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FOR THE EFFICIENCY OF JUSTICE**

(CEPEJ)

**Length of court proceedings in the member
states of the Council of Europe
based on the case law of the European
Court of Human Rights**

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Analyses des délais judiciaires dans les Etats membres du Conseil de l'Europe à partir de la jurisprudence de la Cour européenne des Droits de l'Homme

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Summary of the report

I. Terms of reference

The purpose of this report is to identify certain general lessons that can be learned from the case-law of the European Court of Human Rights which could help Council of Europe member states reduce the length of their court proceedings. The report addresses the following main issues:

1. What criteria are used to calculate and assess compliance with the right to be heard within a reasonable time within the meaning of Article 6 § 1 of the Convention?
2. What is the average length of proceedings beyond which the Court finds that there has been a violation of the right to be heard within a reasonable time?
3. Has the Court defined specific categories of cases and adopted different assessment guidelines for each of those categories?
4. What are the reasons for the delays found to have occurred in judicial proceedings and what appropriate remedial action has been identified by the Court?

This report was originally written by Ms Françoise Calvez in 2006 and has been updated on two occasions by Mr Nicolas Regis, first in 2012 and then in 2017.

II. Structure of the report

The report is structured in two parts. In Part 1, it sets out **criteria for calculating and assessing the reasonableness of the length of proceedings** in the Court's case-law. In Part 2, it outlines **the various stages of proceedings in which delays have occurred, identifies the causes of delay and presents an overview of the remedies adopted by member states to prevent or remedy the consequences of excessive length of proceedings**. The appendices to the report contain a table showing the **number of violations of this right** by contracting state (Appendix 1); an overview of **priority cases** identified by the Court (Appendix 2); a table showing **complex cases** (Appendix 3) and **straightforward cases** (Appendix 4), in which a violation has or has not been found.

III. Main findings of the report

1. The Court has established the following criteria for assessing whether the length of proceedings is reasonable: **the complexity of the case, the conduct of the applicant, the conduct of the national authorities** and **what is at stake for the applicant**.

The complexity of the case and the conduct of the applicant may absolve the state of its responsibility if a reasonable time has been exceeded, provided that the reasons are sufficiently objective not to be attributable to the state, and the domestic authorities have furthermore shown sufficient diligence.

The Court examines the reasonable nature of proceedings, with reference (i) to actual verifiable facts and the particular circumstances of each case and (ii) the entire proceedings, which means that timescales which would not be unreasonable when taken separately, become so in combination. However, in addition, the Court is perfectly prepared to find that a specific phase of the proceedings has lasted an excessive length of time.

Certain cases, which are of particular importance for applicants, are considered a priority. "Priority" cases include:

- employment disputes, occupational diseases and cases relating more generally to the applicants' means of subsistence;
- compensation for victims of accidents;

- cases in which the applicant is or has been detained in the course of the proceedings;
- cases where the applicant's health is a critical issue or where the applicant's age is a factor to be taken into account;
- cases relating to the preservation of family life, disputes concerning maintenance obligations and cases relating more generally to the applicant's civil status;
- proceedings concerning a violation of the absolute rights guaranteed by the Convention (in particular Articles 2, 3 and 4 of the Convention)

2. In its case law, the Court has defined methods to calculate length of proceedings. The **starting point of the calculation** is different in civil, criminal and administrative cases. In civil cases it is normally the date on which the case was referred to the court. In criminal cases, the starting point taken into account is when accusations, as understood by the Convention, are first made against the applicant, which can be the date on which the suspect was arrested, charged or even the date on which a police investigation began. In administrative cases, it is the date on which the applicant first refers the matter to the administrative authorities (even in the case of a preliminary administrative appeal or an internal appeal for review).

In criminal cases, the **end of the period** assessed by the court is the date on which the final judgment is given on the substantive charge or the decision by the prosecution or the court to terminate proceedings. In civil or administrative matters, the end date is the date on which the decision becomes final. However, the Court also takes account of the length of the enforcement procedure which may, in some cases, result in a separate finding of a violation.

3. Some **causes of delay** are common to all types of proceedings while others are specific to only certain types:

Type of proceedings	Stage of proceedings	Origins of delay
All proceedings	<i>Before proceedings start</i>	- Court congestion; insufficient number of judges and judicial staff; transfers of and failure to replace judges; systematic use of multi-member tribunals (benches); inactivity by judicial authorities; shortcomings in procedural rules resulting in cases being systematically referred back to the trial courts for re-examination; repeated legal errors leading to the annulment of judgments
	<i>From initiation to the closure of hearings</i>	- Failure to summon parties or witnesses; unlawful summons; late entry into force of legislation; disputes about the jurisdiction between administrative and judicial authorities; problems of jurisdiction; late transmission of the case file to the appeal court; delays imputable to barristers, solicitors, local and other authorities; judicial inertia in conduct of the case; involvement of expert witnesses; no control over the work of experts; frequent adjournment of hearings; excessive intervals between hearings
	<i>After the proceedings</i>	- Excessive lapse of time between making of the judgment and its notification to the court registry or parties, and between the handing down of the decision and its enforcement
Civil proceedings		- Courts' failure to use the powers or discretion granted by the rules of procedure in the conduct of the case; absence or inadequacy of rules of civil procedure enabling the case to be managed in a dynamic way
Criminal proceedings		- Structural problems relating to organisation of prosecution service; insufficient number of prosecutors; decisions to join or not to join criminal cases; failure of witnesses to attend hearings; delays due to the rule that civil proceedings depend on the outcome of criminal proceedings
Administrative proceedings		- Delays attributable to non-judicial authorities; insufficient number of courts

4. The report also addresses the question of the effectiveness of domestic remedies put in place by states to prevent or remedy excessive length of judicial proceedings. It is mainly on this question that cases before the Court have focused in recent years. The Court has in fact imposed an obligation on states to provide domestic remedies to prevent or simply remedy the consequences of excessive length of proceedings. Such remedies, if they are deemed "effective" by the Court (within the meaning of Article 13 of the Convention),

must be made use of by applicants before bringing their case to the Court, pursuant to Article 35 § 1 of the Convention. This report also gives an overview of the general reforms undertaken by member states to remedy unjustified delays in judicial proceedings.

5. The report analyses numerous judgments and decisions handed down by the Court and seeks to specify guidelines relating to length of proceedings according to the various types of cases, which, if exceeded will result in a finding of a violation of the Convention. Of course, these are only guidelines, from which the Court can depart in the light of the particular circumstances of each case.

An analysis of the case-law of the Court reveals the following guidelines relating to length of proceedings:

- The total duration of up to two years per level of jurisdiction in ordinary (non-complex) cases has generally been regarded as reasonable. When proceedings have lasted more than two years, the Court examines the case closely to determine whether there are any objective reasons, such as the complexity of the case, and whether the national authorities have shown due diligence in the process;
- In complex cases, the Court may allow longer time, but pays special attention to periods of inactivity which are clearly excessive. The longer time allowed is however rarely more than five years and almost never more than eight years of total duration;
- In the so-called priority cases in which a particular issue is at stake, the court may depart from the general approach, and find a violation even if the case lasted less than two years by level of jurisdiction. This will be the case, for example, where the applicant's state of health is a critical issue or where the delay could have irreparable consequences for the applicant;
- The only cases in which the Court did not find a violation in spite of manifestly excessive length of proceedings were cases in which the applicant's behaviour had been a major factor.

6. From a statistical point of view, the number of findings of violations of the right to be tried within a reasonable time has decreased considerably in recent years. For example, while the previous version of this report noted that failure to uphold this right was among the top causes of violation of the Convention (2nd out of 24 causes in 2012 and 2013), these failures fell to 5th position in 2014, 2015 and 2016. This can be explained primarily by an improvement in judicial procedures due to the reforms introduced by member states to comply with the case-law of the European Court, as revealed in the annual reports and resolutions of the Council of Ministers, but also by the Court's requirement that applicants seek recourse to effective domestic remedies, even if these may only enable redress to be obtained for excessive length of proceedings, rather than preventing it. A further reason is undoubtedly the Court's policy of strengthening its filtering of cases and modifying its working methods following the entry into force of Protocol No. 14, in response to its backlog and the criticism it faced.

Number of Court judgments finding a violation of the right to be tried within a reasonable time, by year:

2006	566
2007	384
2008	456
2009	449
2010	461
2011	341
2012	227
2013	178
2014	117
2015	104
2016	106

Foreword

The aim of this study is to offer a concrete knowledge of the cases addressed by the European Court of Human Rights to judge the conformity of timeframes of judicial proceedings with the requirement of Article 6 para. 1 of the European Convention on Human Rights.

It has been designed so that policy makers and judicial practitioners in the member states of the Council of Europe can use this specific information to orient the reform of the normative frameworks and the administrative and judicial practices towards optimum and foreseeable timeframes of judicial proceedings, in line with the CEPEJ Framework Programme: “A new objective for judicial systems: the processing of each case within an optimum and foreseeable timeframes”¹.

The first edition of this report was written by Françoise Calvez (judge, France) on behalf of the Task Force of the CEPEJ on timeframes of judicial proceedings. It covers the period 1985 to 8 October 2005. The second and the third editions have been entrusted to Mr Nicolas Regis (judge, France) for the Working Group of the CEPEJ SATURN². They take into account the case law of the Court until 31 July 2017.

The Report was adopted by the CEPEJ at its plenary meeting (in Strasbourg on 4th December 2018).

¹ See document CEPEJ(2004)19.

² SATURN (Study and Analysis of judicial Time Use Research Network).

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Introduction

Article 6.1 of the European Convention on Human Rights of 4 November 1950 is worded as follows:

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice."

This key provision of the Convention has led to several cases before the Court regarding the concept of a fair hearing or trial. In terms of volume, the majority of cases have for a long time concerned the right to have cases heard within a reasonable time. This applies to both criminal and civil cases, and to administrative proceedings, which may fall into either category.

Even though the criteria used by the Court to assess the reasonable nature of a detention based on Article 5 § 3 of the Convention are in part identical to those used for deciding whether or not there has been a violation of Article 6 § 1 (consideration of the nature and complexity of the case, diligence shown, period of inactivity, etc.), there are nonetheless some differences linked to the purpose of this provision: first, Article 5 § 3 is concerned with the arrest and situation of persons remanded in custody which require particular assessment criteria³, and second it calls for special diligence which is assessed more vigorously by the Court. It spelled this out in the *Stögmüller* judgment of 10 November 1969: *"there is no confusion between the stipulation in Article 5 (3) (art. 5-3) and that contained in Article 6 (1) (art. 6-1). The latter provision applies to all parties to court proceedings and its aim is to protect them against excessive procedural delays; in criminal matters, especially, it is designed to avoid that a person charged should remain too long in a state of uncertainty about his fate. Article 5 (3) (art. 5-3), for its part, refers only to persons charged and detained. It implies that there must be special diligence in the conduct of the prosecution of the cases concerning such persons. Already in this respect the reasonable time mentioned in this provision may be distinguished from that provided for in Article 6 (art. 6)"*.

This difference in assessment between the reasonable time limit provided for in Article 6 § 1 and that provided for in Article 5 § 3 has, however, become less clear-cut, since, as will be seen, the Court demands particular speed under Article 6 § 1 when the applicant is subject to a period of detention during the proceedings. The distinction nevertheless remains and means in particular that applicants can rely on the provisions of both Articles 6 § 1 and 5 § 3 in combination and, where appropriate, have a double violation established, even where the excessive length of proceedings as a whole is largely due to a too long period of detention⁴.

However, although this emphasis on the need for expeditious conduct of cases may seem to be a recent phenomenon, it has a far longer legal history.

For example, as far back as the early 14th century, a simplified procedure was introduced into canon law so that certain categories of cases could be dealt with more rapidly (see CH. Van Rhee, *in The law's delay*).

Nor has common law been spared, witness the works of Dickens, particularly the *Pickwick Papers* where the author is highly critical of the length of certain proceedings in England⁵. Much more recently, the Civil Justice Council, chaired by Lord Woolf, has published its report *"Access to Justice"* (July 1996), which makes various proposals for expediting civil proceedings in the United Kingdom.

The old adages in French ("justice rétive, justice fautive") and English ("justice delayed, justice denied") embody the reasons why the European Court is so insistent on the need to avoid delays.

³ Initially, the fact that there are reasonable suspicions may justify detention, but there comes a time when those suspicions are no longer sufficient. The domestic authorities must then establish the actual existence of specific grounds which could justify continued detention. These include the risk of absconding, the risk of obstruction of justice, of repeat offending and the need, in particular and clearly established circumstances, to preserve public order (see, for example, *Loisel v. France* of 30 July 2015 (in French only), §§ 40 et seq.).

⁴ For example, *Yaroshovets and others v. Ukraine* of 3 December 2015 and *Naimdzhon Yakubov v. Russia* of 12 November 2015.

⁵ C.H. Van Rhee, "The laws delay: an introduction", *in The law's delay: essays in undue delay in civil litigation*, Intersentia, 2004.

In international law, the 1948 Universal Declaration of Human Rights embodies the notion of a fair trial or hearing but makes no explicit reference to a "reasonable time". Article 10 reads: "*Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him*".

This reference to equality is not unconnected to the concept of "reasonable time", given that excessive delays are a major source of inequality, for example between those who can afford, psychologically as well as financially, to await the outcome of a case and may even seek to delay it, and those for whom any deferral of a hearing has unbearable financial or human consequences. In such cases, the lapse of time may itself become the source of further injustice.

Article 6§1 of the Convention strongly reconfirms the desire for the prompt administration of justice. Both the Court and the Commission gave rise to a definition in their case-law of this concept of "reasonable time" through an impressive collection of decisions and judgments, whose number grew exponentially in the 1990s.

The idea reappeared in Article 14 § 3 of the International Covenant on Civil and Political Rights of 19 December 1966, which grants anyone facing a criminal charge the right "to be tried without undue delay". This ground may be relied on by any individual since the entry into force of the optional protocol of 17 August 1994, which authorises the Human Rights Committee to examine individual communications.

Community law has also incorporated this requirement. The Court of Justice of the European Communities soon included the European Convention on Human Rights among the general principles of Community law in its *Rutili* judgment of 28 October 1975 (Case 36/75). The Convention then became established as a pre-eminent source for the CJEU regarding the protection of fundamental rights and now appears first in the list of instruments referred to in Article 6.3 of the Treaty on European Union, which provides that "fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (...) and as they result from the constitutional traditions common to the Member States, form part of EU law as general principles".

In the *Baustahlgewebe v. Commission* judgment of 17 December 1998 (C-185/95), the CJEU reviewed the conformity of the proceedings before the trial court with the right to be heard in a reasonable time and scrupulously applied all the criteria relating to "reasonable time" identified by the European Court of Human Rights.

This principle is also to be found in Community legislation: secondary legislation, enacted in what today constitutes the area of freedom, security and justice of the European Union, directly incorporates this reasonable time requirement.

Lastly, Article 47 (2) of the EU Charter of Fundamental Rights, which has been ascribed legal force equivalent to EU treaties under the Lisbon Treaty,⁶ now expressly provides that "Everyone is entitled to a fair and public hearing within a reasonable time".

The right to have one's case heard within a reasonable time is therefore now embodied in international and European law and is gradually being incorporated into contracting parties' domestic law.

The term does not appear in the French Code of Civil Procedure but, following the enactment of the Presumption of Innocence Act of 15 June 2000, it is now to be found in the first article of the Code of Criminal Procedure, and is also included in various subsequent provisions. Furthermore, since 2006 it has occupied a symbolic place in Article L. 111-3 of the Judicial Code.

It also appears in Italian law where the right to a fair trial has been given constitutional force,⁷ and in the 1978 Spanish constitution, Article 24.2 of which grants the right to a trial or hearing within a reasonable time and which also makes this a fundamental right via the "recurso de amparo". Similarly, since 1 January 2002, Article 127 of the Slovakian constitution has granted individuals and legal persons the right to challenge violations of fundamental rights, on the basis of which the Constitutional Court has handed down judgments concerning the length of proceedings.

⁶ Entry into force 1 December 2009.

⁷ Article 111 of the Italian Constitution.

Most national legal systems in Council of Europe member states now lay down requirements for certain legal and judicial proceedings to be conducted promptly.

The right to a fair trial or hearing and to have the case heard within a reasonable time does not fall into the category of rights from which states can never seek exemption, even in exceptional circumstances.

Article 15 of the European Convention authorises states to derogate from their convention obligations "*in time of war or other public emergency threatening the life of the nation*", though this does not apply to articles 2 (right to life), 3 (prohibition of torture and inhuman or degrading treatment) and 7 (no punishment without law). Other than in the case of these so-called intangible rights,⁸ contracting parties may derogate from what are termed qualified or relative rights.

Parties may also, in theory, waive their rights, so long as such waivers meet the conditions laid down by the European Court. Whether they are explicit or tacit, waivers must be certain and freely given, and the party concerned must be informed of the nature and extent of the rights that he or she has chosen to waive. In the *Deweer* case, concerning the right to be heard by a court, one aspect of the right to a fair hearing, the Court held that "*in an area concerning the public order (ordre public) of the member States of the Council of Europe, any measure or decision alleged to be in breach of Article 6 (art. 6) calls for particularly careful review*" (*Deweer v. Belgium* judgment of 27 February 1980).

As certain commentators have noted, although it is possible to waive certain elements of the right to a fair hearing others aspects are such an integral part of this notion that in their absence it would no longer apply⁹.

In a number of resolutions, the Council of Europe's Committee of Ministers has stated that "*excessive delays in the administration of justice constitute an important danger, in particular for the respect of the rule of law*".

There is always a risk that justice will be denied when proceedings drag on. As time passes, certain legitimate interests may be adversely affected, evidence disappears and new evidence has to be adduced, procedural manoeuvres are allowed or even encouraged, witnesses disperse and lose credibility and further costs are incurred, which parties of good faith may sometimes be unable to bear.

However, time is also essential for proper inquiries to be conducted, all the questions of law elucidated and relations between the parties settled and for the court to arrive at a reasoned conclusion. Reasonable time is therefore a concept that is difficult to define.

As we shall see, the Court has adopted a pragmatic approach to the question. Generally speaking, it tries to establish whether time has been used wisely in all stages of the relevant proceedings and identifies periods of inactivity, which it penalises if they do not appear justified.

Before going on to the substance of this report reference should be made to the CEPEJ's terms of reference. The report is required to assess the issue of length of proceedings in the Council of Europe's member states on the basis of the case law of the European Court of Human Rights, with particular reference to the most recent cases. It is stated: "*there are two main issues that would have to be studied. One regards the length of proceedings that was regarded reasonable or unreasonable (in general and for particular types of cases), and the other regards the analysis of the main causes for the delays (in cases where the length was found to be unreasonable)*".

The author has examined a large number of judgments and decisions of the Court, and decisions of the former Commission.

The main source has been the Court's HUDOC site, which was consulted by entering Article 6 § 1 and the words "*délai raisonnable*" ("reasonable time").

In the first version of this report, it soon became clear that an examination of post-2005 judgments throws little light on the causes of delays because the Court now offers just a very succinct statement of its reasoning. Because of the large volume of length of proceedings cases, the Court merely refers to the criteria laid down in its established case-law, other than for educational reasons in the case of new member states or when the particular circumstances of the case call for more detailed explanations. It was therefore

⁸ F. Sudre, "La dimension internationale et européenne des libertés et droits fondamentaux", in *Libertés et droits fondamentaux*, edited by R. Cabrillac, M.-A. Frison-Roche and T. Revet, Dalloz, 2004, p. 33 to 51.

⁹ J-C Soyser and Mr de Salvia article 6, in *Convention européenne des droits de l'homme commentaire article par article*, edited by L-E Pettiti, Economica p. 244.

necessary to refer to much earlier judgments of the former and new Court and to decisions of the Commission in order to identify the criteria determined and applied by the Court.

In dealing with repetitive cases, the Court uses a form of wording such as “*The Court has dealt on numerous occasions with cases raising similar issues to those of the present case, in which it has found that there has been a failure to observe the “reasonable time” requirement, having regard to the criteria set out in its established case-law in this matter. Noting nothing in the present case that would give rise to a different conclusion, the Court finds that there has been a violation of Article 6 § 1 of the Convention on the same grounds*” or “*The Court also makes the point that, in numerous cases raising issues similar to those in the instant case, it has found a violation of Article 6 § 1 of the Convention*”.

The 2006-2011 period did, however, see the development of pilot judgments¹⁰, which provide an opportunity to recall the Court’s methods and supply useful clarifications. The European Court has, for instance, consolidated its case-law on effective remedies since its major judgment in the case of *Kudla v. Poland*, decision of 26 October 2000 (see Part 1 A below). This, furthermore, is the main issue in the most important judgments delivered in the period 2012-2017.

It should be emphasised from the outset that the statistics (summarised in Appendix 1) must be interpreted with considerable caution, as they cannot by themselves reflect the reality in each country. There are contracting states for which the Court has found relatively few cases of excessive length of proceedings, but it cannot necessarily be concluded that their courts are particularly diligent.

In some cases problems may arise at an earlier stage and concern access to the courts. Citizens may make only limited use of the courts because of the costs incurred, or because alternative remedies are encouraged or are more effective. Equally, in some countries there may be little awareness of the right to apply to the Court of Strasbourg whereas others will have legal practices specialising in this type of application, leading to a very significant number of cases and a proportionally higher number of adverse judgments (syndrome called “good student”).

Moreover, very rapid proceedings do not always translate into good justice. Certain expedited procedures where speed takes priority over the rights of the defence may be detrimental to the quality of justice. The European Court has always held that the principle of good administration of justice goes well beyond the notion of reasonable time¹¹ and may justify resort to lengthier but fairer proceedings.

The terms of reference also require that “*the expert to establish whether, on the basis of a considerable volume of cases, the Court has laid down rules on maximum lengths of proceedings that could be considered reasonable for particular categories of cases or, on the other hand, on minimum lengths of proceedings from which the Court might conclude that there had been a violation of the right to a fair hearing in a reasonable time*”.

Here a few comments should be made on the methodology used in the report.

As much as thirty years ago, and following an internal debate on the subject, the Court refused to give states any legal rulings whatever on what might be considered a standard length of proceedings. It has remained faithful to its practical approach and its commitment to weighing up all its established criteria according to the circumstances of each case, and has never laid down precise rules on, for example, how much time a court should give to a divorce case to avoid the threat of sanction from Strasbourg. The position has not changed since the 1998 reform.

At the most, it appears that two years per level of court is the limit beyond which suspicions may arise and the Court will give particular attention to the circumstances of the case. When it finds that a significant period of time appears to have elapsed it generally uses a form of wording such as that: “*the Court has noted that the court of appeal only handed down its judgment more than seven years and three months after the applicants brought their case before it, and that such a lapse of time would at first sight seem unreasonable for a single tier of court and therefore calls for close examination under Article 6§1 of the Convention*”¹². Or alternatively, “*that more than seven years have already elapsed since the laying of charges without any*

¹⁰ E.g. in the case of *Bourdov v. Russia (No. 2)*, decision of 4 May 2009.

¹¹ In the *Intiba v. Turkey* judgment of 24 May 2005, § 54, the Court stated that although Article 6 of the Convention required proceedings to be conducted with due speed, it also embodied the more general principle of good administration of justice (judgment in French only). See also *Boddaer v. Belgium* judgment of 12 October 1992.

¹² *Marien v. Belgium* judgment of 3 November 2005 (French only).

determination of them having yet been made in a judgment convicting or acquitting the accused, certainly indicates an exceptionally long period which in most cases should be considered as exceeding the reasonable time laid down in Article 6§1¹³.

In order to provide the CEPEJ with relevant material, the authors have prepared a number of tables of types of cases showing certain common features that make it possible to compare the length of proceedings and the Court's verdict.

They include:

- **a table of "priority" cases**, in terms of what is at stake for the applicant. From the standpoint of a president of a court these could be categorised as "priority" cases. In terms of managing the flow of cases, these particular examples should be dealt with more expeditiously than others in which the time factor is less important for the outcome (Appendix 2);

- **two tables of complex cases, involving findings of violations and non-violations respectively** (Appendix 3). These are cases recognised as difficult by the Court and for which it can accept more lengthy proceedings so long as they are not open to criticism on other grounds, such as the conduct of the applicant or of the authorities.

– Lastly, **two tables** comprising non-complex cases making it possible to compare time-frames for proceedings of a routine nature (Appendix 4).

These two sets of tables, involving on the one hand a requirement by the Court for greater expedition and on the other an acknowledgement that the difficulty of the case justifies a certain amount of delay, offer a range of cases showing how length of proceedings can vary.

The report is in two parts:

- the first considers the criteria established by the European Court of Human Rights for determining whether a reasonable time has elapsed;

- the second is concerned with the reasons for delays, as they emerge from Court judgments, Commission decisions and Committee of Ministers resolutions; it also presents an overview of the domestic remedies implemented by the contracting states at the request of the European Court and offers an initial overview of lengths of proceedings.

It is supplemented by appendices detailed above.

¹³ *Neumeister v. Austria* judgment of 27 June 1968.

First part: The Court's criteria for determining reasonable time, within the meaning of Article 6.1 of the European Convention on Human Rights

I. Introductory note: the exhaustion of domestic remedies

The Convention is intended to supplement national arrangements for protecting human rights. As the Court stated in the *Handyside* judgment of 7 December 1976: “*the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights*”. Because of this principle of subsidiarity, Article 35.1 of the Convention makes it obligatory to exhaust domestic remedies.

Violation of the right to be heard within a reasonable time must therefore have been adduced by the applicant before the domestic court before an application is submitted to the European Court, if that application is to be admissible. The Court applies this rule flexibly, requiring applicants to have utilised all the remedies that can be reasonably expected of them in domestic law, but not forcing them to lodge appeals which, in practice, lack any prospect of success.

The remedy to be exhausted within the meaning of Article 35 § 1 must be “effective” and the Court verifies that such a remedy is to be found in states’ domestic law. Where the government claims non-exhaustion, it must satisfy the Court that the remedy in question was available in both theory and practice at the relevant time, that is to say, that it was accessible, was capable of providing redress in respect of the applicant’s complaints and offered reasonable prospects of success (*Scoppola v. Italy No. 2* of 17 September 2009, § 71).

Where there is no effective remedy to redress or sanction judicial delays, the Court considers that the applicant can adduce before it a breach of the right to be heard within a reasonable time, notwithstanding proceedings still pending before a domestic court, notably at the appeal or cassation levels (*Zanghi v. Italy* of 19 February 1991).

Moreover, in order to ensure more effective compliance with the right to be heard within a “reasonable time”, the Court reversed its case-law by ruling, in its Grand Chamber judgment *Kudła v. Poland* of 26 October 2000, that Article 13 of the Convention, which guarantees the right to an effective remedy¹⁴, provided a guarantee distinct from those set out in Article 6, which may, if necessary, be the subject of a separate adverse finding in order to ensure that states introduce an effective operative remedy before a national authority in order to guarantee the right to a hearing within a reasonable time.

Article 6 § 1 had previously been considered as a *lex specialis* vis-à-vis Article 13, and the Court had refrained from examining complaints of violations of Article 13 where it had already found a violation of Article 6 § 1.

However, “*the growing frequency with which violations in this regard are being found has recently led the Court to draw attention to “the important danger” that exists for the rule of law within national legal orders when “excessive delays in the administration of justice” occur in respect of which litigants have no domestic remedy*” (*Kudła*, § 148).

Referring to the *travaux préparatoires* on the Convention, the Court stated that “*The purpose of Article 35 § 1, which sets out the rule on exhaustion of domestic remedies, is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to the Court*”¹⁵. In this way the Court makes a link between Article 13 and Article 35 § 1 which it states have “close affinities”.

¹⁴ “*Everyone whose rights and freedoms as set forth in (the) Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity*”.

¹⁵ Aforementioned *Kudła* judgment, § 152.

Through this key judgment, the Court shows that it will sanction states on the basis of infringements of both Article 6 § 1 and Article 13 of the Convention and calls on Contracting States to establish domestic procedures enabling litigants to complain of excessive length of proceedings, by means of a remedy which is both legally and practically effective, and which may or may not be judicial.

In the *Mifsud v. France* Grand Chamber decision of 11 September 2002, the Court made it clear, further to the *Kudła* judgment, that such an effective remedy can take the form not only of a remedy enabling proceedings to be accelerated but also of a compensatory remedy, adding that: “*the fact that this purely compensatory remedy cannot be used to expedite proceedings which are under way is not decisive. The Court reiterates in that connection that it has held that remedies available to a litigant at domestic level for raising a complaint about the length of proceedings are ‘effective’, within the meaning of Article 13 of the Convention, if they ‘prevent’ the alleged violation or its continuation, or provide adequate redress for any violation that [has] already occurred*”.

The Court further states in this *Mifsud* decision that a compensatory remedy is an effective remedy within the meaning of Article 35 § 1 of the Convention, sufficient to establish inadmissibility for non-exhaustion of domestic remedies¹⁶. It held that it was not necessary to distinguish between proceedings which were pending and those which had ended. In both cases, a compensatory remedy was deemed to be a useful remedy to be used before submitting an application to the Court. In so doing, the Court confirms the link between Articles 13 and 35 § 1 of the Convention which it had made earlier in the *Kudła* judgment.

The Court therefore now gives states two alternatives in domestic law, either to offer applicants compensation for harm caused by excessive delays, under a subsequent or concomitant compensatory remedy, or to make it possible, at the applicant’s request, to expedite the proceedings. We shall see in Part 2 of this report that there is a wide range of “effective remedies”. However, the Court regularly states that “*the most effective solution*” is a remedy intended to accelerate procedures, “*since it also prevents a finding of successive violations in respect of the same set of proceedings and does not merely repair the breach a posteriori ...*” (*Scordino v. Italy* (No. 1) of 29 March 2006, §§ 183-184).

However, as stated above, only practical appeals have to be exhausted, which means that such remedies are also subject to the reasonable time requirement and are therefore examined by the Court.

The Court holds that it is incumbent on the state authorities to prove, in each case submitted to it, the effectiveness of the remedy relied upon in support of the objection of non-exhaustion of domestic remedies or the rebuttal of a complaint of a violation of Article 13 of the Convention. By producing examples of domestic case-law, the state can have the Court accept the effective nature of the remedy. But it also means that recognition of this effectiveness is not obtained once and for all and may subsequently be reviewed and challenged by the Court, either generally or in the light of the particular circumstances of a given case.

This is illustrated by the *Rutkowski and others v. Poland* judgment of 7 July 2015: following the Court’s judgment in the *Kudła* case, Poland promulgated the Act of 17 June 2004 establishing domestic remedies against excessive length of proceedings. In various cases examined in 2005, the Court held that these remedies were effective within the meaning of Articles 35 § 1 and 13 of the Convention: *Charzyński v. Poland* (dec.) of 1 March 2005, *Ratajczyk v. Poland* (dec.) of 31 May 2005 and *Krasuski v. Poland* of 14 June 2005.

While many applications were dismissed in 2005 on account of the failure to exhaust domestic remedies, it subsequently became clear that these remedies were not effective in practice. Accordingly, a large number of well-founded applications were submitted to the Court by persons who complained of the length of proceedings and who had already exhausted all the remedies provided for by the 2004 Act. The Court considered that it had valid reasons to review its assessment regarding the effectiveness of this Act. In point of fact, contrary to the Court’s established case-law in assessing the reasonableness of the lengths of proceedings, the Polish courts which had ruled on compensation claims lodged pursuant to the 2004 Act had not looked at the total length of each set of proceedings but had selected certain parts in application of what was termed the “fragmentation of proceedings” principle decided by the Polish Supreme Court. Moreover, the sums awarded under the domestic procedure were clearly insufficient when measured against the standards laid down by the Court.

¹⁶ This has applied in cases relating to France since the *Giummarra and others v. France* decision of 12 June 2001, which held that the compensatory remedy provided for by Article L. 141-1 of the Judicial Code (formerly Article 781-1 of the same Code) had acquired “a sufficient degree of legal certainty” to represent a remedy that needed to be exhausted for the purposes of Article 35 § 1.

The situation in Italy is a good illustration of the on-going nature of the Court's supervision. In Italy, the "Pinto" Law which entered into force on 24 March 2001 established a compensatory remedy for damages resulting from excessive length of judicial proceedings. In its *Brusco v. Italy* decision of 6 September 2001, the Court declared inadmissible an application which had been submitted before the entry into force of that Law, after having informed the applicant of the existence of this Law and inviting him to return to the domestic courts.

Prior to 2004 the Court had very frequently found against Italy for violation of the right to be heard within a reasonable time. A distinct improvement has, however, been noted since 2004. Nevertheless, there have been some fresh violations (see Appendix, the "zigzag" changes in findings against Italy between 2006 and 2011). The "Pinto" proceedings, which proved to be a victim of their own success, themselves exceeded the reasonable timeframe or resulted in insufficient compensation: the high level of damages granted to plaintiffs to fulfil the requirements of the European Court made this remedy "extreme attractive"¹⁷ and currently generate an overload of the Italian Courts of Appeal, without preventing unreasonable timeframes in the future.

In several Grand Chamber judgments in 2006, including the Scordino judgment (No. 1) of 29 March 2006¹⁸, the Court has found that hundreds of cases of compensation granted by Italian domestic courts under the "Pinto Law" are once again pending before the courts, and invites Italy to take all necessary steps to ensure that the compensatory remedies introduced under the Pinto Law are indeed "effective". Implementation of this remedy is deemed insufficient mainly because of the amount of damages granted and the excessive length of proceedings to which it in turn gives rise¹⁹.

French law relating to insolvency proceedings has recently provided a particularly interesting illustration of the Court's approach to this issue. It will be recalled that since its *Giummarra* and *Mifsud* decisions (cited above), the Court has required French applicants to bring an action for compensation under Article L 141-1 of the Judicial Code before referring the matter to the Court. Nevertheless, in the *Tetu v. France* case of 22 September 2011, which concerned the length of a judicial liquidation procedure still pending more than twenty years after it was opened, the Court expressly asked the French Government, when notifying it of the case, whether the applicant – a debtor in judicial liquidation – could bring an action for compensation pursuant to the aforementioned Article L. 141-1 of the Judicial Code, which the applicant expressly said he could not. In its observations, the French Government replied that the Law of 25 January 1985 did not allow debtors in judicial liquidation to hold the state liable on the basis of Article L. 141-1 of the said Code. It was not for the Court to determine whether such assertions corresponded or not to the reality of French law and in particular the case-law of the Court of Cassation, which did not appear perfectly consistent on this question. The Court drew the necessary conclusions from this uncertainty in the case-law and dismissed the objection that there had been a failure to exhaust domestic remedies, whereas such objections are generally accepted in the case of French applicants.

However, in a judgment of 16 December 2014 (No. 13-19.402), the Commercial Chamber of the French Court of Cassation had the opportunity to clarify its case-law on the subject by holding that the appeal provided for by Article L 141-1 of the Judicial Code was now open to the debtor, whose insolvency proceedings were still pending and had exceeded a reasonable time limit. The Court took note of this clarification of French case-law in the *Poulain v. France* decision of 13 April 2017 (§§ 28-30) and declared inadmissible the application of a debtor, whose insolvency proceedings had lasted more than twenty years, for failure to exhaust domestic remedies.²⁰

The Court therefore constantly monitors the effectiveness of domestic remedies put in place to prevent excessive length of proceedings or to remedy their consequences. In recent years, it has also developed very specific case-law on the conditions that must be met for such appeals to be considered effective. We shall see in Part 2 of this report what these conditions are.

¹⁷ Fourth information report CM/Inf/DH (2005) 31 of 6 June 2005.

¹⁸ See also, in connection with the right to be heard within a reasonable time, *Cocchiarella v. Italy*; *Giuseppe Mostacciolo v. Italy* (No. 1); *Musci v. Italy*; *Giuseppina and Orestina Procaccini v. Italy*; *Riccardi Pizzati v. Italy*; *Ernestina Zullo v. Italy*; *Apicella v. Italy*.

¹⁹ The Italian Court of Cassation did, however, effect a case-law reversal in four cassation judgments issued on 27 November 2003 (Nos. 1338, 1339, 1340 and 1341), in which it asserted that "the case-law of the Strasbourg Court must be taken into account by Italian courts in applying Law No. 89/2001 (...). Even though the determination of the non-patrimonial damages as effected by the Appeal Court in pursuance of Article 2 of Law No. 89/2001 is by nature based on equity, it must take place in an environment defined by law, because reference must be made to the amounts granted in similar cases by the Strasbourg Court, from which it may vary but only as far as is reasonable". In respect of the Italian situation, see also the latest pilot judgment of the Court, *Gaglione and Others v. Italy* of 21 December 2010, which offers remedies and awards a lump sum of 200 euros to all applicants.

²⁰ For older examples, please refer to the previous version of this report. For an overview of existing domestic remedies, see Part 2 of this report.

As regards the criteria for assessing whether or not the length of proceedings has been excessive, the Court's case-law has been well established for several years.

I. The criteria for assessing time elapsed

Definition of reasonable time and presentation of the methods used by the European Court: the Court generally uses the following wording: "*the reasonableness of the length of proceedings is to be assessed on the basis of the circumstances of the case and having regard to the criteria laid down by the Court's case-law, in particular the complexity of the case, the conduct of the applicant and the conduct of the relevant authorities*".

Since the *Neumeister v. Austria* judgment of 27 June 1968, these three criteria have been applied consistently by the Court to both criminal and civil cases. The *König v. FRG* judgment of 28 June 1978 added a further criterion, namely what is at stake for the applicant.

Drawing on these criteria, the Court conducts an overall appraisal in accordance with its practical approach (see section E below). General appraisals find, *inter alia*, that timescales which would not be unreasonable when taken separately, become unreasonable in combination. Practical appraisals involve examining "the specific circumstances of the case" in order to assess whether the length of proceedings are reasonable or unreasonable (judgment *König mentioned above*).

A. The complexity of the case

Case complexity may justify protracted proceedings. Such complexity can concern either the legal rules applicable to the litigation or the facts of the case.

Where **legal rules** are concerned, the complexity may have a variety of origins: a change of legislation, State transition to the market economy, interaction between administrative and judicial procedures (e.g. the dismissal of a worker with a disability in Austria and France), the expectation of a criminal judgment to break a deadlock in civil proceedings (*Djangozov v. Bulgaria* of 8 July 2004), the combination or linking up of several cases, the need to reconcile individual interests with those of the community, the presence of several defendants in court, etc.

The complexity of the **facts of the case** may arise from the need to interview a large number of witnesses, problems with locating witnesses (judgment *Mitev v. Bulgaria* of 22 December 2004) and the protracted process of reconstituting the facts and gathering evidence (judgment *Akcakale v. Turkey* of 25 May 2004), or conversely, the total absence of witnesses in a criminal case (Commission, *Jean-Claude Boddaert v. Belgium* of 17 April 1991 and *El Houry v. Germany* of 9 July 2015, concerning large-scale drug trafficking).

Other complicating factors are the use of specialist expertise or the need to translate documents or call on an interpreter (in the *Sari v. Turkey and Denmark* judgment of 8 November 2001, which concerned a case of homicide committed in Denmark by the applicant, a Turkish national, the Court drew attention to the factual delays arising from the need to translate the proceedings into two languages).

For example, in the *Matusik v. Poland* case of 1 October 2013, concerning a mother's action to obtain custody of her child, which in the Court's view required, by its very nature, to be dealt with particularly promptly, the complexity of the case relating to the need to have several expert reports and enquiries with the social services justified a length of proceedings of three years and five months, in two levels of jurisdiction.

Certain cases are complex for both factual and legal reasons, such as the need to know, more than twenty years on, whether the applicant was in a state of bankruptcy on 14 September 1971 and, if not, what his assets were in that year (*Sablon v. Belgium* of 10 April 2001).

The Court also seems to treat certain cases as complex by their very nature. Examples include land consolidation, compulsory purchase, fraud cases and international financial offences.

In the *Wiesinger v. Austria* case of 30 October 1991, for example, which concerned a land consolidation scheme, the Court recognised "as did all the participants in the Strasbourg proceedings, that land consolidation is by its nature a complex process, affecting the interests of both individuals and the community as a whole" (the issue had already been raised in the *Erkner and Hofauer* case).

In the *Wejrup v. Denmark* decision of 7 March 2002 concerning a fraud case, the Court referred to the complexity of the case, which concerned the activities of the finance director of a holding company of a group of over fifty companies throughout the world and required an examination of these companies' accounts over a five year period. It noted that "*the scale and complexity of a criminal case concerning fraud, which often is compounded further by the involvement of several suspects, may justify an extensive length of the proceedings*". Referring to the *C.P. and others v. France* (18 October 2000) and *Hozee v. Netherlands* (22 May 1998) judgments, the Court found that Article 6§1 had not been violated. Yet in the former case, the proceedings had lasted seven years, nine months and 26 days.

In the aforementioned *Hozee* case, the Court examined proceedings in detail in order to analyse the complexity of untangling a network of interlinked companies and an accounting system which had been deliberately made as difficult as possible in order to prevent the authorities from detecting fraudulent practices in the tax and social security fields.

It also noted that the authorities had to take evidence from a substantial number of witnesses and collect and examine a very significant volume of materials, and that the undoubted scale and complexity of the investigation were further compounded by the involvement of other suspects in the fraud. It concluded that there had not been any period of inertia and that the length of the investigation had not been unreasonable.

The Court concluded that there had been no violation of Article 6 § 1 in the *Habran and Dalem v. Belgium* case of 17 January 2017, noting that the case was extremely complex given the large number of facts, the organised nature of the crime in which those facts occurred, the number of people involved, the difficulty of the investigation and the mass of information to be processed in the preliminary investigation and trial stages.

The complexity of a case may also be due to the need for three medical expert opinions to determine the applicant's mental health in the course of criminal proceedings (*Yaikov v. Russia* of 18 June 2015).

In a case concerning the constitutionality of a tax on electricity, the Court noted that the case was a complex one because the Constitutional Court had to solicit the observations of a number of authorities (*Klein v. Germany* judgment of 27 July 2000).

In the *Peter v. Germany* case of 4 September 2014, which had lasted four years and six months before the Constitutional Court alone, the Court agreed to assess the reasonableness of the proceedings in view of the particular role of any supreme court, the complexity of the issues it has to deal with and the especially important consequences of its case-law. In the case in question, the examination of the applicant's case had been suspended pending a pilot judgment.

However, the complexity of a case is not always sufficient to justify the length of proceedings. Other criteria come into play and the Court makes an overall assessment in the light of all the various criteria concerned.

B. The applicant's conduct

The applicant's conduct is the only criterion which may lead to a finding that there has been no violation, even where the length of proceedings is manifestly excessive, provided that no significant inactivity can be attributed to the domestic courts. There will therefore be no violation of Article 6 § 1 if the applicant's conduct is the essential or principle cause of unjustified delays in the proceedings.

Accordingly, the Court examines whether it is the state or the applicant that can be held responsible for the excessive length of proceedings.

In a decision on admissibility in a civil case, the Commission held that "*in civil proceedings, the parties must show "due diligence" and that only delays attributable to the state may justify a finding of a failure to comply with the "reasonable time" requirement*" (*Hervouet v. France* of 2 July 1997) (unofficial translation). In the case in question, it concluded that there had been no violation of Article 6§1, considering that the less than diligent conduct of the applicant was largely responsible for the length of divorce proceedings, which on the face of it appeared unreasonable, lasting more than 10 years.

In criminal matters, the Court considers that "... Article 6 did not require the applicants actively to co-operate with the judicial authorities" (*Eckle v. Federal Republic of Germany* judgment of 15 July 1982 § 82). Like the Commission, the Court considers "that the person concerned is required only to show diligence in carrying out the procedural steps relating to him, to refrain from using delaying tactics and to avail himself of the scope afforded by domestic law for shortening the proceedings. He is under no duty to take action which is not apt for that purpose" (*Union Alimentaria Sanders SA* judgment of 7 July 1989).

Applicants cannot be criticised for using all the remedies open to them. In the *Guerreiro v. Portugal* judgment of 31 January 2002 for example, the Court argued that "applicants cannot be blamed for making full use of the remedies available to them under domestic law" (*Erkner and Hofauer v. Austria* judgment of 23 April 1987, § 68). In this case, although some of the applicant's appeals had been dismissed, the one lodged on 13 March 1990 had been partially successful.

In general terms, the Court observes that an applicant's attitude cannot be criticised if he has merely adduced a right provided for in law, even if the exercise of this right (specifically a request for an expert opinion) is the main reason for the delay in proceedings (judgment *Sopp v. Germany* of 8 October 2009, § 35; also *Bendayan Azcantot and Benalal Bendayan v. Spain* of 9 June 2009, § 73).

Applicants are held responsible for the delay only in the case of manifest bad faith on their part. For instance, in a case relating to criminal law proceedings, the Court ruled that the applicant, who had lodged two appeals, had not held up proceedings because the delays in the latter were attributable to the authorities, the first investigating judge having remained inactive for 18 months (*Malet v. France* judgment of 11 February 2010).

In an exceptionally long Italian civil case (lasting 15 years), the Court agreed with the Commission that the two applicants had taken no steps to expedite the examination of their case but, on the contrary, had submitted a whole series of requests for adjournments (at least 17 adjourned hearings). It consequently ruled that they had been responsible for the delays in proceedings, concluding that there had been no violation of Article 6§1 (*Circosta and Viola v. Italy* judgment of 4 December 1995).

The Court also took account of the fact that an applicant had delayed proceedings by failing to give the authorities his address (*Mitev v. Bulgaria* judgment of 22 December 2004).

In the *Idalov v. Russia* judgment of 25 May 2012, the Court held that out of approximately 40 hearings the trial court had held, eleven adjournments had been attributable to the applicant. On seven occasions either the applicant or his counsel had failed to appear in court. During the third year of the trial, the applicant's counsel had asked for adjournments on three occasions in order to obtain the attendance of additional witnesses. "Admittedly, it was in the applicant's best interests to obtain that evidence in order to take full advantage of the resources afforded by national law to ensure his best possible defence in the criminal proceedings. However, the Court is not convinced that the applicant made use of that opportunity with due diligence. There is nothing in the applicant's submissions to explain why he was unable or unwilling to request the examination of those witnesses at an earlier stage in the proceedings". Accordingly, the Court concluded that there had been no violation of Article 6 § 1 of the Convention.

In the *Pereira da Silva v. Portugal* judgment of 22 March 2016, the Court noted that the domestic courts had imposed a fine on the applicant for procedural bad faith. It also noted that the Constitutional Court had held that the applicant had sought "to delay proceedings for no good reason". The Court then noted that the applicant had submitted four appeals, seven requests for clarification of decisions and judgments, challenged those decisions and judgments by means of six actions to set aside, four applications for review of those decisions and a further three other applications, one of which repeated an application that had previously been dismissed. The Court held that the applicant had contributed significantly to extending the length of proceedings whereas there was no period of inactivity or unjustified delay attributable to the national authorities which appeared to have responded appropriately to the applicant's various appeals. It therefore concluded that there had been no violation of Article 6 § 1.

In the *Pantea v. Romania (No. 2)* judgment of 17 January 2017, the Court held that the applicant's conduct had contributed to the overall length of the proceedings. It noted that he had been behind more than half of the requests for adjournments and had filed a constitutional appeal which clearly did not fall within the jurisdiction of the Constitutional Court, and that the courts had found his conduct to be dilatory. The Court could not hold the state responsible for the periods of approximately two years during which hearings had been adjourned as a result of the applicant's conduct. Nonetheless, even when discounting these periods

from the overall length of proceedings, the remaining duration of roughly five years in two levels of jurisdiction could not be regarded as reasonable in the light of the requirements of Article 6 of the Convention.

In civil proceedings, it is for the applicant to decide whether or not to reinitiate proceedings or to transfer them to another court, in accordance with the regulations that are laid down, and the courts cannot influence such decisions. However, there are limits on the courts' lack of initiative in such proceedings and the Court requires courts to ensure that they run smoothly, for example, by acting attentively when asked to agree to a request for adjournment, hear witnesses or monitor the deadlines established for the preparation of an expert's report (*Patrianakos v. Greece* judgment of 15 July 2004) [On the emergence of a true duty of preparation of a case for trial in the case-law of the European Court, see C, below].

In the *Dostal v. Czech Republic* judgment of 25 May 2004, the examination of proceedings lasting seven years and two months in two levels of jurisdiction resulted in a finding that there had been no violation, in view of the fact that "*the applicant failed to show the diligence required of a party to proceedings governed by the rule that control of the course of civil proceedings rests with the parties, since he submitted several imprecise or unfounded procedural requests. As for the national courts, they cannot be held responsible for the fairly lengthy delays, which would justify regarding the overall length of the proceedings as excessive*" (§ 209 - unofficial translation).

Nonetheless, even where an applicant's conduct may not be at fault, it also constitutes an objective factor which is taken into account by the Court in assessing an unreasonable overall length of proceedings. For example, the Court holds that applicants cannot be criticised for having made use of the various remedies and other procedural possibilities available to them under domestic law; their conduct constitutes an objective fact which cannot be attributed to the respondent state and which must be taken into account in determining whether or not the reasonable time referred to in Article 6 § 1 has been exceeded (*Erkner and Hofauer* judgment, cited above, § 68, and *Wiesinger v. Austria* of 30 October 1991, § 57).

Adjournment of the proceedings at the request of the applicant cannot therefore be attributable to the state (*Bor v. Hungary* of 18 June 2013).

Furthermore, the Court does not include in the calculation of the length of proceedings any attempts by the applicant to secure a friendly settlement (*Lupeni Greek Catholic Parish and Others v. Romania* case of 29 November 2016, § 146).

In the *Liga Portuguesa de Futebol Profissional v. Portugal* case of 17 May 2016, the Court noted that in all three levels of jurisdiction, the applicant had lodged no fewer than three constitutional appeals, three actions to have the decisions and judgments handed down declared invalid, four actions to review those decisions and three other actions on, amongst other things, court costs and the jurisdiction of the courts. The Court held that the applicant's conduct had undoubtedly led to lengthier proceedings, but it noted the unjustified delays attributable to the authorities and concluded that, overall, the state was responsible for the excessive length of proceedings (§§ 94-95).

In criminal cases, the Court also deducts any time when the applicant was evading justice. For example in the *Sari v. Turkey and Denmark* case of 8 November 2001, the Court stated that the period of two years, four months and six days between 23 February 1990, the date he absconded, and 29 June 1992, the date of his arrest in Istanbul, was solely the responsibility of the applicant, who thereby effectively evaded justice of his own free will. The Court emphasised that the obligation to appear in court was an essential element of the judicial process, other than in cases of force majeure or where there was a legitimate excuse, and that it was out of the question for the applicant to benefit from his decision to abscond from justice.

In contrast, the matter is more delicate when the applicant's absences are a result of health problems. The Court does not accept that delays caused by an applicant's repeated stays in hospital in the course of proceedings (*Lavents v. Latvia* judgment of 28 February 2002) or repeated absences due to health concerns (*Rashid v. Bulgaria (No. 2)* judgment of 5 June 2008), which can be considered as cases of force majeure, can be deemed the responsibility of the applicant; nevertheless, these are objective impediments for which it is not possible to hold the government responsible either.

In the *Krakolinig v. Austria* decision of 10 May 2012, the Court rejected as manifestly unfounded the application brought before it, holding that the procedural delays, which had taken the form of multiple adjournments and suspensions, had been caused mainly by the applicant's poor state of health and could not be attributed to the domestic courts.

C. The conduct of the competent authorities

According to the Court, the conduct of the competent authorities can, of itself, result in a violation of the reasonable time requirement.

1. National authorities' arguments accepted by the Court

The European Court accepts that certain circumstances leading to an exceptional overload of the courts may absolve the state of responsibility.

For example, in the *Foti and others v. Italy* judgment of 10 December 1982, before reviewing separately each set of proceedings in issue, the Court recalled "*the extent of the troubles that occurred in Reggio Calabria from 1970 until 1973 [which] ... had two important implications for the present case. Firstly, they engendered an unusual political and social climate, and one in which the courts could legitimately fear, in the event of precipitate convictions or severe sentences, a recrudescence of tension and even a recurrence of the disorders. Secondly, the troubles were not without effects on the workings of criminal justice. Such effects were felt mostly in the Reggio Regional Court, but the courts in Potenza, to which cases had been transferred, were also confronted with an exceptional backlog of cases*". It concluded that "*these circumstances must be borne in mind and, in particular, normal lapses of time stemming from the transfer of the cases are not to be regarded as unjustified*".

In the *Buchholz* case²¹, the Court took account of the national authorities' efforts to deal with the significant increase in the workload of the labour courts of appeal resulting from the economic recession and the backlog of cases that resulted, particularly in the Hamburg court. The number of judicial posts was increased in 1974, when the number of cases started to rise. It also noted that the Hamburg court managed to deal with more cases in 1976 and 1977 than in 1974 and 1975, while the average length of proceedings fell, and that a sixth chamber was established in 1976, to which more than half the cases pending before another chamber were reallocated. Finally, to expedite the case flow coming before the labour courts, the Government put forward a proposal for legislative reform which was adopted by the parliamentary assemblies in 1979.

Despite the fact that what was at stake was important for the applicant and that the employment case in question lasted four years, nine months and sixteen days before three levels of courts, the Court concluded after a detailed examination of all the procedural stages and measures that in view of the circumstances of the case, in particular the defence strategy, which helped to delay the proceedings, there had been no violation of Article 6§1.

This reasoning was confirmed in the *Zimmermann and Steiner v. Switzerland* judgment of 13 July 1983, in which the Court stated that "*a temporary backlog of cases does not involve liability on the part of the Contracting States provided that they take, with the requisite promptness, remedial action to deal with an exceptional situation of this kind*".

Among the reasons recognised by the Court as excusing national authorities from responsibility for excessively lengthy proceedings are a number of specific factors such as ones connected with requests for international judicial assistance in criminal cases. In the *Neumeister* judgment above-mentioned, it stated that "*it is, for example, not possible to hold the Austrian judicial authorities responsible for the difficulties they encountered abroad in obtaining the execution of their numerous letters rogatory*".

Neither are the authorities held responsible for the effects of lawyers' strikes, unless they fail to specify precisely their impact²². States must also do whatever they can to reduce any resultant delay (*Papageorgiou v. Greece* judgment of 22 October 1997).

2. National authorities' arguments rejected by the Court

When states claim that a court is facing an exceptional backlog of cases, the Court generally states that "*Article 6 § 1 of the Convention imposes on the Contracting States the duty to organise their judicial systems in such a way that they can meet the requirements of that provision*", particularly with regard to the

²¹ *Buchholz v. Germany* judgment of 6 May 1981.

²² *Savvidou v. Greece* judgment of 1 August 2000.

reasonable time condition. The requirement still applies, even if the delays are caused by the structure of the national judicial system²³.

State budgetary constraints cannot release the State from its obligations (judgment *Burdov v. Russia* (No. 2) of 15 January 2009, §§ 65-69).

Contracting states can choose what steps to take to adjust their judicial systems to meet the reasonable time requirement, but when the authorities fail to take adequate measures states have to accept responsibility, because it is established case-law that the chronic overload of cases before one court does not provide a valid justification for the length of the proceedings (see the *Dumont v. Belgium* judgments of 28 April 2005 – French only).

Moreover, "it is for the Contracting States to organise their legal systems in such a way that their courts can guarantee to everyone the right to a final decision within a reasonable time in the determination of his or her civil rights and obligations" (*Lupeni Greek Catholic Parish and others v. Romania*, 29 November 2016).

This principle has been applied to proceedings before supreme courts, as in the *Vergos v. Greece* case of 24 June 2004, where proceedings before the Supreme Administrative Court had lasted four years and eleven months, and the *Paummel v. Germany* case of 1 July 1997, where proceedings before the federal Constitutional Court alone had lasted five years and nearly three months.

It also applies where several levels of courts are concerned. In such cases, states are responsible under Article 6§1 for any periods of inactivity, whether they are the consequence of courts' chronically excessive workload or a manifest shortage of judicial personnel.

For example, in the *Paroutsas and others v. Greece* case of 2 June 2017, the government argued that a large number of cases were pending before the Administrative Court of Appeal and the Council of State, which these courts were unable to deal with despite their efforts and the measures adopted to expedite proceedings.

The time taken to investigate cases is often the reason for excessively long criminal proceedings. In a uncomplicated case that had led to two sets of criminal proceedings lasting respectively four years and four months and three months the Court found a violation of Article 6§1²⁴. The authorities maintained that it had been difficult to locate witnesses but the Court did not accept this argument, particularly as the judgments of the criminal court had been handed down *in absentia*. In particular, it found that three years to investigate the complaint, to which the applicant had been joined as a civil party, was excessive in view of the financial implications for him.

In a criminal case in which the applicant had been prosecuted for aggravated slander after criticising the conduct of two judges, the Court found that there had been a violation of Article 6 § 1. Regarding the overall length of the case, which lasted six years, it commented that "*this would, at first sight, appear to be a considerable lapse of time for a case of this kind*". Having examined each stage of the proceedings the Court ruled that the investigation stage, in which there had been two unexplained periods of inactivity of fourteen and thirteen months, had been excessively long for a non-complex case²⁵.

The Court has also ruled that a government's argument that applicants had contributed to the length of proceedings by not having pleaded guilty to the offences with which they were charged ran, by their very nature, contrary to the concept of a fair trial, the prohibition of self-incrimination and the presumption of innocence, and could therefore not be accepted (*Yaroshovets and others v. Ukraine* of 3 December 2015, § 171).

In civil-law matters, since its aforementioned *Köning* judgment, in which it noted that the court could also have caused delays in implementing investigative measures and forwarding the case-file for trial, the Court established a sort of positive obligation for judges to manage the case in such a way as to ensure a reasonable length of trial proceedings. It strongly confirmed this in two subsequent judgments, *Poelmans v. Belgium* and *Leonardi v. Belgium* of 3 February 2009, stipulating that even where civil proceedings are governed by the principle of the free disposition of the parties, which consists in giving the parties powers of

²³ *Hadjidjanis v. Greece* judgment of 28 April 2005, French only.

²⁴ *Dachar v. France* judgment of 10 October 2000.

²⁵ *Corigliano v. Italy* judgment of 10 December 1982.

initiative and instigation, it is incumbent on the state to organise its judicial system in such a way that the requirement of a trial within a reasonable time is complied with.²⁶

In the *Erfar-Avef v. Greece* case of 27 March 2014, it pointed out that it had on several occasions confirmed that even though the proceedings were governed by the principle of the free disposition of the parties, the reasonable time requirement also demanded that courts scrutinise the conduct of the proceedings and remained vigilant as to the time that could elapse between two judicial procedures.

The judge is therefore required “to ensure compliance with the requirements of Article 6 in terms of reasonable time, particularly by exercising the powers conferred by law, in order to remedy any dilatory manoeuvring by any party to proceedings”, as the Court specifies in a case in which the Government adduced the defendants’ conduct as the main cause of delays in an action to establish paternity (*Costa Ribeiro v. Portugal*, judgment of 30 April 2003).

It is clear from the Court’s case-law regarding France and Germany that even if the case in question is of an adversarial nature and very dependent on the parties’ taking the initiative (as is the case in civil proceedings in these two countries), the courts must still use all their powers of enforcement to ensure that proceedings are conducted at the pace warranted by the nature of the case and the circumstances of the parties, set deadlines for them that meet the requirements of Article 6 § 1 and if necessary penalise any failure to abide by those decisions.

In the *Desrues v. France* judgment of 21 July 2005 (French only), the Government maintained that publication of a decree on 10 January 1992 setting out the rules and criteria for classifying and assessing psychiatric disorders arising from military action had led to an influx of requests for associated military invalidity pensions, resulting in delays in dealing with such cases. The European Court simply replied that delays in the domestic courts resulting from an influx of applications following a change in the regulations were not acceptable as a defence.

Similarly, a reform of Turkey’s judicial system transferring jurisdiction for certain cases from military to civil courts might have contributed to delays²⁷ but with reference to the principles cited earlier in the *Zimmermann and Steiner* case the Court stated that “Article 6 § 1 imposes on the Contracting States the duty to organise their judicial system in such a way that their courts can meet each of its requirements, including the obligation to hear cases within a reasonable time” (*Sahiner v. Turkey* judgment of 25 September 2001).

A procedural adjournment may be necessary, particularly when a section of the Supreme Court has to make a ruling, but such rulings must lead to a final settlement, with no further relinquishment of jurisdiction (*Hadjidjanis v. Greece* judgment of 28 April 2005).

In general, the Court holds that adjournments and other suspensions or stays of proceedings must be proportionate, taking into account the special circumstances of the case (*JGK Statyba Ltd and Guselnikovas v. Lithuania* of 5 November 2013).

Occasionally, in addition to a backlog in certain courts, delays may be caused by a higher court’s wish to hear certain similar cases together. The European Court considers such an approach potentially acceptable in the interests of the proper administration of justice but it must not lead to excessive length of proceedings.

The *Hentrich v. France* judgment of 22 September 1994 offers an illustration. In this case, “the length of the proceedings in the Court of Cassation was attributable primarily to that court’s wish to hear together four cases that raised similar issues - an approach which is understandable but which, under Article 6 (art. 6) of the Convention, cannot justify substantial delay”. The case had lasted four years on appeal, owing to a backlog in the court, and two years in the Court of Cassation. Altogether, the proceedings had lasted seven years and three months in three tiers of courts, a period the European Court deemed to be unreasonable in view of what was at stake for the applicant, who had been deprived of her assets because the tax authorities had exercised their right of pre-emption²⁸.

Lastly, the Court does not accept the argument that applicants have not been adversely affected by delays. For example, in the *Jorge Nina Jorge and others v. Portugal* judgment of 19 February 2004, the Government claimed that the extension of the judicial stage of the proceedings had not caused detriment to the applicants

²⁶ Obs. N. Fricero, *JCP G*, n° 16, 15 April 2009, II, 10070.

²⁷ Eight years and eleven months, in two tiers of courts, since recognition of the right of individual application.

²⁸ The right of tax pre-emption has since been abolished.

as they had already received the compensation in question. The Court found that a violation of the Convention was possible even if there had been no prejudice, which in any case had by no means been established.

We should, however, note here that Protocol No. 14 has added a new admissibility criterion to those set out in Article 35 of the Convention. Since 1 June 2010, the Court can declare an application inadmissible if it considers that “the applicant has not suffered a *significant disadvantage*, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic court”. The Court has recently made it clear that “significant disadvantage” within the meaning of Article 35 paragraph 3 b) of the Convention must be appraised in the light of the impact of the alleged violation on the applicant’s situation (in the case in point, in appeal proceedings before the Constitutional Court, the failure of the latter to communicate to the applicant observations transmitted by the Supreme Court and the regional court), not on the basis of the sum of money at stake before the domestic courts (*Holub v. Czech Republic* judgment of 14 December 2010).

The Court applied these new provisions and rejected the objection of inadmissibility concerning the late payment of sums granted in a “Pinto” procedure in the *Gaglione and others v. Italy* case of 21 December 2010. In order to assess the applicability of the new admissibility criterion, it took into account both the amount, the subject matter of the decision to be enforced, and the severity of the violation, namely the number of months of delay in enforcement.

It then added the criterion of what was at stake for the applicant in the proceedings in the *Giusti v. Italy* case of 18 January 2012 where the right to be heard within a reasonable time was also at issue.

In this case, it summarised the criteria applicable in that respect: “*In the light of the foregoing, the Court considers that, in ascertaining whether the violation of a right attains the minimum level of severity, the following factors should be taken into account: the nature of the right allegedly violated, the seriousness of the impact of the alleged violation on the exercise of a right and/or the possible effects of the violation on the applicant’s personal situation. In assessing these consequences, the Court will consider, in particular, the issue at stake in the national proceedings or their outcome*” (unofficial translation). In the present case, it set aside the objection that there had been no material prejudice by holding that the applicants complained about the length of a civil case relating to the fulfilment of a contract, which had lasted over fifteen years and six months in two levels of jurisdiction; that such a length of time clearly could not be compatible with the reasonable time principle provided for in Article 6 § 1 of the Convention. In the Court’s view, in order to assess the gravity of the consequences of this type of allegation, what was at issue in the case before the national courts could be decisive only if the value was low or derisory, which was not the case here, since the value of the fulfilment of the contract in question was significant.

More recently, in the *Fasan and others v. Italy* judgment of 13 April 2017, the Court applied these principles and held that “*it is clear that a procedural period of approximately 27 years and four months, in two levels of jurisdiction, cannot be compatible with the reasonable time principle laid down in Article 6 § 1 of the Convention. In assessing the gravity of the consequences of this type of allegation, what was at issue in the case before the national courts can be decisive only if the value of the issue at stake is low or derisory. The Court considers that this is not the case here since the present case concerns labour law and, in particular, the applicants’ challenging of the fact that they had been classified in a particular occupational category*” (unofficial translation).

The criteria laid down by the Court in assessing the new condition for admissibility of applications based on the absence of material prejudice within the meaning of Article 35 § 3 (b) of the Convention are very restrictive and should limit declarations of inadmissibility on that ground.

In the *Piper v. United Kingdom* judgment of 21 April 2015, the Court had no hesitation in finding, on the merits, that there had been a violation of the right to be heard within a reasonable time, but added that the mere finding of a violation constituted sufficient just satisfaction for the prejudice suffered by the applicant (§ 74).

Nonetheless, there are decisions declaring inadmissible complaints of a failure to comply with the reasonable time requirement because of the absence of significant disadvantage caused. For example in two committee decisions, *Çelik v. Netherlands* and *Van der Putten v. Netherlands* of 27 August 2013, the Court declared inadmissible a complaint that the reasonable time requirement had not been complied with, taking the view that no significant disadvantage had been suffered in the light of the circumstances of the case, and summarised the criteria it applied as stated in the aforementioned *Giusti* judgment: “[t]he Court

reiterates that, in ascertaining whether the violation of a right attains the “minimum level of severity”, the following factors, *inter alia*, should be taken into account: the nature of the right allegedly violated, the seriousness of the impact of the alleged violation on the exercise of a right and/or the possible effects of the alleged violation on the applicant’s personal situation”.

As has been shown, the Court takes account of the implications of cases for applicants. It is now necessary to examine what type of proceedings the Court regards as having a sufficiently important issue at stake to warrant consideration being given to that issue in its assessment of the reasonableness of the length of proceedings.

D. What is at stake for the applicant

It is possible to identify from Court judgments situations that it considers to require greater expedition, but no real hierarchy emerges from which the requisite degree of diligence can be deduced. What is at stake therefore has to be determined according to the facts of the case.

The Court has not established any special guidelines for these “priority” cases. It is, moreover, difficult to determine in practice whether there is such a standard. In point of fact, in the vast majority of priority cases published, the length of proceedings has exceeded the customary reasonable time limit²⁹. Furthermore, bearing in mind the Court’s new working methods since the entry into force of Protocol No. 14, applications which could have led to a finding of non-violation in a published judgment and provided enlightening information on whether or not there was a standard length of time in this respect, are now in most cases declared inadmissible as manifestly ill-founded by decision of a single judge which is not published and for which only very succinct reasons are given.

The statements of reasoning in the judgments in these cases seem to show that while the standard applied remains the same for “non-priority” cases (e.g. *Johansen v. Norway* of 7 August 1996, in which the Court found that there had not been a violation for proceedings lasting a little over one year and nine months in one level of jurisdiction, even though, as the Court made clear, “*in view of (...) the irreversible and definitive character of the measures concerned, the competent national authorities were required (...) to act with exceptional diligence in ensuring the progress of the proceedings*”), it is assessed more rigorously by the Court which appears to be less willing to accept any excessive length of proceedings, even if the case is complex, when the delay can be attributed to the state (e.g. *Krastanov v. Bulgaria* of 30 September 2004). Moreover, in a large number of cases, the Court has no hesitation in departing from its general approach and finding a violation even if the case has lasted less than two years per level of jurisdiction (e.g. *Styranowski v. Poland* of 30 October 1998, *Nikolov and others v. Bulgaria* of 21 February 2012, *Syngayevskiy v. Russia* of 27 March 2012, *Sizov v. Russia (No. 2)* of 24 July 2012, and *D.M.T. and D.K.I. v. Bulgaria* of 24 July 2012).

Furthermore, although the Court has established no ranking order vis-à-vis the issues at stake in these cases, it adopts a particularly strict approach to states in two very specific situations: first, when the life or health of the applicant is at stake (e.g. *X v. France* of 31 March 1992, *Vallée v. France* of 26 April 1994, *Gheorghe v. Romania* of 15 June 2007) and, second, when the delay could have irreparable consequences for the applicant (e.g. *H v. United Kingdom*, of 8 July 1987, *Nikolov and others v. Bulgaria* of 21 February 2012, § 36).

“Priority” cases include:

1. Employment disputes, occupational diseases and cases relating to means of subsistence
2. Compensation for victims of accidents
3. Cases in which the applicant is or has been detained in the course of the proceedings
4. Cases where the applicant’s health is a critical issue or where the applicant’s age is a factor to be taken into account
5. Cases relating to the preservation of family life, disputes concerning maintenance obligations and cases relating more generally to the applicant’s civil status
6. Proceedings concerning a violation of absolute rights
7. Issues which may be deemed a priority in a specific case

²⁹ See the table of priority cases in Appendix 2.

1. **Employment disputes, occupational diseases and cases relating to the applicant's means of subsistence:** in cases relating to dismissals, recovery of wages or the exercise of the applicant's occupation, the Court considers that the courts concerned must show particular diligence.

In the *Lechelle v. France* judgment of 8 June 2004 (French only), the Court confirmed that “cases concerning employment disputes covered matters of critical importance for individuals' work situation and had to be settled with particular expedition”.

With reference to the *Obermeier v. Austria* (28 June 1990), *Buchholz v. Germany* (6 May 1981) and *X v. France* (31 March 1992) judgments, the Court said that “the case had been concerned with the applicant's dismissal proceedings and that the issues at stake called for exceptional diligence from the domestic courts” (see also the recent case of *Mianowicz v. Germany* (No.2), decision of 11 June 2009, and *Petko Ivanov v. Bulgaria*, decision of 26 March 2009).

In the *Hajrudinović v. Slovenia* judgment of 21 May 2015, the Court noted that employment disputes as a particular issue in terms of the prompt dealing with the case did not relate solely to the loss of employment and remuneration, and stated that: “It observes that the notion of “employment disputes” in its case-law is not confined solely to disputes concerning the lawfulness of a suspension or a dismissal, or the determination of a right to a pension, but also includes other employment-related issues, such as the recognition of a right to a professional qualification” (§ 44).

In the *Sartory v. France* judgment of 24 September 2009, the Court observed that the issue at stake was important in substantive terms (cancellation of a public servant's transfer), and that a period of over six years to try a case of this kind was excessive.

In the case of *Sopp v. Germany* of 8 October 2009, the Court observed that particular attention should be paid to recognising the occupational origin of a disease in view of the importance of the proceedings to the applicant, since the aim was to provide him with additional means of subsistence by means of a special reversionary annuity³⁰.

More generally, the Court requires cases to be dealt with rapidly whenever the applicant's remuneration or means of subsistence are at issue.

In a case concerning a contract between an independent architect and a local authority, the applicant's main client, the Court considered that special diligence was required of the courts dealing with the case, regard being had to the fact that the amount the applicant claimed was of vital significance to him and was related to his professional activity (*Doustaly v. France* judgment of 23 April 1998).

In the *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* case of 27 June 2017, the Grand Chamber held that particular speed was required when the case involved the possibility for companies to pursue their activities.

The outcome of the proceedings, which concerned the right to determine the economic activities of and participate in the profits made by two stock companies was of significant importance to the applicant's professional life and means of subsistence (*A.K. v. Liechtenstein* (No. 2) of 18 February 2016, § 118).

2. Cases concerning **compensation for accident victims:** when the accidental death of a family member deprives the applicants of their principal means of financial support, the latter have a major personal interest in securing a rapid court decision on the awarding of compensation³¹.

The Court regularly makes the point that in cases concerning compensation following the death of an individual, the issue at stake requires particular speed by the domestic courts (*Şevket Kürüm and others v. Turkey* of 25 November 2014, § 65).

In a case where the applicant had sought compensation for a car accident, the Court noted that “after a car accident the applicant became partly disabled, and what was at stake for him was a considerable amount

³⁰ Obs. P. Coursier, *JCP S*, No. 16, 20 April 2010, 1164.

³¹ Judgment *Mehmet Ozel and others v. Turkey* of 26 April 2005, § 38; see also judgments *Hatun Güven and others v. Turkey* of 8 February 2005, *Meryem Güven and others v. Turkey* of 22 February 2005, and judgments *Obermeier v. Austria* of 28 June 1990, § 72, et *Karakaya v. France* of 26 August 1994, § 30.

mainly intended to compensate his disablement and loss of working capacity. Under these circumstances the Court finds that special expedition was called for³².

The requirement of exceptional diligence in cases concerning compensation for a person suffering accidental injuries was also mentioned in the judgment *Stefanova v. Bulgaria* of 11 January 2007.

In a case concerning medical negligence, the Court held that the issue was crucial for the applicant who had been personally injured and the damage inflicted had had a detrimental effect on her life, as she was no longer able to work (*Jurica v. Croatia* of 2 May 2017).

"The Court considers that the domestic courts should have acted with greater diligence, given the subject matter of the case, which concerned medical negligence and reparation of the damage sustained in this connection" (*Țăvîrlău v. Romania* of 2 February 2016) (unofficial translation).

3. Cases in which the applicant is or has been detained in the course of the proceedings: the Court regularly makes the point that there is a particular requirement for cases to be dealt with rapidly in proceedings during which the applicant is detained on remand.

The Court has stated that in criminal cases, the right to be heard within a reasonable time *"is designed to avoid that a person charged should remain too long in a state of uncertainty about his fate"* (*Stögmüller v. Austria* judgment of 10 November 1969). In the case of *Şinegu and others v. Turkey*, decision of 13 October 2009, the Court observed that the applicants had been remanded in custody throughout the proceedings; such a situation requires the courts dealing with the case to show exceptional diligence in order to administer justice as quickly as possible.

In the *Soto Sanchez v. Spain* judgment of 25 November 2003, the Court observed that the case was of particular significance to the applicant because the sentence of four years and two months' imprisonment initially handed down by the Audiencia Nacional had been increased to nine years by the Supreme Court and he had been serving this sentence when he appealed to the Constitutional Court. The Court found that the length of proceedings – five years, five months and 18 days in the Constitutional Court alone – was unreasonable.

In criminal proceedings, even where detention is not the issue, the Court considers that persons suspected of criminal offences should not be kept in a prolonged state of uncertainty before being charged and brought to trial. Nonetheless, given the public policy issues at stake, prosecution for serious crimes such as murder, even some years after their commission, on the basis of progressively assembled or freshly discovered evidence is not in itself such as to raise an issue in relation to the State's obligation to ensure a criminal trial within a reasonable time. That said, depending on the circumstances, a significant lapse of time between the commission of a suspected offence and the laying of a "criminal charge" within the meaning of Article 6 § 1 may bring with it a need for heightened diligence in the conduct of the ensuing proceedings (*O'Neill and Lauchlan v. United Kingdom* of 28 June 2016).

4. Cases where the applicant's health is a critical issue or where the applicant's age is a factor to be taken into account: when delays could deprive the decision of any value, the Court requires the authorities to display not just a certain diligence but exceptional expedition.

The same applies to applicants' state of health, let alone their life.

This applied to cases before the French administrative courts concerning state liability for and the award of damages to haemophiliacs contaminated by the HIV virus during blood transfusions.

For example, exceptional diligence was called for in the particularly tragic *X v. France* case of 31 March 1992, in which the applicant, a haemophiliac who had undergone blood transfusions, died of AIDS while his case was before the European Court. Like the Commission, the Court took the view that *"what was at stake in the contested proceedings was of crucial importance for the applicant, having regard to the incurable disease from which he was suffering and his reduced life expectancy"*³³.

In a similar case, the Court stated that *"what was at stake in the proceedings in issue was of crucial importance to the applicant, who has been HIV-positive from birth. (...) In short, exceptional diligence was*

³² *Kurt Nielsen v. Denmark* judgment of 15 February 2000.

³³ For critical positions of the French state: S. Guinchard, « Procès équitable », *Répertoire Procédure civile*, *op. cit.*, p.90, No. 330.

called for in this instance, notwithstanding the number of cases to be dealt with" (*Henra v. France* judgment of 29 April 1998)³⁴.

What is at stake must be critical if the Court is to find a violation. It has drawn a distinction between applicants who are HIV infected, who are entitled to exceptional diligence, and those who are dependents or parents of AIDS victims, to whom a lesser degree of diligence applies. In a single case with several applicants (*A and others v. Denmark* of 8 February 1996, in which the applicants' conduct contributed significantly to the length of proceedings) the former group were found to be victims of a breach of Article 6 § 1 but not the latter.

In the case of *Gheorghe v. Romania*, decision of 15 June 2007, the Court recalled that "special diligence is required of the authorities where the applicant is suffering from a serious and incurable disease and his condition is rapidly deteriorating (§54) [...]. Given the serious decline in the applicant's health during the proceedings, and since the authorities were required to show a high level of diligence, the Court concludes that the length of the proceedings in question is excessive (§60)". In this case the main cause of the delay was a dispute as to jurisdiction between two courts which had committed errors of appraisal of their respective competences.

The advanced age of applicants may also require the rapid conduct of the proceedings: for instance, in connection with the granting of a war pension requested by an eighty-year-old litigant (*Pantaleon v. Greece*, decision of 10 May 2007).

5. Cases relating to the preservation of family life, disputes concerning maintenance obligations and cases relating more generally to the applicant's civil status: in child custody or parental authority cases, the Court is sensitive to the need to maintain family links and ensure that parent-child relationships are not damaged by the passage of time. It generally emphasises the need for custody cases to be dealt with speedily (as in the *Hokkanen v. Finland* judgment of 23 September 1994, in which the Court found that the 18 months of proceedings were not in breach of Article 6§1).

However, it is not enough for the proceedings to relate to the preservation of family life for this particular requirement of speed to apply. A violation to this right to the preservation of family life must have occurred in the course of the proceedings. This was spelled out by the Court in the *Matusik v. Poland* case of 1 October 2013, stating: "The Court further notes that while cases regarding child access and custody rights require particular speed, it cannot be claimed that all proceedings require the same promptness simply because the case involves the relationship between parent and child [...]. In the instant case, the relationship between the applicant and her son was governed by the provisional measures adopted by the District Court. The applicant, who was granted access rights to her child, was able to exercise this right almost continuously throughout the proceedings. Furthermore, the number of interviews authorised between the interested parties was increased over time, as the case developed. The Court also notes that the application of the provisional measures on the child's staying at his grandparents' house had been maintained for the period subsequent to the closing of proceedings" (unofficial translation). The Court concluded that in the light of the particular circumstances of the case, there had been no violation of Article 6 § 1 (see also *Eriksson v. Sweden* of 12 April 2012).

Orders to pay alimony for the support and upbringing of children must also be rapidly enforced, even where enforcement proceedings are pending for a foreign judgment (judgment *Dinu v. Romania and France* of 4 November 2008). In the latter case an applicant secured a decision against both France and Romania on the grounds that the enforcement proceedings had taken nine years because of delays not only in the two judicial systems but also in the ministries concerned.

A detailed list of cases in which the Court has been more demanding about the length of proceedings appears at the end of this report³⁵.

6. Proceedings concerning a violation of absolute rights: in its judgment *Caloc v. France* of 20 July 2000, the Court held that "special diligence was required of the relevant judicial authorities in investigating a complaint lodged by an individual alleging that he had been subjected to violence by police officers".

³⁴ But see also the judgments *X v. France* of 31 March 1992, *Vallée v. France* of 26 April 1994, *Karaya v. France* of 26 August 1994, *Paillot v. France* of 22 April 1998, *F.E v. France* of 30 October 1998, *Kritt v. France* of 19 March 2002, *Beaumer v. France* of 8 June 2004.

³⁵ Appendix 2.

In a Bulgarian case concerning unlawful police violence and state liability for damages arising from such conduct, the Court stated that “as regards the importance of what was at stake for the applicant, the Court observes that his action concerned payment for grave injuries sustained as a result of police violence. In such cases special diligence is required of the judicial authorities” (*Krastanov v. Bulgaria* judgment of 30 September 2004).

Given the absolute nature of the rights guaranteed under Article 3 of the Convention and the interests at stake for alleged victims of a violation of those rights, in proceedings related to the alleged excessive use of force by state officials the domestic authorities are under a positive obligation to carry out an effective investigation into the allegations with particular diligence (*Kirins v. Latvia* of 12 January 2017).

The Court requires particular speed whenever the proceedings concern a violation of the absolute rights provided for in Articles 2, 3 and 4 of the Convention. With regard in particular to the obligation to investigate and punish those responsible in a case of trafficking in human beings: “Article 4 imposes a procedural obligation to investigate situations of potential trafficking. The obligation to investigate does not depend on a complaint from the victim or a relative: once the matter has been brought to their attention, the authorities must act. To be effective, the investigation must be independent of those involved in the facts. It must also make it possible to identify and punish those responsible. This is an obligation not of result, but of means. A requirement of promptness and due diligence is implicit in all cases, but where it is possible to remove the individual concerned from a harmful situation, the investigation must be conducted as a matter of urgency. The victim or relative must be involved in the proceedings to the fullest extent necessary to protect their legitimate interests” (*L.E. v. Greece* judgment of 21 January 2016) (unofficial translation).

7. Issues which may be deemed a priority in a specific case

This category of cases which involve a particular issue is sufficiently flexible as to cover very particular or contingent situations (for example, consideration given to the consequences of proceedings on the political career of the applicants: *Siffre, Ecoffet and Bernardini v. France* judgment of 12 December 2006). Cases have been accepted as falling under the “priority cases” category when they have related to invasions of privacy, defamation of character (*Gunes v. France* of 20 November 2008), and discrimination (*Oršuš and others v. Croatia* of 16 March 2010).

E. Overall assessment of the circumstances of the case

Lastly, as we have said, the Court conducts a practical and comprehensive analysis of proceedings in order to ascertain whether there has been a breach of the reasonable time requirement (looking at actual verifiable facts and the entire proceedings as a whole). This means that it will add up the time taken at the various stages in order to assess the overall length of the proceedings at issue. It also means that the Court will have no hesitation in considering that an individual phase of the proceedings lasted an excessive length of time, even though the overall length may not have been unreasonable, or assessing the length of each stage in the proceedings in the light of the particular circumstances of the case.

For example, in its judgment *Martial Lemoine v. France* of 29 April 2003 concerning a joint ownership dispute which had lasted 7 years 8 months at four different judicial levels, the proceedings lasted one year 10 months at first instance, one year 8 months at appeal level, one year 9 months before the Court of Cassation and just over 2 years before the appeal court to which the case had been referred back. The Court concluded as follows: “in the Court’s view, even if an overall duration of over seven years eight months is a fairly long time, the periods attributable to the authorities cannot be considered unreasonable in view of all the circumstances of the case and in the light of the Court’s case-law” (§33).

In the aforementioned *Sopp v. Germany* judgment of 8 October 2009, it was the unjustified two years and two months’ waiting period before the German Federal Constitutional Court, out of the total 18 and a half years, which made possible the finding of a violation of the right to a hearing within a reasonable time.

Similarly, in the *Luli and others v. Albania* case of 1 April 2014, the Court noted that the overall length of proceedings might not at first sight appear unreasonable, but that the period before the Supreme Court alone had taken two years, four months and 21 days. It considered that in view of the fact that the case was not particularly complex and that the government had provided no explanation for this length, there had been a violation of Article 6 § 1.

In proceedings lasting four years and one month in two levels of jurisdiction, which the Court considered to be on the whole reasonable, it nevertheless concluded that there had been a violation as most of this period concerned the proceedings before the trial court without any particular circumstances justifying the length of time in question (*Popovski v. "the former Yugoslav Republic of Macedonia"* of 31 October 2013).

Conversely, the Court can find that one phase of the proceedings can take a longer time without constituting a violation of Article 6 § 1 of the Convention insofar as the proceedings as a whole have been dealt with in a reasonable time (*Matusik v. Poland* of 1 October 2013). In this case, the overall length of proceedings had been three years and five months in two levels of jurisdiction, of which the proceedings before the trial court, which had acted with diligence given the complexity of the case, had lasted three years.

The appraisal therefore takes in the whole proceedings, and requires consideration (cf. II Part 1 below on starting points and terms of the period to be verified) of the various levels of judicial examination and the pre- or post-judgment administrative phases. In labour disputes, for example, all administrative and judicial proceedings must be taken into account, as well as the time-limit for an Industrial Tribunal decision (judgment *Seguin v. France* of 16 April 2002).

Nevertheless, the following periods are disregarded in computing the overall time: procedures for authorising fixed-date proceedings (judgment *R. v. France* of 3 December 2002), strictly preventive or precautionary proceedings (judgment *Maillard Bous v. Portugal* of 28 June 2001) and procedures for examining an application for a retrial (judgment *Jussy v. France* of 8 April 2003).

In many cases, however an excessive overall length of proceedings does constitute sufficient grounds of violation. It applies particularly when a case has been dealt with by a single tier of courts (especially when a supreme court rules in first and final instance)³⁶. This offers sufficient grounds for a finding of excessive length of proceedings, if otherwise warranted.

This is clearly illustrated by the *Obermeier v. Austria* judgment of 28 June 1990, in which the Court stated: "*The parties discussed various criteria which the Court has applied in such cases, such as the exact period to be taken into consideration, the degree of complexity of the case, the parties' conduct, and so on. The Court notes, however, that its case-law is based on the fundamental principle that the reasonableness of the length of proceedings is to be determined by reference to the particular circumstances of the case. In this instance those circumstances call for a global assessment so that the Court does not consider it necessary to consider these questions in detail*". After considering the circumstances of the case, particularly in terms of what was at stake and its complexity, the Court concluded that "*the fact remains, however, that a period of nine years without reaching a final decision exceeds a reasonable time. There has therefore been a violation of Article 6 § 1 (art. 6-1) on this point too*".

In a compulsory purchase case that led to three sets of proceedings, two of which were pending and which involved, respectively, two and three tiers of jurisdiction, the Court found that the delays in proceedings lasting more than seventeen years were largely attributable to the conduct of the authorities and of the courts concerned (*Nastou v. Greece* judgment of 16 January 2003, French only).

In the *Comingersoll SA v. Portugal* judgment of 6 April 2000, the Court thought that the circumstances of the case had to be assessed as a whole, and that "*a period of seventeen years and five months for a final decision that has yet to be delivered in proceedings issued on the basis of an authority to execute – which by their very nature need to be dealt with expeditiously – cannot be said to have been reasonable*".

In connection with a number of legal disputes between an applicant and the social security authorities, the Court applied its normal criteria to the circumstances of the case and concluded that a total duration of more than fourteen years for this type of case was sufficient by itself to make it incompatible with the reasonable time requirement in Article 6§1 of the Convention (*J-M F. v. France* judgment of 1 June 2004, French only). In the *Uçan and others v. Turkey* case of 2 July 2013, although noting that the applicants had absconded for a significant length of time during the proceedings, the Court held that this was not the decisive factor insofar as the proceedings against them had already taken five years on the date on which they absconded.

³⁶ The many such cases include the *Assymomitis v. Greece* judgment of 14 October 2004.

II. Calculating the length of proceedings and the factors influencing the calculation

A. The starting point of the proceedings

The starting point of proceedings is sometimes disputed by the parties and may be difficult to determine in the circumstances. For example, in the *Darnell v. United Kingdom* judgment of 26 October 2003, in which the circumstances called for an overall assessment, the Court did not consider it necessary to rule on the disputed starting date and stated that even if it were to adopt the Government's position "*the lapse of time of nearly nine years until the Employment Appeal Tribunal gave its reserved judgment ... cannot, in the circumstances of the present case, be regarded as "reasonable"*" (see more recently *O'Neill and Lauchlan v. United Kingdom* of 28 November 2016, § 85).

When negotiations take place between the parties on the level of compensation payable before the case comes before the courts, the Court takes no account of their duration. It considers that they are not covered by Article 6§1 since none of the negotiators can impose a settlement on the others and the discussions may be terminated at any time (*Lithgow and others v. United Kingdom* judgment of 8 July 1986).

Furthermore, where the respondent state has ratified the Convention after the date of commencement of the proceedings at issue, the relevant period starts at the date of entry into force of the Convention in respect of that state. Nonetheless, the Court takes account of the state of play and the time that has elapsed in the proceedings at the date of entry into force of the Convention (e.g. *Kaić and others v. Croatia* judgment of 17 July 2008, §14).

1. In criminal proceedings

The starting point of proceedings in criminal matters is very specific: Article 6 § 1 makes the applicability of the guarantees of a fair trial conditional on there being a "criminal charge". The Court regards this concept of charge as autonomous and in this way it can take into consideration stages in the criminal proceedings prior to the point when the public prosecution is initiated, *i.e.* when the case was referred to the criminal courts, signifying the opening of a criminal trial.

According to the Court, "charge", for the purposes of Article 6§1, may be defined as "*the official notification given to an individual by the competent authority of an allegation that he or she has committed a criminal offence*", a definition that "*may encompass other measures implying such an allegation that also have a substantial effect on the suspect's situation*".³⁷

Consequently, the Court considers that the date on which an individual was brought before the courts is not the starting point that will automatically be taken into account when assessing the length of the proceedings. It may be prior to the case coming before the trial court, such as the date of arrest, the date when the person concerned was officially notified that he or she would be prosecuted, merely questioned or when a preliminary or police investigation was opened, insofar as on that date or with effect from that occasion, the applicant was officially notified of the charge or was "substantially affected by the situation".

In the first length of proceedings case referred to the Court, the Commission initially took as the starting point the date on which the applicant was first questioned by the investigating judge (21 January 1960) and not, for example, that of the indictment (17 March 1964). The Court adopted a middle path by taking as the starting point 23 February 1961: the date on which the investigating judge decided to open an investigation of the applicant.

If the reasonable time requirement begins when a person is "charged", that is, as the Court puts it, when he has been substantially affected by the situation, the relevant date is not the one on which tax penalties were imposed on the applicant's companies – and not on the applicant personally, with the result that there was no reason for him to suppose he was under investigation in his personal capacity – but the date on which he was questioned for the first time as a suspect, and therefore became substantially affected.

³⁷ See the *Eckle v. Federal Republic of Germany* judgment of 15 July 1982 and more recently, *Tychko v. Russia* of 11 June 2015: "*The Court reiterates that the period to be taken into consideration in determining the length of criminal proceedings begins with the day on which a person is "charged" within the autonomous and substantive meaning to be given to that term. It ends with the day on which a charge is finally determined or the proceedings are discontinued. The "charge", for the purposes of Article 6 § 1, may be defined as "the official notification given to an individual by the competent authority of an allegation that he has committed a criminal offence", a definition that also corresponds to the test whether "the situation of the [suspect] has been substantially affected"*".

In its *Hozee v. Netherlands* judgment of 22 May 1998, the Court noted that "even if a fiscal penalty or tax surcharge may in certain circumstances be considered a criminal charge within the meaning of Article 6 § 1 of the Convention (see the *Bendenoun v. France* judgment of 24 February 1994, Series A no. 284, p. 20, § 47), the penalty in the instant case was imposed by the tax authorities at the end of 1981 on the applicant's companies and not on him personally. There was nothing to suggest that the applicant at that stage was himself suspected of fraud, the offence with which he was eventually charged. Moreover, the imposition of a fiscal penalty under section 21 of the General Act on State Taxes does not give rise to criminal proceedings in the absence of elements which would justify the intervention of the FIOD [the tax authorities] (paragraphs 23, 32, 33 and 41 above)".

In the *Lopez Sole y Martin de Vargas v. Spain* judgment of 28 October 2003, the Court accepted the 8 June 1985 specifying "The same day, the instruction judge ordered a searching in the applicant's permanent address, who was carried out the following day and had important effects on the situation of the applicant" (§ 25).

In the case of *McFarlane v. Ireland* of 10 September 2010, the Court recalled that in criminal matters the "reasonable time" referred to in Article 6 §1 begins as soon as a person is "charged with an offence". "Charging with an offence", for the purposes of Article 6§1, might be defined as "the official notification given to an individual by the competent authority of an allegation that he has committed a criminal offence", a definition that also corresponds to the test whether "the situation of the [suspect] has been substantially affected". The Court considered that the applicant had "been substantially affected" on his arrest on 5 January 1998, since he accepts that that was when he was first notified by the police of the charges against him.

When national legislation authorises victims to bring a separate civil action for damages, for example following a traffic accident, the criminal proceedings may then simply result in the criminal conviction of the perpetrator of the accident, with no possibility of compensation for the victim. In such cases, the Court considers that bringing a civil action amounts to a waiver of the applicant's civil rights in the criminal proceedings, even if the civil action has been brought because of delays in the criminal case. The criminal proceedings are then no longer concerned with the determination of the applicant's civil rights and obligations or of any criminal charge against him and an application that is solely related to the length of the criminal proceedings becomes incompatible *ratione materia* with the Convention (final decision on admissibility, *Garimpo v. Portugal* of 10 June 2004, French only).

In a case concerning economic and financial crime, the Court took as the starting point the date on which the authorities seized the cheque the applicant wished to cash (*Nuvoli v. Italy* judgment of 16 August 2002).

In a case of forgery and fraud, the starting point was taken to be that on which searches were carried out at the first applicant's head office and the second applicant's home, and not the earlier one when the crown prosecutor formally announced that the second applicant was suspected of forgery and fraud (*Stratégies et Communications and Dumoulin v. Belgium* judgment of 15 July 2002, French only).

In a fraud case, the Court did not accept the authorities' contention that the starting date should be that of the applicants' first appearance before the investigating judge. Instead it opted for the earlier date when the police had first questioned the applicants and one of them had made a confession. "This was when the applicants had realised that inquiries were being carried out into their activities and the second applicant had even admitted the allegations. It was therefore a measure that had substantially affected those concerned" (*Martins and Garcia Alves v. Portugal* judgment of 16 November 2000, French only).

Article 71 of the Portuguese Code of Criminal Procedure authorises the victims of criminal offences and, in certain circumstances, their immediate families, to actively intervene as "assistentes" in criminal proceedings, that is as assistants to the public prosecutor. In the *Moreira de Azevedo v. Portugal* judgment of 23 October 1990 (French only), the Court found that the applicants' civil rights and obligations only came into play when they intervened as "assistentes", that is on 1 February 1993. At that point, they demonstrated that they were interested in securing not only the criminal conviction of the accused but also pecuniary compensation for damage suffered. This was therefore the date on which the period to be taken into consideration started. The Government's contention that at this point the applicants had not yet requested the speeding-up of the procedure, in order to exhaust domestic remedies in accordance with Article 35§1 of the Convention, changed nothing. The applicants had probably made this request when they considered that the length of the proceedings had exceeded the "reasonable limit".

2. In civil proceedings

It should be borne in mind that civil matters in Convention law cover both private and public (non-criminal) law and so go beyond the distinction made in the continental system of law in certain states between civil law and administrative law³⁸.

In civil matters, the starting point usually coincides with the date on which the case is submitted to the competent court, varying in accordance with the type of proceedings. However, the Court's case-law would seem to suggest that other starting points can be used, depending on specific circumstances or procedures.

In a case in which the applicants' company was first placed in judicial administration and then declared insolvent, the Court calculated the length of proceedings from the date on which the wages of the applicants, who had not been paid for several months, were recognised by the Portuguese court as claims on the company, rather than that of the declaration of claims as part of the subsequent insolvency proceedings, as the authorities proposed (*Oliviera Modesto and others v. Portugal* judgment of 8 June 2000, French only).

In cases of compensation for a victim of police violence, the starting point of proceedings is the date on which the violence was committed, coinciding with the launch of the criminal investigations, rather than the date of the appeal against State refusal to pay the applicant the damages he has requested, despite the need for prior criminal investigations in order to establish responsibility and the rule that "criminal matters take precedence over civil matters" (*Iribarren Pinillos v. Spain*, decision of 8 January 2009, *loc. cit.*, § 65).

In connection with cases of succession, or more generally in the presence of the heir of a deceased party, the Court holds that where applicants appear in proceedings as heirs, they may complain of the whole duration of past proceedings, whereas if they are involved in the domestic proceedings solely in their own name, the period to be taken into account starts at that date (judgment *Stibilj v. Slovenia* of 6 October 2015, § 73).

The specific features of administrative cases are also taken into account in determining the starting point for the reasonable-time requirement. The Court also considers that the starting point is the date of submission of the mandatory administrative appeal, for instance that of the Minister (case of *Marschner v. France*, decision of 28 September 2004)³⁹, not the subsequent appeal to the administrative court against the decision to reject the administrative authority in question.

This is also the case where the applicant has been unable to appeal to the competent court before requesting examination, under preliminary proceedings (*Vorverfahren*) before the administrative authority, of the legality and appropriateness of the administrative actions complained of, as in the case of *König v. Germany*, decision of 28 June 1978⁴⁰. In the case of *Donnedieu v. France*, decision of 7 February 2006, the European Court took account of the date of the application to the *Commission d'accès aux documents administratifs*, prior to referral to the administrative court, to set aside the decision by a University Hospital refusing to communicate administrative and medical documents regarding the applicant's committal.

Since its *Golder v. United Kingdom* judgment of 21 February 1975, the Court has held that this could apply to any administrative authority, such as a district social council (*Olsson v. Sweden* judgment of 27 November 1992).

More broadly, the European Court also takes account of any mandatory prior application to a judicial authority (*König v. Germany* of 28 June 1978).

It regularly reiterates that when, under national legislation, an applicant has to exhaust a preliminary administrative procedure before having recourse to a court, the proceedings before the administrative body must be included in calculating the length of the civil proceedings (*Siermiński v. Poland* of 2 December 2014).

This applies to compulsory proceedings before a national commission to consider whether or not the employer has committed an inexcusable fault, before referring the case to the competent court (judgment *Santoni v. France* of 29 July 2003); it also applies to cases of occupational accidents or consideration of

³⁸ The applicability of the right to be heard in a reasonable time of course depends on the applicability of Article 6 of the Convention. See the Court's *Practical Guide on Admissibility Criteria*: https://www.echr.coe.int/Documents/Admissibility_guide_ENG.pdf

³⁹ See also judgment *Jorge Nina Jorge and others v. Portugal* of 19 February 2004.

⁴⁰ See also *Farnage S.A. v. France* of 13 July 2006, § 39, and *Hellborg v. Sweden* of 28 February 2006, § 59.

whether a given disease is occupational (cf. aforementioned judgment *Sopp v. Germany*, where there were no prior administrative proceedings but where the Higher Social Court considered the occupational origin of the disease).

The Court considers that any time elapsed which is attributable to administrative authorities is also attributable to the state, even if those authorities are distinct from the central authorities. This applies, for example, to local authorities, as in the *Kurt Nielsen v. Denmark* judgment of 15 February 2000, in which the Court stated that “*the Contracting Parties are, however, also responsible for delays attributable to public-law organs, like municipal authorities, which – although they are not organs of the state – perform official duties assigned to them by law*”. Also of relevance is the *H. v. United Kingdom* judgment concerning the dilatory conduct of a county council committee responsible for the supervision and care of under-age children.

Generally speaking, the starting point occurs when a case is referred to a court of first instance, but it may also be the time of referral to a supreme court, since the latter frequently hear cases in first and final instance.

Other specific starting points may include particular procedural measures such as orders to pay in France and Italy, requests for interlocutory measures, objections to an enforcement measure or the defendant's personal appearance in oral proceedings.

Another feature common to all countries is that there is a clearly established case-law concerning the Court's temporal jurisdiction and how this affects its assessment of the length of proceedings. When determining the starting date of proceedings, the Court may not include any period prior to the state's recognition of the right of individual petition - which may be quite distinct from the date of accession to the Convention - even if in practice the relevant proceedings started before that date. In such cases, the Court makes it clear that in assessing the reasonableness of the time that elapsed after the official starting date, account must be taken of the state of proceedings when the defending state accepted the right of individual petition.

For example, in the *Kanoun* judgment of 3 October 2000 (French only), where the relevant proceedings had started in 1975, the Court was only able to take account of the period since 2 October 1981, the date of French recognition of the right of individual petition. However, citing the *Foti v. Italy* judgment of 10 December 1982, it stressed the need to take account of the state of proceedings on that date.

This is established case-law. In the *Proszak v. Poland* judgment of 16 December 1997, the starting point was 1 May 1993, when Poland's recognition of the right of individual petition for the purposes of Article 25 of the Convention took effect, even though the original application to the Polish court had been on 25 October 1990.

In its *Marciano Gama Da Costa v. Portugal* decision of 5 March 1990 (French only), the Commission “*first noted that it itself had no temporal jurisdiction to consider the length of proceedings prior to 9 November 1978, when the defending government ratified the Convention and recognised the right of individual petition. Nevertheless, in accordance with its established case-law on the subject, it had to take account of the state of the proceedings on that date*”.

In the *Zana v. Turkey* judgment of 25 November 1997, although the proceedings in question seemed relatively brief (one year and six months), the Court found a breach of Article 6§1 and took account of the fact that by the date of deposit of Turkey's declaration the proceedings had already lasted two years and five months⁴¹.

The Court did not accept a government's argument that even facts subsequent to recognition of its compulsory jurisdiction were excluded from its scope where they were merely extensions of an already existing situation, which it had no authority to consider⁴².

⁴¹ In this case, the Court also took account of what was at stake for the applicant.

⁴² *Yagci and Sargin v. Turkey* judgment of 8 June 1995.

B. The stages in proceedings taken into account

The Court has no hesitation about penalising the unreasonable length of appeal proceedings. Findings against France have been largely based on excessively long cassation proceedings before both the Conseil d'Etat (*Ouendeno v. France* of 16 April 2002) and the Court of Cassation (*Brochu v. France* of 12 June 2001)⁴³.

The Court also includes in its examination a referral to the Constitutional Court in a direct appeal, if the result of the appeal before this Court can influence the outcome of the dispute before the ordinary courts, civil rights and obligations or any criminal charge. For example, in the *Deumeland v. Germany* judgment of 29 May 1986, the Court ruled in connection with the German Constitutional Court that “*although it had no jurisdiction to rule on the merits, its decision was capable of affecting the outcome of the claim*”, and found a violation of Article 6§1 (see, recently, *Çevikel v. Turkey* of 23 May 2017, § 37)⁴⁴. See *Hajrudinović v. Slovenia* of 21 May 2015 for an example of where the reasonable time limit has been exceeded on account primarily of the length of proceedings before the Constitutional Court.

The examination by the Constitutional Court phase of a preliminary question of constitutionality may also be taken into account or be subject primarily to review in terms of the reasonableness of the length of the proceedings (*Pammel v. Germany* of 1 July 1997).

In France, the entry into force of the so-called “Priority Constitutional Question” (QPC) on 1 March 2010, introducing *a posteriori* review by the Constitutional Council of the constitutionality of laws, should also affect the appraisal of the requirement of reasonable length of proceedings, particularly since this mechanism, which can only be implemented in the framework of a dispute, requires the trial court to defer any decision until the QPC procedure has been completed. Nevertheless, these new provisions set very strict time-limits on the examination of these questions: the courts concerned must rule “without delay”, and the supreme courts of both systems – the administrative one on the one hand and the civil and criminal one on the other hand, as well as the Constitutional Court, must issue a decision within three months, giving a total maximum time of 6 months.

The Court does not, however, take account of preliminary proceedings before the CJEU (formerly CJEC), because “*to do so would adversely affect the system instituted by Article 177 of the EEC Treaty (now Article 267 of the TFEU) and work against the aim pursued in substance in that Article*” (*Pafitis and others v. Greece* judgment of 26 February 1998, § 95; also *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* of 27 June 2017, § 208).

The Court’s oversight may extend to subsidiary proceedings. In the *Robins v. United Kingdom* judgment of 23 September 1997, which concerned an application for costs under the domestic Legal Aid Act, the Court found that “*the costs proceedings, even though separately decided, must be seen as a continuation of the substantive litigation and accordingly as part of a ‘determination of ... civil rights and obligations’*”. It referred to a number of previous judgments, including *Silva Pontes v. Portugal* of 23 March 1994, *Di Pede v. Italy* and *Zappia v. Italy* of 26 September 1996 and *Hornsby v. Greece* of 19 March 1997.

In determining the length of proceedings, the Court also takes into account the non-judicial phases strictly speaking of the case submitted to it but which are very closely connected to the length. It held, for example, that “*in matters of succession, the procedure before notaries is so closely connected with the supervision of the court that it cannot be dissociated from that supervision for the purposes of determining the civil rights and obligations of the applicant and that, consequently, Article 6 § 1 of the Convention applies. To accept a contrary reasoning would lead to the exclusion of judicial proceedings ordered by a court – which, moreover, is responsible for approving the division of the estate – from any supervision by that court*” (*Dumas v. France* of 23 September 2003, § 41 (unofficial translation); in this case, the division of an estate among the heirs had lasted 12 years and two months at the time the case was examined by the Court).

Like the Commission previously, the Court takes account of extraordinary appeals. In its admissibility decision of 14 January 1998 in the *Z.C. v. Poland* case (French only), the Commission noted that the Supreme Court had twice accepted extraordinary appeals from the applicant and quashed decisions of the courts of first instance for manifest errors of law. Power to authorise such appeals was vested in the State

⁴³ N. Fricero, « Garanties de nature procédurale : équité, publicité, célérité et laïcité, in *Droit et pratique de la procédure civile*, Dalloz action, 2009-2010, n° 212.136, p. 562.

⁴⁴ See, J. Fr. Flauss, « Les cours constitutionnelles et la règle du délai raisonnable: le contrôle de la Cour EDH », *Mélanges L. Favoreu*, Dalloz, 2007, 1263.

Prosecutor and the Minister of Justice. The Supreme Court, which considered such appeals, had the power to invalidate, quash or confirm lower courts' decisions. Its examination was therefore decisive for the applicant's civil rights and obligations, within the meaning of Article 6§1 of the Convention, so all the appeals, including extraordinary ones, had to be taken into account when calculating the length of the proceedings.

Sometimes, a trial has not even been completed. In the *Grauslys v. Lithuania* judgment of 10 October 2000, the commercial director of a private company was suspected of fraud and the prosecution authorities launched proceedings. The case lasted five years without judgment ever being handed down at first instance.

In this case, the greater the impact of any delay on the outcome of proceedings, the more severely the Court judges the case. An example is when the application of a time limit prevents an applicant from obtaining a decision on the merits of the case. In the *Textile Traders Limited v. Portugal* judgment of 27 February 2003 (French only), the Court found it particularly striking that the prosecution authorities had had to rule on applications for the setting aside of several procedural measures because they had not been notified to the applicant company. The criminal proceedings were finally terminated because the time limit had been exceeded, thus preventing the company from obtaining a decision on the application it had made in the proceedings.

C. The end of the period concerned

1. The end of the main proceedings

In criminal cases, the period ends when the final judgment is handed down on the substantive charges. This generally takes the form of an acquittal or conviction with no further right of appeal, but may also be a prosecution decision to terminate proceedings or a decision by the court that the case is time-barred⁴⁵.

However, in the *Stoianova and Nedelcu v. Romania* judgment of 4 August 2005, the Court ruled that the applicant's discharge could not count as a final domestic decision because the Romanian Code of Criminal Procedure authorised the prosecution service to quash the discharge order and reopen criminal inquiries without any specified time limit.

In civil matters, the final, irrevocable decision marks, in principle, the end of the period to be taken into account. More specifically, the Court mentions a decision which "disposes of the dispute" (judgments *Guincho v. Portugal* of 10 July 1984 and *Erkner and Hofauer v. Austria* of 23 April 1987). This concept is broader than the reference to *res judicata* since it also embraces the enforcement phase, as we shall see below.

The Court takes a pragmatic approach to the date on which a decision is reached or handed down. For example, if the judgment is delivered on a given date but the text is lodged with the registry only 20 days later, the Court recognises the latter date as the date of judgment (see, among others, the *Ridi v. Italy* judgment of 11 May 1990, and *Ceteroni v. Italy* judgment of 21 October 1996).

In proceedings combining the jurisdictions of civil and administrative courts, such as expropriation proceedings, the Court considers the proceedings in their entirety and holds, as did the Commission in the case of *Guillemin v. France*, decision of 21 February 1997, that "*the period whose reasonableness falls to be reviewed takes in the entirety of the proceedings, right up to the decision which disposes of the dispute ("contestation"). In the instant case, resolving the dispute, which could have been amicably settled, entailed bringing two sets of proceedings: the first in the administrative courts, which alone have jurisdiction to assess whether the public interest of an expropriation is lawful, and the second, conducted in both the administrative and the ordinary courts simultaneously, to secure compensation for the applicant for the illegal expropriation of her property by the public authorities. The latter proceedings are still pending. The length of time to be considered accordingly exceeds fourteen years already (19 November 1982 – 22 January 1997)*".

⁴⁵ *Mori v. Italy* judgment of 19 February 1991.

The Court's mode of appraisal enables it to take exclusive account of the excessive length of proceedings at first instance, even if the latter are still pending. This often applies in cases of vicarious liability action, in which the *dies ad quem* is the decision establishing damages disposing of the dispute, rather than the decision on the principle of liability⁴⁶. In such cases an excessive length of proceedings is often due to the time taken to submit the expert report⁴⁷.

In the *Silva Pontes* case⁴⁸, the Court stated clearly that “if the national law of a state makes provision for proceedings consisting of two stages – one when the court rules on the existence of an obligation to pay and another when it fixes the amount owed – it is reasonable to consider that, for the purposes of Article 6 paragraph 1 (art. 6-1), a civil right is not “determined” until the amount has been decided. The determination of a right entails deciding not only on the existence of that right, but also on its scope or the manner in which it may be exercised (see, among other authorities, the *Pudas v. Sweden* judgment of 27 October 1987, Series A no. 125-A, p. 14, paragraph 31), which would evidently include the calculation of the amount due”. However the Court may decide that the first stage of the proceedings has itself exceeded the reasonable time.

As has been pointed out above, the Court also includes in the length of proceedings, an action for damages brought subsequently against the state for violation of the reasonable time principle and assesses more thoroughly the speed taken by that second authority (for example, *Palmero v. France* of 30 October 2014: “the Court reiterates the importance for domestic courts to pay particular attention to this type of compensation procedure, particularly with regard to the reasonable time within which the case is examined” (unofficial translation)).

2. The length of the enforcement proceedings

The Court also includes the time taken for any enforcement proceedings in calculating the overall period.

Enforcement of a decision, according to the Court, must be considered an integral part of the “trial” within the meaning of Article 6: the right to a hearing within a reasonable time would be illusory if a state's domestic legal system enabled a final, binding judicial decision to remain ineffective to the detriment of any party (see *Hornsby v. Greece* judgment of 19 March 1997, §§ 40 et seq.).

Over the last few years, the non-enforcement or delayed enforcement of domestic courts' decisions has become the second most frequently identified problem in the Court's judgments. The Committee of Ministers has prioritised this issue in its supervision of the enforcement of the Court's judgments⁴⁹.

The Court sanctioned the excessive length of enforcement proceedings on the basis of infringements both of the right to a fair hearing (Article 6 § 1) and of the right to respect for property secured by Article 1 of Protocol 1, which illustrates the importance of the enforcement phase for the effective implementation of the right guaranteed. The Court pointed out that the non-enforcement or delayed enforcement by a contracting state of a court decision delivered against it may constitute a violation of an individual's right to a court established by Article 6 § 1 of the Convention and a violation of the individual's right to peaceful enjoyment of his or her possessions, where the judgment in his or her favour gives rise to a definite claim which must be considered a “possession” within the meaning of Article 1 of Protocol No. 1 (*Bourdiv v. Russia* of 4 September 2002, § 40)⁵⁰.

Excessive length of the enforcement proceedings is a ground for a violation in its own right. Furthermore, as was the conclusion in its *Kudla* judgment, the Court found a violation on account of the exceeding of the reasonable time limit in the execution phase and the fact that there was no effective remedy to the slowness of this stage in the proceedings (see the *Bourdiv v. Russia* No. 2 pilot judgment of 15 January 2009, in which the Court raised this complaint of its own motion).

⁴⁶ *Guincho v. Portugal* judgment of 10 July 1984.

⁴⁷ E.g. proceedings lasting over 17 years 10 months in which no judgment on the merits was ever issued (*Roselli v. Italy*, 15 February 2000) or a case which is still pending at the court of first instance 8 years 8 months after the commencement of proceedings (*Marques Gomes Galo v. Portugal*, 23 November 1999).

⁴⁸ *Silva Pontes v. Portugal* judgment of 23 March 1994.

⁴⁹ Guide to Good Practice accompanying Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings, p. 5, note 13.

⁵⁰ More recently, *Botezatu v. the Republic of Moldova* of 14 April 2015.

The length of enforcement proceedings must also be appraised in accordance with the same criteria as the length of the main proceedings (*Bendayan Azcantot and Benalai Bendayan v. Spain*, decision of 9 June 2009, § 71; this case concerned the enforcement of a judgment which required an individual to pay civil damages arising from a criminal offence and expenses and costs incurred under criminal proceedings). The Court takes account of the complexity of the proceedings, the conduct of the parties, and the purpose of the decision to be executed (*Kalinkin and others v. Russia* of 17 April 2012 § 42).

In the *Pinto de Oliveira v. Portugal* judgment of 8 March 2001 it found that the proceedings to be taken into consideration began on 11 May 1993, when the matter was referred to the Mangualde court, and were still under way at the time of judgment, because the uncompleted execution proceedings that had subsequently been initiated had to be taken into account in deciding whether the length of proceedings was reasonable.

In an Italian case, the Court refused to express a view on whether under Italian law enforcement proceedings were autonomous, adding that “*it is with reference to the Convention and not on the basis of national law that the Court must decide whether, and if so when, the right asserted by [the applicants] actually became effective*”.⁵¹ In this dispute, the Court considered that the enforcement proceedings must be regarded as the second stage of the initial proceedings, which had not been completed as the judge responsible for enforcement proceedings had not yet ruled.

The authorities' failure to implement a final decision within a reasonable time may also result in a violation of Article 6§1. This is particularly the case when the obligation to implement a decision is incumbent on an administrative authority, as in a number of recent judgments: *Metaxas v. Greece* of 27 May 2004, *Timofeyev v. Russia* of 23 October 2003, *Prodan v. Moldova* of 18 May 2004 and *Romashov v. Ukraine* of 27 July 2004. In the *Metaxas* case, the Court found that in violation of Article 6§1 the national authorities had failed to comply within a reasonable time with a judgment of the Audit Court, which had been handed down on 13 April 2000 but only implemented on 19 September 2001, thereby depriving it of all useful effect.

The Court also holds the state responsible for the enforcement agents whom it empowers, on a monopoly basis, to conduct enforcement measures: it is for the state to take all the necessary steps to enable bailiffs to carry out the task they have been assigned, particularly by ensuring the effective participation of other authorities that may assist enforcement where the circumstances so require (judgment *Pini and others v. Romania* of 22 June 2004, § 183).

The Court regularly points out that states have a positive obligation to put in place a system which is effective both in practice and in law and ensures the enforcement of final judicial decisions, in particular between private persons. State responsibility for the enforcement of a judgment by a person under private law may therefore arise if the public authorities involved in enforcement proceedings lack due diligence or prevent enforcement (e.g. *Hristova and others v. Bulgaria* of 26 June 2012, § 31).

The Court also held that the duration of bankruptcy proceedings which had interrupted enforcement proceedings must also be taken into account (*Zavodnik v. Slovenia* of 21 May 2015).

Similarly, the procedure for enforcing a foreign judgment is subject to the same requirements, and must be completed within a reasonable time, which is not the case when it takes over 15 years because of court negligence (*Hohenzollern v. Romania* judgment of 27 May 2010)⁵².

⁵¹ *Zappia v. Italy* judgment of 26 September 1996.

⁵² Obs. N. Fricero, *Procédures*, No. 7, July 2010, comm. 271.

Part 2: Reasons for delays and their remedies

The second part of the report is concerned:

1. The reasons for delays as they emerge, explicitly or implicitly, from Court judgments, Court and Commission admissibility decisions and material supplied by the Execution of Court Judgments Department.

The Department notes that Court judgments are becoming less and less explicit about the reasons for delays and that it is necessary to seek clarification on the relevant impediments and difficulties from the national authorities concerned. Similarly, today, the Court tends more often to issue inadmissibility decisions, taken by a single judge, declaring them to be manifestly ill-founded when it considers that there has been no violation of the right to be heard in a reasonable time, which makes it difficult to identify the procedural mechanisms which have enabled states to improve the speed of their domestic procedures.

The resolutions of the Committee of Ministers are of interest in this respect as they provide valuable information on the reforms carried out, making it possible to identify the one-off and more structural problems they are designed to remedy. These resolutions are included in the Committee of Ministers' annual reports, the first of which covered 2007⁵³.

There are three main causes of delay:

- ones external to the legal and judicial systems properly speaking, which relate to a political or economic context;
- ones that are common to all types of proceedings;
- ones that apply to a particular category of proceedings, depending on whether they are civil, criminal or administrative.

2. The main reforms introduced in domestic systems following adverse Court judgments and domestic remedies for seeking redress for detriment suffered as a result of excessively lengthy proceedings or for expediting proceedings.

3. The times considered to be reasonable the excessive and "pathological" delays having been abundantly described, it is appropriate to examine, to finish, and after having pointed out the main trends of the Court, some cases of delay considered to be reasonable. Other cases are in a more detailed manner described in the tables appearing as annexes 3 and 4 of the report.

I. Reasons for delays

A. External reasons for delays

• Origin of delays: major political events

The taking into account of the political events by the Court differs according to whether the cases are received by the ordinary courts or in front of the constitutional court of the State in question: this distinction was formalized in the judgement *Süssmann v. Germany* of 16 September 1996 and the posterior cases.

Surrounding the reunification of Germany in 1990, the country was, for several years, the subject of violation judgments as a result of the backlog of cases in the Constitutional Court, overwhelmed with major issues connected to reunification.

Many of these were concerned with compensation for the victims of expropriation between 1945 and 1949 in the Soviet occupied zone of Germany following the agrarian reform or after 1949 in the former GDR.

⁵³ For an analysis of the method of monitoring of the execution of judgments by the Committee of Ministers and the various acts taken by this Council of Europe body, see the E. Lambert Abdelgawad chronic "L'exécution des arrêts de la Cour européenne des Droits de l'Homme", annual chronic, in *Revue Trimestrielle des Droits de l'Homme*.

The Court recently examined one of these cases (*Von Maltzan and others, Von Zitzewitz and others, Man Ferrostaal and Alfred Töpfer Stiftung v. Germany*, decision of 2 March 2005) from the length of proceedings standpoint, and found the application inadmissible. It referred to its *Süssmann* case-law of a few years earlier, which recognised the special role of constitutional courts in democratic states.

In the aforementioned *Süssmann v. Germany* judgment, the Court stated that "*its role as guardian of the Constitution makes it particularly necessary for a Constitutional Court sometimes to take into account other considerations than the mere chronological order in which cases are entered on the list, such as the nature of a case and its importance in political and social terms*" (§§55-57).

In this case, which concerned a dispute over the level of a supplementary retirement pension that affected many civil servants, the Court had to strike a balance between the reasonable time requirement and the more general principle of the proper administration of justice, which in this case justified the grouping together of twenty-four cases and the Constitutional Court's giving priority to a series of other urgent cases linked to German reunification and affecting the employment contracts of 300 000 civil servants from the former GDR. It concluded that there had been no violation of the Convention, in a case brought before the Constitutional Court as a result of individual appeals rather than a reference from another court.

Another important case concerned the constitutionality of legal provisions introduced when the former East German social and retirement insurance system was integrated into that of the Federal Republic, and in particular how supplementary retirement pensions should be treated. In several inadmissibility decisions⁵⁴, the Court found that the time taken to conduct proceedings before the Constitutional Court was not excessive, given their complexity and in line with its *Süssmann* case-law.

The case *Trikovic v. Slovenia*⁵⁵ refers to the situation of new States born of dismantlement of the former Yugoslavia: the applicant, Slovenian of origin Serb supported that its request concerning its military pension before the constitutional Court had been judged too slowly (of a duration of 2 years and 7 months). However the Court does not retain the violation of the reasonable duration of procedure before the Constitutional Court of Slovenia: stressing that the file of the applicant was the first of a long series of disputes of an extreme complexity, formed by the military personnel of ex-Yugoslavia, it recognizes that this situation implied for the Court an examination in detail of the case.

Contrary, when the delays are the fact of ordinary courts, and in spite of a context of a general and disturbed policy, the Court shows itself more demanding towards the State concerned recalling its conventional engagement in accordance with the Article 6§1.

With its return to democracy in 1978, Spain experienced considerable judicial problems. In the *Unión Alimentaria Sanders SA* judgment of 7 July 1989, the Court expressed its awareness that "*Spain had to overcome serious difficulties during the restoration of democracy. It duly appreciates the efforts made by the Spanish authorities to improve public access to the courts and to overhaul the country's judicial system. It reiterates, however, that in ratifying the Convention, Spain undertook to organise its judicial system in such a way as to ensure that it satisfied the requirements of Article 6 paragraph 1 [of the Convention]*".

Case-law examples:

The *Süssman* case-law was confirmed by the Court in the *Gast and Popp v. Germany* judgment of 25 February 2000, which stated that "*while Article 6 requires that judicial proceedings be expeditious, it also lays emphasis on the more general principle of the proper administration of justice*".

It reaffirmed the point in connection with the Portuguese Constitutional Court in the *Rosa Marques and others v. Portugal* judgment of 25 July 2002 (French only), in which it accepted the government's contention that the reasonable time requirement could not be interpreted in the same way for an ordinary and a Constitutional Court, given the latter's role as guardian of the Constitution and the priority it had to give to certain cases that were socially and politically more important. Nevertheless, it found a violation of Article 6§1, since the case had concerned expropriation proceedings of no particular complexity that had lasted eight years and two months in four separate levels of courts.

Concerning trial and appeal courts of Portugal, this country had faced the same difficulties a few years earlier, as the Court acknowledged in similar terms: "*It (the Court) cannot overlook that the restoration of*

⁵⁴ *Kuna v. Germany* decision of 10 April 2001, *Schwengel v. Germany* decision of 2 March 2000.

⁵⁵ Judgment of 12 June 2001.

democracy as from April 1974 led Portugal to carry out an overhaul of its judicial system in troubled circumstances which were without equivalent in most of the other European countries and which were rendered more difficult by the process of decolonisation as well as by the economic crisis (...)"⁵⁶. Nevertheless, the Court found in this case that Portugal was in breach of its Convention obligation to ensure that cases were heard within a reasonable time.

Major reforms

Spain undertook significant reforms of its national judicial system under the organic laws of 10 January 1980 establishing a judicial services commission and 1 July 1985 on the judicial system. In Barcelona four new courts of first instance started operating in September 1981 and new judicial districts were established.

- **Origin of delays: the transition from a planned to a market economy**

The political and economic upheavals in certain contracting states led to major changes in the organisation of their court systems.

The European Court's case-law concerning states that have signed the Convention since the fall of the Berlin wall reveals a link between problems of length of proceedings and the changes in the political and economic systems of eastern Europe. The transition from planned to market economy has led to changes in citizens' relationship to the law and proceedings and judges' training, reforms in the law of procedure and a reallocation of responsibilities between courts, which in turn have resulted in delays.

New constitutional principles of an independent judicial system and the separation of powers have gradually been established. These changes have led to delays in proceedings, as has the Court's own case-law, which has forced several of these countries to reform their civil and criminal procedure.

Case-law examples

The Czech Republic introduced judicial reforms in the years after 2000. In the *Zouhar v. Czech Republic* judgment of 11 October 2005 (French only), the Court acknowledged that the regional court had had to refer the matter on a number of occasions to other national authorities for the purposes of the proceedings before it and that the national judicial system had been reorganised while the case was under way.

In the *Podbielski v. Poland* judgment of 30 October 1998, the Court acknowledged this problem with regard to Poland, in connection with an applicant still awaiting a final decision. It noted that "*the delay in the delivery of a final decision on the applicant's action has been caused to a large extent by the legislative changes resulting from the requirements of the transition from a state-controlled to a free-market system and by the complexity of the procedures which surrounded the litigation and which prevented an expeditious decision on the applicant's claim. The Court recalls in this respect that Article 6 § 1 imposes on Contracting States the duty to organise their judicial systems in such a way that their courts can meet each of its requirements, including the obligation to decide cases within a reasonable time Therefore the delay in the proceedings must be mainly attributed to the national authorities*" (§38).

B. Delays common to all types of proceedings

1. Delays originating the procedure

- **Origin of delays: geographical problems**

The uneven distribution of courts within countries emerges frequently as a problem from the Court's judgments, which refer to excessive caseloads resulting from a geographical organisation that has failed to respond to demographic and economic changes.

⁵⁶ *Guincho v. Portugal* judgment of 10 July 1984.

Case-law examples

The problems caused by the excessive workloads of certain courts are described in some detail in the *Union Alimentaria Sanders SA v. Spain* judgment of 7 July 1989: lower courts overflowing (each of the Barcelona courts of first instance had to deal with an average of 1 800 cases), a 62% increase between 1981 and 1984 in the volume of cases dealt with by the Barcelona court of appeal and so on. The same story occurs in many of the contracting states at different points of their legal history. In the Spanish case, despite the measures taken by the state the Court found that five years and two months of proceedings before two levels of courts was excessive.

National reforms

Following various findings of length of proceedings violations, the Italian authorities informed the Committee of Ministers that certain reforms had been introduced. "Act No. 30 of 1 February 1989 (which entered into force the same year), concerning the courts of first instance (preture), redefines the territorial jurisdiction of these courts which is henceforth not limited to the department. This enactment has made it possible to abolish some 273 courts of first instance which had low workloads and to redistribute the magistrates and the auxiliary personnel among the courts with heavy workloads"⁵⁷.

In Hungary, the Supreme Court's workload has declined significantly following a reform of the judicial system in 2002. This transferred that court's appeal functions to five appeal courts established in 2003 and 2004⁵⁸.

In Belgium, the law of 1 December 2013 amended the judicial districts in the country in order to improve management methods to bring about more efficient justice, ensure the harmonisation of high quality case-law, reduce the backlog in the courts and make the judicial system closer to citizens⁵⁹.

• Origin of delays: transfers and insufficient numbers of judges, and non-replacement of transferred or unavailable judges

Delay is caused by the resignation of the judge hearing the case, delayed or non-replacement and the problem of recruiting judges.

This issue is linked to how judges are recruited and managed.

The problem has occurred in many contracting states at different periods and is often combined with other difficulties affecting the functioning of courts, such as inadequate support staff. The Court regularly points out that Article 6 § 1 imposes on the Contracting States the duty to organise their judicial system in such a way that their courts can meet each of its requirements, including the obligation to hear cases within a reasonable time.

If the measures taken are not sufficient to improve the situation, it holds the national authorities responsible.

Shortage of judges sometimes impedes the application of procedural measures that would otherwise help to avoid delays. In the *Guincho* judgment, it emerged that under Articles 159 and 167 of the Portuguese Code of Civil Procedure applicable at the time the judge could submit a request for service of a writ, after which the registry had two days to submit it to the relevant court and the latter then had to order the writ to be dispatched for service within five days (§11). In this case, however, the judge who issued the request for the writ in early December was transferred and was replaced by a colleague who reissued the request on 18 January and various subsequent occasions, but did not obtain it until 18 June, that is six months on.

Case-law examples

One of many such cases concerned civil proceedings challenging an encumbrance⁶⁰, in which the judge in charge was transferred and the case remained dormant until he was replaced nearly seventeen months later, namely between 17 June 1983 and 23 November 1984.

⁵⁷ Resolution ResDH (95) 82 concerning the *Zanghi v. Italy* case.

⁵⁸ *Timar and others v. Hungary*, Annotated Agenda of the 922nd meeting of the Committee of Ministers, April 2005, CM/Del/OJ/(2005) 922, vol I.

⁵⁹ Committee of Ministers' annual report 2015, p. 166.

⁶⁰ *Diana v. Italy*, judgment of 27 February 1992: violation for proceedings lasting 11 years and 11 months before two levels of courts in a relatively complex case.

In the *Grujović v. Serbia* case of 21 July 2015, still pending when it was submitted to the Court, having already lasted almost eight years in two levels of jurisdiction, the Court noted that the trial had had to start anew six times because the presiding judge and/or the composition of the trial chamber had changed without any explanation for these changes being given by the government (see also *Nankov v. "the former Yugoslav Republic of Macedonia"* of 2 June 2008 and *Aleksandr Novikov v. Russia* of 11 July 2013).

In its judgment *Pokhalchuk v. Ukraine* of 7 October 2010 the Court noted that several delays were caused by adjournments for reasons of an unavailable judge and an incomplete court, which resulted in over 10 years of proceedings concerning a non-complex case of delimitation of property.

In the *Tychko v. Russia* case of 11 June 2015, the Court noted numerous delays due to the alleged resignation of several judges, despite the evidence provided that these judges had continued to adjudicate in other cases (§ 69).

More examples include a number of Belgian cases, in particular the *Willekens v. Belgium* judgment of 24 April 2003 and the *Dumont v. Belgium* judgment of 28 April 2005. In the latter (French only), the Court found that the sole cause of the delays before the courts of first instance of the Brussels appeal court was shortage of judicial personnel, which in turn resulted from recruitment difficulties linked to the legal requirement for judges to be bilingual in French and Dutch⁶¹.

In its judgment *Wauters and Schollaert v. Belgium* of 13 May 2008, the Court found that the excessive length of proceedings had been due to the shortage of police officers on the investigation.

In the *Panju v. Belgium* judgment of 28 October 2014, the identified cause of the delays was the chronic lack of staff in the prosecutor's office dealing with the case.

National reforms implemented:

In 2002 the Belgian authorities amended the provisions on language use in the judicial field in order to relax bilingual requirements and secure resources for trying French-speaking cases, which account for most of the cases submitted to Brussels courts. A new Law amending the Judicial Code was adopted on 26 April 2007 to tackle the judicial backlog. The judicial budget increased in 2008, providing more operational resources (e.g. continuing the computerisation of the judicial administration and developing and securing the functioning of the courts) and enabling additional staff to be recruited, prioritising sentence enforcement⁶².

One of the main causes of excessive length of proceedings in Luxembourg, leading to several adverse findings against this country, also resulted from work overload and understaffing in terms of police officers and investigating judges. Action was taken in 2003 to reorganise the Police Service and recruit more officers. Furthermore, judges and prosecutors were recruited in 2001, 2003 and 2005, and a new Law on criminal justice was adopted in 2006, introducing a number of procedural reforms to cut back on the workload of investigating judges⁶³.

In Slovenia, similarly, a major judicial reform has been launched, leading to an increase in judicial staffing following the finding against this State in the judgment *Lukenda* of 6 January 2006, which highlighted systemic problems arising particularly from a lack of resources⁶⁴.

One cause closely bound up with judicial staff shortages and non-replacement is the backlog of cases in courts.

▪ Origin of delays: backlogs of cases

Backlogs of cases in courts are caused by the increase in litigation with no concomitant increase in resources, which is one of the main factors in excessive length of proceedings.

⁶¹ 2007 Annual Report of the Committee of Ministers, pp. 83 and 84.

⁶² 2008 Annual Report of the Committee of Ministers, pp. 122 and 123.

⁶³ 2007 Annual Report of the Committee of Ministers, pp. 94 and 95.

⁶⁴ *Ibid.*, pp. 100 and 101.

Backlogs raise no problems if they only occur occasionally. On the other hand, if they persist, the Strasbourg Court holds that implementation by the State of inadequate measures to deal with backlogs incurs the national authorities' responsibility. In the aforementioned *Guincho* case, for instance, the Court considered that in view of the foreseeable increase in litigation, the measures taken by the State to remedy court backlogs had been too little too late.

Reform suggested by the European Court:

This issue is linked to the problem of processing the growing stock of cases in the event of excessive court workloads and the fact that priority must go to old or pending cases.

The Court set out guidelines in the aforementioned Spanish case of *Union Alimentaria Sanders SA*: “*In such circumstances (a temporary backlog of court cases) it is legitimate as a temporary expedient to decide on a particular order in which cases will be dealt with, based on their urgency and importance. The urgency of a case, however, increases with time; consequently, if the critical situation persists, such expedients are shown to be insufficient and the State must take other, more effective action to comply with the requirements of Article 6 para. 1*”.

Implemented national reforms:

Further to the finding against Germany because of the excessive length of joint criminal proceedings (1996-2006) in respect of the applicants, who had been sentenced to life imprisonment, especially owing to substantial delays before the Federal Constitutional Court (over 6 years and one month due to the exceptionally large workload facing the Federal Constitutional Court at the time), the German State introduced a new registry, recruited additional judicial staff and simplified proceedings, with a three-judge section in charge of decision-making (*Kaemena and Thöneböhn v. Germany*, decision of 22 April 2009).

Generally speaking, the obligation on member States to organise their judicial systems in such a way that they can respect the right to a hearing within a reasonable time has encouraged some States to undertake large-scale reform.

This applies to Slovakia (further to the judgment *Jakub v. Slovakia* of 28 May 2006, among others), which has conducted a series of reforms, including a “big reform of the Code of Civil Procedure” on 15 October 2010, with a number of innovations such as simplification of the arrangements for serving documents, harmonisation of the procedure for challenging judges, extension of the courts' capacity to determine a case without a hearing, simplification of inheritance procedures, introduction of a simplified procedure for the settlement of minor litigation, broadening of the scope of the legal rules governing court orders, introduction of a possibility for courts to appoint joint counsel for several parties to a single set of proceedings, limitation of the possibility for courts of appeal and cassation to challenge or quash rulings delivered by a lower court, and to refer them back for review⁶⁵.

In the Czech Republic, similarly, a number of procedural changes were brought to the Code of Civil Procedure in 2000, 2005, 2008 and 2009, intended to diminish the workload of judges, to simplify procedures and to prevent delays, notably: the replacement procedure for partial judges; the possibility to appeal in almost all cases; the duty of judges to instruct the parties on their procedural rights and obligations, and to encourage friendly settlements; the new rules established to ensure special diligence in family cases, the speedy decision-making in proceedings concerning children and the possibility of mediation and peaceful settlement of disputes between parents; a new system for serving court documents, relying on the “presumption of service” and the “preparatory hearing” intended to make the proceedings more concentrated, so that the court can decide the case in a single hearing⁶⁶.

France adopted its 5-year Orientation and Programming Law for Justice on 9/09/02, geared to improving the effectiveness of justice in particular by reducing the length of civil and criminal cases. First of all, court staff has been greatly increased: 950 magistrates and 3 500 State employees and agents of the judicial services were planned for 2007. Financial resources were also augmented by more than 11 % for 2004 and 2005⁶⁷.

⁶⁵ 2010 Annual Report of the Committee of Ministers, p. 137.

⁶⁶ 2009 Annual Report of the Committee of Ministers, p. 121.

⁶⁷ 2007 Annual Report of the Committee of Ministers, p. 83.

Criminal Court backlogs and the concern to protect the right to a hearing within a reasonable time also prompted France to introduce so-called “fast-track” procedures in the criminal-law field. The Law of 9 March 2004 expanded the scope of selected types of proceedings based on the defendant’s consent, such as a criminal-law settlement, and a new procedure was introduced, namely immediate trials upon prior recognition of guilt. More recently, Law No. 2011-1862 of 13 December 2011 on apportionment of proceedings, adopted on the basis of proposals set out in the Guinchard report⁶⁸, considerably expanded the scope of this procedure, as well as other “fast-track” procedures such as the processing of simple and minor cases via an *ordonnance pénale*.

In 2016, Albania reformed its Supreme Court making it possible to reduce its backlog by providing it with the means of increasing its case-processing capacity. Similarly, the establishment in 2012 of administrative courts in Albania had led to a reduction in the workload of civil courts.⁶⁹

- **Origin of delays: time actually spent by judges on extra-judicial activities**

Certain Italian and other cases suggest that judges' participation in statutory extra-judicial activities, such as chairing crime prevention committees, election monitoring and so on, considerably reduces the time they can spend at hearings and handing down judgments. Statistics on judicial staffing levels may therefore be misleading regarding the effective time spent to judge.

Case-law example

There were many other reasons for delays in the *Capuano* case, but the Court also noted that "*the hearing was postponed to 24 January 1978, but did not take place until 31 January, because of a further adjournment due to municipal elections*".

Implemented national reforms:

In Slovakia, the 2003 legislation on court officials that came into force on 1 January 2004 introduced the post of principal court registrar to enable administrative staff to perform various tasks that do not require the involvement of judges.

- **Origin of delays: the systematic use of benches of judges at first instance**

The use of benches of judges, the collegial principle, in conjunction with inefficient management of judicial manpower, may be a source of delays. If a member of a bench is absent or unavailable or has been transferred, hearings may be postponed. The case-law of the Court gives pictures of this kind of delay in civil courts as well as in criminal courts. Moreover, although benches are considered to be a guarantee of impartiality and a high standard of justice, using them even for minor cases and disputes over small sums calls for a significant number of judges.

Case law examples in civil matters:

The *Bento da Mota v. Portugal* judgment of 28 June 2001 is an example. In a minor civil liability case, two hearings were deferred because of the absence of a judge of the lower court. There were further delays for other reasons and more than 3 years were lost after an expert report had been submitted.

The collegial principle had been judged to be a cause of delays in Italy.

Implemented national reforms:

In Italy, there were reforms in 1995, introducing justices of the peace, and 1999, establishing single judge courts. The jurisdiction of single judge courts of first instance was also considerably increased. The French Decree No. 98-1231 of 28 December 1998 extended the use of a single judge to civil cases.

Case law examples in criminal matters:

This applies to criminal courts in certain contracting states where a professional chair of the bench sits alongside two non-professional judges⁷⁰.

⁶⁸ S. Guinchard, *L'ambition raisonnée d'une justice apaisée*, submitted to the Minister of Justice in July 2008.

⁶⁹ 2016 Annual Report of the Committee of Ministers, p. 196.

Implemented national reforms:

The single judge in criminal matters has been established in several contracting states for small claims. Already established in France for petty offences in district courts, he is, by law 95-125 of 8 February 1995, introduced in criminal courts for some offences like those of the highway code⁷¹.

In Greece, a law which entered into force in 2014 also established the assignment of cases to a single judge in certain criminal courts.

• Origin of delays: inaction of the judicial authorities

Judicial inertia, especially the failure to take any procedural action over a certain period, is invariably deemed unacceptable by the Court unless it is properly explained by the national authorities⁷². In a Portuguese case (French only), the Court was unable to accept a period of total inactivity lasting four years and eleven months between the conciliation attempt and the preparatory decision⁷³.

Case-law examples

The *Piron v. France* case⁷⁴, revealed numerous periods of inactivity in an agricultural land consolidation case in which the allocation of parcels was challenged by the applicants. These occurred in the *Departmental Commission for Land Reorganization and Consolidation* which handed down its decision six and a half years after the administrative court judgment, and in the administrative courts themselves, particularly the *Conseil d'Etat*, which gave judgment four years after the case was referred to it.

In a Greek criminal case⁷⁵ lasting nearly eight years that went to appeal, the Court noted several periods of inactivity attributable to the national authorities. "*The Court notes that there were several periods of inactivity in the appeal proceedings before the Salonika Criminal Court of Appeal. After the applicant had filed an appeal on 18 February 1988 the case lay dormant for over one year and seven months until it was listed for the first hearing on 6 October 1989. Furthermore, after 6 October 1989, the case was relisted on four occasions: 19 April 1991, 8 February 1993, 5 December 1994 and 12 February 1996*".

In the *Lavents v. Latvia* judgment of 28 November 2002 (French only), the Court criticised the period of ten years and 28 days that elapsed between the standing down of one set of judges and the case's resumption before a new bench.

In the *Santilli* judgment of 19 February 1991, the Court found that proceedings lasting nearly six years and nine months violated Article 6§1 and criticised the lower court, which "*allowed periods to elapse that were too long and was totally inactive for nearly two years (23 June 1982 - 20 June 1984)*".

In the case of *Leandro da Silva v. Luxembourg*, decision of 11 February 2010, the Court found that even though the judge had adjusted the schedule of hearings several times, the proceedings had lasted four years at the first judicial level, which cannot be deemed compatible with the "reasonable time" requirement set out in Article 6 § 1.

In a case concerning a claim alleging medical negligence against a hospital and its insurance company which had lasted more than 14 years, the Court noted several long periods of unexplained inactivity on the part of the domestic authorities. In particular, the first hearing in the proceedings was held almost a year and nine months after the applicant instituted the proceedings. It then took a further year for another hearing to be held in the case, without any procedural activity in the meantime. In addition, the court had remained passive for more than three years in the face of the expert's failure to deliver a report despite the fact that what was at stake was of crucial importance for the applicant who had been waiting for compensation for the physical damage sustained (*Jurica v. Croatia* of 2 May 2017).

In the case of *Atanasović v. "the former Yugoslav Republic of Macedonia"*, a first-level court remained inactive for no apparent reason, allowing the proceedings to drag on for several years.

⁷⁰ Judgment *Ilijkov v. Bulgaria* of 26 July 2001.

⁷¹ Refer to p. 58 of this report in relation with accelerated criminal proceedings.

⁷² E.g. such inactivity may be explained by a request for international judicial assistance.

⁷³ *Rego Chaves Fernandes v. Portugal* judgment of 21 March 2002; See also *Condé v. Portugal* judgment of 23 March 2000.

⁷⁴ *Piron v. France* judgment of 14 November 2000 (French only).

⁷⁵ *Portington v. Greece* judgment of 23 September 1998.

Implemented national reforms:

"The former Yugoslav Republic of Macedonia" adopted a new Law on civil proceedings in September 2005. This text was mainly geared to increasing the effectiveness of civil procedure and reducing its duration. A new Law on enforcement was also passed in 2005. In addition, an automatic case information and management system was set up in all domestic courts in February 2009. All pending cases have been recorded in it since 15/09/2009, and as from 01/01/2010 the registration, monitoring and management of cases will be carried out solely by means of this system⁷⁶.

- **Origin of delays: court inactivity and the rules of evidence**

Inactivity, whether absolute or relative (for example, when audiences are spaced too far apart), often has consequences for the need to provide evidence. Parties may need to constantly update factual or financial information necessary to progress their case.

Case-law example

The *Kubiznakova v. Czech Republic* judgment of 21 June 2005 (French only) is a particularly good example. The case concerned the exercise of parental authority prior to a divorce, and the slow pace of the proceedings meant that the parties were repeatedly forced to update the information on their incomes, which in turn led to challenges from the other party.

- **Origin of the delay: systemic deficiencies in the rules of procedure**

The Court sometimes identified causes of delay intrinsically related to the national legislation and implying major reforms. This situation is characteristic of certain States of the East like Poland, Slovenia, Croatia, Ukraine, Hungary, Bulgaria where the procedural rules allowed the ceaseless re-examination of the same cases: in the judgement *Wierciszewska v. Poland* of 25 November 2003, the European Court underlines this dysfunction in these terms: "*The delay was caused mainly by the re-examination of the case. Although the Court is not in a position to analyse the juridical quality of the case law of the domestic courts, it considers that, since the remittal of cases for re-examination is usually ordered as a result of errors committed by lower courts, the repetition of such orders within one set of proceedings discloses a serious deficiency in the judicial system*"⁷⁷.

Case-law example

In the *Topallaj v. Albania* judgment of 21 April 2016, the Court noted that there was a systemic deficiency in the judicial system as the same case had been referred back on successive occasions and examined by three different courts, resulting in an unreasonable total length of proceedings of nine years and four months.

In its judgment *Floarea Pop v. Romania* of 6 April 2010 the Court found that one of the main causes of the delays in a case of administrative liability which had lasted 7 years 10 months was the lack of a legislative provision to prevent a court from repeatedly adjourning proceedings (see also judgement *Horvat v. Croatia* of 26 July 2001).

Implemented national reforms:

The measurements taken by the States concerned to cure it appear in a public document: "List of Measurements of general character adopted in order to prevent new violations of the Convention. Measurements communicated to the Committee of Ministers during its control of the execution of the judgements and the decisions under the terms of the Convention (Application of old Articles 32 and 54 and Article 46)" updated at May 2006⁷⁸.

Thus, in Croatia, the reform of the rules of civil procedure in 2003, related in particular to this problem⁷⁹.

⁷⁶ 2010 Annual Report of the Committee of Ministers, p. 135.

⁷⁷ Also following judgments : *Pavlyulynets v. Ukraine* judgment of 6 September 2005, *Carstea & Grecu v. Romania*, 15 June 2006, *Ferlic v. Slovenia*, 6 April 2006.

⁷⁸ Available on ECHR website: <http://www.ehcr.coe.int/ehcr>

⁷⁹ See the study of A. Uzelac, "Accelerating civil proceedings in Croatia – a history of attempts to improve the efficiency of civil litigation" in: C-H.Van Rhee, "The law's delay: essays in undue delay in civil litigation", Intersentia, 2004.

- **Origin of delays: Difficulties arising from the existence of administrative courts on the one hand and civil and criminal courts on the other hand**

Two sets of courts exist in a number of countries - Greece, France, Belgium and Austria for example – and are an integral part of their judicial cultures. This may sometimes lead to delays. If proceedings are under way simultaneously in both systems applicants may be unsure about which courts have jurisdiction or there may be a stay of proceedings.

Case-law example

The *Nouhaud v. France* judgment (French only) offers a clear illustration of the problems caused by this sort of arrangement, in connection with a compulsory admission to psychiatric hospital, which comes within the scope of both the administrative court (lawfulness of the prefectural order) and the regional civil court (appropriateness of the detention order). This overlapping jurisdiction led to a stay of proceedings in the civil court pending a decision of the administrative court, where proceedings lasted three and a half years in the *Conseil d'Etat* alone, a time that the Court considered to be excessive.

In the *Obermeir* case⁸⁰, the interaction between administrative and civil proceedings relating to the dismissal of disabled persons was the main cause of delays.

1. Delays occurring at the beginning and during the procedure

- **Origin of the delay: the granting or the late refusal of a request for legal aid**

In order to ensure the respect of the rights of defence, the request for legal aid which allows the designation of a lawyer and sometimes conditions the continuation of the proceedings by the applicant concerned, often delays the fixing of the first court session.

Case-law example

In the case *Mangulade Pinto v. France* of 9 April 2002, the Court criticized the length of the proceeding of a seven months period between 17 April 1997, date of the request for legal aid formed by the applicant in order to prepare the appeal in cassation, and 26 November 1997, date on which the office of legal aid refused its application.

- **Origin of delays: failure to summon parties, witnesses or defendants or unlawful summons**

This is usually a problem connected with court registries when they have the monopoly of summons, but also with maladjusted rules of procedures.

Case-law example

In its judgment *Roubies v. Greece* of 30 April 2009 concerning probate matters, the Court noted that the domestic court had taken twenty-six months to secure statements from four witnesses, which, in combination with other factors, had resulted in an excessive length of proceedings of 14 years. In another case, namely *Mincheva v. Bulgaria*, decision of 2 September 2010, the Court found that the Bulgarian authorities had been unable validly to summon a party to appear in a family litigation case.

In the *Gurban v. Turkey* judgment of 15 December 2015, the Court found that the procedural delays were in large part attributable to the failure to arrange for the attendance of the detained defendants and the failure to compel police officers to attend as witnesses (§§ 41 and 42).

In the judgment *Djangozov v. Bulgaria* of 8 October 2004, the Court noted, in the civil authorities' defence, that, in addition to the unexplained periods of inertia, two hearings had been adjourned because the defendants had not been properly summoned in a libel case where the criminal aspects took precedence over the civil issues (§39).

Similarly, in the *Vlad and others v. Romania* case of 26 November 2013, the Court found that the delay was in part attributed to the fact that the parties had not been summoned properly.

⁸⁰ *Obermeir v. Austria* judgment of 28 June 1990.

Implemented national reforms:

In 2007 Bulgaria adopted a new Code of Civil Procedure with the main aim of speeding up court proceedings. In particular, it sets out to concentrate the investigative steps at first instance and to restrict petitions at appeal and on points of law⁸¹.

In Croatia, the 2003 reform of civil proceedings has modified the rules relating to such summonses to avoid delays (Articles 66-79 of the Act of 14 July 2003)⁸².

In Sweden, in order to improve the delivery of the convocations to the court sessions, the national authorities called upon the private companies, whose services are remunerated only if the convocations are delivered successfully⁸³.

- **Origin of the delay: the time of designation of an instructing judge**

This type of delay is more serious when a case proceeds in front of several successive authorities and when designations are, with each stage, the occasion of an additional delay.

Case-law examples:

The judgement *Martial Lemoine v. France* of 29 April 2003 relates to a dispute of the joint ownership which, for four tiers of courts, lasted 7 years and 8 months; being the activity of the courts, the European judges identify only one period for which they raise an unjustified and exclusively ascribable delay in their eyes with the internal authorities: the eight month deadline during which the Supreme court of appeal was too long in appointing an legal adviser.

- **Origin of delays: late entry into force of essential implementing legislation**

The Court has criticised such delays, which can seriously disadvantage parties to proceedings. An obligation for administrative authorities to issue the necessary implementing regulations for the enforcement of laws within a “reasonable time” could be proposed.

Case-law examples:

In the *Vallée v. France* judgment of 26 April 1994, where exceptional diligence was required in view of the state of health of the applicants, who were HIV infected, one and a half years elapsed between publication of the Act of 31 December 1991 providing for compensation for victims of contaminated blood transfusions and that of the implementing decree of 12 July 1993⁸⁴.

In the case of *Počuča v. Croatia*, decision of 29 September 2006 (*inter alia*) the violation found had been largely due to a legal gap, created in 1998 by a decision of the Constitutional Court declaring the unconstitutionality of certain legislative provisions concerning pension rights, which resulted in the submission of more than 427 800 applications to the local Pension Fund’s regional offices. The legislation required to fill that legal gap was adopted in 2004 and 2005⁸⁵.

The Court also found as a reason for an excessive length of proceedings the lack of clarity and foreseeability in domestic law, even though the case itself was not particularly complex (*Lupeni Greek Catholic Parish and Others v. Romania* of 29 November 2016).

- **Origin of delays: late transmission of the case file by the lower court to the court of appeal, or delay in serving evidence**

This problem reflects malfunctioning both in the organisation of court registries and in the transmission of files.

⁸¹ 2010 Annual Report of the Committee of Ministers, p. 131.

⁸² Resolution ResDH(2005)60 concerning the judgments of the European Court of Human Rights in the case of Horvat and 9 other cases against Croatia.

⁸³ The report of the Task Force “Time management of justice systems: a Northern Europe study” (CEPEJ(2006)14).

⁸⁴ In France an executive authority which fails to introduce implementing regulations may be fined by the administrative courts until it takes the necessary steps, but such coercive fines are imposed only in cases where the introduction of regulations has already been delayed (*Conseil d’Etat* judgment of 28 July 2000, *Association France. Nature Environnement*).

⁸⁵ 2008 Annual Report of the Committee of Ministers, p. 124.

Case-law examples:

The *Martins Moreira v. Portugal* judgment offers a civil law illustration: "after the applicant had lodged an appeal on 13 October 1982, the registry of the Evora court waited until 23 June 1983 to transmit the file to the registry of the appeal court. In the intervening period, it merely verified that various pleadings were included in the file and drew up a statement of the costs and expenses relating to the first instance proceedings".

Such delays can also affect criminal proceedings and appeals on points of law, as shown by the *Bunkate v. Netherlands* judgment of 26 May 1993, in which the Court criticised the fifteen and a half months that elapsed between the applicant's appeal on points of law and the arrival of his case file in the Supreme Court (§22).

Implemented national reforms:

In the case of *Borankova v. Czech Republic*, decision of 21 May 2003, one of the causes of the delay was the dilatory transmission of certain documents. In July 2009 a new law came into force introducing electronic forwarding of documents via data mailboxes. This law is the latest in a series of reforms of civil procedure, with a new system for serving court documents, relying on the "presumption of service" and the "preparatory hearing" intended to make the proceedings more concentrated, so that the court can decide the case in a single hearing⁸⁶.

- **Origin of delays: disputes as to jurisdiction**

In the judgment *Mihalkov v. Bulgaria* of 10 April 2008, the Court noted that the principal delays occurred during the initial procedural phase regarding the question of court jurisdiction. The Court concluded that a period of three years to settle a question of jurisdiction was clearly excessive in terms of a preliminary procedural question.

Similarly, in the *Starokadomskiy v. Russia (No. 2)* case of 13 March 2014, problems of court jurisdiction were the reason for much of the delay in proceedings.

The Court reiterates that jurisdictional disputes which have a major impact on the length of proceedings are attributable to the state which has a duty to organise its judicial system in such a way as to enable its courts to comply with the requirements of the Convention (*Sorokins and Sorokina v. Latvia* of 28 May 2013).

- **Origin of the delay: the behaviour of the other actors of the lawsuit:**

- **lawyers:** it can be a question of a strike of the lawyers causing a delay in fixing the schedule for court sessions, as in the *Calvelli* case and *Ciglio v. Italy* of 17 January 2002⁸⁷: the State must limit the effects on the functioning of the courts. The Court thus rejects a government's contention that much of the delay was due to a lawyers' strike, observing that it is incumbent on Contracting States to organise their judicial systems in such a way that their courts can ensure everyone's right to obtain a final decision (judgment *Tsilira v. Greece* of 22 May 2008).

The defect of diligence of a lawyer in his/her role of representation of one of the parties causes also delay, as in the case *Intiba v. Turkey* of 24 May 2005 when the Court observes that the applicant and his lawyers largely contributed to the prolongation of the procedure (nearly 1 year of delay is ascribable to them). Sometimes, the applicant by challenging several lawyers successively, takes part in the delay: judgement *Klamecki v. Poland* of 28 March 2002.

In the *Sergey Denisov and others v. Russia* judgment of 19 April 2016, the Court found that the improper conduct of the applicants and their lawyers in court, who had failed to appear to assist their clients on numerous occasions, even though such attendance was mandatory, could not be attributed to the state (§§ 138 and 139).

⁸⁶ 2009 Annual Report of the Committee of Ministers, p. 121.

⁸⁷ See also, *Papageorgiou v. Greece*, judgment of 22 October 1997 (7 months strike).

Notaries⁸⁸: In this case, the Paris interdepartmental chamber of the notaries appointed a new notary on October 3, 1996, that is to say nearly 5 years after the judgement of 17 December 1991. “As for the absence of diligence of this notary, it was in particular underlined by the revivals of the judicial administrator” underlines the European Court (§ 41 and 42).

- non official public bodies: The municipalities (the Council of a County in the judgement *H v. the United Kingdom* of 8 July 1987), or other public organisations as the municipal social services (social office of Helsinki)⁸⁹ engage the responsibility for the State if they do not act with necessary diligence when they are asked for an opinion or intervene within the framework of legal procedures. But it returns to the courts concerned to respect the appropriate delays.

Case-law examples:

The behaviour of the social security is in question in the case *Robins v. the United Kingdom* of 23 September 1987: “the Court recalls moreover that, when they ask opinions other authorities, the courts remain responsible for the respect of the deadlines”.

The case of *Ekholm v. Finland*, decision of 24 October 2007, concerned proceedings before the administrative courts regarding an almost 16-year-old dispute between neighbours over private disturbances which had led to the refusal, for almost ten years, of the competent authorities (the southern Åland Municipal Health Board) to implement the final judicial decisions issued in response to the applicants’ complaints.

In the *Çevikel v. Turkey* case of 23 May 2017, the delay was in large part due to the committee on compensation for the victims of terrorism, placed under the authority of the prefecture, which were overwhelmed with compensation claims (§ 62).

Implemented national reforms:

In France, Law No. 2004-439 of 26 May 2004 reforming divorce procedure established a number of provisions geared to expediting notarial operations to settle rights in property arising out of the matrimonial relationship, providing for the appointment of a ministerial agent to deal with this issue from the outset of proceedings, under provisional measures, requiring the parties, on pain of inadmissibility of their divorce petition, to propose settlements of their property interests, and, lastly, enabling them to confirm their agreement at all stages in proceedings.

- **Origin of delays: reform of the legislation during the proceedings**

Reform of civil or criminal procedure when cases are already under way can lead to jurisdiction being transferred from one court to another, with time then being needed to transmit files and procedural documentation and appoint new judges, who must then familiarise themselves with the relevant cases before arranging hearings.

Case-law examples:

The *Krastanov v. Bulgaria* judgment of 30 September 2004 offers a good illustration. As the Supreme Court of Cassation no longer had jurisdiction following the reform of the civil procedure code, the Supreme Court forwarded the appeals to a newly created court of appeal. On 28 October 1997 the case was referred to the Supreme Court; the new civil procedure code came into force on 1 April 1998 and appeals were then referred to the new appeals courts; proceedings resumed in the new appeals court on 9 July 1998 and hearings took place between October 1998 and April 1999, culminating in an appeal court judgment on 5 May 1999, that is one year and seven months after the original referral to the Supreme Court. In the case of *Dimov v. Bulgaria*, decision of 8 March 2007, the Court declared that it could accept that some of the delays affecting the proceedings in question had been due to the reform of the Bulgarian judicial system, but that one of the main causes of the delay had preceded the introduction of the reform on 1 April 1998.

⁸⁸ *Dumas v. France*, judgment of 23 September 2003.

⁸⁹ *Nuutinen v. Finland* judgment of 27 June 2000: §§114 and 118.

In an Italian case⁹⁰, the procedure governing labour court disputes was introduced while the case was under way. This gave jurisdiction to the magistrate's court at first instance and the district court on appeal, but did not apply to current cases. However, the new legislation resulted in an almost four-year suspension of the proceedings before the first investigating judge.

- **Origin of delays: provisions in rules of civil or criminal procedure that can be used to impede or delay proceedings, with no safeguards**

Some civil or criminal procedural provisions may have been used by the parties to delay the progress of the case: the fact that one of the parties contested the court's jurisdiction generated an automatic suspension of the proceedings. The same applies where a party may present new evidence in criminal proceedings throughout the proceedings, without a system of foreclosure.

Implemented national reforms:

In France, following a report submitted to the Minister of Justice in 2004⁹¹, a decree No 2055-1078 of 28 December 2005 Relating to the Civil Procedure, Certain Procedures of Execution and the Procedure of Renaming envisages in Article 23 a "fixed timetable" issued by the judge, in agreement with lawyers of the parties, and in these terms: "*The timetable comprises the foreseeable number and the date of the exchanges of conclusions, the closing date, that of the debates and, notwithstanding the first and second subparagraphs of Article 450, that of the pronounced decision. (...) The time allowed in the timetable cannot be extended except in the event of serious and duly justified cause*". Furthermore, equivalent measures have been taken to regulate trial preparations by the judge in oral proceedings (applicable in many courts: district courts, industrial tribunals, commercial courts, etc.), under Decree No. 2010-1165 of 1 October 2010 governing the conditions of recourse to written procedures, also allowing for "procedural schedules".

As underlines it Mrs Professor Fricero, "the determination of a timetable becomes the guard of the reasonable time of the lawsuit, in close cooperation with the litigants"⁹².

In Belgium, the law of 26 April 2007 "amending the Judicial Code in order to combat the judicial backlog" provided for penalties for parties using proceedings for obvious delaying or abusive purposes⁹³.

- **Origin of delays: problems relating to expert witnesses**

The delays related to the intervention of one or more experts in the procedure are very common in civil, criminal and administrative proceedings and correspond to various situations:

- Delays in appointing experts owing to judicial inertia

Although in Denmark parties may propose the appointment of experts, under the Administration of Justice Act courts are not obliged to agree with them. In the aforementioned *A. and others v. Denmark* judgment, the Court criticised the Danish court for allowing the parties to negotiate for almost two years on who should be appointed as experts and what questions to ask, without ever intervening (§ 80).

- Failure by experts to comply with their terms of reference:

Such situations create difficulties and delays and lead to requests for second opinions. The Court has constantly to emphasise that although experts have full autonomy in drawing up their reports, they are still subject to the supervision of the court, which must ensure that expert appraisals are properly conducted.

Case-law example

In the *Versini v. France* judgment of 10 July 2001 (French only), the Court found that the expert had exceeded his terms of reference, which were simply to assess the damage suffered. This had led to the applicant's requesting second opinions, thus prolonging the proceedings.

⁹⁰ *Vocaturo v. Italy* judgment of 24 May 1991.

⁹¹ Report of the Mission conducted by M. Magendie: "Célérité et qualité de la justice: la gestion du temps dans le procès", Edit La Documentation française, 205 p.

⁹² *Procédure civile chronique*, Nathalie Fricero, Pierre Julien, in *Dalloz*, No. 8 p. 546.

⁹³ 2015 Annual report of the Committee of Ministers, p. 166.

- Excessive additional time given to experts to hand in their report:

In the *Pena v. Portugal* judgment of 18 December 2003 (French only), the Court pointed out that the expert's appraisal formed part of the judicial proceedings under the supervision of the court, which retained responsibility for the expeditious conduct of the case. This related to a case in which a state scientific laboratory had been required to submit its report within 60 days, that is on 19 November 1996, but had not done so until 15 May 2000, after the civil court had granted numerous extensions⁹⁴.

In a Greek case, the court of appeal ordered an expert report on 15 February 1994, but only appointed the expert on 16 September 1994. After a hearing on 21 March 1995, it decided to re-examine the case and recall the expert for further explanations, but the hearing only took place on 8 April 1997. The judgment was handed down on 28 July 1997, but not published until 22 May 1998⁹⁵.

The *Capuano* case, concerning an easement, is another good example of problems arising from expert reports. On 14 March 1978 the court gave its appointed expert sixty days to submit his report but after numerous delays this only appeared on 5 July 1979, to be followed immediately by a request from one of the parties for a private expert report.

- Failure to penalise experts who showed a lack of diligence:

Once again the European Court criticises the inertia of the courts, stressing that "an expert works in the context of judicial proceedings supervised by a judge, who remains responsible for the preparation and the speedy conduct of the trial"⁹⁶.

Case-law example

In a case concerning the civil law field, the Court had this to say about a court's lack of initiative: "*The Court observes that the two reminders to the expert issued by the judge preparing the case for trial - the first of which, moreover, came more than five months after expiry of the one-month limit given on 4 July 1980 did not have the desired effect and that the expert should therefore have been replaced*" (*Di Pede v. Italy* judgment of 26 September 1996).

The Court stigmatizes the behaviour with the court in a case where the applicant successfully requested new opinions of an expert: it underlines "*the domestic court did not have to grant additional expert opinion every time the applicant had requested it; the court itself has the authority to decide how to conduct the proceedings, and in particular, which evidence to take*" (§ 30)⁹⁷. The Court estimates that the delay taken during the period between 20 November 2001 and 7 May 2003 concerns the shared responsibility for the applicant and the court.

In a building-law case which had lasted 15 years, the Court noted that one of the reasons for this excessive length of proceedings was that an expert report ordered by the first-level court for submission within three months from the date of commissioning had taken three-and-a-half years to complete for no good reason (judgment *Raway and Wera v. Belgium* of 27 November 2007). Similarly, in the case of a settlement of bodily injury which had lasted 16 years seven months, the Court acknowledged that the case had required several expert opinions which took some time to prepare, but nevertheless condemned the total delay caused (judgment *Sürmeli v. Germany* of 8 June 2006).

In the *Jurica v. Croatia* case of 2 May 2017, involving a claim of medical negligence and compensation for the physical harm suffered by the applicant, the Court found that one of the reasons for the length of the proceedings was the civil court's passivity for three years in the face of the expert's failure to deliver his report (§ 78).

⁹⁴ See also: *Molin Insaat v. Turkey* judgment of 11 January 2005.

⁹⁵ *Tsirikakis v. Greece* judgment of 17 January 2002.

⁹⁶ *Zappia v. Italy* judgment of 26 September 1996, § 25.

⁹⁷ *Arrêt Sundov v. Croatia*, of 13 April 2006.

National reforms

In September 2010, the Code of Civil Procedure of “the Former Yugoslav Republic of Macedonia” was amended to increase efficiency of civil proceedings, in particular setting tight deadlines, eliminating multiple remittals, limiting the time required for production of expert opinions and service of documents, and enabling the parties to civil proceedings to resort to mediation⁹⁸.

In 2010 and 2015, Slovenia adopted rules specifying the diligent and timely way experts must carry out their tasks⁹⁹.

- Difficulties in obtaining medical reports (criminal procedure)

These are cases in which forensic medical establishments that are normally responsible for carrying out medical examinations in legal proceedings are unable to supply an expert within the time laid down (*Martins Moreira v. Portugal* judgment of 26 October 1988).

National reforms:

Reforms were brought to the Portuguese forensic medicine institutes to make of them auxiliaries adapted to an effective administration of justice. Following the Order in Council No. 169/83 of 30 April 1983 and ministerial decree No 316/87 of 16 April 1987, they were equipped with essential human and material resources. Moreover, pursuant to the Order in Council No. 387-C/87 of 29 December 1987, the reforms were carried out on the level of the organization of the institutes in order to make them ready to answer quickly the requests which are presented to them¹⁰⁰.

- **Origin of delays: Numerous adjournments of hearings, either of the court's own motion or at the parties' request, and excessive intervals between hearings.**

Such delays reflect civil courts' failure to control the proceedings.

Case-law examples:

In the *Baraona* judgment¹⁰¹, the Court said although domestic legislation allowed state counsel to seek an extension of time the state might still be held responsible for any resultant delays.

In the *Vaz Da Silva Girao v. Portugal* judgment of 21 March 2002 (§12) (French only), the Court noted a *sine die adjournment of hearings*.

In the *Martins Moreira v. Portugal* judgment of 26 October 1988, the Court emphasized that although Article 264 of the Portuguese Code of Civil Procedure made parties responsible for taking the initiative with regard to the progress of proceedings, Article 266 required courts to take all appropriate steps to remove obstacles to the rapid conduct of cases. It also drew attention to Article 68 of the Road Traffic Code, which required the applicant's case to be heard under the summary procedure, which in turn involved a reduction in certain time limits.

In a dispute between the applicant and a health insurance office, the Court criticised the court of appeal for not hearing the case sooner: "*in the Rouen Court of Appeal, the case was adjourned to a second hearing that was held nearly eleven months after the first although, whatever the reason for this adjournment, none of the evidence in the case file justified such a delay*"¹⁰².

In the case of *Günseli and Yayik v. Turkey*, decision of 21 February 2008, the Court found that one of the main causes of the excessive length of proceedings was the unnecessary and unexplained postponement of several criminal hearings.

⁹⁸ 2016 Annual report of the Committee of Ministers.

⁹⁹ 2016 Annual report of the Committee of Ministers.

¹⁰⁰ Source: List of General measures adopted to prevent new violations of the European Convention on Human Rights. Stock-taking of measures reported to the Committee of Ministers in its control of the execution of judgments and decisions under the Convention (updated May 2006, p. 155).

¹⁰¹ *Baraona v. Portugal* judgment of 8 July 1987.

¹⁰² *Duclos v. France* judgment of 17 December 1996.

In the *A. and others v. Denmark* judgment of 8 February 1996, the Court stated that "*the applicants contributed significantly to the length of the proceedings. It is also mindful of the fact that the proceedings in issue were not inquisitorial but were subject to the principle that it was for the parties to take the initiative with regard to their progress*". However, it also criticised the High Court, before which the case had already been pending for approximately two years, for granting all of the parties' numerous requests for adjournments, "*hardly ever using its powers to require them to specify their claims, clarify their arguments, adduce relevant evidence or decide on who should be appointed as experts*" (§80). Yet in Denmark, it is for the court to decide when to close the preliminary oral or written stage of the proceedings, intended to establish the facts and the legal issues of the case, to ensure that the case is elucidated in the best possible way and to identify the subject-matter of the dispute. Once the preparation of the case has been completed the parties may not make new submissions or adduce new evidence unless they satisfy certain restrictive conditions.

In a more recent case, the Court regretted that "*more than 2 years had passed between the second and third hearings held by the municipal court*"¹⁰³.

Adjournments of hearings were held to be even more detrimental in a case where a procedural objection that had been presented three years earlier was finally accepted by the court, thus nullifying all the preceding stages of the proceedings (*Ferreira Alves v. Portugal* (n°2) judgment of 4 December 2003).

- **Origin of delays: judicial errors of law**

"*An error of law made by a judge can lead to an appeal and thus extend the length of proceedings. If this in itself were to give rise to a violation of the right to a hearing "within a reasonable time"*¹⁰⁴, *that would be tantamount to acknowledging that there is a right to court decisions free of error.*" The Court is not totally convinced by this argument and considers that an error imputable to a court might justify a violation finding, but only in combination with other factors.

In the above-mentioned judgment *Rashid v. Bulgaria* of 5 June 2008, the Court stressed that the delay had stemmed primarily from a series of referrals of the case by the higher courts back to the first-level court and to the preliminary investigations stage, owing to breaches of procedural rules (particularly unlawful summons of witnesses).

In the *Lupeni Greek Catholic Parish and Others v. Romania* case of 29 November 2016, the Court pointed out that while it was not its function to analyse the manner in which the national courts had interpreted and applied the domestic law, it nonetheless considered that judgments quashing previous findings and remitting the case were usually due to errors committed by the lower courts and that the repetition of such judgments might point to a shortcoming in the justice system (see also *Vlad and others v. Romania*, cited above).

In the *Borobar and others v. Romania* case of 29 January 2013, the Court also found that the delays had mainly been caused by the repeated remittal of cases for re-examination by the lower courts.

An excessive length of proceedings may also be a result of a failure by the lower courts to comply with the instructions of the Supreme Court (for example, *Kaçiu and Kotorri v. Albania* of 25 June 2013, § 154).

- **Origin of delays: various types of court negligence**

Another prevalent cause of delays in proceedings is negligence on the part of the judicial authorities, including the loss of case-files.

In the (aforementioned) case of *Pokhalchuk v. Ukraine*, decision of 7 October 2010, for instance, the Court recalled that the loss of the applicant's file represented negligence entirely attributable to the authorities and could in no way be deemed an objective fact requiring the Court to reduce its estimation of the length of proceedings (see also *Karov v. Bulgaria*, decision of 16 November 2006).

¹⁰³ *Volesky v. Czech Republic* judgment of 29 June 2004, §105.

¹⁰⁴ *Bock v. Germany* judgment, 23 March 1989.

2. Delays occurring after the procedure

- **Origin of delays: excessive lapse of time between the handing down of judgment and its notification to the court registry or to the parties**

In certain countries, several months may elapse between the handing down of judgment and its notification to the party responsible for executing it. The problem often lies in the court registry or the inadequacy of its information technology facilities, while sometimes judgments are not notified because of a shortage of court officials.

Close attention therefore needs to be paid to the role of such court official in considering the causes of delays.

Case-law example

"Finally, it is difficult to understand why the judgment was not notified in writing to the parties until two months after its delivery" (*Buchholz v. Germany* judgment of 6 May 1981).

In the *Çevikel v. Turkey* case of 23 May 2017, the Court held that the five months that it took for a Supreme Court decision to be notified was excessive.

Implemented national reforms:

In France, "contracts of objectives" have been agreed in certain pilot appeal courts (some administrative appeal courts). In exchange for additional staff and other resources, they undertake to make significant reductions in the time taken to hand down and implement judgments¹⁰⁵.

In Austria, information technology is being introduced to manage the flow of cases and monitor their progress¹⁰⁶.

C. Causes of delay specific to certain types of proceedings

1. Civil proceedings

Courts' failure to use the powers or discretion granted by the rules of procedure

- **Origin of delays: Judicial inertia in producing evidence**

These are cases where the civil courts are insufficiently active when the rules of procedure allow them to be.

Case-law example

In the aforementioned *Kubiznakova* judgment (French only), the Court accepted the applicant's argument that the reason she had had to present evidence, often repeatedly, was because the court had failed in its obligation to secure evidence of its own motion, as it was required to do in this type of case.

- **Origin of delays: Failure of courts to check that summonses to appear are properly drawn up, when the code of civil procedure places this responsibility on them.**

Case-law examples:

The *Capuano v. Italy* judgment of 11 November 1994 offers one of many examples. Reference may also be made to the *Serrentino v. Italy* judgment of 27 February 1992, §18 and, *mutatis mutandis*, the *Cifola* judgment of 27 February 1992, § 16.

¹⁰⁵ Resolution ResDH(2005)63 of 18 July 2005 concerning the judgments of the European Court of Human Rights in 58 cases against France (see Appendix to this Resolution) with respect to excessive length of certain proceedings concerning civil rights and obligations or the determination of criminal charges before the administrative courts. See also 2008 Annual Report of the Committee of Ministers, p.88.

¹⁰⁶ Final Resolution ResDH (2004) 77 on the *G.S v. Austria* case.

- **Origin of delays: Cases where civil procedure prevents the examination of new grounds on appeal**

The fact that civil procedure prevents the examination of new grounds on appeal, which means that lower courts must show special vigilance, cannot justify excessive length of proceedings at first instance.

Case-law example

In the *Lechner and Hess* case¹⁰⁷, the Government relied on the fact that civil proceedings in Austria were founded on the principle that new matters could not be raised on appeal (*Neuerungsverbot*) to justify granting the trial court extra time to reach a decision, since the higher court was restricted to reviewing the impugned decision on the basis of the material before the court below. The judgment stated: "*Without minimising the relevance of this factor, the Court does not believe it to be of such weight as to absolve the lower court from having to comply with the requirements of Article 6 para. 1 (art. 6-1) regarding the conduct and expeditiousness of trial*".

- **Origin of delays: Civil procedure does not allow courts to rectify parties' failure to conduct proceedings at a reasonable rate**

In connection with accusatorial proceedings, the Court often states that although under the Civil Proceedings Code in question it is for the parties to take the initiative with regard to progress, this does not absolve the courts from ensuring compliance with the requirement of Article 6 concerning reasonable time.

Case-law examples:

The above comment occurs in the following judgments: *Capuano v. Italy* of 25 June 1987, §§ 24 and 25, *Martins Moreira v. Portugal* of 26 October 1988, § 46, *Vernillo v. France* of 20 February 1991, and *Proszak v. Poland* of 16 December 1997.

More recently, in the *Tsirikakis v. Greece* judgment of 17 January 2002 (French only)¹⁰⁸, the Court found that even though the proceedings were governed by the initiative of the parties principle, the reasonable time requirement also required courts to scrutinise the conduct of the proceedings and exercise great care in granting adjournments or requests to hear witnesses and ensuring that necessary expert reports were submitted on time.

It has emerged from several cases that domestic law does not give courts power to intervene to expedite proceedings: "*the Government point out that in the civil proceedings the courts are limited in their activity as they may not take procedural steps on their own initiative but mostly according to the requests of the parties*" (*Fütterer v. Croatia* judgment of 20 December 2001).

In certain cases, the Court implicitly invites national authorities to amend their legislation to offer courts the necessary powers to order recalcitrant parties to expedite proceedings: "*As to the Government's contention that the first-instance court was impeded in progressing with the proceedings because the defendant did not comply with the court's orders to attend the hearings and the DNA tests, the Court reiterates that it is for Contracting States to organise their legal systems in such a way that their courts can guarantee the right of everyone to obtain a final decision on disputes relating to civil rights and obligations within a reasonable time*"¹⁰⁹.

For this reason, it is advisable to note, the Danish practice of the schedule for the court sessions: this practice appeared obviously effective in several cases submitted to the Court which did not note any idle period in the litigations and allowed it to conclude to a non-violation.

¹⁰⁷ *Lechner and Hess v. Austria* judgment of 23 April 1987.

¹⁰⁸ Violation of Article 6§1 for proceedings lasting thirteen years and three months in a complex case of expropriation with an appeal on points of law still pending (three levels of court).

¹⁰⁹ *Mitkulic v. Croatia* judgment of 7 February 2002.

Case-law examples:

The *Ciricosta and Viola v. Italy* judgment of 4 December 1995 (§30) noted that the "*principio dispositivo*", to which civil proceedings in Italy were subject, made the parties responsible for taking the initiative with regard to the progress of the proceedings. It criticised the parties' abuse of this facility and added that it did not dispense the courts from ensuring compliance with the requirements of Article 6.

In the (aforementioned) case of *McFarlane v. Ireland*, decision of 10 September 2010, the Court observed that while domestic law required the parties to civil proceedings to take the initiative to in moving the proceedings forward, this did not dispense the State from its obligation to organise its system in such a way as to process cases within a reasonable period of time. If a State allows proceedings to continue beyond a "reasonable time" without doing anything to advance them, it will be responsible for the resultant delay.

National reforms

Certain states that use the inquisitorial approach have reformed their civil procedures after Court findings of excessive length of proceedings. For example, in legislation that came into force on 1 January 2002, Slovakia replaced the inquisitorial with the accusatory principle. The burden of proof now lies exclusively with the parties, who in principle can only adduce evidence and facts at first instance¹¹⁰.

The 1990 reform of the Italian civil procedure, modified in 1995, aimed to improve the conduct of proceedings by introducing a system of time-limits, which required parties to present their evidence at the second hearing, and a new judicial body, in the form of justices of the peace, to enable full judges to concentrate on more important cases.

In 1973, the Italian authorities introduced a reform establishing a special procedure for employment and labour disputes, for which the Court requires particular diligence, while in 1990 it approved emergency measures to expedite the conduct of proceedings of this sort (see, most recently the *Lestini v. Italy* judgment of 26 February 1992, § 18).

Croatia reformed its civil procedure in legislation of 14 July 2003, which replaced inquisitorial with adversarial proceedings in civil cases. As a result, only the parties to the proceedings are required to establish the facts, and then only at first instance. It is therefore no longer possible to have court decisions quashed and cases referred back for re-examination because courts have failed to establish certain facts on their own initiative (articles 7 and 195)¹¹¹. New pecuniary penalties were foreseen for the parties who misuse their procedural rights and thus cause unjustified delays in the procedures (Articles 4, 56 and 84). Moreover, the possibility for the representative of the public prosecution of asking for the revision of final decisions of the court within the framework of an extraordinary procedure was repealed by Article 239 of the law of 14 July 2003¹¹².

The Hungarian system has also changed. Judges are no longer required to instruct the parties about their rights; measures designed to delay proceedings may now be sanctioned; since 1995, evidence has had to be presented at the same time as requests; deadlines may only be extended once by the courts and never by more than 45 days; and alternative means of settling disputes, such as mediation and arbitration, have been introduced.

These reforms also relate to adversarial proceedings in which the passive role of the judge may also cause delays. In his report "*Access to Justice*"¹¹³, Lord Woolf has criticised the often excessive length of civil proceedings in the United Kingdom and their disorganised nature. The overriding objectives of the 1999 reform of civil procedure that followed his report's proposals included the more rapid resolution of cases. This reform involved introducing three types of procedures depending on the importance of the dispute (one procedure for minor claims not exceeding £5 000; a speedy procedure for claims not exceeding £25 000; and the normal procedure for larger sums), publication of clear rules set out in a code of civil procedure (Civil Procedure Rules), comprising guiding principles on civil proceedings aiming at proportionality, speed and fairness of procedures, the involvement of the judge, who must actively prepare court cases, the preliminary

¹¹⁰ Source: List of General measures adopted to prevent new violations of the European Convention on Human Rights. Stock-taking of measures reported to the Committee of Ministers in its control of the execution of judgments and decisions under the Convention (Application of former Articles 32 and 54 and of Article 46), up-dated in December 2005.

¹¹¹ Resolution ResDH(2005)60 concerning the judgments of the European Court of Human Rights in the case of *Horvat* and 9 other cases against Croatia (see appendix I) adopted on 18 July 2005.

¹¹² Resolution ResDH(2005)60 idem.

¹¹³ *Access To Justice - Interim Report to the Lord Chancellor on the civil justice system in England and Wales*, June 1995.

phase to be observed before bringing proceedings in specified matters, and sanctions on parties for non-compliance with the rules¹¹⁴. These reforms have not had the desired effects and Lord Jackson submitted a fresh report to the British Government in January 2010¹¹⁵.

2. *Criminal proceedings*

- **Origin of delays: structural problems relating to the organisation of the prosecution service**

In certain cases, such organisational problems lead to an accumulation of delays and procedural errors.

Case-law examples:

In the *Mitev v. Bulgaria* judgment of 22 December 2004, the Court criticised the numerous referrals of the case back to the investigation stage over two years to correct procedural errors. The case of *Kitov v. Bulgaria*, decision of 3 July 2003, concerned protracted periods of inertia during criminal investigations owing to negligence and disagreements between the investigators and the prosecutor (§ 72).

Implemented national reforms:

Bulgaria brought in a new Code of Criminal Procedure on 29 April 2006, under the overall reform of the Bulgarian criminal justice system geared to expediting criminal procedures. It explicitly requires the courts and investigatory bodies to deal with criminal cases within a reasonable time (the provisions stipulate, in particular, short timescales for consideration of a case and for adjournment of hearings, and the wider use of simplified procedures)¹¹⁶.

- **Origin of delays: periods of the investigation stage where little or no progress is made in the proceedings or in inquiries**

The Court criticises inactivity, even in the investigation phase.

One of the problems is that of dormant cases, because no regular checks are carried out to identify cases no longer being dealt with actively by investigating judges.

Case-law examples:

In the *Nuvoli v. Italy* judgment of 16 May 2002 (French only), the Court found that more than one year and five months elapsed after the search of the applicant's premises before an application was made to bring the case to court.

In the *Mutimura v. France* judgment of 8 June 2004 (French only), the Court acknowledged that the case was slightly complex but still criticised the dilatory nature of the investigation and the fact that international requests for judicial assistance were issued more than five years after the state prosecutor's initial indictment. It found that there had been a violation of Article 6§1 in a case whose investigation had lasted nine years and was still under way when the Court delivered its judgment. The case concerned criminal complaints alleging that a Rwandan clergyman residing in France had taken part in acts of genocide in Rwanda.

In a set of criminal proceedings which had lasted 12 years, the Court found that much of the length of the proceedings had been caused by several periods of inactivity during the investigation (*J.R. v. Belgium* of 24 January 2017).

Implemented national reforms:

Several countries have introduced deadlines to expedite criminal proceedings.

¹¹⁴ Concerning these reforms and an appraisal in their respect, see M. Haravon, "Dix années de réforme de la procédure civile anglaise: révolte ou révolution", R.I.D.C., No. 4-2004, p. 825; "Quel procès civil en 2010? Regard comparé sur l'accès à la justice civile en Angleterre, aux Etats-Unis et en France", R.I.D.C., No. 4-2010.

¹¹⁵ Review of Litigation Costs, Final Report (December 2009).

¹¹⁶ 2010 Annual Report of the Committee of Ministers, p. 131, and 2007 Annual Report of the Committee of Ministers, p. 80.

The new Italian Code of Criminal Procedure that came into force on 24 October 1989 established deadlines for prosecutors or investigating judges and provided for more rapid criminal proceedings. Direct judgments are used for cases where the offender was apprehended in the act and immediate judgments where the prosecuting authorities consider the evidence to be irrefutable.

Similarly, on 28 April 2003 Spain introduced rapid criminal proceedings with limited deadlines for various stages: 72 hours each for the judicial police inquiries and for the duty investigating judge to investigate the case and start the oral proceedings, with the prosecuting authorities presenting their indictment as soon as the oral stage has started. The aim is to secure a verdict no later than one and a half months after the suspect's arrest, particularly in cases, such as marital violence and burglary, with a high social impact.

In Germany, accelerated proceedings are used for cases carrying a sentence of no more than one year's imprisonment. Hearings must take place no more than six weeks after the prosecuting authorities have requested the relevant court to order the accelerated procedure.

Since its 1998 reform of the Criminal Procedure Code, Portugal has operated an abridged procedure similar to the accelerated one in Germany.

In France, 75% of cases, compared with 45% ten years ago, are subject to rapid referral to the criminal court, either by the investigating judge or by direct summons, without a preliminary investigation. These developments have helped to expedite proceedings, with 75% of persons concerned now appearing before the courts within a period of two days to four months¹¹⁷.

In Austria, by virtue of Section 108a of the Code of Criminal Procedure, which entered into force on 1 January 2015, the duration of the investigation procedure (counting from the first investigation against an accused which interrupts the criminal limitation period) must not exceed a period of three years. If the investigation procedure cannot be completed within this time, the Public Prosecutor is obliged *ex officio* to report to the competent court on the reasons for the delay. If there are no legal grounds for closing the proceedings, the court will prolong the period for two more years and, considering all the aspects of the case, decide whether the Public Prosecutor is responsible for the delay. If the investigation procedure is not completed within the following two years, the Public Prosecutor is obliged to inform the court and the court will once again proceed as mentioned above.

- **Origin of delays: too long a period before or between hearings**

The state is responsible for delays in hearing cases once the investigations are complete.

Case-law examples:

In the *Mattoccia* case¹¹⁸, three years and seven months elapsed between the applicant's committal for trial and the first hearing before the trial court.

The Court also criticised the fact that more than a year passed between the lodging of the appeal and the first hearing in the appeal court in the *Hamanov v. Bulgaria* and *Belchev v. Bulgaria* judgments of 8 April 2004.

On the other hand, in a Polish case that lasted five years and eight months, the Court's non-violation finding can be explained not only by the complexity of this international drug smuggling case but also by the numerous steps taken by the court to expedite proceedings¹¹⁹.

In particular, it noted the court's refusal to grant a motion lodged by one of the accused at the first hearing to have the case returned to the prosecution to allow investigations to be completed, the decision to separate consideration of the applicant's case from that of two absent co-accused and several refusals of requests by the applicant that would have extended the proceedings. Although several hearings were adjourned, these were imputable to the accused or to absent witnesses. None could be imputed to the court's failure to expedite the proceedings¹²⁰.

¹¹⁷ Information report no. 17 of the French Senate of 12 October 2005 on accelerated criminal proceedings by Senator François Zocchetto, and Survey of comparative legislation No 146-May 2005 - accelerated criminal proceedings - See website: <http://www.senat.fr>

¹¹⁸ *Mattoccia v. Italy* judgment of 25 July 2000.

¹¹⁹ *Salapa v. Poland* judgment of 19 December 2002.

¹²⁰ *Idem*.

- **Origin of delays: whether or not to join criminal cases**

The Court sometimes has to rule on courts' decisions on whether to join related cases, particularly complex criminal cases with several co-accused. It has to decide whether such decisions are consistent with the reasonable time requirement, while also bearing in mind the importance of the proper administration of justice, which may require an alternative approach.

Case-law examples:

In the *Wejrup v. Denmark* decision of 7 March 2002, which concerned international fraud and misleading accounting, the applicant maintained that the proceedings were unnecessarily prolonged due to the consolidation of his trial with that of the co-accused, and that various considerations did not concern him. Nevertheless, the Court approved the prosecution's decision to join the cases against the defendants, the aim being to reduce court costs, and described it as "undoubtedly appropriate"¹²¹.

However, the Court has to strike a balance between separating proceedings in the interests of speed and the proper administration of justice. In the case of *Absandze v. Georgia* of 15 October 2002 (inadmissibility decision – French only), the Court made it clear that separating the applicant's case from that of the other accused would have probably expedited the proceedings but that there was nothing to indicate that such a separation would have been compatible with the proper administration of justice¹²².

In the *Krivoshay v. Ukraine* case of 23 June 2016, the various decisions to join and disjoin the case led to unjustified delays in the proceedings (see also *Vlad and others v. Romania*, cited above).

- **Origin of delays: Failure of witnesses to attend hearings, causing repeated adjournments**

Regarding the importance of evidences in criminal proceedings, delays linked to failure of witnesses or their repeated failures is source of worrying delay.

When national criminal codes authorise courts to fine witnesses who have been duly summoned and then fail to attend without good cause, or even to have them brought in by the police, the Court criticises courts that fail to use these powers to expedite proceedings.

Case-law examples:

In the *łowiecki v. Poland* judgment of 4 October 2001, concerning international criminal fraud, the Court criticised the adjournment of hearings over a period of a year because witnesses were not present. The proceedings had lasted seven years, ten months and seven days and were still pending when the Court ruled. Of this period, two years and ten months were imputable to the authorities, which were in violation of Article 6§1.

Reference should also be made to the *Trzaska v. Poland* judgment of 11 July 2000, § 90, and the *Kusmierek v. Poland* judgment of 21 December 2004, in which the Court found Poland to be in breach of the Convention in a defamation case that had lasted nine years and six months (of which only eight years and four months came within the Court's temporal jurisdiction). In the *Kuibichev v. Bulgaria* judgment of 30 September 2004, the Court raises the issue of the ascribable delays to the Bulgarian courts, in particular those holding with the absence of the witnesses and the insufficiency of the measurements taken by the authorities to ensure itself of their presence at the court session.

The (aforementioned) case of *Stefanova v. Bulgaria*, decision of 11 January 2007, illustrates a combination of causes: belated hearings, unlawful summons procedure and successive and repetitive adjournments of hearings.

- **Effects of delays in criminal proceedings on civil proceedings**

When criminal proceedings drag on, this can also prevent or hinder progress in the civil courts.

¹²¹ See also: *Salapa v. Poland* judgment of 19 December 2002 (for a disjunction also considered appropriate by the European Court), *Absandze v. Georgia* of 15 October 2002 (inadmissibility decision where the Court admits that a disjunction would not have been in accordance with the proper administration of justice, even if it could have accelerated the procedure). However, by examining the case *a posteriori*, it benefits from an overview of the case that was not always available to national judges at the time they took their decision.

¹²² See also the *Neumeister v. Austria* judgment, *idem*, §21.

Case-law examples:

In the *Motta* judgment of 12 February 1991, where a civil dispute between a doctor and the social security authorities led to criminal proceedings against the applicant for fraud, the Court found that the criminal proceedings had been too slow and added that "*the civil proceedings were prevented from pursuing their course by the slowness of the criminal proceedings*". The *Djangozov v. Bulgaria* judgment of 8 July 2004 offers a more recent illustration.

- **Cause of delay: shortcomings by the prosecution authorities regarding the production of evidence**

In the *Vlad and others v. Romania* case of 26 November 2013, the Court held that part of the delay was caused by the repeated remittal of the case to the prosecution authorities for further investigations.

3. **Administrative proceedings**

- **Origin of delays: delays attributable to non-judicial authorities**

Delays caused by the conduct of ministers or their representatives or public health establishments, in cases that must first be referred to the relevant authorities, are imputable to the contracting state. In the *Schouten and Meldrum v. the Netherlands* case of 9 December 1994, the applicant had had to wait twenty months for a decision from a professional association before he could lodge an appeal.

Case-law examples:

The French cases concerning haemophiliacs contaminated by the HIV virus during blood transfusions offer a good illustration of this problem. In the *Vallée* case of 12 December 1989, the applicant submitted a preliminary claim for compensation to the Minister for Solidarity, Health and Social Protection, in accordance with Article R.102 of the Administrative Courts and Administrative Courts of Appeal Code. On 30 March 1990, shortly before the expiry of the statutory four-month time-limit, the Director-General for Health rejected the applicant's claim. In the more recent *Kritt* case¹²³, the Court criticised the Paris public hospitals authority (AP-HP), stating that when a public law institution was party to proceedings, delays resulting from its conduct were imputable to the "authorities" as defined in established case-law. This had therefore been the case with the delays imputable to the AP-HP. Rather than explicitly rejecting the applicants' preliminary claim, the AP-HP had remained silent, which meant that they had had to wait four months before they could apply to the administrative court. The AP-HP had also taken six months to submit its observations to the administrative court. The Court also criticised the administrative court's conduct. It had waited until 16 February 1999 before issuing directions to the AP-HP, and the court-appointed expert had taken eleven months to produce his report.

In a Spanish case, the Court observed that the *Audiencia Nacional* had had to ask the authorities several times to send the relevant files, thus showing a lack of diligence on the latter's part. It had only supplied the documentation four years and six months after the first request¹²⁴.

In the *Clinique Mozart SARL* case¹²⁵, the tax authorities were deemed to be responsible for a two year and nine months' delay in the proceedings because of the late submission of their defence pleadings.

Implemented national reforms:

In disputes concerning social security contributions where a professional association does not reach a decision in a reasonable time or refuses to do so, the Netherlands general administrative code that came into force on 1 January 1994 authorises citizens to lodge an immediate appeal directly with the court (Re. the French reform of administrative justice, see Part 2, II. B. below).

¹²³ *Kritt v. France* judgment of 19 March 2002 (French only).

¹²⁴ *Alberto Sanchez v. Spain* judgment of 16 November 2004.

¹²⁵ *Clinique Mozart SARL v. France* judgment of 8 June 2004.

D. The main reforms introduced by member states to comply with the reasonable time to conduct proceedings with due speed

The following reforms were introduced by member states over the period 2012-2017 to end the excessive length of proceedings due to structural causes:¹²⁶

- Increase of resources allocated to the justice system, increase in the number of judges, prosecutors and judicial staff
- Creation of additional first and second level courts (primarily for administrative disputes)
- Recourse to alternative forms of settling disputes
- Clarification of rules relating to jurisdiction
- Creation of a profession (bailiff or other) having exclusive responsibility for enforcement
- Restrictions introduced on the possibility of referring matters to courts of appeal and courts of cassation, introduction of procedures to filter appeals to those courts, along with more restrictive admissibility criteria, creation of panels and streamlined procedures for immediate rejection of inadmissible or manifestly ill-founded appeals
- Use by Supreme Courts of "pilot judgment" type procedures
- Judicial Services Commissions or Supreme Courts having jurisdiction to monitor the performance of courts and determine the measures to be adopted to ensure the efficiency of the courts on a case-by-case basis
- Paperless judicial proceedings, notification procedures, summonses and enforcement procedures, introduced by computerised case-management systems¹²⁷
- Reducing certain serious offences to lesser ones, and lesser offences to petty ones
- Increasing the number of single-judge proceedings
- Shift from oral to written proceedings
- Initial and in-service training of judges and prosecutors
- Specialisation of the formations of the courts (especially in areas of family law)

¹²⁶ Reference is made here to the reforms noted by the Committee of Ministers in its annual reports for the years 2012 to 2016.

¹²⁷ Reference is made here to the reforms introduced in Estonia in 2011 which launched a Court Information System, providing for electronic case-management and the automatic initial distribution of cases between judges, based on such factors as the judges' specialisation and workload, complexity of cases, etc.

I. Domestic remedies to reduce the length of proceedings or ensure compensation for victims

A. Directives of the European Court

Following the aforementioned *Kudła* judgment, states were obliged to put in place effective domestic remedies in order to prevent or compensate for excessively long proceedings and not lay themselves open to a finding of a violation on two counts – Article 6 § 1 and Article 13 of the Convention (see Part 1, I, above).

States have been granted a margin of discretion in choosing which remedy to introduce in order to comply with the requirements of Article 13 of the Convention. As mentioned above, the *Kudła* judgment offered a choice between a remedy geared to speeding up proceedings and one intended to redress the consequences; the Court, however, regularly states in this connection that “*the ideal solution is prevention*” (e.g., *Michelioudakis v. Greece* of 3 April 2012). Moreover, all the remedies provided under domestic law may meet the requirements of Article 13, even if none of them is sufficient on its own (*Kudła*, § 157). Some states have opted for combining two types of remedy, one to expedite proceedings and the other to provide compensation (e.g. the *Missenjov v. Estonia* judgment of 29 April 2009, § 44).

States have, for example, introduced a wide range of remedies to expedite proceedings or compensate for the consequences of delays¹²⁸.

It is gradually becoming clear that the alternative offered by the European Court of Human Rights itself has a number of disadvantages: by allowing countries to choose between compensation for damage suffered from over-lengthy proceedings and the possibility of expediting proceedings, the Court has created the possibility of new cases.

In recent years, the Court’s case-law has primarily focused on the effectiveness conditions to be satisfied by the domestic remedies put in place by states.

The Court’s directives have for the most part been set out in the so-called pilot judgments – based on Article 46 of the Convention – finding a violation of the Convention deriving from a structural problem and specifying both the general measures to be taken by the state concerned to solve the underlying problem and the various types of effective domestic remedies¹²⁹.

For example, in its *Glykantzi v. Greece* pilot judgment of 30 October 2012, the Court identified a structural problem relating to civil proceedings in Greece, following on from two pilot judgments already delivered against that country: *Vassilios Athanasiou and others* of 21 December 2010 relating to administrative proceedings and *Michelioudakis v. Greece* of 3 April 2012 relating to criminal proceedings. Concerning the measures to be taken and drawing on its case-law, the Court provided a number of specific pointers as to the features that should be inherent in domestic remedies relating to expediting proceedings or compensation so as to satisfy the effectiveness requirement. The Court noted, for example, that a significant number of member states had put in place procedures that were, to varying degrees, simpler than the ordinary court procedures. For example, the examination of a complaint by a single judge, written procedures, lower advances on court costs and dispensing with a public hearing were all measures that could, if appropriate, be implemented in order to facilitate the handling of the above-mentioned complaints and avoid overloading the courts’ workload, which could lead to additional delays in judicial proceedings.

In certain cases, the Court has clearly described, sometimes in great detail, the type of measure which it considers appropriate for compensating violations of the right to be heard within a reasonable time in the case in question. In the *Yakışan v. Turkey* case, decision of 6 March 2007, on the length of criminal proceedings (almost 13 years, and still pending when the judgment was adopted) and the length of detention on remand (11 years 7 months, still continuing when the judgment was adopted), the Court found a violation of Articles 5§3 and 6§1, and inserted a special clause in the context of the application of Article 41, to the

¹²⁸ See the Venice Commission report, doc. CDL-AD(2006)036rev, §§ 69-87: [http://www.venice.coe.int/webforms/documents/CDL-AD\(2006\)036rev.aspx](http://www.venice.coe.int/webforms/documents/CDL-AD(2006)036rev.aspx)

¹²⁹ See e.g. Grand Chamber judgments *Broniowski v. Poland* of 22 June 2004, *Bourdov v. Russia* (No. 2) of 15 January 2009, *Ivanov v. Ukraine* of 15 October 2009, and the above-mentioned Italian cases giving rise to several Grand Chamber judgments on 29 March 2006 (see Part 1. A. above.). For a comprehensive study of this question, see the Venice Commission report, European Commission for Democracy through Law (Venice Commission) “Preliminary Draft Report on National Remedies in respect of excessive length of proceedings”, of 4 March 2005.

effect that it considered that an appropriate means of resolving the violation found would be to terminate the proceedings as quickly as possible, taking account of the requirements of the proper administration of justice, or to release the applicant during the proceedings, as provided for by Article 5 § 3.

In the case of *De Clerck v. Belgium*, decision of 25 September 2007, however, the Court placed restrictions on this approach. In this case, relying on Article 46 of the Convention, the applicants had asked the Court to order the immediate discontinuation of the prosecution against them on the grounds that the requirement of reasonable length of criminal investigatory proceedings had been exceeded. The Court rejected the application, pointing out that it could not order independent judicial authorities to halt a criminal prosecution that had been lawfully initiated.

In this way, the Court has developed a relatively precise case-law on the conditions to be satisfied by domestic remedies – their aim should be either to compensate the victim for excessively long proceedings or to prevent an excessive length by making provision for the proceedings to be speeded up.

1. Actions for compensation

Since the aforementioned *Kudła* judgment and *Mifsud* decision, the Court has accepted that compensatory remedies could constitute an effective remedy within the meaning of Articles 13 and 35 § 1 of the Convention. However, it has felt it necessary to stipulate that this remedy must itself meet the reasonable time requirement. In addition, the Court is stricter in appraising the effectiveness of such a remedy. It established its case-law in this regard in its Grand Chamber judgment in the *Scordino (No. 1)* case of 29 March 2006 (§§ 173-216). To be effective, a remedy must be accessible and offer adequate compensation (*Scordino*, § 195).

The Court accordingly verifies the effectiveness of compensation on the basis of a number of criteria which it summarised as follows (for example in its *Valada Matos Das Neves v. Portugal* judgment of 29 October 2015, § 72:

- a) an action for compensation must be heard within a reasonable time,
- b) the compensation must be paid promptly and generally no later than six months from the date on which the decision awarding compensation becomes enforceable,
- c) the procedural rules governing an action for compensation must conform to the principle of fairness guaranteed by Article 6 of the Convention,
- d) the rules regarding legal costs must not place an excessive burden on litigants where their action is justified,
- e) the level of compensation must not be unreasonable in comparison with the awards made by the Court in similar cases.

In the *Francesco Quattrone v. Italy* judgment of 26 November 2013, the Court pointed out that in its *CE.DI.SA Fortore S.N.C. Diagnostica Medica Chirurgica v. Italy* judgment of 27 September 2011 it had stated that, in principle, for two levels of jurisdiction, “Pinto” proceedings should not, save in exceptional services, last longer than two years (§ 33).

The Court’s oversight also relates to the amount of the compensation awarded by the domestic courts for violations of the right to be heard in a reasonable time.

It applied this approach in the case of *Sartory v. France* of 24 September 2009. The case concerned proceedings to cancel the transfer of a civil servant which had lasted six years, a period deemed excessive. The Court examined the duration and outcome of the compensation proceedings: they had begun in 2002, transmitted to the Conseil d’État in 2006 and completed in 2007 with a €3,000 compensation offer.

The Court held that this amount granted by the Conseil d’État was insufficient in view of the excessive length of the substantive proceedings and of the compensation proceedings initiated under Article R 311-1 of the Code of Administrative Justice, and found a violation of Article 6§1. This enabled the applicant to claim to be a victim within the meaning of Article 34 of the Convention, as the compensation had been inappropriate and insufficient, notwithstanding the recognition of the fact that the length of the administrative proceedings had violated the reasonable time requirement¹³⁰.

¹³⁰ *Broca and Texier-Micault v. France*, 21 October 2003.

The amount of compensation is therefore an essential factor in ensuring recognition of the appropriateness and effectiveness of the remedy. This amount also depends, however, on the characteristics and effectiveness of the overall domestic remedy. The Court accepts that a state which has introduced a range of remedies, one of which is designed to expedite proceedings and one to afford compensation, may award amounts which – although lower than those awarded by the Court – are not unreasonable, on condition that the relevant decisions, which must be consistent with the legal tradition and the standard of living in the country concerned, are speedy, reasoned and executed promptly¹³¹. The domestic courts can accordingly refer to the amounts granted at domestic level for other types of damages and act in accordance with their conscience, even if this results in awarding sums lower than those awarded by the Court in similar cases (see, for example, *Apicella v. Italy*, decision of 29 March 2006, §§ 78, 94 and 95).

As stated in its *Scordino* judgment (cited above), the Court uses a scale to calculate just satisfaction which it awards where it has found a violation of the right to be heard in a reasonable time. It justifies use of this scale on equitable principles in order to arrive at equivalent results in similar cases (§ 176). It adds that the amounts differ only in respect of the particular facts of each case (§ 177).

This scale is an internal working tool of the Court registry, which remains confidential despite many criticisms and demands for it to be published,¹³² so as not to cause further disputes in the event of failure to comply with what, for the Court, is soft law, i.e. a source of inspiration which should be tailored to the particular circumstances of each case.

In the *Scordino* judgment, the Court emphasises the point that it can “*perfectly well accept that a state which has introduced a number of remedies, one of which is designed to expedite proceedings and one to afford compensation, will award amounts which – while being lower than those awarded by the Court – are not unreasonable, on condition that the relevant decisions, which must be consonant with the legal tradition and the standard of living in the country concerned, are speedy, reasoned and executed very quickly*” (§ 206).

When examining the amount awarded by the domestic courts in an action for compensation, the Court applies a percentage in relation to the just satisfaction it would have awarded in a similar case. Below a certain percentage, it will consider that the applicant has not lost his or her status of victim (*Cocchiarella v. Italy* of 29 March 2006, § 146) and will consequently raise, on this account, a violation of Articles 6 § 1 and 13 of the Convention.

This percentage applied by the Court is also confidential. However, in the *Garino v. Italy* decision of 18 May 2006, the Court held that compensation amounting to approximately half of what it would have awarded in accordance with its case-law could be considered on the whole to be sufficient and therefore appropriate redress for the violation suffered. Whereas, in the *Petrović v. “The former Yugoslav Republic of Macedonia”* judgment of 22 June 2017, it held that compensation amounting to approximately 35% of what it would have awarded in a similar case was insufficient (§ 21), which gives some indication of the percentage to which the Court refers (see also, *Fasan and others v. Italy* of 13 April 2017).

However, where the domestic remedy has not met all the requirements mentioned above, it is possible that the threshold in respect of which the amount will still allow a litigant to claim to be a “victim” will be higher (*Scordino*, § 206).

Furthermore, in so-called clone and repetitive cases, the Court now publicly sets out a fixed-sum compensation which may be lower than that awarded by its customary case-law, in order to bring an end to certain disputes which are referred to it. In its *Belperio and Ciarmoli v. Italy* judgment of 21 December 2010, the Court justifies its approach as follows: “*The Court reiterates that it is an international judicial authority and that its principal task is to secure respect for human rights, rather than compensate applicants’ losses minutely and exhaustively. Unlike in national jurisdictions, the emphasis of the Court’s activity is on passing public judgments that set human-rights standards across Europe*” (§ 61). In this case, concerning the excessive length of “Pinto” proceedings, it decided to award an additional sum of €200 to each applicant (§ 64).

The case-law of the Court also tends to objectivise the state’s responsibility for excessive length of proceedings in its judicial system (see the *Bourdov v. Russia (No. 2)* Grand Chamber judgment of 15 January 2009, § 111), by positing, as we have said, a rebuttable presumption of non-material damage

¹³¹ Cf. Guide to Good Practices, op. cit., No. 107, pp. 24 and 25.

¹³² Lord Woolf, *Review of the Working Methods of the European Court of Human Rights*, 2005, p. 48.

and requiring the domestic court to provide specific reasons for its decision if it considers that the applicant has not suffered any prejudice (see the aforementioned judgments *Apicella v. Italy*, § 93, and *Cocchiarella v. Italy*, § 94).

Moreover, the fact that a domestic remedy may be considered effective and must be exhausted before submitting an application to the Court does not, however, mean that the prejudice has been satisfactorily addressed. In addition to examining the length of the domestic compensation proceedings and the amount of compensation awarded, it will, on its own initiative, find where appropriate that there has been a violation of the reasonable time requirement even where the domestic courts have held that a reasonable time had not been exceeded (e.g. *Chyła v. Poland* of 3 November 2015).

It should also be stressed that compensation does not always have to be financial. It can also take the form of an appropriate reduction of certain costs, of the sentence or of the damage suffered by the appellant¹³³. Nevertheless, the Court has considered “*that a decision or measure favourable to the applicant is not in principle sufficient to deprive him of his status as a “victim” unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention*” (e.g. Grand Chamber judgment *Riccardo Pizzati v. Italy*, 29 March 2006, § 70). For example, in the *Barta and Drajkó v. Hungary* pilot judgment of 17 December 2013, the Court dismissed the government’s argument that the sentence handed down by the courts had taken account of the excessive length of the proceedings as there was no evidence to this effect in the decision of the domestic court and no recognition of a violation of Article 6 § 1 of the Convention.

The Report of the Venice Commission noted that “*in criminal cases, there exist specific forms of compensatory remedies which are to be considered as forms of restitutio in integrum: the discontinuance of the prosecution, the mitigation or reduction of the sentence; an acquittal; setting a low level of fine; and the non-deprivation of civil and political rights. They may cause however, in some cases, a lack of substantive justice. Acquittal and discontinuance of the proceedings should be only applied in exceptional cases. In the motivation used by the judge when assessing the length of the proceedings, the link between the latter and the assessment of the punishment should be made explicit, and it would seem appropriate to indicate what sentence would have been imposed if the duration had been reasonable*”¹³⁴.

2. Remedies designed to expedite proceedings

The alternative offered by the Court to states between putting in place a preventive remedy to speed up proceedings and a compensatory remedy is not without its drawbacks, which have gradually come to the fore: compensatory remedies have in turn been the subject of complaints about their excessive length or the fact that they are not effective.

This is illustrated by the application in Italy of the Pinto law which, as a victim of its own success, has created new disputes submitted to the Court (see Part 1, I above).

Moreover, in its *Scordino* judgment, the Court refers to the work of the CEPEJ: “*In its framework programme (CEPEJ (2004) 19 Rev 2 § 6), the CEPEJ noted that the mechanisms which are limited to compensation are too weak and do not adequately incite the states to modify their operational process, and provide compensation only a posteriori in the event of a proven violation instead of trying to find a solution for the problem of delays*”.

It continues in these terms: “*Where the judicial system is deficient in this respect, a remedy designed to expedite the proceedings in order to prevent them from becoming excessively lengthy is the most effective solution. Such a remedy offers an undeniable advantage over a remedy affording only compensation since it also prevents a finding of successive violations in respect of the same set of proceedings and does not merely repair the breach a posteriori, as does a compensatory remedy of the type provided for under Italian law for example*” (§ 183).

The Court therefore gives prominence to remedies to speed up proceedings with a preventive aim, although it does not impose this type of remedy and leaves states free to opt if they so wish for compensatory remedies.

¹³³ Guide to Good Practice, No. 112, p. 25.

¹³⁴ Op. cit., § 240, incorporated into the Guide to Good Practice, No. 114, p. 26.

In this *Scordino* judgment, the Court spells out the conditions to be met by a remedy designed to expedite proceedings (§§ 184 et seq.).

Such a remedy must make it possible to speed up the issue of a decision by the court concerned. However, this is not sufficient if the proceedings have already extended over an excessively long period. In such cases, it must be combined with a compensatory remedy.

The Court has recently clarified its case law on this subject. For example, in the *Olivieri and others v. Italy* case of 25 February 2016, it provides valuable information on the conditions that such an appeal must meet in relation to the new procedure introduced by Italy from 25 June 2008, in order to complain about the excessive length of administrative judicial proceedings.

This procedure consists of two phases: the first phase, which provides for the introduction of the request for the urgent setting of the date of the hearing during the proceedings before the administrative court, which is one of the admissibility conditions for a “Pinto” appeal; the second phase is pursuant to the “Pinto” Law, which enables each individual to submit a claim for compensation to the competent court of appeal. The Court finds that this new remedy does not fulfil the conditions for an effective remedy, identifying a number of difficulties. First of all, the president of the administrative tribunal can quite simply set the date of the hearing. Furthermore, it does not appear that the law has provided a precise way of dealing with a request for urgent scheduling of the hearing, in particular the criteria that must be applied in order to reject or grant the request and the consequences, in the event of a decision in favour of the party, on how the proceedings then play out. In the light of this and judicial practice, the request for an urgent hearing date does not appear to be effective in expediting a decision. It does not have a significant effect on the duration of the procedure, neither by resulting in less lengthy proceedings or preventing them from going beyond what might be considered reasonable. The outcome of such requests is therefore very hit and miss.

Moreover, the new provision, given that there is no transitional regime, automatically applies to any “Pinto” appeal, regardless of the duration of the main administrative proceedings. This obliges the parties to submit multiple requests to bring about the conclusion of a trial whose duration is already unreasonable. This admissibility condition is a formal condition which has the effect of impeding access to the Pinto procedure and therefore rendering it ineffective within the meaning of Article 13. The Court considers that the automatic inadmissibility of “Pinto” appeals, a result of the failure to fully comply with its provisions, therefore deprives applicants of the possibility of obtaining appropriate and sufficient redress.

In the *Barta and Drajkó v. Hungary* pilot judgment of 17 December 2013, the government raised an objection of failure to exhaust domestic remedies, claiming that the applicants had not made a complaint under Article 262/B of the Code of Criminal Procedure to expedite the proceedings. The Court reiterated that, in view of the fact that the effectiveness of a remedy to accelerate proceedings may depend on whether it had a significant effect on the length of the proceedings as a whole, where proceedings included a substantial period during which there was no possibility to accelerate them, such a remedy could not be considered effective. It also held that a remedy to accelerate proceedings which had no binding effect on the court concerned and whose rejection was not subject to appeal, could not have any significant effect on expediting the proceedings as a whole.

In its *Panju v. Belgium* judgment of 28 October 2014 (see also *Hiernaux v. Belgium* of 24 January 2017), the Court considered as ineffective a domestic remedy pursuant to Articles 136 and 136bis of the Code of Criminal Procedure which provided for a review of the investigation by the Indictments Division of the Court of Appeal which could issue injunctions to the investigating judge or even transfer the case to itself. In examining this remedy, the Court once again highlighted the features that must be inherent in a remedy to expedite proceedings if it is to be considered effective.

While the Court accepts that injunctions ordered by the Indictment Division may have an accelerating effect on the conduct of the proceedings if they are immediately acted upon, it notes that none of these measures is intended to deal in any practical way with the delay complained of. Unlike, for example, the system in Spain, Portugal or Slovenia, it is not clear that in the Belgian system, the Indictment Division can set time limits for the completion of procedural acts, order the investigating judge to set a date for a hearing or the closure of the investigation or decide that the case must be treated as a priority. Moreover, except in cases where the exceeding of the reasonable time principle leads to the inadmissibility of the proceedings or the termination of the criminal prosecution because of an irremediable infringement of the rights of the defence, the investigating court does not have the power to penalise an excessive length of proceedings. The fact that, when making an overall assessment of the case, the trial court is obliged to take account of the finding by the investigating court that the reasonable time limit has been exceeded, cannot constitute an adequate remedy within the meaning of the Court’s case-law. Moreover, in cases where the investigation ends with a

dismissal of the case, or where the accused is acquitted, the trial court's above-mentioned power may not bring any redress at all.

Following on from the directives given in the Court's case-law, the various Council of Europe bodies have taken a number of decisions and conducted intensive work with a view to pinpointing the appropriate remedies to infringements of the reasonable length of proceedings requirement.

At its 114th session in May 2004, the Council of Europe adopted a Declaration to member states on "Ensuring the effectiveness of the implementation of the European Convention on Human Rights at national and European levels".

At the Committee of Ministers' request, the Steering Committee for Human Rights (CDDH) is looking at ways of implementing the Committee's recommendations, including the one on improving domestic remedies, via its Committee of Experts for the Improvement of Procedures for the Protection of Human Rights¹³⁵.

Measures to reduce length of proceedings are an important aspect of this activity.

When it was drawing up Recommendation Rec (2004) 6, the CDDH asked national authorities for examples of good practices designed to improve domestic remedies.

In 2010, the Committee of Ministers adopted an important recommendation on effective remedies for excessive length of proceedings,¹³⁶ accompanied by a Guide to Good Practice, intended to improve the implementation of the right to a hearing within a reasonable time and to an effective remedy, which in fact also refers to all the CEPEJ activities and tools (Guide, pp. 7-10)¹³⁷.

B. Existing domestic remedies: overview¹³⁸

A number of interesting domestic remedies are currently available.

In Austria, Section 91 of the Courts Act (*Gerichtsorganisationsgesetz*) offers a remedy that the Court recently described as "effective" in the *Holzinger* judgment of 30 January 2001. It has since reiterated this conclusion, e.g. in *Saccoccia v. Austria*, decision of 5 July 2007. New provisions were introduced in March 2004 into the criminal procedure code, granting accused persons the right to have their proceedings terminated within a reasonable time.

In Belgium, a new law reformed the Code of Criminal Investigation in 1998 and introduced a remedy into domestic law allowing the accused to complain of the excessive length of a criminal investigation. Examples of case-law show that the remedy provided in the provisions permit the acceleration of investigations. The Court deemed this remedy effective in its judgment *Stratégies and Communications and Dumoulin v. Belgium* of 15 October 2002. Furthermore, on 12 December 2000 Belgian law introduced a sanction in the event of excessive length of criminal proceedings: "*the judge may pass sentence by means of a simple finding of guilt or impose a lighter sentence than the minimum sentence stipulated by law*"¹³⁹.

In its *Hiernaux v. Belgium* and *J.R. v. Belgium* judgments of 24 January 2017, the Court held that in the light of the various examples of decisions by the civil courts provided by the government and the case-law of the Belgian Court of Cassation, there was an effective compensatory remedy before the civil courts to obtain appropriate redress for excessive length of criminal proceedings when they are at the investigation or settlement stages.

The Czech Republic has instituted reforms following the *Hartman* judgment of 10 July 2003, in which the European Court found that appeals to the Constitutional Court, which enabled individuals to challenge any final decision of another body, be it administrative or judicial, were not effective. Act No. 192/2003 has added a provision to Act No. 6/2002 on courts and judges under which, from 1 July 2004, it has been possible to seek a remedy for excessive delays in judicial proceedings by applying for a deadline to be set for completion of a particular procedural stage or formality. This procedure is similar to the one in Austria described earlier.

¹³⁵ Recommendation (2004) 6 of the Committee of Ministers of 12 May 2004.

¹³⁶ CM/Rec(2010)3, adopted by the Committee of Ministers on 24 February 2010 at the 1077th meeting of the Ministers' Deputies.

¹³⁷ Mention should also be made to the report of the Venice Commission (Doc. CDL-AD(2006)036rev).

¹³⁸ For a comprehensive study of this question, see the aforementioned Venice Commission report.

¹³⁹ 2007 Annual Report of the Committee of Ministers, p. 79.

In *Vokurka v. Czech Republic*, decision of 16 October 2007, the Court considered the effectiveness of a new “preventive” remedy and ruled it ineffective. It did, on the other hand, deem effective the compensatory remedy which came into force in April 2006, permitting compensation for non-material damage resulting from non-compliance with the reasonable time requirement¹⁴⁰.

Under Article 21 of the Finnish constitution, “Everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice”.

The Code of Judicial Procedure also provides for a special selection procedure aimed at reducing the total length of proceedings in criminal and civil cases. Article 6 § 3 of the Criminal Code allows courts to reduce sentences when a particularly long period has elapsed since the offence was committed and when the normal penalty would have an unreasonable or exceptionally detrimental effect.

Where France is concerned, Article L. 141-1 of the Judicial Code (former L. 781-1) provides for State liability in the event of serious negligence or denial of justice. Infringement of the reasonable time requirement may be sanctioned and compensation paid. In a judgment of 23 February 2011 (Bull. Ass. Plén. No. 5) the Plenary Assembly of the Court of Cassation extended the scope of serious State negligence, ruling that such negligence covered any shortcoming characterised by a fact or series of facts reflecting the inability of the judiciary to fulfil the task assigned to it. Shortly afterwards the European Court specified that this remedy could not be regarded as an effective remedy to be exhausted by the applicant, because the “serious negligence” criterion required to adduce State liability impeded a finding of such liability (judgment *Girard v. France* of 30 June 2011, § 54). Since the judgment *Zannouti v. France* of 26 September 2000 and the aforementioned decisions in the cases *Giummarra v. France* and *Mifsud*, the European Court has acknowledged the effectiveness of this remedy. The latter must therefore now be used by anyone wishing to complain of the excessive length of a set of proceedings, whereby all applications submitted on this basis to the ECHR since 21 September 1999 in which the prior domestic remedy has not been used are declared inadmissible.

In connection with the administrative courts, the European Court initially considered that there was no *domestic case-law demonstrating the effectiveness of the (domestic) remedy* in terms of State liability for defective functioning of the administrative courts (judgment *Lutz v. France* of 26 March 2002). In response, the *Conseil d’Etat*, in a judgment of 28 June 2002 (*Magiera*), held that an applicant could obtain compensation in an administrative court for damage resulting from violation of the right to a hearing within a reasonable time. The European Court now considers sufficient the corresponding action to establish State liability (judgment *Broca and Texier-Micault v. France*, 21 October 2003). Complementing this case-law, Decree No. 2005-911 of 28 July 2005 (Article R. 311-1-7 of the Code of Administrative Justice) recognises the competence of the *Conseil d’Etat* to adjudicate at first and last instance on *actions for damages against the State for excessive length of proceedings before the administrative courts*. Moreover, Decree No. 2005-1586 of 19 December 2005 introduced preventive administrative review of administrative courts with a view to remedying their excessive dilatoriness (Article R. 112-2 and 3 of the Code of Administrative Justice). Lastly, the *Conseil d’Etat* posits that the excessive length of proceedings resulting from the exceeding of the reasonable time limit for judging an alleged case caused, by itself, moral prejudice (CE, 19 October 2007)¹⁴¹.

Tellingly, some five years after this recognition of the effectiveness of French actions for damages, the number of findings against France on this count has significantly decreased (See Appendix No.). In its Resolution CM/ResDH(2009)59 the Committee of Ministers closed the examination of the enforcement of seven judgments against France for excessive length of administrative proceedings on the ground that the necessary general measures to prevent similar violations had been adopted.

Article 24 of the Spanish Constitution grants everyone the right to a public trial or hearing with no unjustified delays.

The *recurso di amparo* before the Constitutional Court offers plaintiffs two remedies for unreasonably lengthy proceedings, in which the pending proceedings are immediately set in train, either by an order to cease the period of inactivity or by setting aside the decision that is unjustifiably prolonging the proceedings.

¹⁴⁰ For a more detailed account, see the 2009 Annual Report of the Committee of Ministers, p. 121.

¹⁴¹ See also the 2008 Annual Report of the Committee of Ministers, p. 125.

Sections 292 ff of the Judicature Act authorises individuals, once proceedings are over, to apply to the Ministry of Justice for compensation for judicial malfunctioning.

According to the relevant case-law (*Gonzalez Marín v. Spain* (dec.) no 39521/98, ECHR 1999-VII), unreasonable lengthy proceedings constitute a malfunctioning of the judicial system. The minister's decision is liable to appeal to the administrative courts. The Court has also ruled on the effectiveness of the remedies in Sections 292 ff of the Judicature Act in connection with excessively lengthy proceedings in the Constitutional Court, in its admissibility decision of 28 January 2003 in the *Caldas Ramirez de Arellano* case.

In Croatia, these two types of remedy are combined into one set of proceedings: Article 63 § 3 of the Constitutional Law provides for a remedy before the Constitutional Court geared to both setting deadlines for the procedural stages and establishing the amounts of compensation for the violation. The European Court initially found that this new provision provided an effective remedy for excessive length of judicial proceedings (see judgment *Radoš and others v. Croatia* of 7 November 2002 and the decisions on admissibility in the cases of *Slaviček* of 4 July 2002, *Nogolica* of 5 September 2002, *Plaftak and others* of 3 October 2002, *Jeftić* of 3 October 2002 and *Sahini* of 11 October 2002).

However, the implementation of this remedy has since led to difficulties. On several occasions the constitutional complaint procedure itself took too long. The Strasbourg Court therefore ruled that the effectiveness of the constitutional complaint as a remedy for the length of pending civil procedures was undermined by its excessive duration (judgment *Vidas v. Croatia* of 3 July 2008, § 37)¹⁴².

The Constitution of the Slovak Republic (as amended with effect from 1 January 2002) provides for two types of "expediting" and compensatory remedies before the Constitutional Court (Article 127 of the Constitution). The Court has considered this remedy effective (see *Andrášik and others v. Slovakia*, decision of 22 October 2002, and *Mazurek v. Slovakia*, decision of 3 March 2009).

The European Court has, however, also pinpointed shortcomings in the implementation of Article 127 by the Constitutional Court, such as:

- insufficient or non-existent compensation (e.g. *Komanický v. Slovakia* (No. 5), decision of 13 October 2009; *Báňas v. Slovakia*, decision of 12 February 2008; *Judt v. Slovakia*, decision of 9 October 2007; and *Magura v. Slovakia*, decision of 13 June 2006);
- the Constitutional Court's failure to take account of the total time taken for consideration of the case by the domestic courts (e.g. *Keszeli v. Slovakia*, decision of 13 October 2009; *Softel v. Slovakia* (No. 2), decision of 16 December 2008; and *Jakub v. Slovakia*, decision of 28 February 2006).

Despite these failings, the Court has confirmed the effectiveness on principle of the constitutional complaint, in view of the sufficient compensation granted by the Constitutional Court (e.g. *Bartl v. Slovakia*, decision of 6 October 2009; *Becová v. Slovakia*, decision of 18 September 2007; *Cervanová v. Slovakia*, decision of 9 January 2006; *Machunka v. Slovakia*, decision of 27 June 2006; and *Končeková*, decision of 9 May 2006)¹⁴³.

Article 39 of the Maltese Constitution establishes the right to a hearing within a reasonable time. Litigants who consider that their right to a hearing within a reasonable time has been violated may submit an appeal to the Civil Court acting in a constitutional capacity, whose decision may be appealable to the Constitutional Court. This appeal covers civil, administrative and criminal proceedings. The Strasbourg Court has held that this appeal is generally effective, although in some cases the levels of compensation granted have been deemed insufficient (judgments *Zarb v. Malta*, decision of 4 July 2006, and *Central Mediterranean Development Corporation Limited v. Malta*, decision of 24 October 2006).

In Slovenia, a 2006 Law on protection of the right to a hearing within a reasonable time (coming into force on 1 January 2007)¹⁴⁴ permits litigants to introduce a compensatory remedy only after they have exhausted all "expediting" remedies. The Court noted that this mechanism had the legitimate aim of simplifying procedure and considered that this Slovenian remedy did, in principle, seem effective (*Zunic v. Slovenia*, decision of 18 October 2007, §§ 49, 50 and 54).

¹⁴² Re. the evolution of the Court's case-law on the situation in Croatia, cf. Guide to Good Practice Nos. 60-62, pp. 14 and 15.

¹⁴³ See Guide to Good Practice, No. 93-96, pp. 22 and 23. For an overall assessment of supervision of execution of judgments of the European Court of Human Rights by Slovakia, see the 2010 Annual Report of the Committee of Ministers., pp. 142 and 143.

¹⁴⁴ 2007 Annual Report of the Committee of Ministers, p. 94.

In Bulgaria, in cases where a court fails to complete a particular procedural stage within a reasonable time, Article 255 of the 2006 Bulgarian Civil Code permits parties, at any stage in the proceedings, to submit an application for setting an appropriate time-limit for completion of the said stage. Article 257 requires the higher court to consider this application within one week of receiving it, and, if it considers the timescale unreasonable, to set a time-limit for implementation of the said procedural stage. The Strasbourg Court has deemed this remedy effective in principle, even though it must be combined with a compensatory remedy (judgment *Jeliazkova and others v. Bulgaria*, 3 April 2008).

Bulgaria introduced two compensatory remedies: an administrative remedy under a law of 2007, and a judicial one, pursuant to a modification of a law of 1988. In the *Balakchiev and others v. Bulgaria* and *Valcheva and Abrashev v. Bulgaria* decisions of 18 June 2013, the Court held that, taken together, an application for compensation under the 2007 law and a claim for damages under the 1988 law can be regarded as effective domestic remedies in respect of the allegedly unreasonable length of proceedings before the civil, criminal and administrative courts in Bulgaria.

The Republic of Moldova introduced a new remedy relating to problems of non-enforcement of final court decisions and lengthy proceedings by means of Law No. 87 in response to the instruction given by the Court in its *Olaru and others v. Moldova* pilot judgment of 28 July 2009. In its *Balan v. Republic of Moldova* decision of 24 January 2012, the Court held that although the Moldovan courts had not yet been able to establish any stable practice in connection with this text, it did not see any reason to believe that the new remedy could not afford applicants the opportunity to obtain adequate and sufficient redress or that it could not offer reasonable prospects of success. Furthermore, the transitional provisions of this text enabled applicants who had already applied to the Court to submit an appeal on this basis to the domestic court. The Court therefore held that this remedy was effective and stated that all cases submitted following the pilot judgment and falling under Law No. 87 must first be submitted to the Moldovan courts in application of Article 35 § 1 of the Convention.

In Germany the right to be tried or heard within a reasonable time is guaranteed by the Basic Law, and complaints of violations of this right can be brought before the Federal Constitutional Court, which is solely empowered to ask the court concerned to expedite or settle the proceedings. The Federal Constitutional Court is not competent to impose time-limits on lower courts or to order other measures to speed up proceedings, nor is it able to award compensation.

A bill to introduce a new remedy against inaction was tabled in advance of the parliamentary elections of 18 September 2005. According to the government, this will make it possible to reduce the Federal Constitutional Court's case-load, since complaints will henceforth be lodged with the court dealing with the case or, should that court refuse to take steps to expedite the proceedings, an appellate court.

The European Court held that "*the Government, in opting for a preventive remedy, have taken the approach most in keeping with the spirit of the protection system set up by the Convention, since the new remedy will deal with the root cause of the length-of-proceedings problem and appears more likely to offer litigants adequate protection than compensatory remedies, which merely allow action to be taken a posteriori*"¹⁴⁵.

Furthermore, the German Federal Court of Justice overturned its case-law in a decision of 17 January 2008, granting compensation for the excessive length of proceedings in cases of life sentences, enabling a specified section of the sentence to be deemed already to have been served (a conception known as *Vollstreckungslösung*, or "enforcement solution"). The European Court welcomed this reversal of precedents, even though the applicants in question were ineligible for it because it occurred after their conviction (judgment *Kaemena and Thöneböhn v. Germany*, 22 April 2009).

Lastly, on 3 December 2011, the Federal Act against Protracted Court Proceedings and Criminal Investigations entered into force in Germany. Its enactment was one of the consequences of the Court's pilot judgment in the *Rumpf v. Germany* case of 2 September 2010, which had required that Germany put in place an effective domestic remedy for cases involving lengthy proceedings. This Act applied to both civil and criminal proceedings and also provided for an instrument to expedite proceedings, and a subsequent compensation claim. A transitional provision stipulated that the Act applied to both pending and terminated proceedings whose duration might still become or had already become the subject of a complaint with the Court.

¹⁴⁵ Grand Chamber judgment in the case of *Sürmeli v. Germany*, 8 June 2006, § 138.

In its *Taron v. Germany* decision of 29 May 2012, the Court declared the application inadmissible on the ground of failure to exhaust domestic remedies. It held that this Act had been enacted to address the issue of excessive length of domestic proceedings in an effective and meaningful manner, taking account of the Convention requirements. In particular, compensation should be determined with regard to the individual circumstances of the case, the length of the protraction, and the significance of its consequences for the applicant. Finally, compensation was to be awarded irrespective of an establishment of fault. Despite the lack of any established case-law in the domestic courts in the first few months since the Act's entry into force, the Court could not see, at that stage, any reason to believe that the new remedy would not afford the applicant the opportunity to obtain adequate and sufficient compensation for his grievances or that it would not offer reasonable prospects of success.

With regard to Greece, following the *Vassilios Athanasiou and others v. Greece* pilot judgment of 21 December 2010 which identified a structural problem of excessive length of proceedings before the administrative courts, the Greek authorities passed Law No. 4055/2012, which entered into force in April 2012, to accelerate proceedings and obtain compensation. In its *Techniki Olympiaki A.E. v. Greece* decision of 1 October 2013, the Court held that this was an effective remedy within the meaning of Article 13 of the Convention.

Similarly, following the pilot judgments in the *Michelioudakis v. Greece* case of 3 April 2012 and the *Glykantzi v. Greece* case of 30 October 2012, Greece passed Law No. 4239/2014, which entered into force on 20 February 2014, establishing a remedy providing for compensation for unjustified delays in proceedings before the civil and criminal courts, and the Audit Court. In its *Xynos v. Greece* decision of 9 October 2014, the Court held that this was an effective remedy which needed to be exhausted before submitting an application to the Court.

In its *Savickas and others v. Lithuania* decision of 15 October 2013, the Court held that the remedy emerging from the new case-law of the Supreme Court established on 6 February 2007 from its interpretation of Article 6.272 of the Lithuanian Civil Code providing for compensation for a violation of the right to be heard in a reasonable time, enshrined in Article 6 § 1 of the Convention, was an effective remedy to be exhausted within the meaning of Article 13 of the Convention. This Supreme Court case-law was then incorporated into a change in legislation. The Court stipulated that as six months had passed since the judgment of 6 February 2007, the applicants should have been aware of this new case-law and therefore, with effect from that date, were obliged to exhaust that remedy before submitting an application to the Court.

In its decisions in the *Mets v. Estonia* case of 7 May 2013 and the *Treial v. Estonia* case of 28 January 2014, the Court held that there was an effective remedy before the administrative courts resulting from the practice of the Estonian courts and the case-law of the Supreme Court providing for redress for excessive length of proceedings in both civil and criminal matters.

In Portugal, actions to establish non-contractual liability under Section 12 of Law no. 67/2007 of 31 December 2007 were held to be effective following and with effect from the Supreme Administrative Court's judgment of 27 November 2013 (*Valada Matos das Neves v. Portugal* of 29 October 2015).

A legislative reform was adopted in Turkey establishing an individual appeal to the Constitutional Court which entered into force on 23 September 2012. In its *Ümmühan Kaplan v. Turkey* pilot judgment of 20 March 2012, the Court agreed to adjourn examination of all applications not yet communicated and those lodged after 23 September 2012.

In its *Uzun v. Turkey* decision of 30 April 2013 (also *Koçintar v. Turkey* of 1 July 2014), the Court held that this appeal to the Constitutional Court had to be exhausted. The Court noted that accessibility to this court posed no apparent problem: the individual application was not subject to any prior remedy or request other than the ordinary remedies. Potential applicants were entitled to lodge their appeal with any national court and therefore did not need to travel or to follow a complicated procedure. The time-limit of thirty days was, in principle, a reasonable one, and there was an extraordinary extension of fifteen days in situations where applicants had a valid reason preventing them from lodging the appeal within the normal deadline. Lastly, the court costs charged for lodging such an appeal did not detract from its accessibility. They did not appear excessive and the applicants were entitled to seek legal aid. The Court further noted that the Constitutional Court's jurisdiction covered violations of the Convention, that it had been given additional resources (an increase in the number of judges and registry resources) and had appropriate powers to secure redress for violations, by granting compensation and/or by indicating the means of redress, which could and should enable the Constitutional Court, if necessary, to prohibit the authority concerned from continuing to breach the right in question and to order it to restore, as far as possible, the *status quo ante*. The Constitutional Court's decisions bound all the organs of the state and any individual or legal entity.

Furthermore, Law No. 6384 on the settlement – by means of a compensation award – of applications relating to the non-execution or delayed execution of court decisions was passed on 9 January 2013. An appeal before the Compensation Board established by this law had to be lodged within six months of the date the law entered into force or, failing that, within one month of the date of the notification of the Court's inadmissibility decision. The Board, most of whose members were judges, was required to decide on every application submitted to it within nine months. Applicants could apply to this Board for it to find that court decisions in their favour had not been executed or that there had been excessive delays in the execution of those decisions and consequently for them to obtain just satisfaction for the prejudice suffered. In dealing with these cases, the Board was required to take account of the Court's case-law and deliver a reasoned decision. The compensation awarded by the Board would be paid by the Ministry of Justice within three months of the date on which the Board's decision became final. In addition, this remedy was subject to the scrutiny of the Ankara Regional Court and then of the Constitutional Court, and lastly the Court. Lastly, the Board's decisions which had become final had to be notified to the judicial or administrative authority concerned. If the decision which was the subject of the appeal before the Compensation Board had still not been executed, the authority in question was obliged to do so promptly. In the *Demiroğlu and others v. Turkey* decision of 4 June 2013 this law was deemed to offer an effective remedy to be exhausted within the meaning of Article 35 § 1 of the Convention.

This law also provided for the settlement – by a compensation award – of “length of proceedings” applications lodged with the Court before 23 September 2012 not yet communicated to the respondent state. The law covered all criminal-law, private law and administrative law cases which had exceeded a “reasonable time”. In the *Turgut and others v. Turkey* decision of 26 March 2013 this law was deemed to offer an effective remedy to be exhausted.

II. The research of the reasonable time

A reading and detailed analysis of numerous European Court of Human Rights judgments and decisions and Committee of Ministers resolutions reveals the following lines of approach.

A. The main tendencies of the European Court regarding reasonable time:

The procedural phases (before bodies and levels of jurisdiction) of a case deemed to comply with the reasonable time requirement generally last **shorter than 2 years**.

When this period lasts longer than 2 years but goes uncriticised by the European Court, it is nearly always the applicant's behaviour that is to blame and the delay is at least partly down to their inactivity or bad faith. In 23 complex cases where there were rulings that no rights had been violated, it is striking to note that in twelve cases – over half – **the applicant's conduct is criticised by the Court** as having contributed to the delay. The finding of no violation is explained by the inappropriate conduct of the applicant.

For instance, in the case of *Özsoy v Turkey*, decision of 2 February 2006, in which proceedings had lasted six years and which involved 33 defendants charged with assisting the PKK and/or attacking the State, the Court “*noted no major period of inertia attributable to the domestic authorities. On the other hand, it notes that for some seven months the applicant failed to appear at hearings before the State Security Court, which certainly did not make things any easier for the trial courts in terms of hearing the applicant. [...] The Court concludes that the duration of proceedings in the instant case, which were held before two different courts, although contentious, was not excessive*” (§§ 2-4).

Similarly, in the case of *Ançel v. Turkey*, decision of 17 February 2009, the Court notes that “*some of the delays in proceedings are attributable to the applicant, particularly those resulting from her failure to appear at hearings, which twice led to her application being struck off the list, and her failure to appear [at one hearing], which resulted in an adjournment, in addition to the unexplained delay in enforcing the decision in her favour*” (§ 44).

Even if the applicant does not act with the required diligence, the Court always considers how the courts have responded: if the courts cannot be found at fault for any particular failure to act and if the case involves proceedings in which the parties bear responsibility in the conducting of the process, the parties will be held entirely to blame for the delays due to their failings and inappropriate demands and it will be ruled that there has been no violation, even if the length of proceedings seems excessive in objective terms.

For any proceedings lasting longer than 2 years, the Court examines the case in detail to check the diligence of both national authorities and the parties in the light of the case's complexity; for proceedings short of the two-year mark, the Court does not carry out this detailed examination.

In the case of *Nikola Nikolov v. Bulgaria*, decision of 14 June 2007, for example, the Court noted a number of complexities, including the lack of eye-witnesses to the facts, prompting the domestic authorities to order a series of expert opinions (§ 9); it concluded that “*having regard to all the circumstances of the case, particularly the overall duration and complicity of proceedings, as well as the fact that the case was considered at three different levels, the Court considers that the delays attributable to the authorities are not such that the length of proceedings can be deemed excessive*” (§14).

Similarly, in the aforementioned case of *Veriter v. France*, decision of 14 October 2010, the Court does not consider the length of proceedings excessive in view of the legal complexity of the case, which raised a major question of interpretation of EU law.

Again, in the case of *Tan and others v. Turkey*, decision of 20 June 2006, the Court drew on the complexity of the type of offence at issue to find that “*the main feature of the case was its great complexity. The suspicions against the applicants concerned “white-collar” crime, i.e. large-scale fraud involving several companies. This type of offence is often committed, as in the instant case, by means of complex transaction geared to evading the supervision of the investigating bodies*” (§ 40).

What is at stake for the applicant in the dispute is a major criterion for assessment and may prompt the European Court to reconsider its usual practice of considering a period of less than 2 years as acceptable for any court instance¹⁴⁶.

It may also be a reason for a court to prioritise this type of case in its schedule of hearings¹⁴⁷. Given the backlogs in the courts, the European Court seeks to reconcile the concern with reasonable time with that of proper administration of justice; when considering the treatment to be given to pending cases, it therefore invites courts with a backlog to call cases by order of importance and no longer only on a first come first served basis; it implicitly suggests taking account of what is at stake for the applicant in the dispute¹⁴⁸. Prioritising certain categories of cases has already been successfully tried by the courts of States in northern Europe¹⁴⁹.

In complex cases, the Court, bearing the complexity of the case in mind, focuses only on the lengths of proceedings that are manifestly excessive and demands precise explanations regarding these “abnormal” durations if it is to rule that there has been no violation¹⁵⁰. But it is distinctly less strict in simple cases.

B. A few illustrations of reasonable time:

1. Simple civil cases:

For a civil case involving a dispute over co-ownership a total duration of 5 years and 3 months for three levels of instance breaking down as follows:

- 1 year and 10 months at first instance
- 1 year and 8 months on appeal
- 1 year and 9 months on cassation, is judged to be reasonable (*Martin Lemoine v. France* judgment, 29 April 2003).

¹⁴⁶ See appendix 2.

¹⁴⁷ See in this connection the CEPEJ Framework Programme “A new objective for judicial systems: the processing of each case within an optimum and foreseeable timeframe” of 11 June 2004, Line of Action 10: “defining priorities in case management”, p. 15.

¹⁴⁸ *Union Alimentaria Sanders SA v. Spain* judgment of 7 July 1989.

¹⁴⁹ See CEPEJ report “Time management of justice systems: a Northern Europe study”(CEPEJ(2006)14).

¹⁵⁰ “(...) the Court observes that the investigating judge concluded the preliminary judicial investigation in January 1989, in other words four years and seven months after the applicant was first questioned as a suspect. This would appear to be a disturbingly long period of time. (...) In the circumstances, it is particularly necessary for the length of this period to be convincingly justified”, judgment *Hozee v. the Netherlands*, 22 May 1998, § 51 (no violation in a complex criminal case).

For a labour dispute: classified by the European Court as a priority case

The case is judged within a reasonable time, if dealt with:

- at first instance for 1 year and 7 months
- on appeal for 1 year and 9 months
- on cassation for 1 year and 9 months (*Guichon v. France* judgment, 21 March 2000).

The conduct of the parties in this case was the focal point of criticism from the Court, which emphasised the delays both in the applicant's request for referral to the industrial relations tribunal and in his appeal, as well as the delay in the lodging of the parties' conclusions before the Court of cassation. **Deduction of the delays attributable to the parties gives: 1 year and 1 month before the industrial relations tribunal and eleven months before the Court of cassation.**

For another case involving a labour dispute, judged in 6 years and 3 months for four court instances (labour tribunal at 1st instance, labour appeal court, Supreme court and Constitutional court), the Court held that the following durations were reasonable:

- 1 year and 6 months before the first instance judge, with regular hearings
- 4 months on cassation
- appeal lasting 1 year and 9 months.

But it attributed a delay of four months before the first judges to the applicant owing to their unjustified absence at a hearing (*Antolic v. Slovenia* of 1 June 2006).

And while a similar type of labour dispute was judged more swiftly at 1st instance (5 months) and on appeal (1 year and 5 months), the Court tolerated a longer duration (of 2 years and 2 months) before the Court of cassation (while considering the period rather long): **its overall assessment of the case remained positive** (*Gergouil v. France* judgment, 21 March 2000).

For a review of a decision cancelling an adoption:

The contested proceedings lasted a total of some five years two months, involving two judicial levels. Much of this delay is exclusively attributable to the applicant (judgment *Bican v. Romania*, decision of 22 September 2009).

2. Simple criminal cases

For a banking fraud offence: a total duration of 3 years and 6 months for 3 instances breaking down as follows:

- 6 months of investigation
- 1 year and 2 months at 1st instance
- 11 months on appeal
- 1 year and 5 months on cassation **was judged reasonable** (*Kuibichev v. Bulgaria* judgment, 30 September 2004).

For offences involving illegal demonstrations and use of explosives causing death: a total duration of 5 years and 11 months for 4 instances breaking down as follows:

- 1 year and 8 months before the State Security Court
- 1 year and 7 months before the Court of cassation
- 1 year and 2 months before the Security Court ruling on referral
- 11 months before the Court of cassation **was judged reasonable** (*Soner Önder v. Turkey* judgment of 12 July 2005)

For a case of rape by a police officer in the exercise of his functions:

The proceedings lasted some five years five months at two different judicial levels, during which time a total of four applications were submitted. The proceedings were in two phases, namely an administrative phase and a criminal one, during which the applicant's case was examined twice by the Izmir Criminal Court and twice by the Court of Cassation. It began on 25 May 1997, when the applicant was remanded in custody, and ended on 16 October 2002, when the Court of Cassation confirmed the decision at first instance (judgment *Yeniay v. Turkey*, 26 June 2007).

3. Complex cases

For a criminal case involving fraud and conspiracy: a total duration of 8 years and 5 months breaking down as follows:

- Preparatory investigation of 4 years and 7 months: duration justified by the number of witnesses to be heard and documents to be examined.
- Judgment by three court instances lasting 3 years and 10 months (*Hozee v. Netherlands* judgment, 22 May 1998) **was judged reasonable**.

For a criminal case involving negligent homicide: proceedings lasting 6 years and 3 months for four court instances could not be considered unreasonable; (*Calvelli and Ciglio v. Italy* judgment of 17 January 2002).

For a case of attempted murder: the proceedings lasted just over 7 years 9 months at five different levels, although the time taken was not unreasonable. The Court noted the complexity of the case in terms of the facts at issue and the conduct of the accused, who constantly contradicted himself (judgment *Pêcheur v. Luxembourg*, 11 December 2007).

In the complex cases where a violation has been found, of the forty one cases judged between 1987 and 2004 and set out in appendix 3, a distinction should be drawn between the criminal cases and the others¹⁵¹.

Regarding the nineteen criminal procedures:

- durations all of more than 5 years of proceedings for one to two court instances, with one exception: 2 years for one court instance.
- six cases were still pending at the date of the ECHR judgment.
- in seven cases, it was the inquiry and investigation phase that was criticised.
- in four cases, the Court criticised the excessive intervals between hearings before the court of judgment or between first instance judgment and the first appeal hearing.

Regarding the eleven civil procedures:

- durations ranging from 2 years and 3 months for the shortest and 19 years for the longest;
- in five cases something was at stake for the applicant, therefore requiring special diligence in the eyes of the European Court;
- in the shorter cases there is a requirement of special diligence linked to what is at stake for the applicant in the dispute.

In the complex cases where no violation has been found, among the twenty three cases studied, there are:

- 16 criminal procedures
- 6 civil procedures
- 1 administrative procedure.

In these disputes, it is striking that **in twelve cases – over half – the applicant's conduct is criticised by the Court** as having contributed to the delay.

In the criminal cases, the longest duration is 8 years and 8 months for three court instances, in a French case involving international drug trafficking (*Van Pelt v. France* judgment of 23 May 2000): the Court noted that the 3 years of proceedings before the investigating judge had been punctuated by numerous investigative measures, and that the courts of judgment had taken decisions swiftly. The conduct of the applicant was not criticised.

In the civil cases, the longest duration was 6 years in a pending case: the Court found that the applicant had lodged one action after another, some of which had proved pointless and further complicated a case already considered "highly complex". On the other hand, no period of inactivity could be attributed to the authorities.

For an analysis of the most recent cases, see the tables in Appendices 3 and 4 of this report.

¹⁵¹ The remainder being procedures both before the ordinary court and the administrative court, as well as one procedure before a Constitutional court.

Conclusion:

In its "survey of cases examined in 2004", the Court noted that "*as in previous years, a large percentage of the judgments delivered by the Court concerned exclusively or primarily the excessive length of court proceedings. The number of these judgments was virtually identical to that for the previous year (increasing from 235 to 248), as was the figure shown as a percentage of all judgments (increasing from 33.43 % to 34.49 %)*". This finding has been reiterated for several years in all the Court's annual reports, with the almost ritual assertion that non-compliance with the right to a hearing within a reasonable time is one of the main causes of violation of the Convention.

Addressing a conference to mark the fiftieth anniversary of the Convention, Mr Luzius Wildhaber, President of the European Court since the 1998 reform, described the challenges facing the European human rights protection machinery. In the coming years, he told his audience, the success of the Convention system would be judged according to three criteria: the length of proceedings before the Court, the quality of its judgments and the effectiveness with which those judgments were implemented. He called for contracting states to give that system their total support, which was essential if the Convention machinery was to be successful.

In 2006, of a total of 1560 judgments finding a violation of the Convention, 567 originated in excessive length of proceedings¹⁵². In 2007, the figure was 384 out of 1503¹⁵³; in 2008, 456 out of 1543¹⁵⁴; in 2009, 449 out of 1645¹⁵⁵; and in 2010, 461 out of 1499¹⁵⁶. This shows that the number of adverse findings has remained fairly stable, accounting for over one quarter of all such findings.

This situation has changed significantly in recent years.

For example, while the previous version of this report noted that failure to uphold this right was among the top causes of violation of the Convention (2nd out of 24 causes in 2012 and 2013), these failures fell to 5th position in 2014, 2015 and 2016¹⁵⁷.

This can be explained primarily by an improvement in judicial procedures due to the reforms introduced by member states to comply with the case-law of the European Court, as revealed in the annual reports and resolutions of the Council of Ministers, but also by the Court's requirement that applicants seek recourse to effective domestic remedies, even if these may only enable redress to be obtained for excessive length of proceedings, rather than preventing it (following the *Mifsud* decision, cited above).

A further reason is undoubtedly the Court's policy of strengthening its filtering of cases and modifying its working methods following the entry into force of Protocol No. 14, in response to its backlog and the criticism it faced.

The length of judicial proceedings nonetheless remains a major concern, not only for domestic courts everywhere but also and above all for the Court.

The Court's judgments and decisions show that there is a clear need for a "culture of expedition or dispatch", which is not necessarily synonymous with speed but signifies above all a commitment to proper judicial time management.

This aim implies to mobilise all the parties to the trial, first of all the courts, and inside them, magistrates, clerks and administrative staff. Information technology offers now interesting tools facilitating the follow-up of proceedings and allowing a better watch of delays. Proposals are made for mobilising the different parties¹⁵⁸.

¹⁵² 2006 Annual Report, pp. 107 and 108 ; available on the Court website <http://www.echr.coe.int/echr>

¹⁵³ 2007 Annual Report, pp. 144 and 145.

¹⁵⁴ 2008 Annual Report, pp. 134 and 135.

¹⁵⁵ 2009 Annual Report, pp. 146 and 147.

¹⁵⁶ 2010 Annual Report, pp. 149-151.

¹⁵⁷ The statistics for 2017 are not available, but in principle they should confirm this trend.

¹⁵⁸ One of the selected applications for the Crystal scales of justice award in 2006 intended to reduce the length of proceedings: the first Instance court of Torino (Italy) "Programme Strasbourg" First experience of case management in Italy to combat backlogs and speed up the treatment of civil proceedings.

The “Best practice project” in Denmark should be mentioned, intending to increase the capacity of courts, while assuring constant quality of the judicial service¹⁵⁹.

All those involved in the process need to be mobilised, starting with the courts, including judges, court registrars and administrative staff. But achieving this objective also requires the involvement of other legal professions such as lawyers, notaries, bailiffs and court appointed experts, all of whom have a contribution to make in their respective spheres.

Courts also function in co-operation with an increasing number of other institutions. The required "diligence" must concern all national authorities and the officials working for them, whether they are responsible for drafting defence submissions on behalf of governments or for responding to requests for out-of-court settlements. Other decentralised or devolved public bodies are equally concerned, when they become parties to certain proceedings concerned with guardianship or statutory care, for example, or are consulted by the courts in proceedings relating to social services or social security matters.

Finally, we need to pay attention to ordinary citizens themselves, when they are parties to proceedings. When their negligent conduct is not in bad faith, it is often the result of lack of information on their rights and obligations. Such information should itself be supplied with diligence, and dilatory conduct must be answered with court orders and penalties prescribed by law, as the Court has consistently advocated.

If this worry for the information of the public is written in the rules of the functioning of courts, delaying behaviours, cause of extension of proceedings and bonus for dishonesty, would be easier to sanction, as recommended by the European Court of Human Rights.

¹⁵⁹ See the aforementioned CEPEJ report “Time management of justice systems: a Northern Europe study”(CEPEJ(2006)14).

Selective bibliography

Works and encyclopedias:

- V. Berger, *Jurisprudence de la Cour européenne des Droits de l'Homme*, Ed. Sirey, 2014, 953 p.
- F. Sudre, J-P Marguénaud, J. Andriantsimbazovina, A. Gouttenoire, M. Levinet, *Les grands arrêts de la Cour européenne des Droits de l'Homme*, Ed. Thémis, Puf, 2017, 950 p.
- C-H. Van Rhee, "The law's delay: essays in undue delay in civil litigation", collective work, Intersentia, 2004.
- Harris, O'Boyle, and Warbrick, *Law of the European Convention on Human Rights*, Ed Bates, Carla Buckley, Oxford University Press, 2014.
- Karen Reid, *A practitioner's guide to the European Convention on Human Rights*, London: Thomson/Sweet & Maxwell, 2015.
- S. Guinchard, « Procès équitable », Répertoire Procédure civile, Dalloz, mars 2017.
- N. Fricero, « Garanties de nature procédurale : équité, publicité, célérité et laïcité », in *Droit et pratique de la procédure civile*, Dalloz action, 2017-1018.
- P. Dourneau-Josette, "Convention européenne des droits de l'homme (La jurisprudence de la Cour européenne des droits de l'homme en matière pénal)", *Répertoire de droit pénal et procédure pénale*, Dalloz, June 2013.
- J. Fr. Flauss, « Les cours constitutionnelles et la règle du délai raisonnable : le contrôle de la Cour EDH », *Mélanges L. Favoreu*, Dalloz, 2007.
- La Convention européenne des Droits de l'Homme*, Commentaire article par article, dir. Pettiti, E Decaux, P-H Imbert, Ed. Economica, Article 6 par J-C Soyer et M de Salvia, pp. 239-279.
- Annual reports of the European Court of Human Rights, available on the Court website <http://www.echr.coe.int/echr>
- European Court of Human Rights Case-Law Information Notes:
<https://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis/clin&c=>
- Admissibility Guide:
https://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis/admi_guide&c=
- European Court of Human Rights Case-Law Guides:
<https://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis/guides&c=>
- Annual Reports of the Committee of Ministers on Supervision of the Execution of the judgments of the European Court of Human Rights, available on the Council of Europe website:
http://www.coe.int/t/dghl/monitoring/execution/Documents/Publications_en.asp
- Handbook on European Law relating to access to Justice, FRA, ECHR, Council of Europe:
https://www.echr.coe.int/Documents/Handbook_access_justice_ENG.pdf
- G. Cohen-Jonathan, J.-F. Flauss et E. Lambert Abdelgawad (dir.), *De l'effectivité des recours internes dans l'application de la Convention européenne des droits de l'homme*, Droit et justice 69, Bruylant, 2006.
- Lord Woolf, *Review of the Working Methods of the European Court of Human Rights*, 2005:
http://www.echr.coe.int/Documents/2005_Lord_Woolf_working_methods_ENG.pdf

Journals:

- Le délai raisonnable, in: *Revue Trimestrielle des Droits de l'Homme*, n° 5, January 1991,
- R. Bindels, "L'influence du droit d'être jugé dans un délai raisonnable prévu par l'article 6 § 1 de la Convention européenne des droits de l'homme sur l'administration de la justice civile belge", in *Annales de Droit de Louvain*, (Brussels), Vol 62, 2002, pp. 349-428.
- F. Gölcükü: Délai raisonnable et le procès équitable dans la Convention européenne des Droits de l'Homme, in: *Mainly Human Rights*, Dir. Salvino Busuttil, 1999.
- E. Lambert Abdelgawad, "L'exécution des arrêts de la Cour européenne des droits de l'homme", chronique annuelle, in *Revue trimestrielle des droits de l'homme*.

Appendix 1 updated 2012-2016

Violations under the "length of proceedings" (article 6 § 1) per country (*)

	Population (in millions of inhabitants) (**)	2012			2013			2014			2015			2016		
		Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings
Albania	2,8	7	5		8	4	1	6	4	1	7	7	1	10	10	1
Germany	80,6	23	11		6	3		13	3		11	6		18	4	
Andorra	0,07	2	1											2	1	
Armenia	3,0	16	16		2	1		4	4		8	8		15	13	
Austria	8,5	23	10	3	15	10	2	7	3	3	8	5	2	10	6	4
Azerbaijan	9,7	17	17	4	8	8		11	11		19	19		16	16	1
Belgium	11,2	6	6	1	9	6		19	16	1	13	11		11	5	
Bosnia and Herzegovina	3,8	7	6	1	7	7		7	5		3	2		2	2	
Bulgaria	7,1	64	58	14	26	23	3	18	18		32	28		37	33	
Cyprus	1,1				1	1					6	5		3	2	
Croatia	4,2	23	18	5	24	22	3	27	23	2	25	17		34	25	3
Denmark	5,6	1						2						3	1	
Spain	46,1	10	8	1	12	7		6	4		4	2		16	12	3
Estonia	1,3	4	2		6	5		6	5	2	5	3	1	5	3	
Russian Federation	143,45	134	122	8	129	119	7	129	122	3	116	109	6	228	222	15
Finland	5,5	5	2		3	3		12	4	1	7	5	1	1	1	
France	66,7	29	19		36	28		22	17	1	27	17		23	14	
Georgia	4,0	12	8		2	2		3	1		4	2		4	4	
Greece	10,9	56	52	34	38	32	12	54	50	26	47	43	20	45	41	16
Hungary	9,8	26	24	9	42	40	25	50	49	30	44	42	21	41	40	16
Ireland	4,6	2	2	2	2	1	1	1	1							
Italy	59,7	63	36	16	39	34	16	44	39	2	24	21		15	10	1
Latvia	2,3	14	10	2	10	10	1	19	16	1	7	6		16	9	1
« Former Yugoslav Republic of Macedonia »	2,0	7	6	2	9	9	5	9	6	3	12	11	2	12	8	1

	Population (in millions of inhabitants) (**)	2012			2013			2014			2015			2016		
		Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Population (in millions of inhabitants) (**)	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Population (in millions of inhabitants) (**)	Total number of judgments	of which violation	Length of proceedings
Liechtenstein	0,038				1						2	2	1	1	1	1
Lithuania	2,8	12	7	1	12	10	2	5	3		14	9		22	13	
Luxembourg	0,5	2	1	1	2	1					1	1				
Malta	0,4	3	1		10	5	1	4	3		5	3		8	7	
Monaco	0,038				1											
Montenegro	0,62	6	5	3	3	3		1	1		4	3	1	2	2	
Norway	5,2	3	2		3	2		4	2		1	1		2		
The Netherlands	16,9	7	5		1			3	3		1			11	3	
Poland	38,6	74	56	6	23	14	3	28	20	4	29	20	9	26	19	1
Portugal	10,3	23	22	16	11	11	6	18	18	10	20	16	9	19	17	8
Republic of Moldova	4,0	27	24		19	18		24	21		19	18		23	19	
Slovak Republic	5,4	23	21	11	16	16	13	14	13	2	14	13	2	10	9	4
Czech Republic	10,5	15	10		11	8		8	4		4			5	2	
Romania	19,5	79	70	9	88	83	11	87	74	6	84	72	7	86	71	8
United Kingdom	64,7	24	10	1	13	8		14	4		13	4	1	14	7	1
San-Marino	0,032	1	1								1	1				
Serbia	8,8	12	10		24	21	2	18	16		17	16	1	21	19	4
Slovenia	2,0	22	20	12	25	24	20	31	29	7	14	13	6	4	2	
Sweden	9,7	15	4		16	3		8	2		6			5	4	
Switzerland	8,2	8	3		13	9	1	18	8		10	3		10	5	
Turkey	78,6	123	117	38	124	118	32	101	94	11	87	79	8	88	77	4
Ukraine	44,8	71	69	27	69	65	11	40	39	1	51	50	5	73	70	13
TOTAL		1093	899	227	916	797	178	891	756	117	823	694	104	993	829	106

Sources:

(*) Annual reports 2012 to 2016, Registry of the European Court of Human Rights, Strasbourg.

(**) INSEE (2015 year-end population estimates): <https://www.insee.fr/fr/statistiques/serie/001641607> (accessed on 31 July 2017), and UN (Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat - World Population Prospects: The 2015 Revision): https://esa.un.org/unpd/wpp/Publications/Files/Key_Findings_WPP_2015.pdf (accessed on 31 July 2017).

Appendix 1 bis

Violations under the "length of proceedings" (article 6 § 1) per country(*)

	Population (in millions of inhabitants) (**)	2006			2007			2008			2009			2010		
		Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings
Albania	3,2				6	5	2							7	5	1
Germany	82,3	10	6	4	12	7	5	10	6	5	21	18	14	36	29	29
Austria	8,4	21	20	3	23	20	8	14	11	7	15	13	6	19	16	9
Azerbaijan	9,2							9	7	2						
Belgium	10,7	7	4	2	15	14	10	14	12	9	11	8	2			
Bulgaria	7,5	45	43	16	53	51	19	60	51	25	63	61	21	81	69	31
Cyprus	1,1	15	15	15	7	7	6	9	6	2	3	3	3			
Croatia	4,4	22	21	16	39	29	14	19	16	11	19	16	6	21	21	8
Denmark	5,6							2	2	2	3	3	3			
Spain	46,1										17	11	3			
Estonia	1,3				3	3	2				4	4	1			
Russian Federation	143,0	102	96	18	192	175	11	244	233	20	219	210	34	217	204	29
Finland	5,4	17	12	7	26	16	9	9	8	2	29	28	19	17	16	9
France	62,8	96	87	25	48	19	6	34	24	1	33	20	2	42	28	1
Georgia	4,4							6	4	1	11	11	2			
Greece	11,4	55	53	32	65	61	38	74	73	53	75	69	41	56	53	33
Hungary	10,0	31	31	27	24	24	22	44	43	39	30	28	20	21	21	14
Ireland	4,5													2	2	1
Italy	60,6	103	96	17	67	58	25	82	72	51	69	61	12	98	61	44
Latvia	2,3	10	9	3	12	8	2									
«former Yugoslav Republic of Macedonia»	2,1	8	7	7	17	16	11	15	15	10	17	16	10	15	14	7
Liechtenstein	0,4	1	1	1										1	1	1
Lithuania	3,3	7	6	3	5	3	2				9	8	7	8	7	3
Liechtenstein	0,4	1	1	1										1	1	1
Lithuania	3,3	7	6	3	5	3	2				9	8	7	8	7	3

	Population (en millions of inhabitants) (**)	2006			2007			2008			2009			2010		
		Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings	Total number of judgments	of which violation	Length of proceedings
Luxembourg	0,5	2	2	1	7	6	2	6	4	3				7	5	3
Malta	0,4	8	8	3				5	2	1						
Moldova	3,6	20	18	1	60	59	2	33	28	3	30	29	3			
Norway	4,9				5	5	1	5	3	1						
Netherlands	16,6															
Poland	38,3	115	107	51	111	101	35	141	129	63	133	123	50	107	87	37
Portugal	10,7	5	4	1				12	12	1	17	17	3	19	15	6
Czech Republic	10,5	39	37	27	11	9	3							11	9	1
Romania	21,5	73	64	7	93	88	8	199	189	25	168	153	16	143	135	16
United Kingdom	62,0	23	10	1	50	19	1	26	27	1	18	14	2	21	14	1
San Marino	0,3															
Serbia	9,9				14	14	8	9	8	3	16	14	5	9	9	2
Slovakia	5,5	35	35	32	23	22	14	15	12	11	39	38	29	40	40	29
Slovenia	2,0	190	185	183	15	14	13	9	8	7	8	7	4	6	3	2
Sweden	9,4	8	3	2	7	5	4	2	2	1				6	4	1
Switzerland	7,7	9	9	1							7	5	1			
Turkey	72,8	334	312	48	331	319	67	264	257	64	356	341	95	278	228	83
Ukraine	45,4	120	119	12	109	108	34	110	110	32	126	126	35	109	107	60
TOTAL	811,9	1531	1420	566	1450	1285	384	1481	1374	456	1566	1455	449	1397	1203	461

Sources:

(*) Annual reports 2007 to 2010, Registry of the European Court of Human Rights, Strasbourg.

(**) INSEE (2010 mid-year population estimates): <https://www.insee.fr/fr/statistiques/serie/001641607> (accessed on 8 November 2011), and UN (Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat - World Population Prospects: The 2010 Revision): https://esa.un.org/unpd/wpp/Publications/Files/Key_Findings_WPP_2015.pdf (accessed on 8 November 2011).

Appendix 1 ter

Violations under the "length of proceedings" (article 6 § 1) per country (*)

	Population (en millions of inhabitants)	Total number of judgments	Judgments establishing at least one violation	1999 2006		1959 2010	
				Length of proceedings	Total number of judgments	Judgments establishing at least one violation	Length of proceedings
Albania	3,2				27	23	3
Germany	82,3	76	53	23	193	128	83
Austria	8,4	141	111	45	287	215	81
Azerbaijan	9,2				42	38	2
Belgium	10,7	67	50	33	162	113	55
Bulgaria	7,5	116	109	45	375	343	141
Cyprus	1,1	35	29	22	60	50	34
Croatia	4,4	101	72	41	191	154	80
Denmark	5,6	20	5	2	34	13	8
Spain	46,1	32	24	6	91	56	11
Estonia	1,3	12	9	1	23	19	4
Russian Federation	143,0	207	197	47	1079	1019	141
Finland	5,4	64	47	18	151	119	57
France	62,8	541	431	245	815	604	279
Georgia	4,4	10	9	2	39	32	5
Greece	11,4	301	258	181	613	541	353
Hungary	10,0	92	84	75	211	200	170
Ireland	4,5	12	7	4	25	15	6
Italy	60,6	1648	1264	923	2121	1617	1139
Latvia	2,3	18	16	4	45	37	6

	Population (en millions of inhabitants (**))	Total number of judgments	Judgments establishing at least one violation	1999 2006		1959 2010	
				Length of proceedings	Total number of judgments	Judgments establishing at least one violation	Length of proceedings
«former Yugoslav Republic of Macedonia»	2,1	14	11	9	78	72	47
Liechtenstein	0,4	4	4	1	5	5	2
Lithuania	3,3	30	23	7	65	52	19
Luxembourg	0,5	12	11	8	36	29	16
Malta	0,4	15	14	4	31	25	5
Moldova	3,6	45	42	2	196	178	10
Norway	4,9				28	20	2
Netherlands	16,6	60	36	5	128	73	8
Poland	38,3	378	318	210	874	761	397
Portugal	10,7	131	74	59	206	138	77
Czech Republic	10,5	117	106	73	158	142	77
Romania	21,5	186	152	13	791	719	78
United Kingdom	62,0	206	141	17	443	271	25
San Marino	0,3	10	8	2	11	8	2
Serbia	9,9				49	46	18
Slovakia	5,5	128	104	83	248	218	166
Slovenia	2,0	195	188	195	233	220	211
Sweden	9,4	35	13	5	95	47	12
Switzerland	7,7	34	27	4	102	71	6
Turkey	72,8	1310	1076	127	2573	2245	440
Ukraine	45,4	263	258	32	717	709	193
TOTAUX	811,9	6666	5381	2573	13651	11385	4469

Sources :

(*) Annual reports 2007 à 2010, Registry of the European Court of Human Rights, Strasbourg

(**) INSEE (2010 mid-year population estimates): http://www.insee.fr/fr/themes/tableau.asp?reg_id=98&ref_id=CMPTF01105

(accessed on 08/11/2011), and ONU (Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat - World Population Prospects: The 2010 Revision) : http://esa.un.org/unpd/wpp/unpp/panel_population.htm (accessed on 08/11/2011)

Appendix 2

“Priority” cases for which the European Court of Human Rights requires particular diligence by the authorities (non-exhaustive list)

Although the Court’s precise wording may vary, ranging from “exceptional expedition” (HIV case) to a “certain diligence” (mental capacity of a plaintiff), the Court does not operate any real ranking with regard to the types of cases concerned. Its view is that they all require the courts to show particular vigilance about the length of proceedings. This overview highlights the issues at stake which must be particularly taken into account in the way courts deal with cases.

1. Employment disputes, occupational diseases and cases relating to means of subsistence

- *Ruotolo v. Italy* judgment of 27 February 1992, decision of violation for proceedings which lasted 11 years and 7 months, for three court levels, followed by a review of the case decided by the Court of Cassation: excessive length of the deliberation at the appeal level (7.5 months).
- Inadmissibility decision of the Commission in the *Labate v. Italy* case of 14 January: The Commission found that Italy had shown the degree of diligence required in labour law cases following the introduction in 1990 of special measures to expedite proceedings in this type of case.
- *Frydlender v. France* judgment of 27 June 2000 concerning administrative proceedings in an employment dispute between a government department and a contractual employee (applicability of Article 6§1 to this type of case and violation for proceedings lasting nine years and eight months, including six before the Conseil d’Etat on points of law). “*Employment disputes by their nature call for expeditious decision, in view of what is at stake for the person concerned, who through dismissal loses his means of subsistence*”.
- *Mianowicz v. Germany* judgment of 18 October 2001: The Court held that special diligence was required in employment disputes, which had to be settled with particular expedition since they concerned issues that were crucial to individuals’ occupational situation – violation (12 years and 10 months).
- *Garcia v. France* judgment of 14 November 2000: The Court noted that the continuation of the applicant’s employment had depended in large measure on the proceedings in question and concluded that, as in employment disputes, what was at stake for the applicant had called for a rapid decision. The case had concerned an application to set aside a *Prefet’s* implicit refusal to grant the applicant, a bar owner, an extension to his opening hours (five years, eight months and nine days in two levels of jurisdiction).
- *Fernandes Casção v. Portugal* judgment of 1 February 2001: the Court pointed out that in cases concerning employees’ entitlement to their salaries or to allowances forming part of their earnings, particular attention must be given to the point at which the reasonable time requirement in Article 6§1 could be considered to have been breached (four years and seven months in one level of jurisdiction). See also *Farinha Martins v. Portugal* of 10 July 2003 (17 years and nine month in two levels of jurisdiction).
- *Mianowicz v. Germany* (No. 2) judgment of 11 June 2009 (19 years in one level of jurisdiction) and *Petko Ivanov v. Bulgaria*, decision of 26 March 2009, challenging dismissals (nine years and seven months in three levels of jurisdiction).
- *Sartory v. France* judgment of 24 September 2009, six years and seven months in two levels of jurisdiction to decide a dispute on the transfer of a civil servant was deemed excessive.
- *Vassilios Athanasiou and others v. Greece* judgment of 21 December 2010: this case concerned an administrative dispute on the granting of an additional retirement premium from the Army Solidarity Fund (13 years and eight months for three levels of jurisdiction).

- *Kalfon v. France* judgment of 29 October 2009: speed is of the essence in the field of employment disputes, as they require an early decision by definition because of the issues at stake in proceedings for the applicant, his personal and family life and his professional career (9 years in three levels of jurisdiction).
- The same applies where the issue at stake for the applicant is being able to set up an agricultural business (*Gouttard v. France* judgment, 30 September 2011. In this case, six years and 11 months in three levels of jurisdiction before the administrative courts).
- *Nikolov and others v. Bulgaria* judgment of 21 February 2012: proceedings challenging dismissal lasting four years and four months in three levels of jurisdiction for the first applicant and three years and ten months for the second (violation).
- *Müller-Hartburg v. Austria* judgment of 19 February 2013: proceedings lasting nine years and 11 months in three levels of jurisdiction, relating to disciplinary proceedings against a lawyer where what was at stake for the applicant was the right to continue to exercise his profession.
- *Valada Matos das Neves v. Portugal* judgment of 29 October 2015: a case relating to the dismissal of a member of the office of the mayor of Lisbon, having lasted before the administrative court nine years and 11 months in one level of jurisdiction.
- *A.K. v. Liechtenstein (No. 2)* judgment of 18 February 2016: civil proceedings having lasted seven years in four levels of jurisdiction. The outcome of the proceedings, which concerned, in substance, the right to determine the economic activities of, and participate in the profits made by, two stock companies, were of significant importance to the applicant's professional life and means of subsistence.

2. Cases relating to compensation for victims of accidents

- *Floarea Pop v. Romania* judgment of 6 April 2010: the domestic proceedings concerned compensation for damages caused to the applicant by her son's death (seven years and ten months in three levels of jurisdiction).
- *Stefanova v. Bulgaria* judgment of 11 January 2007: the proceedings concerned compensation for accidental injuries which had caused permanent damage to the applicant's health, without endangering her life (11 years in two levels of jurisdiction).
- *Şevket Kürüm and others v. Turkey* judgment of 25 November 2014: compensation proceedings following the death of an individual having lasted five years and eight months in two levels of jurisdiction.
- *Țăvîrlău v. Romania* judgment of 2 February 2016 on compensation for the victim of medical negligence having lasted seven years, six months and 13 days in three levels of jurisdiction.

3. Cases in which the applicant is or has been detained in the course of the proceedings

- *Soto Sanchez v. Spain* judgment of 25 November 2003 (§ 41 - French only): violation for a period of 5 years, 5 months and 18 days before the Constitutional Court.
- *Motsnik v. Estonia* judgment of 29 April 2003; in a non-complex sexual offence case the Court stated that there was no violation of Article 6§1 considering the length of the proceedings at three levels of jurisdiction during the period under consideration 2 years and 7 month, the competence *ratione temporis* considering only the period after April 1996. For the applicant, taken into custody in February 1998, the case presented a special stake for exceptional speed from the national authorities.
- *Şinegu and others v. Turkey* judgment of 13 October 2009: the Court notes that the applicants were remanded in custody throughout the proceedings; such situations require special diligence from the trial courts in order to administer justice as quickly as possible (violation: 13 years and 10 months in two levels of jurisdiction).
- *Mihalkov v. Bulgaria* judgment of 10 April 2008: this case concerned an action for damages for unlawful conviction, unlawful detention (11 months) and defamation of character (violation: six years and eight months for three levels of jurisdiction).
- Judgment *Gocmen v. Turkey*, 17 October 2006: the Court noted that this speed requirement was particularly important to the applicant because he had been in custody for over six years 9 months.

- *Syngayevskiy v. Russia* judgment of 27 March 2012: Criminal proceedings having lasted three years and eight months in two levels of jurisdiction during which the applicant was detained.
- *Sizov v. Russia (No. 2)* judgment of 24 July 2012: Criminal proceedings having lasted four years and ten months in two levels of jurisdiction during which the applicant was detained.
- *D.M.T. and D.K.I. v. Bulgaria* judgment of 24 July 2012: criminal proceedings having lasted six years and two months in three levels of jurisdiction during which the applicant was detained.
- *Kobernik v. Ukraine* judgment of 25 July 2013, concerning criminal proceedings relating to charges of criminal activities against fifteen defendants, which had lasted seven years and ten months in two levels of jurisdiction. The Court reiterated that the fact that the applicant had been detained in the course of the proceedings required particular diligence on the part of the judicial authorities.
- *Aleksandr Novikov v. Russia* judgment of 11 July 2013: this was a similar case, in which the proceedings had lasted three years and seven months in one level of jurisdiction. The Court noted in addition that the applicant had been kept in detention throughout the whole proceedings, in violation of the requirements of Article 5 § 3 of the Convention.
- *Grujović v. Serbia* judgment of 21 July 2015: Criminal proceedings having lasted eight years in two levels of jurisdiction and still pending. The Court noted that what was at stake for the applicant was that he ran the risk of imprisonment, that he had been kept in detention throughout the whole trial proceedings and was still in detention pending a retrial.

4. Cases where the applicant's health is a critical issue or where the applicant's age is a factor to be taken into account

- *Gheorghe v. Romania* judgment of 15 June 2007: the Court reiterated that special diligence was required of the authorities where the applicant was suffering from a serious and incurable disease and his condition was rapidly deteriorating (§54). Given the serious decline in the applicant's health during the proceedings, and since the authorities had been required to show a high level of diligence, the Court concluded that the length of the proceedings in question was excessive (§60). In this case the main cause of the delay had been a dispute over jurisdiction between two courts which had committed errors of appraisal of their respective competences (two years and 11 months in two levels of jurisdiction).
 - *Sopp v. Germany* judgment of 8 October 2009, the Court observed that particular attention should be paid to recognising the occupational origin of a disease in view of the importance of the proceedings to the applicant, since the aim was to provide him with additional means of support by means of a special reversionary annuity (violation: 18 years and six months in three levels of jurisdiction).
- French haemophiliacs contaminated by the HIV virus during blood transfusions:
- *X v. France* judgment of 31 March 1992 (two years in one level of jurisdiction including one previous appeal to a higher administrative authority), *Vallée v. France* of 26 April 1994 (four years in one level of jurisdiction including one previous appeal to a higher administrative authority): "*Like the Commission, the Court considers that what was at stake in the proceedings complained of was of crucial importance to the applicant in view of the disease from which he is suffering. Exceptional diligence was called for in this instance, notwithstanding the number of cases to be dealt with*".
 - *Süssmann v. Germany* judgment of 16 September 1996 concerning a case relating to the calculation of a supplementary retirement pension (violation: three years and four months relating to proceedings before the Federal Constitutional Court).
 - *Styranowski v. Poland* judgment of 30 October 1998: the Court took account of the age of the applicant, a retired judge, in compensation proceedings following a reduction of the applicant's pension (violation: four years and one month, of which two years, eight months and 16 days in two levels of jurisdiction were taken into consideration by the Court).

- *Pantaleon v. Greece* judgment of 10 May 2007 concerning a war pension requested by an eighty-year-old litigant: the applicant had difficulty obtaining the enforcement of a judicial decision on the granting of his pension. The Court considered that the two-year period of proceedings was too long and that the administrative authorities had failed to show the requisite diligence in the case in view of the applicant's advanced age and the importance of the proceedings to him.

5. Cases relating to the preservation of family life, disputes concerning maintenance obligations and cases relating more generally to the applicant's civil status

- *H v. United Kingdom* judgment of 8 July 1987: in this child care case, the Court stated that not only were the proceedings "decisive for [the mother's] future relations with her own child, but they had a particular quality of irreversibility, involving as they did what the High Court graphically described as the "statutory guillotine" of adoption In cases of this kind the authorities are under a duty to exercise exceptional diligence" (violation: two years and seven months in two levels of jurisdiction).

- *Johansen v. Norway* judgment of 7 August 1996: "in view of what was at stake for the applicant and the irreversible and definitive character of the measures concerned, the competent national authorities were required by Article 6 paragraph 1 (...) to act with exceptional diligence in ensuring the progress of the proceedings" (non-violation: one year and nine in one level of jurisdiction).

- *EP v. Italy* judgment of 16 November 1999, violation: child custody proceedings (lasting seven years).

- *Tetourova v. Czech Republic* judgment of 27 September 2005: non-violation for three and a half years of proceedings, still pending, before the court to which the matter was initially referred, in view of the applicant's conduct which was primarily responsible for the delay.

- *Jahnova v. Czech Republic* judgment of 19 October 2004: a length of three years and five months still pending before the court to which the matter was initially referred, while the mother had been separated from her child since 1997, was deemed excessive.

- *Kubiznakova v. Czech Republic* judgment of 21 June 2005: violation for a duration of six years and four months and two levels of proceedings having taken a decision three times each.

- *Dinu v. Romania and France* judgment of 4 November 2008, an applicant secured a decision against both France and Romania on the grounds that the enforcement proceedings had taken nine years because of delays not only in the two judicial systems but also in the ministries concerned.

- *Costa Ribeiro v. Portugal* judgment of 30 April 2003. The Court held that cases concerning individuals' civil status and capacity required special diligence. The court in question had had a duty to proceed with particular diligence because what was at stake for the applicants, particularly the second applicant, was the right to a name and to the establishment of paternity: violation – nine years and one month before one level of jurisdiction.

- *Ebru and Tayfun Colak v. Turkey* judgment, 30 May 2006: the Court reiterated that special diligence was required in cases relating to the condition and capacity of individuals. Given the importance of this case to the applicant vis-à-vis his right to establish or refute the person in question's paternity, and therefore to put an end to his uncertainty as to the identity of his natural father, the Court considered that Article 6 § 1 required the competent domestic authorities to act with particular diligence and to expedite proceedings accordingly (violation: eight years and nine months before five different bodies).

- Judgment *Tsikakis v. Germany*, 10 May 2011: the acknowledgment of paternity proceedings in this case took almost six years five months, involving three judicial levels, including four years before the appeal court.

- *Bock v. Germany* judgment of 23 March 1989: The case required "swift determination" (§47). The Court concluded "regard being had to the particular diligence required in cases concerning civil status and capacity", there had been a violation in respect of divorce proceedings lasting nine years.

- *Veiss v. Latvia* judgment of 28 January 2014: case still pending which had begun on 8 February 2007 relating to the applicant's official recognition as the father of a child; this matter required particular diligence and urgency in the organisation of proceedings.

- *Hoholm v. Slovakia* judgment of 13 January 2015: case relating to the international removal of a child (The Hague Convention) having lasted seven years in two levels of jurisdiction.

6. Proceedings concerning a violation of absolute rights

- *Caloc v. France* judgment of 20 July 2000: “special diligence was required of the relevant judicial authorities in investigating a complaint lodged by an individual alleging that he had been subjected to violence by police officers” (violation: seven years and three days in three levels of jurisdiction).
- *Krastanov v. Bulgaria* judgment of 30 September 2004: in a case concerning unlawful police violence and state liability for damages arising from such conduct, the Court stated that “as regards the importance of what was at stake for the applicant, the Court observes that his action concerned payment for grave injuries sustained as a result of police violence. In such cases special diligence is required of the judicial authorities” (violation: a little over four years in two levels of jurisdiction).
 - In the *Dachar v. France* judgment of 10 October 2000, concerning criminal charges with an application for damages, in which two sets of proceedings lasted respectively four years and four years and three months before two tiers of courts, the Court considered that in view of what had been at stake for the applicant, the case should have been dealt with proper diligence.
- *L.E. v. Greece* judgment of 21 January 2016: Criminal proceedings relating to human trafficking, initiated following a complaint, to which the applicant had been joined as a civil party and which had lasted five years and two months in one level of jurisdiction.

7. Other reasons for particular speed:

- *Gunes v. France* judgment of 20 November 2008: the applicant wished to secure items of personal information, the possible inaccuracy of which was liable to damage his reputation (violation: eight years, seven months and 19 days in three levels of jurisdiction).
- *Oršuš and others v. Croatia* Judgment of 16 March 2010: this case concerned the right to education in the context of discrimination against Roma. Although the Court accepted that the Constitutional Court’s role of guardian of the Constitution sometimes made it particularly necessary for it to take into account considerations other than the mere chronological order in which cases were entered on the list, such as the nature of a case and its importance in political and social terms, the Court found that a period exceeding four years to decide on the applicants’ case, particularly in view of what was at stake, was excessive (violation: four years, one month and 18 days before the Constitutional Court alone).
- *Siffre, Ecoffet and Bernardini v. France* judgment of 12 December 2006: the Court pointed out that the case was of particular importance to the applicants because at the time of the facts the extension of proceedings had had decisive consequences for their political careers, resulting in their resignation from office and a three-year period of ineligibility before they obtained a final discharge from their de facto financial responsibilities by the *Chambre Régionale des Comptes*. They therefore had a serious personal interest in obtaining an early final decision discharging them from their financial responsibilities (violation: five years and four months before the *Chambre Régionale des Comptes* alone).

Appendix 3 - complex cases

violation of article 6 § 1

CASE	REASONS FOR COMPLEXITY	GROUND OF VIOLATION	TYPE OF PROCEEDINGS	LENGTH
Ilijkov v. BULGARIA , 2 July 2001	- several co-accused who had fraudulently obtained tax rebates	- excessively long intervals between hearings - judicial authorities authorised adjournments without sufficient justification - absence of judges who were not replaced	Criminal	5 years
Nikolova v. BULGARIA , 25 March 1999	- several co-accused - criminal activities over a three year period	- the complexity of the case insufficient to explain the length of the proceedings - reform of the code of criminal procedure cannot justify the delays - lack of progress of investigations despite instructions from the prosecuting authorities	Criminal	5 years for one level of courts
Mitev v. BULGARIA , 22 December 2004	- numerous witnesses - use of experts - difficult to locate witnesses	- insufficient efforts by the authorities to ensure that one of the accused had legal representation - excessively long investigation period (more than five years)	Criminal	6 years, 7 months for two levels of courts
Hamanov v. BULGARIA , 8 April 2004	- several persons suspected - numerous financial offences	- court of appeal first hearing more than a year after the judgment at first instance was quashed - case pending since 5 June 2000, including a challenge to the admissibility of the appeal lodged with the court of cassation	Criminal	7 years, 1 month (case still pending on the date of judgment)
Belchev v. BULGARIA 8 April 2004	- several persons suspected - numerous financial offences	- court of appeal first hearing more than a year after the judgment at first instance was quashed - case pending since 5 June 2000, including a challenge to the admissibility of the appeal lodged with the court of cassation	Criminal	(case still pending on the date of judgment)
Sahiner v. TURKEY , 25 September 2001	- large number of accused and of charges	- excessive time taken to hand down judgments - change of legislation <i>but</i> states must organise their judicial systems appropriately	Criminal	6 years, 2 months (real length 15 years)
Mitap v. TURKEY , 21 February 1996	- nature of the charges against the applicants (terrorist activities) - 627 criminal offences - 726 accused	- long periods of inactivity (three years for the martial law court to draft the reasons for the judgment) and the government offered no information to justify such a long period	Criminal	6 years (real length 15 years)
Demirel v. TURKEY , 28 April 2003	- case heard with that of four other co-accused for membership of the PKK	- the preliminary inquiries should have been conducted more rapidly - it had taken a long time to hear witnesses	Criminal	7 years, 7 months
Iwanczuk v. POLAND 15 November 2001	- inherent complexity of this type of case (forgery and use of counterfeit documents)	- change in the court's composition - hearings restarted from the beginning, after 71 had already taken place	Criminal	8½ years (real length: 10½ years, case still pending)
Ilowiecki v. POLAND , 4 October 2001	- numerous international bank transactions - need to call in several experts	- total of two years and ten months for which the government supplied no explanation	Criminal	7 years, 10 months (case still pending)
Grauslys v. LITHUANIA , 10 October 2000	- fraud case	- authorities' repeated failures to question the victims	Criminal	5 years (case still pending)

Kalashnikov v. RUSSIA , 15 July 2002	- financial offences, involving a considerable volume of evidence and the need to question numerous witnesses	- even though the applicant helped to prolong the proceedings, Article 6§1 does not require defendants to co-operate with the authorities - the applicant was kept in custody, which required the courts to show particular diligence and administer justice expeditiously	Criminal	2 years (real length: 5 years, 1 month for one level of courts)
Lavents v. LATVIA , 28 February 2003	- very large scale financial crime - several co-accused - exceptional volume of evidence - scale of the investigation	- the delays were imputable to the courts (see the joint communiqué from the prime minister and the justice minister acknowledging their responsibility)	Criminal	6 years, 7 months (real length: 7 years, 8 months)
Stratégies et communications and Dumoulin v. BELGIUM 15 July 2002	- complex investigation, because of the circumstances of the case (45 boxes of case files)	- the Court considered that six years just for the investigation stage of the proceedings, which had not yet even been completed, could not be considered reasonable	Criminal	6 years
Boddaert v. BELGIUM (Commission), 17 April 1991	- no witness to the murder - the applicant and his co-accused each claimed the other was responsible	- total suspension of the investigation for three years, a period imputable to the authorities	Criminal	6 years, 2 months
Metzger v. GERMANY , 31 May 2001	- issues relating to criminal law and the environment - water pollution - need for expert testimony - numerous witnesses	- the investigation made no progress for fifteen months between the lodging of the police report and the laying of charges - unjustified delays in the trial courts, particularly between the laying of charges and the regional court's decision not to allow the trial to open, and between the decision to suspend proceedings and the appointment of an expert by the regional court - two years and three months' delay resulting from the federal court of justice quashing the regional court's judgment on procedural grounds, because it had not received this judgment within the legally prescribed period	Criminal	more than 9 years
Nuvoli v. ITALY , 16 August 2002	- economic and financial crime (seizure of a banking instrument on the instructions of the prosecuting authorities)	- the authorities were held responsible for overall delays lasting about three years and four months	Criminal	5 years, 10 months for one level of courts
Quattara v. FRANCE , 2 August 2005	- complexity increased by the fact that the person against whom the applicant had lodged a complaint, with an application for damages, could not be extradited	- investigation still under way, more than eleven years after the applicant had lodged his complaint - several periods of inactivity imputable to the authorities	Criminal	11 years, 6 months (investigation still under way)
Dobbertin v. FRANCE , 25 February 1993	- real difficulties arising from the highly sensitive nature of the offences charged, which related to national security (communication with agents of a foreign power, the German Democratic Republic)	- authorities took no steps to ensure that the cases still pending, including the applicant's, were dealt with swiftly - ordinary courts were slow to resolve the issue of the validity of the indictment (nine months) and to quash the order commissioning experts (two years)	Criminal	12 years, 10 months for three levels of courts
H. v. UNITED KINGDOM 8 July 1987	- numerous parties: the applicant, her husband, the prospective adopters, the official solicitor and the local county council - difficult to assess such a large body of evidence	- in the pre-High Court phase the county council (and thus the state) was responsible for the delays - the mother's future relations with her child were at stake, creating a duty to exercise exceptional diligence	Civil	2 years, 7 months
Müller v. SWITZERLAND , 5 November 2002	- novel and fundamental issues of compensation for expropriation on account of noise nuisance	- excessively lengthy proceedings prior to the proceedings before the Federal Court (<i>Süssmann</i> case deemed inapplicable, as concerning the "unique political context of German reunification")	Civil	11 years, 6 months

Nuutinen v. FINLAND , 27 June 2000	- not a complex case at the outset but became so at the enforcement stage, with the continuous reassessment of the child's best interests	- time elapsed between the initial application and the first hearing and between the latter and the main proceedings - what was at stake in the case (essential for custody cases to be dealt with speedily)	Civil	5 years, 5 months
T. v. AUSTRIA , 14 November 2000	- bank's claim and applicant's counterclaim were both extended in the course of the proceedings	- delays imputable to the applicant, who often changed counsel, were much less significant than those imputable to the authorities (altogether four years and three months imputable to the district court)	Civil	8 ½ years for one level of courts
Wiesinger v. AUSTRIA , 24 September 1991	- case concerned land consolidation, by its nature a complex process, affecting the interests of both individuals and the community as a whole - legally complex	- adoption of an amendment to the zoning plan by the municipal council - difficulties stemming from a lack of coordination between the municipal and the agricultural authorities in finalising their schemes	Civil	more than 9 years
Bayrak v. GERMANY , 20 December 2001	- complexity caused by the case's foreign links (the dispute came under Turkish rather than German law) - complexity of the resulting legal issues, such as German courts' geographical jurisdiction	- six different courts were involved in the case: considered individually the time they took was not unreasonable but the overall length of proceedings, which was imputable to the authorities, was unreasonable	Civil	more than 8 years
Mianowicz v. GERMANY , 18 October 2001	- case relating to the dismissal of a disabled person, whose complexity was linked to the protection against dismissal legislation and that on severely disabled persons	- main delays caused by the delays in the Munich employment court of appeal, where there were two inactive periods - particular diligence is required in employment disputes, which have to be settled with particular dispatch since they concern issues that are crucial to individuals' occupational situation	Civil	12 years, 10 months for two levels of courts
H.T. v. GERMANY , 11 October 2001	- the Constitutional Court was asked to rule on the constitutionality of certain aspects of the reform of the survivors' pension system	- delays imputable to the social court - particular diligence was required in view of what was at stake	Civil	nearly 12 years
Klein v. GERMANY , 27 July 2000	- fairly complex case, as shown by the length of and reasons for the judgment of the Constitutional Court, which had solicited the observations of various authorities	- the chronic backlog of cases in the Constitutional Court could not justify the length of proceedings - important issues at stake for many German citizens	Civil	9 years, 8 months
K. v. ITALY , 20 July 2004	- action to secure execution of a maintenance order (Polish decision ordering Italian father to pay maintenance to his illegitimate daughter at the Polish mother's request)	- the Italian authorities waited too long before starting the various proceedings	Civil	8 ½ years
Obermeier v. AUSTRIA , 28 June 1990	- interaction between administrative and civil proceedings in connection with the dismissal of disabled persons - numerous courts involved	- "the fact remains, however, that a period of nine years without reaching a final decision exceeds a reasonable time"	Adm + Civil (dismissal)	more than 9 years
F.E v. FRANCE , 30 October 1998	- reference to plenary Court of Cassation indicated that the case was somewhat complex	- the Court of Cassation had already given several rulings on legal issue raised - exceptional expedition called for	Civil (HIV)	2 years, 3 months
Kanoun v. FRANCE , 3 October 2000	- nature of the asset to be shared between the ex-spouses - their inability to agree before a lawyer, necessitating numerous referrals to court	- the authorities failed to show the necessary dispatch in arranging the settlement, following the divorce in 1974, for example the Court of Cassation was open to criticism	Civil	19 years

Satonnet v. FRANCE, 2 August 2000	- the applicant's status as a dismissed contractual employee, which meant that both the judicial and administrative courts had to rule on the case	- the complexity of the case and the applicant's conduct were not sufficient justification for the total length of the proceedings - several periods of inactivity imputable to the judicial authorities	Civil then Adm	17 ½ years (case still pending)
Vallée v. FRANCE, 26 April 1994	- difficult problems raised by the subrogation of the Fund to the rights of persons who had received compensation	- the information needed to determine the State's liability had been available for a long time - what was at stake	Civil then Adm (HIV)	4 years in one single court
Pailot v. FRANCE, 22 April 1998	- certain complexity due to the nature of the case	- information needed to determine State's liability had been available for a long time - period of one year and ten months between adoption of Commission's report noting that there had been a friendly settlement and <i>Conseil d'Etat's</i> judgment bringing to an end proceedings that had already lasted five years and six months up to conclusion of that settlement far exceeded reasonable time in such a case - exceptional diligence called for	Adm + civilL (HIV)	1 year, 10 months
Nouhaud v. FRANCE, 9 July 2002	- numerous parties involved and long lapse of time since the events took place - defendants' public law status - problems of settling jurisdiction between judicial and administrative courts	- the complexity of the case and the applicant's conduct were not sufficient to explain the overall length of the proceedings	Adm	10 years for four levels of courts
Piron v. FRANCE, 14 November 2000	- land consolidation	- long periods of inactivity solely imputable to the authorities and for which no explanation supplied	Adm	26 years, 5 months (case still under way)
Marschner v. FRANCE, 28 September 2004	- financial offences	- delays in submitting expert reports and in holding hearings	Adm	5 years, 4 months
Styranowski v. POLAND, 30 October 1998	- transfer from one court to another	- 15 months of unexplained inactivity	Adm	2 years, 8 months
Naumenko v. UKRAINE, 30 March 2005	- the state lacked the necessary technical documentation on the problem (invalidity following employment at the Chernobyl site)	- unreasonable delays imputable to the state - importance of what was at stake for the applicant (health)	Adm	5 years, 8 months
Janosevic v. SWEDEN, 23 July 2002	- the tax authority and the courts had to assess the turnover of the applicant's taxi business and his liability to additional taxes and tax surcharges	- this did not justify the length of proceedings – on the contrary, the enforcement measures taken against the applicant called for a prompt examination of his appeals	Adm	6 years, 8 months
Gast and Popp v. GERMANY, 25 February 2000	- complexity of the points of law to which the decisions dismissing the applicants' appeals referred	- the delays that occurred did not appear substantial enough for the length of the proceedings before the Constitutional Court to have exceeded a reasonable time	Criminal	approximately 2 years for each applicant
Neumeister v. AUSTRIA, 27 June 1968	- difficulties the Austrian authorities encountered abroad in obtaining the execution of their numerous letters rogatory	- the delays in opening and reopening the hearing were in large part caused by the need to give the legal representatives of the parties and also the judges sitting on the case time to acquaint themselves with the case record, which comprised twenty-one volumes of about five hundred pages	Criminal	7 years (case still pending on the date of judgment)
Pedersen and Baadsgaard v. DENMARK, 17 December 2004	- no details on the points of the case considered complex	- the applicants contributed to the delays (not very involved, did not object to adjournments and their counsel did not attend scheduled hearings) - the Court detailed the length of each set of proceedings and did not find any period of inactivity sufficiently protracted to constitute a violation	Criminal	5 years, 9 months

Van Pelt v. FRANCE, 23 May 2000	<ul style="list-style-type: none"> - international drugs traffic, numerous persons involved, international nature of the trafficking organisation, offences partly committed abroad, need to translate documents 	<ul style="list-style-type: none"> - numerous measures taken by the investigating judge and prompt decisions taken by the trial court - two dissenting opinions on this point 	Criminal	8 years, 8 months
Calvelli and Ciglio v. ITALY, 17 January 2002	<ul style="list-style-type: none"> - certainly complex (death of a new-born child in hospital) 	<ul style="list-style-type: none"> - no significant periods of inactivity - six years, three months and ten days for four levels of courts cannot be considered unreasonable 	Criminal	6 years, 3 months for four levels of courts
I.J.L. and others v. UNITED KINGDOM 19 September 2000	<ul style="list-style-type: none"> - financial offences - applicants' decision to plead not guilty 	<ul style="list-style-type: none"> - authorities could not be held responsible for the delays 	Criminal	4 ½ years
Karabas v. TURKEY 21 July 2005	<ul style="list-style-type: none"> - charges carrying heavy prison sentences - seven co-accused - need to question some of the co-accused and witnesses in other courts following a request for judicial assistance from the state security court, which occasioned a certain delay, particularly concerning exchanges of correspondence between courts in different towns. 	<ul style="list-style-type: none"> - no significant periods of inactivity 	Criminal	3 years, 9 months for two levels of courts
Özden v. TURKEY, 24 May 2005	<ul style="list-style-type: none"> - five co-accused, including two who were fleeing justice 	<ul style="list-style-type: none"> - applicants' lack of interest (failure to appear, absence on the day judgment handed down, which delayed the appeals process) 	Criminal	4 years, 9 months for two levels of courts
Sari v. TURKEY, 8 November 2001	<ul style="list-style-type: none"> - complexity partly linked to extradition - case also became complex when the applicant fled to Denmark - shared jurisdiction of the two countries, leading to bureaucratic difficulties and requirements for translations 	<ul style="list-style-type: none"> - applicant contributed to the delay, since the obligation to appear in court is a key element of criminal procedure - authorities did not contribute to prolonging the proceedings 	Criminal	8 years, 7 months
Kenan Yavuz v. TURKEY, 13 February 2004	<ul style="list-style-type: none"> - 21 accused - nature of the charges against the applicant - several offences - need to assemble considerable quantity of evidence 	<ul style="list-style-type: none"> - even though the state was responsible for certain delays the total length of proceedings was not unreasonable 	Criminal	more than 5 years
Akçakale v. TURKEY, 25 August 2004	<ul style="list-style-type: none"> - three accused for several offences (great deal of work on reconstructing events, assembling evidence and establishing level of involvement) 	<ul style="list-style-type: none"> - the applicant contributed to delays, by failing to appear or furnish written material necessary for the court's deliberations - no periods of inactivity 	Criminal	5 years, 3 months
Intiba v. TURKEY, 24 May 2005	<ul style="list-style-type: none"> - numerous persons concerned - tax law 	<ul style="list-style-type: none"> - the applicant contributed to delays, by failing to appear, asking for an adjournment, dismissing his counsel, changing address to avoid notification and refusing to be represented - authorities responsible for one year's inactivity but no impact on the length of proceedings - in proceedings on this scale deciding on a timetable depends on the availability of the lawyers as well as on the court 	Criminal	7 years, 11 months

Keçeci v. TURKEY , 15 July 2005	- numerous accused, nature of the offences, difficult to re-establish events and determine individual roles	- no significant periods of inactivity	Criminal	6 years, 2 months for five levels of courts
Klamecki v. POLAND , 28 March 2002	- nature of the charges - need to assemble considerable quantity of evidence - large number of witnesses heard at first instance	- applicants contributed to delays by failing to comply with court summonses - accused absent on a number of occasions, leading to adjournments - applicant dismissed counsel on a number of occasions	Criminal	6 years, 1 month
Salapa v. POLAND , 19 December 2002	- international drug trafficking case - ten co-accused - numerous witnesses - need to consult the files of current criminal proceedings in other courts, for evidence purposes	- applicant contributed to delays through numerous absences (as did certain witnesses) - court tried to expedite proceedings by refusing the applicant's requests to have the case returned to the prosecution and separating the applicant's case from that of two of the co-accused, who were absent	Criminal	5 years, 8 months
G.K. v. POLAND , 20 January 2004	- complex case as shown by the volume of evidence obtained and heard during the proceedings - 13 accused, 104 witnesses and 9 expert witnesses	- accused contributed to delays, through absences or requests for adjournment - delays were not particularly long and certainly not imputable to the authorities	Criminal	nearly 5 years
Sablon v. BELGIUM , 10 April 2001	- very complex case, because of need to establish twenty years later whether applicant had been in a state of bankruptcy and difficulty of determining his assets	- applicant had lodged many applications, some of which had been irrelevant or pointless, thus complicating the case still further - no significant periods of inactivity imputable to the authorities	Civil	
Soc v. CROATIA , 9 August 2003	- death of co-contracting party, who had sold property to a third party, despite the contract - the other contracts had not been registered	- applicant had not supplied answers to the defendant's allegations and was absent from certain hearings - hearings were otherwise held regularly	Civil	4½ years x two sets of proceedings
Acquaviva v. FRANCE , 21 November 1995	- tense political climate in Corsica	- applicants contributed to prolonging the proceedings - necessary steps in the investigation had proceeded at a regular pace - delays justified by the political situation	Civil	4 years, 4 months
Proszak v. POLAND , 16 December 1997	- specialist medical advice essential	- applicant contributed to delays through three groundless challenges, missed hearings and refusal to attend psychiatric examination - almost the whole period falling within its jurisdiction <i>ratione temporis</i> was essentially taken up with the search for an expert with sufficient specialist qualifications, as the applicant herself had wished. With particular regard "to the part played by the applicant in the conduct of the proceedings", the Court concluded that there had been no violation.	Civil	3 years, 9 months
Glaser v. UNITED KINGDOM 13 December 2000	- complex family history: need to re-establish confidence between applicant and his child and mother's determination to avoid contacts	- applicant contributed to delays - delays not imputable to authorities	Civil	3 years, 11 months
Olsson II v. SWEDEN , 27 November 1992	- difficult assessments and extensive investigations	- hearings extended over 13½ months in three levels of courts, which was not excessive	Civil	13½ months for three levels of courts
Süssmann v. GERMANY ,	- case "was one of twenty-four	"bearing in mind the unique political context of German reunification	Administrative	3 years, 4 months

16 September 1996	<i>constitutional appeals raising similar issues of some difficulty, concerning supplementary pensions of large numbers of German civil servants, which necessitated a detailed examination in substance by the court"</i>	<i>and the serious social implications of the disputes which concerned termination of employment contracts, the Federal Constitutional Court was entitled to decide that it should give priority to those cases"</i>		
Sürmeli v. GERMANY , 8 June 2006, 77529/01	The complexity is due to the fact that several medical assessments were carried out to establish the physical and mental damage suffered by the applicant. This difficulty was compounded by the fact that a further accident occurred during the proceedings, necessitating further expert assessments.	The Court notes that the case is not of a particularly complex nature. However, it accepts that its complexity increased from a procedural standpoint when it became necessary, after the applicant's second accident, to seek the opinion of several medical experts as to what extent the first accident had caused him physical and mental damage. Furthermore, while the Court accepts that a certain amount of time was necessary for the production of expert reports, it considers that the overall time this took exceeded a reasonable length. Lastly, it notes that the delays caused by the applicant's four applications for judges to withdraw cannot in themselves account for the length of the proceedings.	Civil: claim for an increased disability pension following two accidents.	16 years and 7 months
Casse v. LUXEMBOURG 27 April 2006, 40327/02	The complexity of the case stems from the fact that the civil proceedings seeking to confirm the validity of the attachment order were stayed pending the outcome of the criminal proceedings (for embezzlement) in accordance with the principle that "civil proceedings must await the outcome of criminal proceedings". The case is still on the appeal court's list of cases in the absence of any further steps by the parties to the proceedings. At the time of the Court's ruling, the applicant had still not been charged.	Regarding the alleged violation of civil procedure, the Court notes that the staying of the civil proceedings pending the outcome of the criminal proceedings resulted in the civil proceedings lasting for over 10 years. It points out that it is for the national authorities to organise their judicial system in such a way as to ensure that the reasonable time requirement in Article 6 is satisfied in respect of everyone. It further points out that, having still not been charged, the applicant does not have any procedural status under domestic law, which constitutes an aggravating circumstance in relation to the violation of Article 6 § 1.	Civil: attachment Criminal: embezzlement	Total length (civil and criminal proceedings): 9 years and 10 months , criminal proceedings pending
Siffre, Ecoffet, Bernardini v. FRANCE 12 December 2006 49699/99, 49700/99, 49701/99	The complexity of this case stems from the overlapping of two sets of proceedings in the Regional Court of Auditors (CRC) and the Court of Auditors. Financial proceedings are based on the "double judgment" rule, under which the CRC gives an interim decision, then a final decision, leading the Court of Auditors to stay proceedings pending the final decision.	The Court notes that the CRC delivered six interim or final judgments in accordance with the "double judgment" rule. Three of these judgments were referred by way of appeal to the Court of Auditors, which ordered a stay of execution before giving rulings on the merits seven months later in the case of the first appeal and nearly two years and five months later in the case of the second and third appeals, the delay in the last two cases being due to the fact that the appeal proceedings before the financial courts were stayed pending the outcome of the administrative proceedings concerning the validity of the municipal council's decision. Although proceedings in financial courts have specific characteristics which render them complex, the Court does not regard this as a convincing explanation in itself for the delays in the proceedings and does not consider that the applicants took advantage of these specific characteristics to justify delays. The Court points out that, according to domestic case law (Conseil d'Etat, 14 December 2001, <i>Société Réflexions, Médiations, Ripostes</i>), such proceedings constitute a single set of proceedings even if they involve several judgments. The domestic courts cannot be accused of inactivity. Paradoxically, however, the large number of procedural steps involved in these financial proceedings, aimed at protecting the	Administrative: de facto management of an association by municipal councillors	5 years and 4 months

		rights of the defence, have the effect of backfiring on the defendant. The “double judgment” procedure is criticised within the Court of Auditors itself, in the name of the right to a fair trial.		
Karov v. BULGARIAa 16 November 2006 45964/99	The complexity of this case is due to the loss of the criminal case file and, in particular, the many unjustified remissions of the case to the investigation stage.	The Court notes from the outset that the proceedings were delayed for three and a half years because of the time taken by the authorities to reconstitute the missing criminal case file. The Court points out, however, that it cannot accept the Government’s contention that such a long delay can be explained by the “objective” fact of the case file’s disappearance, but considers on the contrary that the judicial authorities did not act with due diligence. The Court further considers that many remissions were due to procedural irregularities which could only be rectified by remitting the case to the investigation stage. The Court points out that repeated unjustified remissions of cases to the investigation stage were the cause of excessive delays in proceedings in previous cases against Bulgaria (<i>Vasilev v. Bulgaria</i> , n° 59913/00, 2 February 2006).	Criminal: accepting and soliciting bribes	9 years and 9 months
Razlova v. CZECH REPUBLIC 20252/03 28 March 2006	The complexity of this case is due to the size of the case file, with seven persons, including the applicant, charged with financial crimes. An in-depth investigation was necessary to identify the links between a large number of people. Many witnesses were questioned. The investigator required prior authorisation to have access to certain documents which were subject to bank secrecy. It was argued that the applicant had also contributed to the length of the proceedings owing to her state of mental health, which made it necessary to produce several reports. Although evidence was quickly collected, it was not possible to conclude the investigation because the applicant had been unable to acquaint herself with the file owing to her state of health.	The Court accepts that the main feature of the case is its complexity. The applicant was suspected of financial crime committed by means of complex transactions designed to escape the scrutiny of the investigating bodies. The scale of the investigation and the complexity of the case file are undeniable, these being at first sight arguments which could be used to justify the protracted proceedings. The Court then notes that some significant delays in the proceedings were due to the state of health of the applicant, who was admitted to hospital for psychiatric disorders. Insofar as these delays are attributable to the applicant’s treatment and hospitalisation, they constitute a force majeure factor. The applicant’s illness prevented her from participating in the proceedings, which undoubtedly hindered the conduct of the investigation. Furthermore, the applicant failed to attend the scheduled hearings and on two occasions refused to take delivery of notices inviting her to consult the case file. The Court points out, however, that Article 6 does not require parties to co-operate actively with the authorities. While accepting that the conduct of the investigation was hindered by the applicant’s illness, the Court emphasises that this fact does not justify the delays in the proceedings. Under Article 173 of the Czech Code of Criminal Procedure, the investigator and, since 1 January 2002, the public prosecutor may suspend criminal proceedings if the defendant has a serious illness which makes it impossible to bring him or her before the court or if, having developed a mental illness after committing the offence with which he or she is charged, the defendant is unable to understand the meaning of the criminal proceedings against him or her; if the reason for such a suspension ceases to exist, the proceedings must be resumed. It would seem, however, that in the case in point the authorities did not consider making use of this measure. The Court therefore considers that the national authorities did not show the diligence required for the proper conduct of proceedings.	Misuse of information in business relations	7 years and 9 months

<p>Moisejevs v. LATVIA 64846/01 15 June 2006</p>	<p>The complexity of this case is due to the fact that it involved twelve instances of armed robbery committed in various places in Latvia and several offences of aggravated theft involving sixteen defendants. As a result, the case file is very large, running to some twenty volumes.</p>	<p>The Court accepts that the complexity of this criminal case is undeniable. The charges concerned twelve instances of armed robbery committed in various parts of Latvia and several offences of aggravated theft. Sixteen people were charged and the authorities had to identify the exact nature of the acts committed by each of them. The Court is aware of the practical problems of a procedural or technical nature which may arise at any time in proceedings involving a large number of defendants. The Court notes the large size of the case file, comprising initially fifteen, then twenty volumes. It accepts that analysis of all the documents in the file by the public prosecutor's department and then by the courts took a long time. However, the Court notes that matters pertaining to the administrative functioning of the courts, such as an excessive caseload, judges' holidays, the allocation of cases among them, their knowledge of the particular field of law etc, are the sole responsibility of the respondent State and can under no circumstances be used to justify delays in criminal proceedings. While recognising the complexity of the case, the Court considers that the authorities did not show the diligence required for the proper conduct of proceedings.</p>	<p>Criminal: armed robbery involving the use of violence</p>	<p>4 years and 10 months</p>
<p>Hristova v. BULGARIA 60859-00 7 December 2006</p>	<p>This case concerns a series of different offences committed jointly in the territory of several countries. 129 people were called as witnesses and the investigation file ran to over 30 volumes.</p>	<p>The Court observes that the charges concerned offences on a wide scale affecting many people, some of which were committed in other countries. The examination of the case involved numerous investigative steps, including requests for judicial assistance. Dozens of witnesses and experts were also heard by the court. The case was therefore highly complex in terms of both facts and law. The Court notes, however, that during the pre-trial investigation, which lasted three years and four months in all, several delays are attributable to the authorities. Three times the investigation was closed, but the public prosecutor remitted the case file because of procedural irregularities or because the investigation was incomplete. These are circumstances which are attributable to the authorities and whose repetitive nature cannot be explained solely by the complexity of the case. These remissions and the periods of several months needed by the investigators on each occasion to take the steps required by the public prosecutor's department led to significant delays in the proceedings. It then took nearly seven months to draw up the indictment. The Court also notes that the appeal court hearing took place around one year and two months after the defendant's appeal, which cannot be considered reasonable in the circumstances of the case, given that the proceedings had already lasted for nearly six years.</p>	<p>Jointly committed fraudulent transactions</p>	<p>Detention: 3 years, 7 months and 19 days Total: 9 years, 3 months and 3 days, covering the pre-trial investigation and 3 levels of jurisdiction</p>

<p>Remzi Aydin v. TURKEY 30911/04 20 February 2007</p>	<p>The applicant was accused of 43 terrorist acts, including bombings and armed attacks, committed in various cities on behalf of an illegal organisation.</p>	<p>The Court notes the relative complexity of the proceedings, owing in particular to the scale of the investigation and the number of expert assessments required for 43 terrorist acts committed in different cities. The absence of the applicant's lawyer at one hearing and his applications for extensions of time had no particular impact. The Court acknowledges the effort made by the trial judges. However, having regard to its established case law concerning the problems caused by congestion of the courts, the Court considers that the proceedings were not completed within a reasonable time. It is unnecessary for the Court to seek to determine the authority responsible for the excessive length of proceedings because, in all such cases, responsibility falls to the State.</p>	<p>Criminal: terrorism</p>	<p>8 years and 6 months, with five actions initiated at two levels of jurisdiction</p>
<p>Dimov v. BULGARIA 56762/04 8 March 2007</p>	<p>Obtaining of evidence, recourse to several expert assessments</p>	<p>Regarding the complexity of the case, the Court notes that it was relatively complex, both factually and legally. On the one hand, the applicant never admitted the offence and claimed that it was committed by one of the victims, who subsequently wounded himself. The courts had to obtain evidence and have recourse to a series of expert assessments in order to establish the truth of the different versions. On the other hand, the Court notes that the applicant was responsible for two postponements of proceedings. However, the overall delay caused by this, amounting to less than four months, is not sufficient to explain the length of the proceedings.</p>	<p>Criminal: homicide and attempted homicide</p>	<p>7 years and 9 months</p>
<p>Raway and Wera v. BELGIUM 25864/04 27 November 2007</p>	<p>The responsibility of the Belgian State is invoked on the basis of Belgian case law, on several grounds: - the judges' actions - excessive length of administrative proceedings - excessive length of civil proceedings</p>	<p>The Court notes that the proceedings at first instance lasted seven years. The expert report ordered by the court of first instance, which was to be filed within three months of the expert's appointment, took three and a half years. Even subtracting the time taken up by the applicants' application to replace the expert, that still leaves two and a half years. The Court points out that the expert was working in the context of judicial proceedings supervised by a judge who was responsible for the preparation and expeditious conduct of the case. Lastly, the Court notes that the Court of Cassation adjourned the proceedings <i>sine die</i>. In the light of the evidence before it, the Court considers that no valid explanation for these delays has been provided to it by the Government. In the light of the recent judgments delivered on this subject in respect of Belgium, the Court considers that the length of proceedings is excessive and cannot be regarded as "reasonable".</p>	<p>Civil: property construction</p>	<p>15 years</p>
<p>Vallar v. FRANCE 27314/02 4 October 2007</p>	<p>The complexity of this case is due to the overlapping of administrative proceedings (action before the administrative court disputing the legality of the decision by the labour inspectorate authorising the dismissal of a protected employee and action to establish the responsibility of the State for the malfunctioning of the justice system) and judicial proceedings (application to the labour court disputing the dismissal, criminal proceedings against the applicant for forgery and use</p>	<p>The Court points out that it is for Contracting States to organise their judicial systems in such a way that their courts can guarantee everyone the right to obtain a final decision on claims relating to their civil rights and obligations within a reasonable time. The Court considers that the applicant cannot be criticised for having exercised all the remedies (ordinary and cassation appeals) available to him. As regards the appeals judged by the domestic courts to have been lodged as a delaying tactic or for other wrongful purposes, only the action brought against the appeal court judgment for failure to decide a point raised in the pleadings is likely to have had any impact on the overall length of the labour proceedings. Lastly, the fact that the applicant requested a stay of proceedings did not exempt the domestic authorities from their responsibility with</p>	<p>Labour court: dismissal of a protected employee Administrative: - action disputing the legality of the decision by the labour inspectorate authorising the</p>	<p>14 years</p>

	<p>of forged documents, misappropriation and fraud, which had been the grounds for dismissal).</p> <p>The applicant applied for a stay of proceedings in relation to his claims for salary arrears, severance pay, compensation for unused leave and reimbursement of travel expenses pending a final decision in the criminal proceedings against him. He also applied for a stay of proceedings in relation to his claim for compensation for wrongful dismissal pending a final decision from the administrative courts.</p>	<p>regard to the length of the administrative proceedings.</p>	<p>dismissal - responsibility of the State for the malfunctioning of the justice system</p> <p>Criminal: forgery and use of forged documents, misappropriation and fraud</p>	
<p>Remzi Aydan v. TURKEY 30911/04 20 February 2007</p>	<p>The applicant was accused of 43 terrorist acts, including bombings and armed attacks, committed in various cities on behalf of an illegal organisation.</p>	<p>The Court notes, as does the Government, the relative complexity of the impugned proceedings, owing in particular to the scale of the investigation and the number of expert assessments required for 43 terrorist acts committed in different cities. However, having regard to its established case law concerning the problems caused by congestion of the courts, the Court considers that the proceedings were not completed within a reasonable time. It is unnecessary for the Court to seek to determine the authority responsible for the excessive length of proceedings because, in all such cases, responsibility falls to the State.</p>	<p>Terrorism</p>	<p>8 years and 6 months for two levels of jurisdiction applied to 5 times</p>
<p>Dimov v. BULGARIA 56762/00 8 March 2007</p>	<p>The courts heard 17 witnesses, organised numerous witness confrontations and ordered several expert reports. The case was heard by six levels of jurisdiction.</p> <p>Furthermore, the hearing of this case was delayed by the reform of the Bulgarian judicial system in April 1998.</p>	<p>The Court observes that this case was relatively complex both factually and legally.</p> <p>On the one hand, the applicant never admitted the offence and claimed that it was committed by one of the victims, who subsequently wounded himself. The courts had to obtain evidence and have recourse to a series of expert assessments in order to establish the truth of the different versions.</p> <p>On the other hand, the Court notes that the applicant's first appeal was not heard until nearly a year and three months after being lodged. The Court accepts that this delay was partly due to the reorganisation of the Bulgarian judicial system. However, this reorganisation was not put in place until 1 April 1998, i.e. after the appeal had been lodged. The time which elapsed prior to that date was attributable to the regional court, which failed to send all the case material to the Supreme Court.</p> <p>Lastly, the Court noted a second period of inactivity at the investigation stage. The investigation lasted over three years, which seems excessive even allowing for the difficulties in establishing the facts.</p>	<p>Criminal: homicide and attempted homicide</p>	<p>7 years and 9 months</p>

<p>Günseli and Yayik v. TURKEY 20872/02 21 February 2008</p>	<p>The difficulty stemmed from the joinder of six criminal prosecutions for obstructing freedom of work and employment.</p> <p>This case is complex because of repeated procedural incidents and the number of criminal prosecutions concerned, involving 39 defendants.</p>	<p>The Court accepts that the proceedings were relatively complex insofar as the courts with jurisdiction had to handle proceedings involving 39 defendants and the regional criminal court of first instance had to join several related cases. This fact and the very nature of the alleged offences meant a lengthy process of reconstructing facts, gathering evidence and establishing the responsibility of each of the alleged offenders. However, these features in themselves do not justify the length of the proceedings. From the time when the proceedings were joined, the regional criminal court took five years and eight months to deliver its judgment.</p> <p>Furthermore, the regional criminal court repeatedly adjourned hearings simply because one of the defendants was absent. In this connection, the Court points out that Article 6 § 1 requires Contracting States to organise their judicial system in such a way that the courts can satisfy each of its requirements, including the reasonable time requirement. It notes that hearings were unnecessarily adjourned by the regional criminal court, which led to undue protraction of the proceedings.</p>	<p>Criminal: obstructing freedom of work and employment</p>	<p>6 years and 5 months in the case of one applicant</p> <p>6 years and 2 months in the case of the other</p>
<p>Shore Technologies v. LUXEMBOURG 35704/06 31 July 2008</p>	<p>The Government argue that the length of the investigation is accounted for by the time taken to establish the whereabouts of the accused and the fact that international judicial assistance is currently being sought so that she can be questioned.</p>	<p>The Court recognises that the investigation was relatively complex, particularly in view of the need to request international judicial assistance so that the accused could be questioned once she had finally been located. However, this alone cannot account for the length of the proceedings. With regard to the applicant company's conduct, the Court sees no evidence that it obstructed the proper conduct of the investigation at any stage. Under these circumstances, the Court considers that a period of six years just for the investigation stage, which is still on-going, cannot be deemed reasonable.</p>	<p>Criminal: civil party in criminal proceedings relating to the issuing of false cheques</p>	<p>6 years and 8 months at the investigation stage</p> <p>Case pending</p>
<p>Wauters and Schollaert v. BELGIUM 13414/05 13 May 2008</p>	<p>This financial crime case involves various associations and companies, six defendants and several requests for judicial assistance in various countries (including France and Luxembourg), requiring a major process of reconstructing facts and collecting evidence (information gathering, hearings, seizures, searches etc.). The case file consists of some thirty boxes and several files of documents, taking up several metres of shelving. A very large number of documents were seized (200 000) and analysed by specialist investigators.</p> <p>Many bank transactions were analysed, as were various financial set-ups put together over a period of around ten years. The fiscal component was also extremely complex.</p> <p>The applicants argue that this complexity was compounded by the fact that the investigating judge lacked the necessary</p>	<p>The Court notes the great complexity of the case, as do the Government and the applicants. The investigation concerned a financial crime case involving several associations and companies. The financial and fiscal set-up covered several countries. The Court notes, however, that some delays were due to problems, apparently of a structural nature, specific to the court of first instance, including the reduction of the team of investigators from twenty to three and the admission by the investigating judge that it was impossible for logistic reasons to question the applicants. Lastly, the Court noted several periods of inactivity from which it emerges that the length of the investigation exceeded reasonable limits.</p>	<p>Criminal: misappropriation of funds in a group of associations whose work consisted in looking after persons with disabilities and supporting socio-educational integration projects.</p>	<p>10 years and 11 months</p>

	staff and no expert was appointed.			
Wilczkowska and others v. POLAND 28983/02 8 January 2008	The complexity of this case is due, on the one hand, to the long time that has elapsed since the facts occurred, as the procedure for expropriation in the public interest dates back to 1975. On the other hand, the Polish judicial system has meanwhile been reformed, which impacted on the applicant's action against the administration for failure to act.	The Court notes that the applicant lodged an appeal against the administrative appeal authority for failure to act. Actions against the administration for failure to act, as provided for in the old (1995) law on the Supreme Administrative Court and in the law currently in force on proceedings before the administrative courts, are supposed to be an effective remedy against excessive length of administrative proceedings (<i>Bukowski v. Poland</i> , n°38665/97, 11 June 2002). The Court accepts that the proceedings were relatively complex. It considers, however, that the length of the proceedings cannot be explained by the complexity of the case alone. The Court has dealt on numerous occasions with cases raising similar issues to those of the present case and has found a violation of Article 6 § 1 of the Convention.	Administrative , action for recovery of property after expropriation and compensation	14 years and 8 months covered by the Court's jurisdiction <i>ratione temporis</i>
Kemal Balıkcı v. TURKEY 20605/03 7 October 2008	The Government submit that property-related cases are more complex than others, requiring consideration of the nature and position of the property in question. The court therefore has to request relevant documents at each stage in the proceedings. The Government argue that neither the applicant nor his father participated in the collection of documentary evidence and therefore delayed the proceedings.	After examining all the evidence before it, the Court holds that the absence of the applicant, his father and his legal representative from the hearings cannot be considered as the main reason for the excessive length of the proceedings. It may be seen from the records of the hearings that the length of the proceedings is due mainly to the intervention of third parties in the proceedings, the collection of documentary evidence and the drawing up of expert reports. It should therefore be accepted that the case was relatively complex. However, it was not so complex as to justify proceedings lasting sixteen and a half years.	Property dispute: action contesting the cadastral survey	16 years and 7 months for two levels of jurisdiction.
Petre Ionescu v. ROMANIA 12534/02 2 December 2008	This case gave rise to four sets of proceedings. The Government consider that the case was particularly complex, that there were no long periods of inactivity attributable to the authorities and that it was the applicant's conduct which protracted the proceedings.	The Court accepts that the case was relatively complex and that the applicant's conduct may have led to delays in the proceedings. It considers, however, that neither the complexity of the case nor the applicant's conduct can explain the length of the proceedings. The Court notes that the delay in the proceedings was caused mainly by the successive cassation decisions, followed each time by the sending back of the case. The case was sent back three times, to the court of first instance or the county court, following errors or omissions on the part of the lower courts. The sending back of the case could have continued indefinitely as there is no legal provision to prevent that happening. The repetition of cassation decisions points to a malfunctioning of the judicial system. In the light of its relevant case law, the Court considers the length of proceedings to be excessive in this case.	Action for damages for being unable to build owing to a nearby gas pipeline. Refusal to issue a building permit.	6 years, 9 months and 2 days
Shore Technologies v. LUXEMBOURG 35704/06 31 July 2008	Difficulty of locating the accused + international judicial assistance being requested so that the accused may be questioned	The Court recognises that the investigation was relatively complex, particularly in view of the need to request international judicial assistance so that the accused could be questioned once she had finally been located. However, this alone cannot account for the length of the proceedings.	Criminal: civil party in criminal proceedings relating to the issuing of false cheques	6 years and 8 months at the investigation stage Case pending
Şinegu and others v. TURKEY 4020/07, 4021/07, 9961/07 and 11113/07 13 October 2009	Joinder of four cases The Government submit that the length of the impugned proceedings cannot be considered unreasonable in view of the complexity of the cases, the size of the	The Court accepts that these proceedings relating to organised crime were relatively complex, notably because of the number of defendants, witnesses and plaintiffs, the number of offences of which the defendants were suspected and the size of the case files. However, that complexity is not enough in itself to justify the length of the proceedings, which ranges from nine years and one month to	Criminal: membership of an illegal armed organisation and attempt to overthrow the	In the case of two applicants: 13 years and 10 months In the case of one applicant: 13 years and 8 months In the case of one applicant:

	case files, the nature of the charges against the (four) applicants, the number of offences committed, the number of defendants, witnesses, plaintiffs and victims, and the particular difficulties raised by proceedings relating to organised crime.	over thirteen years and ten months. The Court considers that the lengths of the impugned proceedings are excessive and fail to satisfy the "reasonable time" requirement.	Turkish constitutional order by force	9 years and 1 month Two levels of jurisdiction
Mianowicz v. GERMANY (n° 2) 71972/01 11 June 2009	The case is complex because of the changes made by the applicant to his claims in the course of the proceedings and the number of actions which he initiated.	The Court accepts that the proceedings are relatively complex. It notes that they were adjourned for eleven years pending the outcome of the dismissal proceedings. It further notes that the delays were caused by the labour courts in violation of Article 6 of the Convention. The fact that the length of the proceedings is partly due to the adjournment decision does not make it any less excessive, but must be taken into consideration under Article 41 of the Convention.	Labour proceedings: dismissal then annulment, judgment setting aside the employment contract, application to maintain the employment contract	19 years
Bican v. ROMANIA 37338/02 22 September 2009	Long time which has elapsed since the facts occurred.	The case concerned the revision of a judicial decision given in 1959 revoking the applicant's adoption. It was therefore relatively complex, owing to the long time that had elapsed since the facts occurred.	Revision of a decision revoking an adoption	5 years and 2 months
Veriter v. FRANCE 31508/07 14 October 2010	The complexity stems from questions relating to the application and interpretation of Community law arising in two sets of proceedings.	The Court considers that the first set of proceedings was undoubtedly complex owing to the questions that arose with regard to the application and interpretation of Community law. The point at issue was whether the applicant, of Belgian nationality but recruited to the French civil service by virtue of his French nationality, thus falling under the exception provided for in Article 48 § 4 of the EC Treaty, could nevertheless avail himself of the provisions of Community law relating to freedom of movement and equal treatment of workers. Having regard in particular to the complexity of the case, the Court considers that the length of the proceedings did not violate the reasonable time requirement of Article 6 § 1. The Court notes that the second set of proceedings was relatively complex insofar as the Law of 16 December 1996 bringing French law into line with Community law did not apply retrospectively. The Court observes in this connection that three ministries (Interior, defence and Foreign Affairs) submitted observations to the administrative court. The Court observes that no delay can be noted on the part of the administrative court and finds no violation of Article 6 § 1.	Administrative Two sets of proceedings: Calculation of the applicant's length of service and promotion and pension rights Proceedings to determine the State's responsibility for malfunctioning of the justice system	Calculation of the applicant's length of service and promotion and pension rights: 5 years and 6 months for two levels of jurisdiction
Kuhn v. LUXEMBOURG 53869/07 4 November 2010	Twenty passengers killed in a plane crash.	This case was undoubtedly complex. Expert evidence was taken together with other investigative steps, including requests for international judicial assistance, to determine the causes of the accident and the responsibility of the various protagonists. Furthermore, given that twenty passengers died in the crash, many people joined the proceedings as civil parties.	Criminal: plane crash	6 years and 4 months Case pending

Pecheur v. LUXEMBOURG 16308/02 11 December 2007	The complexity of this case stems from the extremely laborious investigations carried out in Luxembourg and other countries in the opaque economic and financial environment in which the alleged crime was committed	The Court considers that the case was undoubtedly relatively complex. Numerous investigations had to be carried out in Luxembourg and other countries to establish the circumstances of the assault committed by the applicant on an Austrian businessman in connection with a financial deal involving several people. The Court also notes that the applicant added to the burden of the investigation through his conduct, and in particular by giving investigators several versions of the events. Having regard to all the circumstances of the case, the length of the proceedings should not be considered excessive.	Criminal: attempted murder	7 years and 9 months for 5 levels of jurisdiction
Kezic v. SLOVENIA 76395/01 18 January 2007	Complex administrative case relating to the legalisation of buildings erected without a permit, raising several questions of law and fact and involving several parties with conflicting interests.	After examining all the evidence before it, and having regard to its relevant case law, the Court held that the length of the proceedings is not excessive in this case and therefore satisfies the "reasonable time" requirement.	Administrative: building permits	4 years and 10 months for four levels of administrative jurisdiction
Giosakis v. GREECE (N° 3), 5689/08 15 September 2011	Factually complex case which necessitated eleven hearings before the criminal court of appeal and gave rise to a 300-page judgment	The Court notes inter alia that the proceedings before the criminal court of appeal were conducted in an extremely short time (from 22 November 2005 to 20 February 2006). While nine months elapsed between the judgment of the criminal court of appeal and the public prosecutor's appeal, the examination of the appeal lasted less than six months. The Court therefore considers that the length of the impugned proceedings did not exceed a "reasonable time".	Criminal	4 years and 3 months
Shahanov v. BULGARIA No. 16391/05 10/01/2012	Several sets of criminal proceedings against the applicant for theft and for murder committed in the course of aggravated robbery	The Court notes that the most significant delays were due to the repeated adjournment of the trial by the District Court and the remittal of the case. While the applicant was indeed responsible for several adjournments, the bulk of the delay in his case was due to reasons beyond his control, such as the non-appearance of witnesses, experts or even judges or jurors.	Criminal	9 years in two levels of jurisdiction
Todorov v. UKRAINE No. 16717/05 12/01/2012	The criminal proceedings at issue concerned more than 30 counts of criminal activity by nineteen individuals. The trial court held over 160 hearings within a three-year term and produced a judgment some 200 pages long.	Above and beyond the complexity of the case, the Court notes that there were some delays in the proceedings which remained unexplained by the Government in their observations; furthermore, the applicant was personally implicated in two counts of robbery only.	Criminal	6 years and 7 months in two levels of jurisdiction
Mikhail Grishin v. RUSSIA No. 14807/08 24/07/2012	Ten counts of serious crimes of which four persons were accused. It involved more than 70 victims and witnesses and numerous expert reports	The Court looks closely at each stage of the proceedings and considers that there were significant delays attributable to the state.	Criminal	6 years and 10 months in two levels of jurisdiction
Sedminek v. SLOVENIA No. 9842/07 24/10/2013	This concerned bankruptcy proceedings; the number of creditors and the amount of claims lodged in the proceedings suggest that they were complex, and numerous procedural steps had to be taken in order to realise the applicant's estate, including lodging civil claims against third parties and selling the assets through public auctions.	The Court however cannot agree with the Government that the complexity of the proceedings can justify the overall duration of these proceedings which are, after nine years, still pending. In this context, the Court reiterates that it is for the state to organise its legal system in such a way to enable its courts to comply with the requirement of Article 6 § 1 of the Convention.	Civil	9 years , still pending
Kobernik v. UKRAINE No. 45947/06 25/07/2013	The criminal proceedings at issue, which concerned charges of criminal activities against 15 defendants, were of particular	A number of delays in the trial took place because of the authorities' failure to ensure the presence of the other defendants, witnesses and victims. A delay of almost ten months was caused by the need	Criminal	7 years and 10 months in two levels of jurisdiction

	complexity. The pre-trial authorities conducted a considerable number of investigative measures, and the courts had to deal with many factual and legal issues which had to be properly examined during the court hearings.	to set up technical recordings of the hearings. Many times the hearings were rescheduled causing numerous delays affecting the overall length of the proceedings.		
Dinç and others v. TURKEY No. 34098/05 13/11/2014	The case concerned the proceedings before the civil courts relating to the annulment of a title to a plot of land.	The government offered no explanation other than the complexity of the case, which allegedly required a detailed examination, including on-the-spot expert reports. Although the case had a certain level of complexity, the Court is unable to accept that this complexity justified the length of proceedings taken in the present case.	Civil	8 years and 6 months in two levels of jurisdiction
Svinarenko and Slyadnev v. RUSSIA No. 32541/08 11 July 2014	The case was very complex. It comprised more than ten counts of serious crimes and four accused. It involved more than 70 victims and witnesses, many of whom resided in remote settlements situated more than 500 kilometres away from where the trial was held. Numerous expert reports were ordered and examined in the course of the trial.	Even though there were some delays for which the applicants or their co-defendants were responsible, and for which the state cannot be held responsible, there were significant delays attributable to the state during the period when the case was pending before the trial court for the second and the third time which amounted to at least a year, and during that time the applicants were detained on remand, so that particular diligence was required on the part of the domestic courts to administer justice expeditiously.	Criminal	6 years and 10 months in two levels of jurisdiction
Blaga v. ROMANIA No. 54443/10 1/07/2014	Unlawful removal of children. Application of The Hague Convention	The Court considers that there have been repeated procedural delays over the entire course of the proceedings. It can accept that the case against the applicant could be regarded as complex and that the applicant was also responsible for some of the delays. That being said, it cannot but note that the proceedings, including the period in which they were adjourned pending the outcome of the Hague Convention proceedings, have lasted for more than four years and eight months before the first-instance court alone. Given what was at stake for the applicant and the fact that it has already found that the Hague Convention proceedings were excessively lengthy, the Court considers that the length of this period and the overall length of the proceedings cannot be justified by the complexity of the case and the adjournments caused by the applicant alone.	Civil	5 years and 5 months in three levels of jurisdiction
Naimdzhon Yakubov v. RUSSIA No. 40288/06 12/11/2015	The proceedings against the applicant involved a certain degree of complexity. He had been charged with drug dealing. The prosecution had been brought against two defendants.	The Court observes that, owing to the omissions on the part of the prosecutor's office, the applicant's case was considered by the courts three times at three levels of jurisdiction. Although the Court is not in a position to analyse the legal quality of the domestic courts' decisions, it considers that, since the remittal of cases for re-examination is frequently ordered as a result of errors, the repetition of such orders within one set of proceedings may disclose a serious deficiency in the judicial system. The fact that the domestic courts heard the case several times did not absolve them from having to comply with the reasonable-time requirement of Article 6 § 1. Lastly, the Court notes that the fact that the applicant was held in custody during the first and second trials required particular diligence on the part of the authorities dealing with the case to administer justice expeditiously.	Criminal	3 years and 10 months in three levels of jurisdiction

<p>Stasik v. POLAND No. 21823/12 6/10/2015</p>	<p>The Court acknowledges that the proceedings were of a certain complexity, given that they concerned petitions for separation and divorce and that the domestic court had to rule on custody of the parties' child, who was a minor, and contact arrangements with a non-custodial parent. A significant number of interim decisions had also been given by the trial court.</p>	<p>Having examined all the material submitted to it, the Court considers that the Government has not put forward any fact or argument capable of justifying the delay in the present case.</p>	<p>Civil</p>	<p>5 years and 2 months in two levels of jurisdiction</p>
<p>Stibilj v. SLOVENIA No. 1446/07 6 October 2015</p>	<p>Land consolidation is by its nature a complex process, affecting the interests of both individuals and the community as a whole.</p>	<p>Indeed the present cases are of some complexity; however, this cannot justify the excessive length of the proceedings, which have been pending since 1989. For example, the administrative proceedings at the first instance came to a standstill for a period of more than eight years between 1991 and 1999. Later, the administrative appeal proceedings before the Ministry came to a standstill for a period of four years between 2003 and 2007 and for a period of almost four years between 2009 and 2013. As to the applicants' and the first applicant's predecessor's conduct, there is no evidence before the Court to suggest that they contributed in any significant way to prolonging the proceedings. It is true, as argued by the Government, that the applicants – and the first applicant's predecessor in the earlier stages of the proceedings – made use of a large number of remedies. However, it cannot be overlooked that some of the remedies were used in an attempt to expedite the administrative proceedings, and that the applicant was successful before the national courts and authorities when relying on others.</p>	<p>Civil</p>	<p>More than 21 years</p>
<p>Liga Portuguesa de Futebol Profissional v. PORTUGAL No. 4687/11 17/05/2016</p>	<p>The Court considers that the case was particularly complex, also in the light of the appeals and actions to have decisions declared invalid.</p>	<p>In this case, it must be concluded that the applicant's conduct did lead to some protraction of the proceedings. Nonetheless, it is clear that there were excessive delays attributable to the national authorities.</p>	<p>Civil</p>	<p>9 years and 7 months in three levels of jurisdiction</p>
<p>O'Neill and Lauchlan v. UNITED KINGDOM No. 41516/10 28/06/2016</p>	<p>Prosecution for murder.</p>	<p>In the present case, having fully considered the material before it, the Court considers that, although there are no specific incidents of outright dilatoriness attributable to the Scottish prosecuting and judicial authorities, there were certain stages of the proceedings which were protracted (most notably, the passage of almost four years from the date the applicants lodged their Notes of Appeal against conviction and sentence and the date those appeals were finally determined).</p>	<p>Criminal</p>	<p>9 years in two levels of jurisdiction</p>
<p>Snyatovskiy v. RUSSIA No. 10341/07 13/12/2016</p>	<p>The case involved several defendants charged on a number of counts and the questioning of hundreds of witnesses.</p>	<p>In the absence of any satisfactory explanation for such a lengthy examination of the case or any evidence of "special diligence" on the part of the authorities, the Court must conclude that the length of the proceedings failed to meet the "reasonable time" requirement.</p>	<p>Criminal</p>	<p>7 years in one level of jurisdiction</p>
<p>Kirins v. LATVIA No. 34140/07 12/01/2017</p>	<p>The criminal case concerned charges brought against a police officer for excessive use of physical force, which proved to be uncontested, against the applicant who had category 2 disabled status at the material time. The criminal</p>	<p>Given that the aim of the proceedings was to provide compensation for excessive use of force by a police officer, the domestic authorities did not act with the requisite diligence expected from them in this type of case.</p>	<p>Criminal</p>	<p>11 years before the criminal and civil courts in three levels of jurisdiction</p>

	case had two elements adding to its complexity. Namely, the evading of justice by the accused S.K., and the need for forensic medical experts to report on the seriousness of the injuries sustained, including on the causal link between these injuries and the alleged deterioration of the applicant's health.			
J.R. v. BELGIUM No. 56367/09 24/01/2017	The investigation into the case was indeed somewhat complex on account of the personality of the applicant and the evolution of family relations which led to numerous hearings and auditions and international letters rogatory, but the Court held that this was not sufficient to explain why the criminal proceedings against the applicant lasted such a long time.	The Court finds that there were several delays or indeed stagnation in the investigation: at the beginning of the investigation between 2004 and 2006, in the commissioning of the systemic expert report between 2008 and 2010, and between 2010 and 2014, during which time only the letters rogatory were completed. On the basis of all the facts considered, the Court concludes that the complexity of the investigation and the conduct of the behaviour are not enough in themselves to explain the length of proceedings; the main cause lies in the way in which the authorities conducted the case.	Criminal	12 years in two levels of jurisdiction
Satakunnan Markkinapörssi Oy and Satamedia Oy v. FINLAND No. 931/13 27/06/2017	The Court is of the view that the case was indeed legally complex, a fact demonstrated by a paucity of case-law at Finnish level, the need to refer questions relating to the interpretation of EU law to the CJEU and the very fact that the case was referred to the Grand Chamber.	The total length of the proceedings is nonetheless excessive, which seems to have been caused by the fact that the case was examined twice by each level of jurisdiction. The Court considers that even if one were to accept the Government's argument that the applicant companies' conduct had prolonged the second set of proceedings by one-and-a-half months and that this period ought to be deducted from the overall length, the total length of the proceedings would still be excessive. However, it cannot be said that the legal complexity of the case in itself justified the entire length of the proceedings. Some of this complexity was, in addition, caused by the fact that the case was referred back to the Data Protection Board for a new examination. As regards what was at stake for the applicant companies, it is uncontested that the impugned national decisions had consequences for both the extent to which and the form in which the applicant companies could publish the taxation data and therefore continue their publishing activities unchanged.	Civil	6 years and 6 months in two levels of jurisdiction (excluding the preliminary ruling phase)

Appendix 3b – Complex cases: no violation of Article 6 § 1

CASE	REASONS FOR COMPLEXITY	REASONING	TYPE OF PROCEEDINGS	DURATION
Eriksson v. SWEDEN No. 60437/08 12/04/2012	Request for invalidity pension	Manifestly ill-founded The longest period was before the Administrative Court of Appeal, which lasted for almost three years. However, there appear to have been no prolonged periods of inactivity as the applicant submitted new medical certificates twice and also requested an oral hearing and reiterated this request after it had been rejected by the court. Moreover, the life annuity applied for was not the applicant's sole income as he had received an early retirement pension since December 2001.	Civil	5 years in three levels of jurisdiction
Horych v. POLAND No. 13621/08 17/04/2012	Organised crime	Manifestly ill-founded: Complex case, 98 hearings, of which only a few were adjourned for valid reasons, no periods of inactivity.	Criminal	5 years and 6 months in two levels of jurisdiction
Idalov v. RUSSIA No. 5826/03 22/05/2012	Applicant charged with abduction, extortion and illegal acquisition and possession of firearms and drugs as part of an organised group of six persons.	A large part of the delays were attributable to the applicant without any legitimate reasons The authorities demonstrated sufficient diligence in handling the proceedings. The investigation stage was completed in one year and eight months. The appeal proceedings lasted approximately six months. The trial hearings were held regularly and the adjournments, owing to the trial judge's conflict of schedule or the witnesses' or other parties' failure to appear, did not have a significantly adverse effect on the length of the proceedings.	Criminal	4 years and 11 months in two levels of jurisdiction
Velichko v. RUSSIA No. 19664/07 15/01/2013	The proceedings at issue were complex owing to the number of defendants, the numerous offences they were charged with and the authorities' task of collecting and examining a substantial amount of evidence.	The Court is satisfied that the authorities demonstrated sufficient diligence in handling the proceedings. There is nothing in the material before the Court to suggest that the investigative activities undertaken were in any way protracted or delayed. The trial hearings were held regularly and none of the adjournments had a significantly adverse effect on the length of the proceedings as a whole.	Criminal	3 years and 10 months for the investigation phase and the trial before one level of jurisdiction
Matusik v. POLAND No. 3826/10 1/10/2013	The case was relatively complex, given the sensitive nature of the issues which the courts were required to resolve and the conflicts between the parties involved. Accordingly, in order to establish the facts, the court commissioned expert reports and sought the assistance of the social services.	The period which could have raised a problem in relation to Article 6 of the Convention was due to the need to wait for the submission of the expert report by the Krakow Judicial Expertise Institute. While acknowledging that this delay was significant, the Court notes that the Institute's conclusions provided important facts in order to settle the case. It reiterates that one part of the proceedings can be protracted without constituting a violation of Article 6 § 1 of the Convention insofar as the proceedings as a whole were of reasonable duration. In this connection, the Court notes that the contested proceedings were on the whole dealt with promptly. The District Court, where the case remained pending for approximately three years, held its hearings without any protracted periods in between and carried out numerous actions in order to adopt a decision on the merits of the case. That court reacted promptly to the requests submitted by the parties regarding their right of access to the child. It also chased up the Krakow Institute and immediately adopted a decision on the merits of the case once the experts' conclusions had been submitted.	Civil	3 years and 5 months in two levels of jurisdiction

<p>Case of Shcherbakov v. RUSSIA (No. 2) No. 34959/07 24/10/2013</p>	<p>The investigation was opened in respect of six defendants, including the applicant, who were charged with several counts of fraud, robbery, threats to kill, extortion and money laundering.</p>	<p>The Court is satisfied that the domestic authorities demonstrated sufficient diligence in handling the proceedings. The investigation into the matter lasted for ten and a half months. The appeal proceedings lasted approximately ten months. The trial hearings were held regularly. Admittedly, the trial at the first level of jurisdiction lasted almost two years and seven months, but the court held one-hundred-and-twenty-five hearings, and the Court discerns nothing in the material before it to suggest that there were any unreasonable delays or adjournments in the proceedings.</p>	<p>Criminal</p>	<p>4 years and 3 months for the investigation phase and two levels of jurisdiction</p>
<p>Lazariu v. ROMANIA No. 31973/03 13/11/2014</p>	<p>The case presented a certain degree of complexity, mainly owing to the complexity of the offences investigated and the number of co-accused and witnesses heard.</p>	<p>The Court notes that during the proceedings before the District Court the applicant made some twenty-five requests for postponements. In this regard, it notes that the District Court held a number of fifty-six hearings in total. It further notes that the applicant made such requests for postponement owing to a change of counsel, to her inability to appear before the court for medical or professional reasons, or having challenged the judge. Therefore, the Court takes the view that the applicant, who became a lawyer during the trial, was herself responsible for an important part of the delay in the proceedings before the District Court. Moreover, the Court does not discern long periods of inactivity during the proceedings before the District Court.</p>	<p>Criminal</p>	<p>7 years and 10 months in three levels of jurisdiction</p>
<p>Larionovs and Tess v. LATVIA No. 45520/04 25/11/2014</p>	<p>The Court considers that the case was undeniably complex, involving sensitive and intricate questions of a historic and legal (domestic law and international law) nature. Much archive research was required to obtain documentary evidence of the allegations and, since the case involved the deportation of 150 families, a considerable volume of substantiating documentary and oral evidence was required (including over 130 victim statements). The case file comprised fifteen volumes. The evident breadth and complexity of the case could justify, in principle, a longer procedure</p>	<p>Taking into account all the relevant factual and legal elements of the present case as regards both applicants, the Court considers that the reasonable time requirement has not been breached in relation to either of them.</p>	<p>Criminal</p>	<p>6 years and 4 months in two levels of jurisdiction, including two constitutional applications and an appeal</p>
<p>Korkin v. RUSSIA No. 48416/09 12/11/2015</p>	<p>The applicant was charged with several counts of fraud and money laundering as part of an organised group. Charges were brought against seven individuals.</p>	<p>As to the conduct of the authorities, the Court is satisfied, as indicated above, that they demonstrated sufficient diligence in handling the proceedings. The investigation stage was completed in two years and two months. The trial hearings were held regularly and without excessive delays. Admittedly, it took the court of the first level of jurisdiction almost one year and ten months to conduct the trial, but the court held ninety-eight hearings and examined voluminous evidence. The appeal proceedings lasted seven months.</p>	<p>Criminal</p>	<p>4 years and 6 months in two levels of jurisdiction</p>
<p>Mirea v. ROMANIA No. 19314/07 6/10/2015</p>	<p>Complex criminal proceedings</p>	<p>Given the complexity of the case, the duration of the proceedings is not unreasonable.</p>	<p>Criminal</p>	<p>6 years in three levels of jurisdiction</p>
<p>Yaikov v. RUSSIA No. 39317/05 18 June 2015</p>	<p>The parties did not dispute that the case was complex. Having regard to the nature of the case against the applicant, the number of episodes and his mental state the Court sees no reason to conclude</p>	<p>The Court notes the Government's argument that a substantial delay in the proceeding was caused by the applicant's state of health, and that this delayed the proceedings through no fault of the authorities. The aggregate delay incurred as a result amounted to fourteen months at least. The Court notes that three psychiatric expert examinations, including one requested by</p>	<p>Criminal</p>	<p>5 years, 3 months in two levels of jurisdiction</p>

	otherwise.	the applicant's lawyer initiative, took approximately twelve months in total. As regards the conduct of the authorities, the Court notes that except for an eight-month delay caused by the omissions in the investigation when the courts returned the applicant's case twice to the prosecutor to correct its procedural deficiencies, the authorities demonstrated sufficient diligence in handling the proceedings		
Sergey Denisov v. RUSSIA No. 1985/05 19/04/2016	Complex case	The Court considers that the largest gap in the proceedings occurred between 3 October 2001 and 27 September 2004 when the City Court adjourned the hearing at least eighty-eight times because the applicants were ill, lawyers failed to appear for health, personal or professional reasons or for no reason or because the applicants and their lawyers were removed from the courtroom for engaging in disruptive behaviour.	Criminal	7 years and 9 months in three levels of jurisdiction
Mikhno v. UKRAINE No. 32514/12 1/09/2016	Claim for damages following an accident during an air show.	Regard being had to the nature of the proceedings, the period of three years and ten months, during which the second applicant's claims were examined by courts at two levels of jurisdiction and the judgment award was paid to her, was not excessive.	Civil	3 years and 10 months in two levels of jurisdiction
Habran and Dalem v. BELGIUM No. 43000/11 17 January 2017	The case was extremely complex, on account, as the domestic courts emphasise, of the many facts, the organised nature of the crime in question, the number of persons involved, the difficulty of the investigation and the mass of information to be dealt with in the preliminary investigation and trial stages.	The Court concluded that the proceedings as a whole had been conducted with sufficient expedition. The only prolonged period attributable to the authorities had stemmed from the fact that, in order to take account of the <i>Taxquet</i> case-law, the initial verdict of the Assize Court had been set aside and the trial had had to be started completely afresh.	Criminal	8 years and 5 months in two levels of jurisdiction

Appendix 4: non-complex cases

Violation of Article 6§1

CASE	WHAT WAS AT STAKE FOR THE APPLICANT	GROUNDS FOR DECISION	TYPE OF PROCEEDINGS	LENGTH
Broca and Texier-Micault v. FRANCE , 21 October 2003	No particular stake	- Concerning the first applicant the Government acknowledged that the duration of the proceedings at first instance and on appeal "could be considered relatively long" - Concerning the second, the appeal proceedings had been pending for three years and the Government had given no explanation for this	Administrative	- First applicant: eight years and eight months in three tiers of court - Second applicant: five years and three months (case pending)
Guiraud v. FRANCE , 29 March 2005	No particular stake	- Although the length of the trial stage seemed reasonable, in the circumstances of the case the investigation could not be deemed to have been conducted with diligence	Criminal	- Ten years and three months for an investigation and three tiers of proceedings, including six years and eight months for the investigation alone
Quemar v. FRANCE , 1 February 2005	No particular stake	- Unjustified delays and periods of inactivity by both the investigating judge and the appeal court division dealing with appeals concerning investigations. For instance, the investigating judge (who was already replacing another investigating judge) took more than ten months to join the civil party complaint to the main proceedings, and almost a further year (during which no procedural steps were taken) to call a witness	Criminal	Investigation: - ten years and four months for Mrs Quemar - ten years and two months for Mr Quemar
Fattell v. FRANCE , 27 January 2005	No particular stake	- Unjustified delay of two and a half years between registration of the applicant's appeal and the administrative appeal court's decision - Unjustified delay of four and a half years between registration of the appeal on points of law and the decision by the Conseil d'Etat	Administrative	- Fourteen years and eleven months for examination of the preliminary complaint and the seven subsequent stages in the proceedings
Schwarkmann v. FRANCE , 8 February 2005	No particular stake	- The investigating judge, who, despite four reminders, had received no response to a request for evidence to be taken on commission issued two years previously, merely repeated the request in the same terms	Criminal	- The investigation lasted seven years and one month
Guez v. FRANCE , 17 May 2005	No particular stake	- Unjustified delays of: 1/ three years and seven months in the Paris administrative court for the first dismissal (between the filing of the application and the judgment determining compensation for loss of income) 2/ four years and eight months in the Paris administrative appeal court for the second dismissal (between the judgment annulling the second dismissal and the order to reinstate the applicant) 3/ eight years and six months for the subsequent compensation request (proceedings still pending).	Administrative – labour court	- Eleven years in two tiers of court (the administrative appeal court had still not ruled on the application for annulment of the first dismissal)
Podbielski v. POLAND , 30 October 1998	Given the then rampant inflation the applicant had an economic interest in securing adjudication of his claim within a reasonable time	- Delays caused to a large extent by legislative changes resulting from transition to free-market system and by procedural complexity	Civil	- Five years and six months in two tiers of court (proceedings still pending)

CASE	WHAT WAS AT STAKE FOR THE APPLICANT	GROUNDS FOR DECISION	TYPE OF PROCEEDINGS	LENGTH
Bursuc v. ROMANIA , 12 October 2004	Applicant's state of health	- From June 1999 to June 2000 the court ordered successive adjournments on the ground that witnesses had failed to appear, despite the fact that it had summoned them virtually every month and threatened them with procedural penalties, which were, however, not applied. The judicial authorities were required to show particular diligence in expediting these proceedings in view of the applicant's state of health	Criminal	- Four years , of which: - One year and nine months for the prosecution service's investigation - Two years and three months in the first-instance court
Frydlender v. FRANCE , 27 June 2000	Loss of livelihood	- The Conseil d'Etat gave its decision almost six years after the case was brought before it, and the Government offered no explanation for this clearly excessive duration	Administrative (employment dispute)	- Nine years and eight months (nearly six years in the Conseil d'Etat)
Garcia v. FRANCE , 26 September 2000	Loss of livelihood	- The proceedings were rapid in the Dijon administrative court (a little over one year) but not in the Conseil d'Etat (four years and four months) - The applicant's continuation in business depended to a large extent on the outcome of the proceedings	Administrative	- Five years and eight months in three tiers of court
Ferdandes Cascao v. PORTUGAL , 1 February 2001	Loss of livelihood	- No essential procedural steps were taken between the date of an order by the judge and the date of the preparatory decision - this two year delay is unquestionably excessive - In the case of disputes concerning employees' rights to be paid or to receive compensation in lieu of pay, the moment from which the reasonable time requirement of Article 6 can be deemed to have been breached must be examined with particular care	Civil (employment dispute)	- Four years and seven months in one tier of court (resulted in a friendly settlement)
Farinha Martins v. PORTUGAL , 10 July 2003	Employment dispute	- The time taken by the court of appeal to examine an interlocutory appeal considerably delayed the proceedings. It took more than two years to decide that a judgment by the labour court must be annulled	Civil (employment dispute)	- Seventeen years and nine months
Kress v. FRANCE , 7 June 2001	No particular stake	- Significant delays in proceedings both at first instance and concerning the appeal on points of law - In particular, the Conseil d'Etat, took four years and slightly more than one month to examine the applicant's appeal on points of law	Administrative	- Ten years and one month
Kuibichev v. BULGARIA , 30 September 2004	No particular stake	- Despite a five-month delay between two hearings of the appeal court, the inadequacy of the steps taken by the authorities to secure witnesses' presence at the hearing and a further delay of three and a half months due to inaction by the prosecution service, the proceedings, which took place in four stages and at three levels of court, with no excessive delay in the Sofia Court of Appeal or the Court of Cassation, did not exceed a reasonable time	Criminal	- Four years and three months for three tiers of court (+ investigation)
Punzelt v. CZECH REPUBLIC , 25 April 2000	No particular stake	- The applicant contributed to the length of the proceedings by making numerous requests for the taking of further evidence between the filing of the indictment and the first hearing - Over the period of November to December 1994 courts at two levels dealt with the applicant's request for exclusion of certain judges - No period of inactivity imputable to the authorities. The case was examined twice by courts at two levels. Hearings were held at regular intervals and adjourned only in order to seek further evidence	Criminal	- Three years and three months for three tiers of court

CASE	WHAT WAS AT STAKE FOR THE APPLICANT	GROUNDS FOR DECISION	TYPE OF PROCEEDINGS	LENGTH
Zielinski v. POLAND, 15 February 2005	No particular stake	<ul style="list-style-type: none"> - The applicant contributed to the length of the proceedings (failed to reply in writing to the opposite party's observations within the fourteen day time-limit allowed, but did respond at the hearing; failed to take any steps whatsoever to expedite the proceedings; failed to submit a health certificate on time, resulting in a delay of about three months; etc.) - The opposite party also contributed to delaying the proceedings on the merits - An approximately eleven-month period of inactivity by the judicial authorities was due in part to the applicant's conduct. Similarly, a delay of nine to twelve months was caused by the opposite party's failure to pay a deposit on time. - Apart from these periods of inactivity, lasting approximately one year and eight months, for which the parties and the courts bear joint responsibility, the hearings were held at regular intervals 	Civil	- Five years and one month for three tiers of court
Dostál v. CZECH REPUBLIC, 25 May 2004	No particular stake	<p><u>Case No. 23 C 227/94</u></p> <ul style="list-style-type: none"> - Dealt with relatively fast. Period of inactivity from June 1994 to October 1996 imputable to the applicant (late payment of fees) <p><u>Case No. 30 C 580/95</u></p> <ul style="list-style-type: none"> - Numerous requests and objections on grounds of bias filed by applicant (the national courts endlessly had to transfer the case-file from one court to another, which considerably delayed the proceedings) <p><u>Case No. 30 C 581/95</u></p> <ul style="list-style-type: none"> - The applicant submitted several imprecise or unfounded procedural requests <p><u>Case No. 58 C 37/96</u></p> <ul style="list-style-type: none"> - Numerous procedural requests: the courts merely reacted to these requests, and did so without undue delay <p><u>Case No. 23 C 66/98</u></p> <ul style="list-style-type: none"> - Numerous procedural requests: the courts were obliged to transfer the case-file (dealt with expeditiously) 	Civil	<p><u>Case No. 23 C 227/94</u>: Six years and six months for two tiers of court</p> <p><u>Case No. 30 C 580/95</u>: Seven years and two months for two tiers of court</p> <p><u>Case No. 30 C 581/95</u>: Seven years and two months for two tiers of court</p> <p><u>Case No. 58 C 37/96</u>: Five years and three months for two tiers of court</p> <p><u>Case No. 23 C 66/98</u>: Four years and eight months</p>
Soner Önder v. TURKEY, 12 July 2005	No particular stake	<ul style="list-style-type: none"> - No period of inactivity imputable to the national judicial authorities 	Criminal	- Five years and eleven months (two sets of proceedings in the State Security Court and two in the Court of Cassation)
Gergouil v FRANCE, 21 March 2000	No particular stake	<ul style="list-style-type: none"> - More than one year and two months in the court of appeal, and more than four months in the Court of Cassation, for the parties to file their submissions - The proceedings before the Court of Cassation lasted two years, two months and one day: a period described as fairly long, but no period of inactivity was imputable to the authorities (the length of the proceedings in the Labour Court (five months) and the court of appeal (one year and five months) was not open to criticism. 	Civil (employment dispute)	- Four years and three months for three tiers of court
Guichon v. FRANCE, 21 March 2000	No particular stake	<ul style="list-style-type: none"> - Six-month delay due to the applicant's request for adjournment of the hearing in the Labour Court. The applicant took over three months to appeal against the first-instance decision and the parties took nine months to file their submissions with the Court of Cassation. - No significant period of inactivity imputable to the national authorities. The length of the proceedings in the Labour Court (one year and seven months), the court of appeal (one year and nine months) and the Court of Cassation (one year and eight months) was not open to criticism. 	Civil (employment dispute)	- Five years and three months for three tiers of court

Piccolo v. ITALY , 7 November 2000	No particular stake	- Two years and two months were necessary to obtain an expert opinion, leading to an out-of-court settlement (following which there was no further dispute between the parties). This duration could be seen to be acceptable (in the light of the overall length of the proceedings).	Civil	- Three years and seven months for one tier of court <i>N.B.: Three judges issued a joint dissenting opinion¹⁶⁰</i>
P.G.V. v. ITALY , 7 November 2000	No particular stake	- One year and eight months for the investigation, following which 20 months elapsed before the hearing of the case. The Court held that this duration could nonetheless be seen to be acceptable if compared (as was appropriate) with the overall length of the proceedings.	Civil	- Three years and nine months for one tier of court <i>N.B.: Two judges issued a joint dissenting opinion¹⁶¹</i>
Marcotrigiano v. ITALY , 1 March 2001	Employment dispute	- Case frozen for two years and eight months (transfer of a judge): imputable to the authorities. However, the time actually taken to deal with the case was about five years and two months in two tiers of court (by signing, in 1999, a statement waiving his right to resume the proceedings in the territorially competent court the applicant showed his lack of interest in pursuing the proceedings)	Civil	- Five years and five months (two tiers of court)
Mangualde Pinto v. FRANCE , 9 April 2002	Employment dispute	- Successive adjournments requested by the parties led to a delay of more than one year and eight months. Delays also caused by suspension of the proceedings on the ground that the applicant had failed to appear and their subsequent resumption. - Only two delays were imputable to the national authorities: six months for the Labour Court's adjournment of hearing the case, and seven months for consideration of the applicant's request for legal aid. - The Court held that the overall duration of more than six years was fairly long, but that the delays could not be deemed unreasonable	Civil (employment dispute)	- Six years and three months
Martial Lemoine v. FRANCE , 29 April 2003	No particular stake	- Exchange of pleadings and documents between the parties constituted a cause of delay: this took one year and one month in the Paris appeal court and one year and two months in the second appeal court although the judge responsible for preparing the case for hearing had laid down a time-table and set a closing date for the preparatory stage. - The applicant's slowness in filing his initial submissions with the Paris appeal court and the parties' request to adjourn the closing date of the preparatory stage in the second appeal court delayed the proceedings by nearly eight months. - The Court held that the overall duration (seven years and eight months) was fairly long but the time lapses attributable to the authorities could not be deemed unreasonable	Civil	- Seven years and eight months including: - one year and ten months at first instance, and one year and eight months on appeal, - one year and nine months in the court of cassation - two years in the second appeal court
Mötsnik v. ESTONIA , 29 April 2003	Applicant detained pending trial	- Hearings adjourned on several occasions because of the absence of the applicant or his counsel - Some procedural delays not imputable to the applicant, but the overall length of the proceedings was deemed reasonable	Criminal	- Four years and six months but the Court had no jurisdiction <i>ratione materiae</i> to deal with the proceedings in three levels of court - The period to be considered

¹⁶⁰ "Even though a period of three years and seven months for a single tier of court, in a case of no great complexity, can in principle be regarded as acceptable, we note that this lapse of time has been calculated over a period running only until July 1997, when the applicant indicated that he had reached an arrangement with the respondent. However, the proceedings in fact continued well beyond that date, and would seem to have been still pending, at first instance, in September 1999, more than five years and ten months after their inception. In our opinion, this is clearly excessive" (judges Tulkens, Bratza and Costa - unofficial translation).

¹⁶¹ "In our opinion a period of three years and nine months for a single tier of proceedings, in a case of no particular complexity, goes beyond what is reasonable and hence constitutes a breach of the requirements of Article 6§1 of the Convention. In particular we note that there was an unexplained interval of twenty months between the parties' submissions and the Milan court's judgment; in addition a further five months was necessary for the judgment to be filed at the registry" (judges Tulkens and Bratza - unofficial translation).

				was therefore two years and seven months
Liadis v. GREECE, 27 May 2004	No particular stake	<ul style="list-style-type: none"> - All the adjournments in the first-instance proceedings were caused by the applicant's failure to appear. In addition, the applicant was consistently extremely slow to request a new date for a hearing, culminating in a delay of over twenty years. - The applicant showed no interest in resuming the proceedings with the result that the court had no leeway to act (under Articles 106 and 108 of the Code of Civil Procedure control of the course of civil proceedings lies entirely with the parties). - No period of inactivity or unjustified delay was attributable to the authorities. Each time the applicant requested a new date for a hearing, the court was quick to react (and it delivered its judgment one year and three months after the relevant request). The proceedings in the court of appeal lasted one year and two months. 	Civil	<ul style="list-style-type: none"> - Twenty-one years and eleven months (including more than fourteen years and nine months subsequent to 20 November 1985, the date on which Greece recognised the right of individual petition)
Patrianakos v. GREECE, 15 July 2004	No particular stake	<ul style="list-style-type: none"> - The parties failed to appear (this was the cause of all the adjournments in the first-instance proceedings) and were consistently excessively slow to request a new date for a hearing. This delayed the proceedings by nearly fourteen years. - The parties showed no interest in resuming the proceedings in the first-instance court and, pursuant to Articles 106 and 108 of the Code of Civil Procedure, the court of appeal had no leeway to act. - The applicant delayed lodging an appeal on points of law for one year and more than two months. - No period of inactivity or undue delay was imputable to the authorities: <ul style="list-style-type: none"> - each time the parties requested a new date for a hearing, the courts were very quick to react - the first-instance court delivered its judgment seven months after a new date had been given for a hearing - the proceedings in the court of appeal lasted one year - the Court of Cassation gave its decision after one year and four months <p>The Court held that these periods were far from unreasonable.</p>	Civil	<ul style="list-style-type: none"> - Twenty-two years and three months for three tiers of court, including almost fifteen years subsequent to 20 November 1985, the date on which Greece recognised the right of individual petition.
Wroblewski v. POLAND, 1 December 2005	No particular stake	<ul style="list-style-type: none"> - Having failed to consult the case-file within the time-limit set by the public prosecutor, the applicant requested that the indictment be sent back to the prosecutor for rectification only after the investigation had been closed and a date set for the trial: this delayed the investigation, and hence the hearing of the case, by about four months. - The Government provided no explication for a period of inactivity of about eleven months for which the judicial authorities were held responsible. However, apart from this failure to deal rapidly with the proceedings, the authorities did not remain inactive and showed the required diligence. 	Criminal	<ul style="list-style-type: none"> - Five years for one tier of court
Vendittelli v. ITALY, 18 July 1994	No particular stake	<ul style="list-style-type: none"> - Although legitimate, the two adjournments requested by the applicant caused a delay of about six months (which was fairly substantial given the proceedings' overall duration of fourteen months). - The first-instance court took eleven months to serve its decision on the applicant. However, the applicant had attended the hearing and could reasonably have been expected to obtain a copy of the judgment of his own initiative. - The appeal court's decision was not served at all, but this did not affect the length of the proceedings since it consisted in taking note of an amnesty decree. 	Criminal	<ul style="list-style-type: none"> - Four years and five months for two tiers of court

Cesarini v. ITALY , 12 October 1992	No particular stake	- For nearly two years the applicant remained inactive and took no steps to lodge an appeal (allegedly in order to seek an amicable settlement). - Several periods of inactivity attributable to the authorities: the first-instance court waited seventeen months before delivering its judgment, and the court of appeal twenty months. - However "having regard to the fact that the case came before three different courts and to the friendly settlement, the delays that occurred do not appear substantial enough for the total length of the proceedings to be able to be regarded as excessive."	Civil	- Six years and eight months for three tiers of court
Eucone D.O.O v. SLOVENIA 49019/99 9 March 2006	Nothing in particular at stake	The Court rejected the Government's defence of failure to exhaust domestic remedies because it considered that the remedies available to the applicant were ineffective.	Execution procedure	First set of proceedings: 6 years Third set of proceedings: 8 years and 4 months
Kos v. SLOVENIA 77769/01 30 March 2006	Damages	After examining all the evidence before it, and having regard to its relevant case law, the Court held that the length of the impugned proceedings, particularly in the court of first instance, is excessive and does not satisfy the "reasonable time" requirement.	Action for damages , civil liability	5 years and 8 months
Latry v. FRANCE 50609/99 23 February 2006	Nothing in particular at stake	In the Court's view, a period of nearly seven years just for the investigation of a complaint together with an application to join the proceedings as a civil party calls for an overall assessment and can only be justified by particular circumstances. The mere fact that the case exhibited a certain degree of complexity, due inter alia to the nature of the alleged offence, the difficulty of locating witnesses and the lack of documents relating to the conditions on which the money was transferred, is not sufficient to constitute such circumstances in this case. The Court also considers that the applicant cannot be criticised for having taken full advantage of the remedies available to him under domestic law. Having regard to these elements, the Court considers that the applicant's case was not heard within a reasonable time.	Misappropriation, complaint with application to join proceedings as civil party	6 years and 10 months
Smaskou v. GREECE 37270/02 30 March 2006	Nothing in particular at stake	Notwithstanding the fact that the domestic court withdrew the applicant's civil party status, the Court considers that the impugned proceedings fall within the scope of Article 6 § 1 of the Convention. The Court has dealt on numerous occasions with cases raising similar issues to those of the present case and has found a violation of Article 6 § 1 of the Convention. Having regard to its relevant case law, the Court considers that the length of the impugned proceedings is excessive and does not satisfy the "reasonable time" requirement.	Fraud , complaint with application to join proceedings as civil party	4 years, 11 months and 4 days
Vilho Eskelinen and others v. FINLAND 63235/00 19 April 2007	Claim by police personnel for individual wage supplements	The Court agrees with the parties that the case was not a complex one. The conduct of the applicants did not have the effect of prolonging the proceedings. As regards the authorities, the Court observes that the County Administrative Board received the applicants' request on 19 March 1993 and gave its decision on 19 March 1997. It thus took four years to examine the case. This lapse of time is explained neither by the procedural steps taken nor by any perceived need to await the outcome of the <i>Askola</i> case which had already become final on 7 December 1994. The Court concludes that there were delays in the proceedings before the County Administrative Board for which it has found no sufficient explanation. There has therefore been a violation of Article 6 § 1 of the Convention on account of the length of the proceedings.	Administrative: claim by police personnel for individual wage supplements	7 years

<p>Araguas v. FRANCE 28625/02 9 January 2007</p>	<p>Action by an employee protected by virtue of his status as a trade union representative to challenge the decision to make him redundant</p>	<p>The Court has dealt on numerous occasions with cases raising similar issues to those of the present case and has found a violation of Article 6 § 1 of the Convention. Having examined the evidence before it, and having regard to its relevant case law, the Court considers that the length of the impugned proceedings is excessive and fails to satisfy the “reasonable time” requirement.</p>	<p>Administrative: application to set aside the decisions by the labour inspectorate and the minister authorising his dismissal.</p> <p>Ancillary criminal proceedings: obstruction to the exercise of trade union rights and the functions of trade union representative, obstruction to the functioning of the works committee</p>	<p>9 years and 9 months, for three levels of jurisdiction</p>
<p>Spadaro v. ITALY 52578/99 20 September 2007</p>	<p>Nothing in particular at stake</p>	<p>The Court recalls having examined a complaint identical to that of the applicant and having found a violation of Article 6 § 1 of the Convention (<i>Delle Cave v. Italy</i> n° 14626/03, 5 June 2007). Having examined the facts in the light of the information provided by the parties, and having regard to its relevant case law, the Court considers that, in the instant case, length of the impugned proceedings is excessive and fails to satisfy the “reasonable time” requirement.</p>	<p>Criminal: forgery</p>	<p>7 years at one level of jurisdiction</p>
<p>Roman Wilczynski v. POLAND 35840/05 17 July 2008</p>	<p>Action to establish ownership of a plot of land</p>	<p>The national court recognised that the applicant’s right to a fair hearing within a reasonable time had been violated, but did not award him anything by way of just satisfaction. Having examined all the evidence before it, the Court considers that the Government have not adduced any fact or argument which could lead to a different conclusion in the present case. Having regard to its relevant case law, the Court holds that the length of the impugned proceedings is excessive and fails to satisfy the “reasonable time” requirement.</p>	<p>Administrative: action to establish ownership of a plot of land</p>	<p>8 years and 3 months in one court</p>
<p>Dedeman v. TURKEY 12248/03 16 December 2008</p>	<p>Defamation</p>	<p>Regarding the defence of failure to exhaust domestic remedies, the Court points out that no effective remedy was available to litigants under the Turkish legal system. The period considered by the Court – three years for two levels of jurisdiction – does not seem particularly long. The Court notes, however, that the applicant’s case remained pending for two years and five months before the Court of Cassation. Having examined all the evidence before it, the Court considers that the Government have not adduced any fact or argument enabling that delay to be attributed to the applicant. Having regard to its relevant case law, the Court holds that the length of the proceedings is therefore excessive in the present case and fails to satisfy the “reasonable time” requirement.</p>	<p>Defamation via the press</p>	<p>3 years for two levels of jurisdiction</p>

Castro Ferreira Leite v. PORTUGAL 19881/06 1 st December 2009	Action to establish paternity	The Court considers that the applicant cannot be criticised for having made use of the various remedies and other procedural possibilities available to him under domestic law. The applicant's conduct is an objective element, not attributable to the respondent State, which must be taken into account in determining whether or not reasonable time was exceeded. However, the applicant's attitude cannot account for the delays attributable to the judicial authorities which were seen during the proceedings: in particular, nearly four years elapsed between the time when the action to establish paternity was brought and the holding of the hearing on 31 October 1997 before the court of Vila Nova de Gaia. Having regard to all the circumstances, the Court notes that the length of the impugned proceedings failed to satisfy the "reasonable time" requirement.	Civil: action to establish paternity	12 years for three levels of jurisdiction
Arikan and others v. TURKEY 43033/02 2 June 2009	Action to set aside the registration of 100 hectares of farmland on the land registers in the name of third parties and to have it re-registered in her name following a fraudulent contract of sale of which she was allegedly victim.	The Court notes that the proceedings of which the applicants complain began on 15 May 1968 and have not yet come to an end. From 28 January 1987, the date on which Turkey's recognition of the right of individual petition took effect, to the present day, nearly twenty-two years have elapsed, for one level of jurisdiction, bearing in mind that over eighteen years had already elapsed up to that time.	Property	22 years at one level of jurisdiction Case pending
Castro Ferreira Leite v. PORTUGAL 19881/06 1 st December 2009	Action to establish paternity	As already noted by the Court in the case of <i>Costa Ribeiro v. Portugal</i> , n ^o 54926/00, 30 April 2003, the present case exhibited no particular legal or factual complexity.	Action to establish paternity	12 years for three levels of jurisdiction
Myashev v. BULGARIA 43428/02 8 January 2009	Nothing in particular at stake	The Court has already noted in previous cases against Bulgaria that, at the relevant time, there was no remedy under domestic law that could be used to expedite criminal proceedings or obtain compensation for excessive length of proceedings, and found that Article 13 had accordingly been violated. It sees no reason to reach a different conclusion in the present case. Furthermore, the Court observes that the case, which concerned illegal possession of a weapon, did not appear to be particularly complex. It notes that the proceedings remained at a standstill for lengthy periods (1993-1998, then 1999-2002) without any procedural or investigative steps being taken.	Illegal possession of a weapon	10 years
Kola v. GREECE 1483/07 2 April 2009	Nothing in particular at stake	The Court points out that the appeal proceedings alone lasted nearly four years. It notes more specifically that the date for the hearing before the five-judge criminal court of appeal was set about two years after the appeal had been lodged. Furthermore, while this court agreed to two adjournments, requested, admittedly, on the applicant's behalf, it scheduled the hearings for dates far in the future: the first twelve months and the second ten months later. Neither the seriousness of the offence with which the applicant was charged nor the sentence delivered at first instance can justify such delays. The length of the proceedings therefore fails to satisfy the "reasonable time" requirement.	Illicit drug trafficking	6 years and 2 months for three levels of jurisdiction
Hasko v. TURKEY No. 20578/05 17/01/2012	Criminal charges for knowingly using false powers of attorney	The possibility of quashing a decision and referring a case back three times to the same court constituted a deficiency in the operation of the legal system.	Criminal	11 years and 2 months in two levels of jurisdiction
Medeni Uğur v. TURKEY No. 49651/06 24/01/2012	Prosecution for participation in a demonstration in support of the Kurdistan Workers	Unjustified length of proceedings	Criminal	6 years in two levels of jurisdiction and still on-going on the date of the Court's decision

	Party			
Wurzer v. AUSTRIA No. 5335/07 06/03/2012	Appeal against the issuing of a building permit	The case was repeatedly transferred back and forth between the administrative courts and the municipal council.	Administrative	6 years and 6 months in three levels of jurisdiction
Velinov v. "The FORMER YUGOSLAV REPUBLIC of MACEDONIA" No. 16880/08 19/09/2013	Compensation proceedings for unlawful detention	The Court observes that the proceedings lay dormant for over four years until the trial court communicated the applicant's claim to the Solicitor General. During this time, the trial court took no action. That the applicant's claim was subsequently decided with reasonable expedition cannot compensate for the initial inactivity of the trial court.	Criminal/Civil	4 years and 8 months in two levels of jurisdiction
Vlad v. ROMANIA No. 40756/06 26/11/2013	Criminal charges	The case was referred to the prosecution authorities for further investigation three times, a fact which led to three bills of indictment being issued against the applicant. Further considerable delays were caused by the defective service of process in respect of the applicant and the witnesses heard in the case, as well as by the repeated adjournment of hearings for a forensic medical report to be drawn up or for court judgments to be delivered	Criminal	12 years and 2 months in three levels of jurisdiction
Gorbatenko v. UKRAINE No. 25209/06 28/11/2013	Charges of theft	Although the case involved three incidents and two co-accused, it does not appear to be particularly complex. There appear to have been no significant delays in the proceedings caused by the applicant's behaviour.	Criminal	More than 9 years and still pending
Şevket Kürüm and others v. TURKEY No. 54113/08 25/11/2014	Proceedings relating to compensation following a person's death	The Court observes that this case was not particularly complex and that the applicants did not contribute to the protraction of the proceedings.	Civil	5 years and 8 months in two levels of jurisdiction and three bodies
Panetta v. ITALY No. 38624/07 15/07/2014	Recognition in Italy of a divorce ruling issued in France	The length of the proceedings cannot in anyway be attributed to the applicant, who, on several occasions, had asked the French and Italian authorities to examine her case	Civil	13 years and 11 months
Bici v. ALBANIA No. 5250/07 3/12/2015	There is no indication that the determination of the applicant's property rights was complex.	In view of what was at stake for the applicant, that is the recognition of his inherited property rights, the Court points out that it is for the Contracting States to organise their legal systems in such a way that the competent authorities can meet the requirements of Article 6 of the Convention, including the obligation to take a decision within a reasonable time.	Civil	11 years, 9 months and 18 days in one level of jurisdiction.
Javor and Javorová v. SLOVAKIA No. 42360/10 15/09/2015	Compensation claim by victim of fraud	There has not been any allegation and the Court has found no indication that the case was of any particular complexity or that the applicants contributed to the length of the proceedings in any way. On the other hand, as regards the conduct of the authorities, significant delays had been repeatedly found by the Public Prosecution Service which however considered that they had no effective means of ensuring redress.	Criminal	7 years before one level of jurisdiction
Grujović v. SERBIA No. 25381/12 21/07/2015	Detention of applicant	The trial had to start anew six times because the presiding judge and/or the composition of the trial chamber changed. The Government did not offer any explanation for those changes.	Criminal	8 years in two levels of jurisdiction
Sodan v. TURKEY No. 18650/05 2 February 2016	Disciplinary proceedings against a public servant.	The Court took the view that taking so long to adjudicate on Mr Sodan's application to have the decision set aside and subsequently on his appeal on points of law was inexplicable in the light either of the complexity of the case or of the applicant's behaviour, and therefore did not meet the "reasonable time" requirement.	Civil	6 years and 2 months in two levels of jurisdiction

Sismanidis and Sitaridis v. GREECE No. 66602/09 9/06/2016	Application for judicial review of an administrative fine	The Court noted that the proceedings before the administrative court lasted approximately three and a half years. It found that the case had not been especially complex and that there was no evidence to suggest that the second applicant should be held responsible for the protracted nature of the proceedings in the Administrative Court..	Civil	6 years and 10 months in two levels of jurisdiction
I.N. v. UKRAINE No. 28472/08 23/06/2016	The Court notes that the proceedings in question concerned the issue of the lawfulness of the applicant's involuntary hospitalisation and his demand for access to his medical file.	The Court considers that numerous small delays and shortcomings contributed to the overall length of the proceedings, which became "unreasonable": hearings were cancelled because the recording equipment was not available; the absence of various parties led to nearly a quarter of all the scheduled hearings being adjourned, with 50% of those absences attributable to the defendants; the first-instance court's decision on the merits of 29 April 2002 was adopted seven months after the institution of proceedings, but quashed on appeal, and it then took nearly five years for the first-instance court to adopt a new decision; and a decision to conduct a forensic psychiatric examination of the applicant was adopted but later quashed, thereby protracting the proceedings by almost six months. In view of the above, the Court concludes that the state authorities bear the primary responsibility for the excessive length of the proceedings in the present case.	Civil	6 years and 4 months
Lupeni Greek Catholic Parish and Others v. ROMANIA No. 76943/11 29 November 2016	Expropriation	Although the case in itself was not a particularly complex one, the lack of clarity and foreseeability in the domestic law rendered its examination difficult; those shortcomings are entirely imputable to the national authorities and, in the Court's opinion, contributed decisively to extending the length of the proceedings.	Civil	5 years in three levels of jurisdiction
SARL Le Club and others v. FRANCE No. 31386/09 20/07/2017	Taxation dispute	The proceedings were not particularly complex and the applicants had not exhibited any dilatory conduct.	Civil	5 years and 4 months in two levels of jurisdiction and 10 years and 1 month in three levels of jurisdiction
Xenos v. GREECE No. 45225/09 13/07/2017	Challenging of dismissal	Even presuming that the delays attributed to the applicant could in reality be attributed to him, it was nevertheless true that even when those delays were deducted from the total length of the proceedings, the remaining period was excessive.	Civil	8 years and 4 months in three levels of jurisdiction

Appendix 4 bis – Non-complex cases: non-violation of Article 6 § 1

CASE	WHAT WAS AT STAKE FOR THE APPLICANT	GROUNDINGS FOR DECISION	TYPE OF PROCEEDINGS	LENGTH
Yeniay v. TURKEY 14802/03 26 June 2007	Prosecution for rape with an aggravating circumstance	The assize court decided to stay the criminal proceedings pursuant to the law on prosecution of public officials. However, the delay caused by this does not justify regarding the length of the proceedings as excessive, especially as the proceedings were only adjourned for five months. The Court observes that no significant delay can be attributed to the national judicial authorities, which held hearings regularly every two to three months. The adjournments were mainly due to the fact that the applicant, his representative and the victim failed to attend certain hearings at first and second instance despite repeated invitations by the national courts to attend. The assize court stated, however, that it would continue the proceedings in the victim's absence "according to the principle of procedural economy" and showed particular diligence in the conduct of the case. The Court does not consider that the length of the proceedings against the applicant was unreasonable.	Criminal: rape committed by a police officer in the course of his duties Ancillary administrative proceedings	5 years and 5 months
Bican v. ROMANIA 37338/02 22 September 2009	Review of a decision revoking an adoption	The Court notes that the excessive length of the proceedings is attributable to the applicant's conduct. The hearing of the case was suspended owing to the applicant's absence, then at the applicant's request, in order to lodge criminal complaints and submit pleadings to the Ministry of Justice with a view to bringing an action to have the decision set aside by the Romanian Attorney General. The three suspensions amounted to a delay of about two years and four months, which cannot be attributed to the judicial authorities, but must be attributed to the applicant himself.	Civil: review of a decision revoking an adoption	5 years and 2 months
Nevruz Bozkurt v. TURKEY 27335/04 1 June 2011	Accusations of terrorism	The Court considers that, having regard to the circumstances of the case, the length of the proceedings, for two levels of jurisdiction, is not unreasonable and refers to the examination of this issue in the case of <i>Ayhan İşık v. Turkey</i> (n° 33102/04, §§ 23-29) of 30 March 2010.	Terrorism	4 years and 10 months
Kiryakov v. UKRAINE No. 26124/03 12/01/2012	Civil proceedings to challenge a decree issued by the Ministry of Energy which suspended the applicant from his position as mine director pending a criminal investigation in connection with the applicant.	The Court notes that the proceedings at issue were instituted by the applicant on 2 October 2002 and lasted until 28 August 2006 the date on which the impugned decree was annulled. However, the case was struck off on 22 January 2004 on account of the applicant's failure to appear and resumed, at the applicant's instigation, on 22 December 2005. The Court found that this period, attributable to the applicant's lack of diligence should be subtracted from the period to be taken into consideration. The period to be taken into consideration therefore lasted some twenty-three months at two levels of jurisdiction.	Civil	23 months in two levels of jurisdiction
Ustyantsev v. UKRAINE No. 3299/05 12/01/2012	Case involving theft	Manifestly ill-founded.	Criminal	3 years and 6 months in three levels of jurisdiction
Pereira da Silva v. PORTUGAL No. 77050/11 22/03/2016	Request for reimbursement of a judge's official duty expenses.	It has to be admitted that the applicant contributed significantly to the length of the contested proceedings. The Court notes no period of inactivity or slowness that can be attributed to the national authorities, which appear to have responded appropriately to the applicant's various appeals.	Civil	12 years and 2 months in three levels of jurisdiction