine (14.8%), Romania (13.2%) and Italy (5.1%). Poland ranks 10th in terms of the number of complaints pending before the ECtHR, which account for 2% of all cases (Kolarz 2021).

The total number of complaints examined was 59,800 (a 6% increase). The statistical data for 2019 shows that the number of new cases increased due to the rise in the number of complaints against Bosnia and Herzegovina, the Russian Federation, Turkey and Ukraine. In 2019, the ECtHR issued twelve judgements in cases against Poland, finding that there had been a violation of the Convention in 11 of them. This represents a significant decrease (by half) in the number of judgements compared to previous years.

Most of the cases brought before the ECtHR regard violations of Article 6, paragraph 1, of the ECHR, which provides for access to a court for the hearing of a case. Article 6, paragraph 1, of the Convention stipulates that everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial court. It could seem that cases concerning excessive length of proceedings are not particularly complicated. This is, however, far from the truth, since in many of those cases it is necessary to first determine whether the right to a fair trial and thus the right to have judgement within a reasonable time does actually apply to the particular proceedings (Ibidem, p. 1). In Poland, the right to a fair trial is provided for in Article 45 of the Constitution of the Republic of Poland (*Journal of Laws* No. 44, item 267;

No.79, No. 101, item 935), which reads as follows: "Everyone shall have the right to a fair and public hearing of their case, without undue delay, before a competent, impartial and independent court."

Even before the reform of the administrative judiciary and the adoption of the Act of 17 June 2004 on complaints against the violation of a party's right to have their case heard without undue delay (now Act of 17 June 2004 on complaints against the violation of a party's right to have their case heard in pre-trial proceedings conducted or supervised by a prosecutor and in judicial proceedings without undue delay (*Journal of Laws* 2018.75, consolidated text), the ECtHR had held, in the case of Mączyński v. Poland (Judgement of 15 January 2002, Application no. 43779/98) by a majority of six votes to one, that there had been a violation of Article 6(1) of the ECHR (the judgement concerned a civil case in which the court proceedings lasted 25 years). In that judgement, the Court, for the first time, awarded the applicant damages (EUR 5,500) in respect of non-pecuniary damage related to the excessive length of the proceedings. This is very important, because this judgement guarantees the right to a fair trial, and thus in a broader sense, it guarantees effective court proceedings.

The most important cases concerning excessive length of proceedings brought to the ECtHR against Poland, in which the Court found there had been a violation of rights, are the following:

1. Styranowski v. Poland (October 1998) (Application no. 28616/95, Judgement of 30 October 1998) – the applicant contested the length of the proceedings brought in 1991 to obtain a full pension calculated on the basis of his salary at the moment of early retirement;
2. Podbielski v. Poland (October 1998) (Application no. 27916/95, Judgement of 30 October 1998) – the applicant complained about the long duration of the proceedings regarding payment for construction works which his company had carried out under a contract with the municipality;
3. Humen v. Poland (October 1999) (Application no. 26614/95, Judgement of 15 October 1999) – the claimant invoked Article 6 of the Convention; the Court did not find the length of the proceedings had been excessive;
4. Wcisło and Cabaj v. Poland – both applications concerned excessive length of administrative proceedings. Nos. 49725/11 and 79950/13). In the judgement of 8 November 2018, the Court held there had been a violation of Article 6, paragraphs 1 and 13, of the Convention with regard to the first complaint. As for the second complaint, about the excessive length of administrative proceedings regarding the applicants' claim for compensation for their expropriated property, the Court found that there had been a violation of Article 6 of the Convention, paragraph 1, and Article 13 of Protocol No. 1 to the Convention.

In 2004, the ECtHR issued a judgement that had a significant impact on the practice of applying the law on excessive length of court proceedings. The case of Kaszubski v. Poland (Application no. 35577/97, Judgement of 24 February 2004). In its Judgement, the Court observed that "The reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case, the conduct of the applicant and of the relevant authorities and the importance of what was at stake in the litigation." The ECtHR found that there had been a violation of Article 6, paragraph 1, of the Convention; the applicant was awarded damages of EUR 4,300 (Bajorek-Ziaja 2010: 45).

In the case of Górska v. Poland (Application no. 53698, Judgement of 3 June 2003, LexPolonica no. 385388), the Court reiterated that "The reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute." In another case, Sobierajska-Nierzwicka v. Poland (Application no. 49349/99, Judgement of 27 May 2003, LexPolonica no. 385387), the Court again stated that "The reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law."

The ECtHR points out that an excessive length of court proceedings may jeopardize the effectiveness and credibility of courts (case of Vernillo v. France of 20 February 1991). However, when assessing the length of proceedings, it is important to take into account the complexity of the case and other difficulties that sometimes have an impact on how long the proceedings last, as well as the conduct of the applicant and the authorities conducting the proceedings. It is extremely important to the jurisprudence of the ECtHR that all the circumstances of the case be taken into account and that a global assessment be made (case of Salerno v. Italy of 12 October 1992).

Of course, the Polish state is not the only one to have violated Article 6, paragraph 1, of the ECHR. In the case of Koening v. Germany (Application no. 6232/73, Judgement of 27 May 2003, LexPolonica no. 402823), the German authorities held that the length of proceedings should be counted from the date of lodging the complaint with the administrative court of first instance. However, the ECtHR observed that "The reasonable time may begin to run, in certain circumstances, even before the issue of the writ commencing proceedings before the court to which the plaintiff submits the dispute." In this case, the plaintiff, Mr. Koening, could not bring the case before the competent

court prior to having the lawfulness and the expediency of the impugned acts examined in preliminary administrative proceedings. Having examined the whole of the proceedings, the Court concluded that the delays mentioned by the authorities could not justify the length of the proceedings, which could have been brought to an end at an earlier date.

In administrative matters, the principles of fairness, publicness, and efficiency are even more important. The question about the effectiveness of a legal remedy is grounds for many disputes in doctrine and in jurisprudence. The answer to this question depends on understanding the concept of effectiveness in a legal system, in procedural law, especially in the system of legal remedies (Piątek 2019: 168). By submitting a request for review to the administrative court of the highest instance, a party seeks to both have the impugned decision rescinded and its consequences annulled. Effective protection of a party to such proceedings and restoration of lawfulness presupposes the obligation of the administrative authorities to comply with a/the court's judgement. Administrative authorities are state organs subject to the rule of law and their interests must be identified with the need for a proper administration of justice. It is worth noting that the judgement of the ECtHR in Strasbourg gives a clear and categorical answer to the question of how to treat the situation in which administrative authorities refuse to or are slow to comply with a judgement of an administrative court.

The Supreme Court in Poland attaches great importance to the rulings of the ECtHR (Bajorek-Ziaja 2010: 70), which, in its decision of 11 January 1995, observed that "From the date on which Poland became a member of the Council of Europe, the case-law of the European Court of Human Rights in Strasbourg may and should be taken into account in interpreting Polish law" (III ARN 75/94, OSNAPiUS 1995, no. 9, item. 106).

Considering the postulate of reasonable time and effectiveness of proceedings, it should be remembered that rulings cannot be made in contradiction to the objective truth, as such an action would be in conflict with the fairness of proceedings. Proceedings should last as short as possible, the findings must be true, and all actions taken during the proceedings by the competent authorities should be reliable

The ECtHR has been struggling for years with case overload. Since its establishment in 1959, it has issued over 23,400 judgements, most of which concerned Turkey, Russia and Italy. In 2020, around 62,000 cases were pending before the Court (about 41,700 of them were successfully lodged), of which 22% were cases against Russia, 19% – Turkey, and 16.8% – Ukraine. Most of the violations found by the ECtHR concerned the right to a fair trial (37.65%),

the right to liberty and security (13.34%) and the right to life and the prohibition of torture (16% in total).

Among the 41 judgements which the ECtHR issued until the end of 2000 in cases where the allegation of violation of the Convention was raised against the Polish authorities, 18 touched in one way or another upon the standard of reasonable time, and in more than half of these cases the Court ruled that the standard had not been met in proceedings before Polish courts (Leszczyński 2003: 217). In the judgements issued by the ECtHR until the end of 2004 in cases concerning Poland, excessive length of court proceedings was the most common reason for accepting a complaint. It is important to note that the principle of reasonable time does not apply solely to the proceedings before the given court examining the given complaint, but covers the settlement of the case from the moment the proceedings are initiated until they are concluded by a judgement of the Supreme Administrative Court.

In 2019, the Court delivered 12 judgements concerning Poland and found there had been a violation of the Convention in 11 of them. This marks a significant decrease (by half) in the number of judgements compared to previous years (statystyki ETPCz).

Conclusion

Effective judicial protection is a long-standing principle of Union law, a key pillar of the Union based on the rule of law (Bonelli 2019: 35). Therefore, a well-organized legal system should have appropriate tools for every case to be heard within a reasonable time limit. Proceedings that last for years cannot, according to the ECtHR, be conducted diligently (Judgements of the ECtHR in the cases of *Comingresoll v. Portugal*, 6 April 2000, Application no. 35382/97; *Uoti v. Finland*, 9 January 2007, Application no. 61222/00.). Thus, the ECtHR finds proceedings have been excessively lengthy, even in cases where there have been no long periods of inactivity on the part of the court, if the proceedings have lasted for years and have not brought any concrete outcome (Judgement of the ECtHR in the case of *Szwagrun-Baurycza v. Poland*, 24 October 2006, Application no. 41187/02). Unfortunately, because of the large number of complaints received by the ECtHR, the Court itself has not managed to avoid long waiting times for issuing its decisions, even despite the successively introduced Protocols to the Convention, the objective of which was to accelerate these proceedings.

The EU principle of effective judicial remedy (which is a more specific expression of the principle of effective legal protection in cases brought before EU courts) (Kamiński 2019: 143) applies only to administrative acts of EU

institutions and bodies and administrative acts of national public administration bodies in the so-called EU matters (in which EU law is applied or enforced). On the other hand, interactions between the international legal system and national legal systems are bilateral and have a rich and complex structure (Mik 1992: 4). The international order, affecting the national order, also influences provisions that have a direct impact on the observance of the principle of effectiveness of proceedings. An analysis shows that also the provisions of international law do not contain a definition of the effectiveness of proceedings. Effectiveness is interpreted from the principle of the right to a fair trial.

International standards, including the ECHR and the International Covenant on Civil and Political Rights, set the minimum protection standard. The protection of human rights provided for in the ECHR is perceived as an element of democracy, not its sole content, and the effective application of the Convention's norms ensures that human dignity and subjectivity are perceived in the right way. It is assumed that the administration of justice makes sense only when one does not have to wait too long for the final judgement (Kamiński 2019: 143).

Article 6 of the ECHR is the most frequently invoked provision in complaints to the Strasbourg Court. All human rights are protected at the national level through court trials conducted in the Member States. Moreover, the implementation of the right to a fair trial may itself, under certain conditions, affect the scope of rights and their protection (in this sense it is a human meta-right) as it involves supplementing normative acts with case-law standards and judicial interpretation of provisions and legal inferences (Leszczyński 2008: 72).

The requirements laid down in Article 6 of the ECHR apply to the entire judicial process as well as proceedings at all court instances. In the case of administrative courts, it is vital that a court can examine complaints against the administrative decision under review. A particularly sensitive problem is the control that an administrative court has over the way the administration exercises its discretionary power (Leszczyński 2008: 73) (Kamiński 2019: 143). Article 6 of the Convention requires that proceedings be conducted efficiently, as well as expressing the more general principle of good administration of justice. It is clear that securing an effective right of access to a court and the examination of a case itself are the obligations of the state (Airey v. Ireland, 9 October 1979) (Leszczyński 2008: 2).

The ECtHR has not defined strict time limits for court proceedings, the exceeding of which could be automatically considered a violation of the right to a fair trial (Gonera 2005: 15). For the ECtHR to find there has been a violation of Article 6 paragraph 1 of the Convention, it must comprehensively assess the

course of the entire judicial proceedings. It should be noted that an excessive length of proceedings cannot be justified by case-overload at the courts, the need to apply complicated procedures or understaffing.

The ECtHR has repeatedly emphasised that in order for state authorities to be able to implement the provisions of Article 6 of the Convention, the system of administration of justice and application of law in a given country should provide them with appropriate means to execute this. It is the state that is responsible for the excessive length of court proceedings if it violates the provisions regarding the examination of a case within a reasonable time (the case of Godart and Ergon v. France 1989).

The standpoint of the ECtHR on excessive length of proceedings can be summarised in three points:

1. One cannot determine the maximum time limit for examining a case on the basis of the judgements of the ECtHR; the decision whether a case has been heard within a reasonable time depends on the circumstances of the case, and takes into account the entire duration of the proceedings.

2. The ECtHR assesses whether the length of proceedings is reasonable based on four criteria: the complexity of the case, the relevance of the outcome of the case to the applicant's interests, the applicant's own conduct and the conduct of the judicial and enforcement bodies involved – the final conclusion is derived from an overall assessment of all these criteria.

3. The State has an obligation to establish its own guarantees to ensure that the proceedings are conducted within a reasonable time (Ereciński 2005: 43).

Wilk observes that Article 6 should be interpreted in the light of the general principles of law adopted by civilised nations, including the principle that everyone should be able to present their case to the court and the principle prohibiting refusal to administer justice. The condition of reasonable time is one of the most frequently raised arguments in complaints to the ECtHR (Leszczyński, Liżewski 2008: 76). This situation has not changed since the establishment of the human rights protection system. This may mean that there are no fully effective measures at the national level that would enable the implementation of the principle of reasonable time. Reasonable time of court proceedings is one of the values that affects the efficiency of the social effects of law in general.

One should not forget that the principle of effectiveness has two important components: the fact that the applicant has ultimately received a binding decision regarding his case spelled out in the final judgement and the fact that the judgement has been enforced by a public administration body. After the analysis, it can be concluded that the previous actions of international bodies in terms of the effectiveness and efficiency of action have not had the desired

effect. Proceedings take a long time, making them ineffective in the public perception. This affects the overall perception of judicial bodies as ineffective.

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