The Problems Arising from the Application of the Right to Judgment Within a Reasonable Time Against the State of Albania

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Abstract

My contribution to the present conference shall address in this topic: The problems arising from the application of the right to judgment within a reasonable time against the state of Albania. This work analyzes the conditions that should completed by the heir unable to work, to be considered or not subject to Article 5,6 of the Convention. The reason for the selection of this topic, this topic was born following the decisions of the Strasbourg court in the incorrect application by the Albanian courts of Article 5 of the European Convention on Human Rights The research work is directed to the study of doctrine, legislation and analysis of case law for cases with the same object, where are identified about cases/decisions, the conclusions of which are discussed below. The first part focuses on the normative-legal regulation of the protection of the right to trial within a reasonable time in Albanian legislation. The second part gives a concise overview of the trial of the case within a reasonable time. The jurisprudence of the Constitutional Court, the procedural moments where the institute is selected, the evolution with the changes of the civil procedure code and the practical cases judged by this court. The third part deals with the comparative analysis between practical cases. Violation of the principle of trial within a period in the case of Laçej and others against Albania, request no. 22122/08 In the Zeqo and Seat SHPC case against Albania, requests no. 61445/12, the Mulla v. Albania case, request no. 72348/11, the Mulla v. Albania case, request no. 72348/11, etc. Conclusions Changes to the Code of Civil Procedure (CPC) in 2017 brought important changes to increase citizens' access to justice, providing reasonable deadlines for trial and mandatory execution, this analyzes the practical implementation of the changes undertaken, within the reform in law, in connection with the Code of Civil Procedure In the framework of the Reform in Justice, the KPC provided that the reasonable time for the completion of the process for the civil trial at each of the three levels of trial (court of first instance, court of appeal and high) is two years. However, the legal regulations are numerous

and continue to be problematic for the review of the non-trial within a reasonable time, including the trial of the appeal in the Supreme Court, as well as the lack of effective means of appeal in this regard, ECHR. unjustifiable is also the violation of the principle of trial within a reasonable time, for the review of the non-execution of the final court decision, the violation of the effective means of appeal and the right to property in the procedural aspect, the ECHR assesses that the delay in the execution of the court's decision is unjustifiable and contradicts Article 6 of the ECHR.

Keywords: reasonable time, judgment within a reasonable time, instability of judicial jurisprudence, different decision-making, delay in judgment, effective means of appeal

Introduction

The jurisprudence of the Court of Strasbourg to carry out a regular legal process. The problems found by everyone in the report of Albania.

In recent years, the Strasbourg court has taken into consideration and evaluated the problems related to the implementation of a regular legal process and has evaluated through the Albanian justice system the implementation of a regular legal process. The notion of human rights is based on the theory of natural rights. They are attributes or qualities that a person possesses as a human being and as such, they are inseparable from the human being. For this reason, the state has no choice but to recognize and guarantee them. Recognition and guarantee does not mean only a formal sanctioning of rights in legal acts, but simultaneously means the creation of mechanisms and guarantees which enable their real and effective protection. In a democratic society, the individual is at the center.

The protection of human rights constitutes the foundation and bases of the activity of a state of law, and due process of law is one of the basic guarantees that states offer in the protection of other rights. The principle of due process as a universal principle, also sanctioned in other acts of an international nature, determines that every subjective right of the individual in a judicial conflict must pass and be analyzed in the procedural test of due process, otherwise, the court has given a completely illegal decision violating the fundamental constitutional rights of individuals. This right is the totality of the principles mentioned above, which together constitute the individual's guarantee that the judicial power is realizing the constitutional function of delivering justice without arbitrariness. The European Convention gives the most complete meaning for the regular judicial process Human Rights (hereinafter "Convention") which was signed by the member states of the Council of Europe on November 4, 1950 and entered into force on September 3, 1953. Article 6 of the Convention stipulates that "1. Every person has the right to have his case heard fairly, publicly, within a reasonable time by an independent and impartial tribunal,

established by law, which will decide whether conflicts over his rights and obligations of a character civil, whether for the validity of any accusation of a criminal nature directed against him. The judgment must be given in public, but the presence of the press and the public in the courtroom may be prohibited during all or part of the proceedings, in the interests of morality, public order or national security in a democratic society, when the interests of minors or the protection of the private life of the parties in the process requires this, or to the extent deemed absolutely necessary by 12 courts, when in special circumstances the publicity would be of a nature that would harm the interests of justice". The Council of Europe, through the Convention, created the European Court of Human Rights (hereinafter "Court" or "ECtHR") as a permanent mechanism that would ensure compliance with the obligations arising for the contracting party states.[1]

Legal regulations and court practice

The legal regulations are the amendments to the Code of Civil Procedure in 2017 in articles 399/1 - 399/12 of the Code of Civil Procedure (hereafter CPC), the rules for the adjudication of requests for ascertaining the violation of the reasonable term, the acceleration of the procedures are provided and compensation for damage. Through these provisions, the legislator has provided the right of the parties to submit a request to the court for the determination of the violation and the acceleration of the procedures (item 1 of article 399/6, of the CPC). When there is a final decision to establish the violation and speed up the procedure, the requesting entity can file a lawsuit for compensation of damage, according to the legal provisions (item 2, article 399/6, of the CPC) articles 399/1-399 /12 of the Code of Civil Procedure have created an effective mechanism for ordinary (normal) time of judicial activity, where the primary goal is not "monetary compensation" of the parties in protracted processes, but the prevention of this through mechanisms for speeding up the procedures, in order to provide justice in time by the courts.An integral part of the acceleration of the proceedings is the decision of the competent court that (1) ascertains the passage of reasonable trial terms and (2) orders the taking of concrete measures to accelerate the trial of the case. In this context, only finding a violation of the reasonable trial period, without the possibility for the court to order the taking of concrete measures to speed up the procedure (because there is an objective impossibility for proceeding), is not a decision-making option for the court that examines the request for "fair compensation" according to articles 399/6(1) and 399/7(2) of the Code of Civil Procedure. For the procedure that the law expressly provides in relation to the presentation and review of requests for ascertaining the violation of the reasonable term of judgment. This is also in the light of the findings of the Constitutional Court[2], which states that: "[...] ordinary courts, during the implementation of procedural provisions and consideration of requests for acceleration, should avoid excessive

[2] See Article 19 of the ECHR
[1] See the Decision of the Constitutional Court no. 39, date: 09.12.2021

formalities and consider these requests with priority, otherwise, this legal remedy would lose the purpose for which it was approved by the legislator. [...]."In this perspective, in order to avoid unnecessary administrative delays and in order to comply with legal procedures, it is important to clarify a legal and practical aspect related to the incorrect filing of the request/complaint for establishing the violation of the deadline reasonable, directly to the court that is competent for the review on its merits, instead of the court that is alleged to be late. In this regard, the petitioner/complainant who claims violation of the right to a trial within a reasonable time must procedurally file his request in the court where it is alleged that the "violation" of the reasonable time of the trial is taking place ("the court in delay") and not directly in the court that is competent for its examination, according to Article 399/6(1) of the Code of Civil Procedure (only in the Supreme Court these factual qualities are combined). This is because, according to Article 399/5(1) of the Code of Civil Procedure, "[the] claim is filed in the court's secretariat that is in arrears[...]". In the following, Article 399/7(2) of the Criminal Procedure Code connects the submission of a request to the court that is alleged to be late, with the emergence of the obligation to perform some procedural actions by this court (sending to the competent court according to Article 399/6(1) of the Code of Civil Procedure within 15 days, of the file and the written opinion of the relator judge, about the progress of the case, the causes of the delay and his proposal for resolving the situation). So, if the violation of trial deadlines is claimed before the court of first instance, but the request for establishing a violation of the deadline and taking measures for acceleration is not filed there, but submitted directly to the court of appeal, then the latter should not register it as a case for trial, but forward it to the court of first instance and then to the latter, in accordance with Article 399/7(2) of the Code of Civil Procedure, within 15 days of receiving the request for finding a violation of the reasonable term and speeding up the trial, send the appeal request to the appellate court for consideration, together with the file and the written opinion of the judge of the first instance if the unreasonable delay is alleged to be happening in the appellate courts, the request is not filed directly with the Supreme Court , but at the appellate court in question (the court in delay) and from the moment of the filing of the appeal request for the finding of the violation of the reasonable term and the acceleration of the trial, within 15 days it sends it to the Supreme Court for consideration, together with the file and the written opinion of the relator judge. . This is because the judge, in his written opinion for the court that will examine the request for finding a violation of the deadline, will have the opportunity to clarify that he performed the "remedial" action for the delayed trial. , according to article 399/6 point 1, even before the above deadlines have passed, taking into account the complexity of the case, the object of the dispute, the proceeding or the trial, the behavior of the body that is conducting the procedures, as well as of any other person related to the case, when they claim delays in the investigation, trial or execution of the decision. The degree of compliance with this

principle significantly determines the effectiveness of the judicial process[1]. (See the decision H. against France, dated 24.10.1989 of the ECHR). The period of the reasonable term for the conclusion of a civil judicial process extends from the moment of filing the lawsuit until the moment of the execution of the court decision. The court has a main and special position, as it is the only body that is responsible for the delivery of justice and as such it participates obligatorily in all relationships that are created during the trial of the case. Provisions of articles 399/1-399 /12 of the Code of Civil Procedure are aimed at creating a procedural tool that provides solutions to cases where negligence or excessive prolongation of the procedures is found, for which there is no reasonable justification in order to respect the principle of a regular process legal according to Article 6 of the ECHR. The purpose of this tool is to give opportunities to subjects, who are in the above conditions, to have an effective procedural tool to solve the situation in which they are and to conclude the procedures in the most reasonable time. In this sense, the law has provided deadlines, which are considered reasonable, according to the degrees of judgment. Article 399/2 of the CPC stipulates that the reasonable terms of the trial must be evaluated in relation to the concrete circumstances that have influenced the duration of the process, specifically "In the duration of the trial or proceeding, the time when the case is suspended for legal reasons is not counted, when has been postponed due to the requests of the requesting party, according to this chapter, or when there are circumstances of the objective impossibility of proceeding.". In article 399/9 of the CPC, several criteria are identified in relation to the assessment of the standard of judgment within a reasonable time, specifically, "[...] the court assesses the complexity of the case, the object of the dispute, of the proceeding or of the judgment, the conduct of the parties and the trial panel during the trial, [...] as well as any other person related to the case" The European Court of Human Rights (hereafter ECHR), in its consolidated jurisprudence, has identified several constituent elements of this standard. Referring to this jurisprudence, it results that in the calculation of the reasonable term, various factors are taken into consideration, such as: the complexity of the case; conduct of litigants; the conduct of judicial and administrative authorities.[2]

a. Regarding the complexity of the case, this evaluation criterion takes into account all the factors and elements related to the case, the nature of the interests involved in it, the importance of the facts, the importance of the legal solution, the number of accused persons and witnesses, the international elements, the connection of the case with other cases and the intervention of other persons in the procedure.[3]

[2] See the Qufaj v. Albania decision; Decision Scopelliti v. Italy, dated 23.11.1993 of the ECHR
[3] See the decision Buchholz v. Federal Republic of Germany dated 06.05.1981 and Bjelic v. Slovenia ap. no. 50719\06, dated 18.10.2012. of the ECHR
[1] See the decision Traggiani v. Italy dated 19.02.1991; Manieri v. Italy dt. 27.02.1992, Stefancic v. Slovenia, date 25.10.2012 ECHR

b. As far as the applicant's behavior is concerned, this criterion is related to the way the parties in the process have behaved towards the proceedings. The diligence shown by them for the completion of the process, the obstacles they have created and other factors that are related to their actions or inactions that have affected the progress of the process. However, this should be assessed on a case-by-case 4 basis, as a person is not obliged to cooperate with the prosecuting authorities actively in order to speed up the judicial proceedings leading to his conviction.[1]

c. Regarding the conduct of the authorities for the assessment of the duration of the reasonable term of the trial, the ECtHR has assessed that only delays attributed to the state can be taken into account. These delays can be caused either by the judicial authorities or by the administrative authorities. Causes of this nature in the jurisprudence of the ECHR have been pointed out, for example: the wrong joining of some cases which has caused unnecessary delays, the postponements of court hearings not based on law, the illegal suspension of the judicial process, delays on the part of public law enforcement agencies of the state in submitting evidence requested by the court, transferring criminal cases from one court to another, holding appeal hearings.[2]

The court decision of the Durrës court of first instance no. 11-2018-2735, dated 31.05.2018, by which the return of the acts was decided, while as the case number registered in the appeal for which it seeks to establish the violation of the deadline, it refers to with number 1303/21234-205 which concerns the examination of his appeal against the final decision no. (11-2018-6514)1993, dated 18.12.2018 of the Durrës Judicial District Court, this decision was taken by the court of the Durrës judicial district after the new filing of his lawsuit, for which the Durrës district court had previously decided to return the acts with decision no. 11-2018-2735, dated 31.05.2018. petitioner alleging violation of reasonable trial period, the high court panel requested official records to the Court of Appeals of General Jurisdiction. From the response returned by the latter with the letter dated 13.07.2023, it appears that the applicant did not appeal against this decision on the return of the acts, but appealed against decision no. (11-2018-6514) 1993, dated 18.12.2018 of the first instance court in Durrës, by which it was decided to dismiss the plaintiff's request for the lawsuit with the object: "The obligation of the defendants, the Ministry of Justice Tirana and the Ministry of Finance Tirana for rewarded me in the amount of 100,000 (one hundred thousand ALL. In the conditions when the applicant in the request for determination of the reasonable term, despite the confusion about the number of the decision of the court of first instance and about the date of the decision, refers to a correct number of the case registered in the Court of Appeal, for which he requests

[2] See Eckle v. Federal Republic of Germany decision, dated 15.07.1982 ECHR
[1] See Ewing v United Kingdom

the acceleration, this case, which is related to the lawsuit filed by him against the Ministry of Finance with the object of payment of compensation, the panel assesses to analyze the claims made by the applicant for violation of the reasonable deadline for this case. at the time of registration of the request in the Court of Appeal of Durrës, it results that the case has passed the review period in the Court of Appeal of Durrës (and then in the Court of Appeal of General Jurisdiction), as defined in article 399/2 point 1, letter "b", of KPC (2 years, in the conditions of omission for the civil trial in the Court of Appeal). The applicants have not taken positions that would have caused unreasonable delays in the trial. But on the other hand, it is justified that the citizen made requests for acceleration in order to present to the court the particulars of the trial with prevalence of this case in relation to the other cases that await the trial at the same time or before it. In other decisions, the court, especially for the sake of speed, must maintain the order of registration of the case. the behavior of the authorities is an obstacle to the trial within a reasonable time, because even the courts in their countries have different attitudes. The Venice Commission has emphasized that the judicial reform, the process of verification of judges/prosecutors in Albania, was necessary even if it would bring unforeseen consequences. In addition to the undoubted positive aspects on the quality of the judiciary in the long term, in the short term the verification process affects the number of active judges in the system, causing a temporary practical problem until their replacement.[1] This does not mean that the courts cover non-respect of this principle by continuously and repeatedly violating the judgment of the previous deadline. instruments for solving and not creating such a situation should have been found, not violating in a continuous manner and not respecting the European Court of Human Rights (hereafter ECHR) in its consolidated jurisprudence, has identified some constituent elements of this standard. The non-compliance of which does not in any way justify the violation of the reasonable deadline by the courts for the examination of the issues of "Judgment of requests for ascertaining the violation of the reasonable deadline, the acceleration of the procedures and the compensation of the damage", is an innovation of law no. 38/2017, in order to make effective the provisions of Article 6 (1) of the European Convention "On the Protection of Human Rights and Fundamental Freedoms", as well as Article 42 of the Constitution, regarding the adjudication of cases within a reasonable time . This intervention of the legislator aimed to create an effective tool for addressing the problem of trials exceeding reasonable deadlines, which is designed to be implemented under the conditions of a normal activity of the judiciary. The initiative came as a result of several decisions of the European Court of Human Rights against Albania, etc.[2]), in which the necessity for Albania to create an effective mechanism for addressing the issue of the development of judicial procedures beyond reasonable deadlines was laid out. The Constitutional Court of the Republic of Albania accepts in its decision no. 39, date: 09.12.2021 that the mechanism embodied in

[2] See the opinion of the European Commission for Democracy through the (Venice Commission) Albaniaon the appointment of judges to the Constitutional Court.
[1] The case of Luli and Others v. Albania (2014)

articles 399/1-399/12 of the CPC [...] can be effective in ordinary organizational circumstances and functioning of the judicial system. In this particular case, doubts are raised about the possibilities that the acceleration tool has to respond to the appropriate degree to the need of the right of individuals to trial within a reasonable time in relation to the real possibilities of the judicial system, due to the high volume of cases , as well as its human and infrastructural resources as a whole [...] but still this is not worthy of a Constitutional Court which has a Constitutional mission, not justificatory. The behavior of the authorities in the absence of filling the courts with judges, the delays in the appointment of new judges who, apart from others, have considerable economic value, the consequences of which are borne by the Albanian taxpayers, who not only do not find justice, but pay for not having it. . From the High Judicial Council and the High Prosecutor's Council, extending the vacations and probation of those who are part of the system for unjustified reasons that lead to this situation in which the Courts of First Instance of the General Jurisdiction, the Court of Appeal and the Court that High even today after 9 years of the adoption of the justice reform with irreparable consequences for this decade of the justice system.

Jurisdiction of the Constitutional Court regarding the trial within a reasonable time

The principle of trial within a reasonable time is of fundamental importance for the trial of cases as it constitutes one of the elements of the regular legal process provided for in Article 6 of the European Convention on Human Rights. This principle is based on the postulate "Justice delayed is justice denied". The degree of compliance with this principle significantly determines the effectiveness of the judicial process[1].In the consolidated practice of the European Court of Human Rights (hereafter ECHR), which has determined that the period of reasonable time for the conclusion of a civil judicial process extends from the moment of filing the lawsuit to the moment of execution of the decision judicial. [2]The court has a position main and special, since it is the only body that is responsible for the delivery of justice and as such participates in a mandatory manner in all relationships that are created during the trial of the case, the consolidated jurisprudence of the ECHR has identified several constituent elements of this standard. In its reference, it results that in the calculation of the reasonable term, various factors are taken into consideration, such as: the complexity of the case; conduct of litigants; the conduct of judicial and administrative authorities.[3] With the practice of the Constitutional Court,[4] it was decided to annul the decision no. 2/5/2, dated 17.06.2021, of the Administrative College and the obligation of the Administrative Court of Appeal to judge the case within 6 months. In this decision, the Constitutional Court, among other things, assessed: "..in this particular

[2] See Decision H. v. France, dated 24.10.1989 of the ECtHR
[3] See the decision Qufaj v. Albania; Decision Scopelliti v. Italy, dated 23.11.1993 of the ECtHR
[4] See the decision Buchholz v. Federal Republic of Germany dated 06.05.1981 and Bjelic v. Slovenia ap. no. 50719\06, dated 18.10.2012. of the ECHR
[1] See decision no. 2, dated 17.02.2022 of the Constitutional Court of Albania

case, the petitioner's behavior was not the reason for prolonging the trial of her case... the petitioner's case appears complex, but not to the extent that it justifies the delay of second-instance trial for more than 4 years... the administrative trial of the applicant's appeal continues for more than 4 years without second-instance decision-making, although the legislator has defined administrative trials as fast, providing for short deadlines procedural in law no. 49/2012. The duration of the administrative trial has caused delays in the execution of the judicially accepted search, unappealed by the litigants, as a result the applicant has been unable to freely exercise the right to property, acquired from the implementation of the law on the return and compensation of properties for the part of her property remaining after the expropriation from 2015...[1]" the overload in the courts is a well-known and prolonged situation, which does not depend on the applicant, but only on those responsible for the administration of the justice system, the task of which is to create an efficient and well-staffed judicial system, in order to best respond to the requirements of the rule of law, which includes the conclusion of judicial processes in accordance with the standards imposed by the right to due process regularly, while this constitutional obligation is not observed by them. But what we see and it is unfortunate is the fact that the postulate "Justice delayed is justice denied" is simply misinterpreted in many decisions of the high court. In decision No. 00-2023-4148 05.10.2023 The Administrative College of the High Court states: "On 05.07.2023, the petitioner addressed the High Court, requesting the determination of the violation of the reasonable deadline and the acceleration of the trial procedures of the civil case no. .11243-00954-00-2019, registration date 16.04.2019, where he submitted: "Determining the violation of the reasonable term in the trial of this case, due to the passing of the 2-year legal term for the trial of cases in the Supreme Court, defined in Article 399/2 letter "b" of the Code of Civil Procedure . - The case must have priority in the trial, as it was decided in the trial at first instance that the trial be dismissed and by the Court of Appeal it should be annulled and sent back for a retrial. - There is no reason to justify the extension of the trial term beyond the 2-year period. - The applicant is in a difficult economic situation and is threatened with real danger from 3 non-realization of rights and causing further economic damages, as a result of the alienation of the assets of the defendant Besnik Binjaku.. With letter no. 4035 prot, dated 21.07. 2023, the Chancellor of the Court requested the opinion of the relator judge. With letter no. 4035/1 prot, date 21.07.2023, the relator judge submitted, among other things: "Currently, the Civil College of the Supreme Court is examining the merits cases, registered in 2015, which have passed for trial, following their selection in the Counseling Chamber. The case that is the subject of this request is a case that is pending to be considered in the Advisory Chamber, but was registered in the Supreme Court in 2019. The case, in terms of object and procedural progress, presents special causes, which gave priority to its trial outside the aforementioned chronological order, in accordance with the criteria defined by the High Judicial

[1] See paragraph 38 of decision no. 2, dated 17.02.2022 of the Constitutional Court of Albania

Council in Decision no. 78, dated 30.5.2019 of the Supreme Judicial Council, "On the calendar of consideration of cases in the Court of Appeal" and from article 460 of the Code of Civil Procedure, but the Civil College is judging cases of this category (demolition and return for retrial) until 2018, and from the verifications carried out, the requesting party has not previously submitted a request for the acceleration of the trial. After I became aware of the request, the necessary measures were taken to schedule the case for trial on 04.10.2023. ... Therefore, I consider that this request cannot be accepted''

As it appears from the content of the decision, the high court itself, which should apply the article in article 399/2 letter "b" of the Code of Civil Procedure, violates it. In conclusion, we say that when the high court violates the code of civil procedure, it states in this case that ".. in terms of the behavior of the authorities for the assessment of the duration of the reasonable term of the trial, the ECtHR has assessed that only the delays attributed to the state can be considered. These delays can be caused either by the judicial authorities or by the administrative authorities. Causes of this nature in the jurisprudence of the ECHR have been pointed out, such as: the wrong joining of some cases which has caused unnecessary delays, the postponements of court hearings not based on law, the illegal suspension of the judicial process, delays on the part of of public law-enforcement agencies of the state in submitting evidence required by the court, transferring criminal cases from one court to another, holding appeals sessions.[1] The latest jurisprudence of the ECtHR in the case of Bara and Kola v. Albania - applications no. 43391/18 and 17766/19, dated 12.10.2021. The ECtHR states that, disregarding the understandable delay resulting from comprehensive reforms of the justice system and the vetting process, states have a general obligation to organize their legal systems in order to ensure compliance with the requirements of Article 6/1, including that of a fair trial within a reasonable time. Furthermore, the ECtHR noted that since 2012 the backlog of the Supreme Court had gradually increased and remained at a significant value. Although it is not for the ECtHR to decide on the proper interpretation of domestic law, the Supreme Court's approach in the first applicant's case of not accounting for the effects of ongoing reforms of the justice system on its operation over the long term of the proceedings, in these circumstances, would not be consistent with its jurisprudence under Article 6/1 on the "reasonable time" requirement, as it could shift to the individual litigants the full burden of any delay caused by the reforms in the justice system. In conclusion, there is a violation of Article 13 in relation to Article 6/1 of the Convention. At the same time, the jurisprudence of the Constitutional Court,[2] where on the criteria for ascertaining the violation of the constitutional right to a regular legal process, as a result of not judging the case within a reasonable time, it was emphasized that the reasonableness of the extension of the process must be evaluated according to the

[2] See Ewing v United Kingdom
See the decisions in court decisions no. 33/2021, 34/2021, 35/2021 and 37/2021
[3] See the decisions in court decisions no. 33/2021, 34/2021, 35/2021 and 37/2021

special circumstances of the case, taking into account especially the behavior of the applicant and the risk that this extension of trial deadlines brings for him, the complexity of the case, as well as the behavior of the authorities[1] with the behavior/interest in the applicant and the risk from the judicial procedures, the Constitutional Court in its jurisprudence stated that the evaluation of behavior is a determining element of the reasonable duration of the proceedings, analyzing the circumstances of whether the applicant has acted in accordance with the procedural rights, showing or not a continuous interest in adjudication of the case within a deadline as suitable as possible for him and if he has caused or has caused delays in this regard. In the specific case[2], the applicant does not appear to have caused or caused delays in this regard. Regarding the complexity of the case, the Constitutional Court in its jurisprudence has stated that all aspects of the case are important, including its object, disputed facts and the volume of written evidence. The complexity of the case, in balance with the principle of ensuring the appropriate administration of justice, may justify considerable time duration Regarding the conduct of the authorities, the Constitutional Court has emphasized that Article 42 of the Constitution, as well as Article 6 of the ECHR impose the obligation to organize the legal system of the country in such a way that the courts meet the requirements of the standards for a legal process, including that of judgment within a reasonable time. In this regard, the courts have the duty to ensure that all subjects participating in the process behave in order to avoid any unnecessary delay [3](In conclusion, the workload of the courts is not a constitutional argument that can justify not judging cases within the deadlines determined by the legislator [4]in the assessment of the general duration of the procedures.

Analysis of practical cases by the ECHR.

Analyzing the individual constitutional appeal before the Albanian Constitutional Court in depth can lead to different conclusions regarding its particular aspects. However, for the purposes of this article, we will focus only on the aspect of its effectiveness with the aim of guaranteeing the rights derived from Article 6 of the ECHR and Article 42/2 of the Constitution. The individual appeal in the Constitutional Court is practically considered as an effective tool as far as the elements related to some basic procedural rights are concerned, such as: the right to appeal, the right to defense, the principle of the competent court, adversary in the trial, etc. In these cases, the Constitutional Court not only finds the violation committed by the courts or other public administration bodies, but also annuls the act produced by them as a result of an irregular legal process, returning it to them for reconsideration. However, referring to concrete cases as well as the practice of the ECtHR, this appeal does not

[2] see decisions no. 33, dated 01.11.2021; no. 16, dated 16.03.2021; no. 76, dated 04.12.2017 of the Constitutional Court).
[3] see decisions no. 69, dated 17.11.2015; no. 12, dated 05.03.2012 of the Constitutional Court
[4] see decision no. 22, dated 29.04.2021 of the Constitutional Court).
[5] see decisions no. 33, dated 01.11.2021; no. 16, dated 16.03.2021; no. 3, dated 06.12.2018; no. 26, dated 27.03.2017 of the Constitutional Court.

turn out to be effective as it pertains to some special elements of the regular process, such as: issues related to the non-execution of court decisions (together with the right to compensation), issues related to the extension of the judicial process beyond the reasonable term as well as other material rights. I do not see it appropriate to dwell on the issue of whether or not the appeal to the Albanian GJK should be considered (at least in the formal sense) the last effective national remedy. This has already been stated repeatedly by the ECHR,[1] which entails the obligation to be taken into consideration by the competent Albanian institutions. In relation to claims for trial within a reasonable time, the ECHR has emphasized that Article 13 of the ECHR guarantees an efficient solution before local authorities for violations of Article 6/1 of the ECHR. Effective means available to litigants in a domestic system for raising claims about the prolongation of proceedings. Due process will be considered effective, within the meaning of Article 13 of the Convention, if they prevent the alleged violation or its continuation, or provide an adequate address for any potential violation that has already occurred. Article 13 therefore offers an alternative: an appeal tool is effective if it can be used either to speed up the taking of a decision by the courts examining the case, or to provide litigants with an appropriate remedy for delays incurred up to at this moment. However, the ECHR has emphasized that the best solution in absolute terms is undoubtedly the prevention of the violation. Where the judicial system has shortcomings in relation to the request on the duration of the procedures according to Article 6/1 of the ECHR, the creation of an appeal tool to speed up the procedures in order to prevent their prolongation is the best solution. This remedy would undoubtedly offer an advantage over a remedy that only regulates compensation, since it prevents further violations in relation to the same procedures, i.e. it does not redress violations a posteriori, as a remedy for compensation does.[2] The cases of ECtHR practice where the Albanian state has established a violation of the reasonable time limit, problems arising from the continuous duration of the trial time limits, as in the Zeqo and Seat SHPC case against Albania, requests no. 61445/12 and 53157/15, decision dated 22.06.2023, regarding the violation of the right to trial within a reasonable time, the ECHR assesses that the requests are well-founded, since the delay for more than 9 years and 5 months for the completion of trial from the first instance to the Supreme Court is unjustifiable and violates the principle of trial within a reasonable time. in the Mulla v. Albania case, request no. 72348/11, decision dated 06.07.2023, regarding the violation of the right to a trial within a reasonable time, the ECHR assesses that the request is well-founded, since the delay of more than 7 years and 5 months for the completion of the trial at the levels of domestic judiciary is unjustifiable and violates this right to a trial[3]In the case of Hamitaj v. Albania, request no. 11254/1, decision dated 20.07.2023, regarding the violation of the right to trial within a reasonable time and the effective means of appeal, the ECHR assesses that the request is well-founded, since the delay for more than 6 years and 3 months for

[2] See also the cases Balliu, Beshiri, Marini, Qufaj k. ALBANIA
[3] See the case of Scordino v. Italy, March 29, 2006
[4] https://hudoc.echr.coe.int/eng?i=001-225322

the conclusion of the trial at the domestic judicial level is unjustifiable and violates this right. Violation of the principle of trial within a reasonable time In the case of Laçej [1]and others against Albania, request no. 22122/08, decision of September 29, 2022, for the non-trial within a reasonable time, including the appeal trial in the Supreme Court, as well as the lack of effective means of appeal, the ECtHR considers that the delay in the trial in the Supreme Court moreover that 4 (four) years is unjustifiable and violated the principle of trial within a reasonable time[2] Violation of the right to be tried within a reasonable time (Key words: Reasonable time, trial within a reasonable time, insurance of claim) In the case of Vjola SHPK and DE SHPK against Albania, request no. 18076/12, decision dated 30.01.2024, for the violation of the right to property and failure to judge the case within a reasonable time, the ECHR assesses that the request is well-founded, since the trial of the case at all judicial levels for more than 7 years, and especially for more than three years in the Supreme Court, violates the right to be tried within a reasonable time. In cases where the insurance of the claim is required, the domestic courts must react immediately and not delay their judgment, as this violates the right to be heard within a reasonable time.[3] Conclusion:

The legal regulations are the amendments to the Code of Civil Procedure in 2017 in articles 399/1 - 399/12 of the Code of Civil Procedure (hereafter CPC), the rules for the adjudication of requests for ascertaining the violation of the reasonable term, the acceleration of the procedures are provided and compensation for damage. Through these provisions, the legislator has provided the right of the parties to submit a request to the court for the determination of the violation and the acceleration of the procedures (item 1 of article 399/6, of the CPC). When there is a final decision to establish the violation and speed up the procedure, the requesting entity can file a lawsuit for compensation of damage, according to the legal provisions (item 2, article 399/6, of the CPC) articles 399/1-399 /12 of the Code of Civil Procedure have created an effective mechanism for ordinary (normal) time of judicial activity, where the primary goal is not "monetary compensation" of the parties in protracted processes, but the prevention of this through mechanisms for speeding up the procedures, in order to provide justice in time by the courts. Despite the legal changes and legal provisions, the improvement of the non-compliant legislation of the reasonable deadline is often unjustified, and the practice of the courts in dismissing all requests as unfounded remains and leaves room for non-compliance with this principle, as well as violated the principle of timely judgment. reasonable. The latest jurisprudence of the ECtHR in the case of Bara and Kola v. Albania - applications no. 43391/18 and 17766/19, dated 12.10.2021. The ECtHR states that, disregarding the understandable delay resulting from comprehensive reforms of the justice system and the vetting process, states have a general obligation to organize their legal systems in order to

[2] https://hudoc.echr.coe.int/eng?i=001-219730
[3] https://hudoc.echr.coe.int/eng?i=001-230623
[8]https://hudoc.echr.coe.int/eng?i=001-230623

ensure compliance with the requirements of Article 6/1, including that of a fair trial within a reasonable time.

Bibliography

[1] Bara and Kola v. Albania (2021) Applications no. 43391/18 and 17766/19, European Court of Human Rights.
[2] Constitutional Court of Albania (2021) Decision No. 39, dated 09.12.2021.
[3] European Convention on Human Rights (1950) Council of Europe, Rome, 4.XI.1950.
[4] H. v. France (1989) European Court of Human Rights, Application no. 10073/82.
[5] Hamitaj v. Albania (2023) Application no. 11254/1, European Court of Human Rights.
[6] High Judicial Council (2019) Decision No. 78, dated 30.5.2019, "On the calendar of consideration of cases in the Court of Appeal."
[7] Laçej and Others v. Albania (2022) Application no. 22122/08, European Court of Human Rights.
[8] Law No. 38/2017 on Amendments to the Code of Civil Procedure, Republic of Albania.
[9] Mulla v. Albania (2023) Application no. 72348/11, European Court of Human Rights.
[10] Zeqo and Seat SHPC v. Albania (2023) Applications no. 61445/12 and 53157/15, European Court of Human Rights.