



## **Report**

### **On the length of criminal proceedings that were concluded in April-May 2020 following the appellate review**

*Executive summary*

Kyiv, May 2021

*The Project "Further support for the execution by Ukraine of judgments in respect of Article 6 of the European Convention on Human Rights" is funded by the Human Rights Trust Fund*

The report on the length of judicial proceedings in criminal cases is prepared in the framework of the Council of Europe Project “Further support for the execution by Ukraine of judgments in respect of Article 6 of the European Convention on Human Rights” (Project). The Project is funded by the Human Rights Trust Fund and implemented by the Department for the Implementation of Human Rights, Justice and Legal Co-operation Standards of the Council of Europe.

With regard to the execution of the European Court of Human Rights judgments in the cases *Svetlana Naumenko v. Ukraine*<sup>1</sup> and *Merit v. Ukraine*<sup>2</sup>, the Supreme Court requested the Project to conduct an analysis of the length of criminal proceedings that included the appellate review. In response to this request, the Project invited Mr Oleh Prostybozhenko<sup>3</sup>, a lawyer, to prepare a brief report respectively.

In 2020, the Supreme Court Working Group on lengthy court proceedings addressed the request of the Committee of Ministers of the Council of Europe stating that statistical information on the length of proceedings in national courts should be provided so that to understand trends, which characterise the problem at hand<sup>4</sup>. As a result, 600 civil and 600 criminal proceedings have been reviewed by the Supreme Court Working Group. The review identified that the average length of judicial proceedings was 2 years and 8 months for civil cases and 2 years and 7 months for criminal cases.

The results of the review were communicated to the Committee of Ministers of the Council of Europe, and the Committee, at its 1383rd Meeting, positively assessed them and encouraged the Ukrainian authorities to continue the relevant work and thus, enlarge the scope of the review already conducted<sup>5</sup>.

To comply with this requirement, the present analysis was focused on criminal proceedings that included the appellate review of relevant judgments. At the same time, proceedings, where parties refrained from appealing against judgments in cassation proceedings, were not included in the scope of this analysis.

This analysis is aimed at providing a structured information on the real duration of processing of criminal cases.

To conduct this analysis, the Supreme Court provided the Project with statistical information from appellate courts on criminal proceedings that included the appellate review in 2020. In general, information was provided with regard to 7,000 relevant proceedings within the period of April-May 2020. 600 criminal proceedings out of 7000 (which is around 9% of cases) were reviewed on the basis of detailed information from the Unified State Register of Court Decisions.

---

<sup>1</sup> Svitlana Naumenko v. Ukraine, application no. 41984/98, the judgment of 9 November 2004, see details: [https://zakon.rada.gov.ua/laws/show/980\\_353#Text](https://zakon.rada.gov.ua/laws/show/980_353#Text)

<sup>2</sup> Merit v. Ukraine, application no. 66561/01, the judgment of 30 March 2004, see details: [https://zakon.rada.gov.ua/laws/show/980\\_110#Text](https://zakon.rada.gov.ua/laws/show/980_110#Text)

<sup>3</sup> Oleh Prostybozhenko is Candidate of Law and research fellow of the Research Institute of Private Law and Entrepreneurship named after Academician F.H. Burchak of the National Academy of Legal Sciences of Ukraine, Associate Professor of the Kyiv University of Law of the National Academy of Ukraine.

<sup>4</sup> See details in the Decision of the Committee of Ministers of the Council of Europe CM/Del/Dec(2019)1362/H46-34: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168098fb8d](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168098fb8d)

<sup>5</sup> See Interim Resolution of the Committee of Ministers of the Council of Europe CM/ResDH(2020)208 adopted 1 October 2020, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016809fcd88](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809fcd88)

The analysis approached the length of judicial proceedings as follows:

- the length of criminal proceedings from the moment of the commission of an offence / notifying a person of suspicion against him/her to the moment when a preparatory session of the court is scheduled, that is, the length of a pre-trial investigation;
- the length of proper judicial proceedings from the moment when case files arrive at a court of the first instance to the date when an appellate court adopts a decision;
- the overall length of criminal proceedings to be calculated from the date of the commission of an offence to the conclusion of an appellate review.

On the basis of the analysis of 600 criminal proceedings, it was found that:

- In general, the criminal cases (491 cases of the 600 reviewed, or 84% of criminal proceedings) are considered within a 3-year term. 66% of criminal proceedings were concluded within 2 years. This means that in every two out of three criminal proceedings, sentences become effective not later than within 2 years from the date when the offence was committed.
- The length of proceedings, which takes around 5 or more years, occurs in isolated cases: the length of 9% of criminal proceedings exceeded 4 years and only 5% of them exceeded 5 years.
- The average duration of a criminal proceeding is 1.9 years.
- The reasons for the non-observance of the reasonable time frames require additional analysis.
- As an automated system does not provide the records for the general length of criminal proceedings, it is only possible to calculate the relevant length manually, which, however, requires that necessary information be obtained from courts on demand.
- The new Unified Judiciary Information and Telecommunication System should accelerate procedures for the consideration of court cases as all components of document flows in courts would be automated. Therefore, its application is both urgent and necessary.