

# WHEN DOES THE LENGTH OF CRIMINAL PROCEEDINGS BECOME UNREASONABLE ACCORDING TO THE EUROPEAN COURT OF HUMAN RIGHTS?

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## ABSTRACT

*Since the mid-90s the European Court of Human Rights has engaged in a war with excessively lengthy judicial proceedings at the national level, particularly in relation to criminal proceedings. In 2012 alone, the Court rendered 72 judgments regarding the length of criminal proceedings and found a violation of the reasonable time requirement, as enshrined in Article 6(1) ECHR, in 62 of those cases. The present study will show that the determination of the relevant period, as well as the criteria considered by the Court in deciding whether a reasonable length has been exceeded, are rather clear. Less predictable however is the overall assessment of the circumstances of the case by the Court and in particular the interaction between and the weight given to the various criteria. The present study concludes upon a 3–5–7 schematic: a period short of 3 years does not usually infringe Article 6(1) ECHR and after 7 years the length of the proceedings is usually considered unreasonable. It is around the 5 years mark that the predictions are the most hazardous and a balance of the criteria in favour of, respectively against, reasonableness must be made.*

**Keywords:** criminal proceedings; European Convention for the Protection of Human Rights and Fundamental Freedoms; unreasonable length

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## 1. INTRODUCTION

In 1996 the European Court of Human Rights ('ECtHR' or the 'Court') allegedly declared a '*war on unreasonable delays*'.<sup>1</sup> More than 15 years later, it seems that the ECtHR is still at war with excessively lengthy proceedings, not to speak of the delays relating to files on its own docket. In the period from 1959 to 2012 – and increasingly since 1998 following the restructuring of the Court, violations of Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>2</sup> ('ECHR' or the 'Convention') concerning the lengths of proceedings were found in 5,037 cases.<sup>3</sup> This includes 1,478 violations for the period from 2009 to 2012.<sup>4</sup>

According to the 3<sup>rd</sup> report of the European Commission for the Efficiency of Justice ('CEPEJ'), violations of Article 6(1) ECHR through excessively lengthy proceedings represents the primary reason for European States to be condemned by the ECtHR.<sup>5</sup> This is also confirmed by the statistics of the judgments rendered by the Court from the years 1959 to 2012.<sup>6</sup> Whilst most of the Court's decisions regarding the excessive length of proceedings concern civil law cases, the number of criminal cases is far from insignificant.<sup>7</sup> For example, in the period from January to December 2012 the Court examined the length of criminal proceedings in 72 judgements (without taking into consideration decisions rendered by the Court). In 62 of those 72 cases the Court held that the length of the criminal proceedings was not reasonable.<sup>8</sup>

<sup>1</sup> Galand-Carval, 'The European Court of Human Rights declares war on unreasonable delays', (1996) *St Louis-Warsaw Transatlantic Law Journal* 109–126.

<sup>2</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950.

<sup>3</sup> ECtHR, *Violations by Article and by respondent State (1959–2012)*, available at: [www.echr.coe.int/Documents/Stats\\_violation\\_1959\\_2012\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_1959_2012_ENG.pdf) [last accessed 8 October 2013]; ECtHR, *Ten years of the 'New' European Court of Human Rights, 1998–2008, Situation and Outlook*, Proceedings of the Seminar, 13 October 2008, Strasbourg, at 77.

<sup>4</sup> ECtHR, *Violations by Article and by respondent State, 2012*, available at: [www.echr.coe.int/Documents/Stats\\_violation\\_2012\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_2012_ENG.pdf) [last accessed 8 October 2013]; *Violations by Article and by State, 2011*, available at: [www.echr.coe.int/Documents/Stats\\_violation\\_2011\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_2011_ENG.pdf) [last accessed 8 October 2013]; *Violations by Article and by country, 2010*, available at: [www.echr.coe.int/Documents/Stats\\_violation\\_2010\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_2010_ENG.pdf) [last accessed 8 October 2013] and *Violations by Article and by Country, 2009*, available at: [www.echr.coe.int/Documents/Stats\\_violation\\_2009\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_2009_ENG.pdf) [last accessed 8 October 2013].

<sup>5</sup> European Commission for the Efficiency of Justice (CEPEJ), *European judicial systems, Edition 2010 (data 2008): Efficiency and quality of justice*, (Council of Europe Publishing, 2010) (CEPEJ, *Edition 2010 (data 2008): Efficiency and quality of justice*), at 293.

<sup>6</sup> ECtHR, *Violations by Article and by respondent State (1959–2012)*, available at: [www.echr.coe.int/Documents/Stats\\_violation\\_1959\\_2012\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_1959_2012_ENG.pdf) [last accessed 8 October 2013].

<sup>7</sup> E.g., for the year 2008, CEPEJ, *Edition 2010 (data 2008): Efficiency and quality of justice*, at 139–140 and for the year 2010, European Commission for the Efficiency of Justice (CEPEJ), *European judicial systems, Edition 2012 (2010 data): Efficiency and quality of justice*, CEPEJ Studies No. 18, (Council of Europe Publishing, 2012), at 172. See also below the table of the ECtHR's case law for the year 2012.

<sup>8</sup> See below the table of the ECtHR's case law for the year 2012. Only judgements rendered by the Court are included in the table, decisions are excluded.

The present article will study the reasonable time requirement enshrined in Article 6(1) ECHR looking at the recent case law of the ECtHR in relation to criminal proceedings, with the aim of drawing parameters regarding what is an acceptable length, and under which circumstances. After a short reminder of the international protection which is provided against unreasonable lengths of criminal proceedings (see below section 2), the article will examine how the period of reference is determined and what criteria are taken into consideration by the Court to assess the reasonableness of this period (see below section 3). It will further try to assess whether there are general rules that can be drawn from the ECtHR's case law, with a focus on the calendar year 2012; in particular, how the Court ponders the various criteria and if it is possible to determine what are the permissible limits to the length of the criminal proceedings (see below section 4).<sup>9</sup>

## 2. THE INTERNATIONAL PROTECTION AGAINST UNREASONABLE LENGTHS OF CRIMINAL PROCEEDINGS

The right of a suspect or an accused in criminal proceedings to be tried within a 'reasonable time' is guaranteed by the main international human rights conventions. Specifically, the International Covenant on Civil and Political Rights<sup>10</sup> ('ICCPR') provides in Article 14(3)(c) that, '[i]n the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: ... (c) To be tried without undue delay'. Pursuant to Article 6(1) of the ECHR, '[i]n 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 ...'. Similar provisions are provided by the American Convention on Human Rights<sup>11</sup> and the African Charter on Human and Peoples' Rights.<sup>12</sup> Whilst the formulation differs between the latter and the ICCPR, the meaning is the same: the length of the proceedings is considered 'reasonable' as long as there has been no 'undue delay'.<sup>13</sup>

<sup>9</sup> The issue of the admissibility of complaints brought before the Court as well as the possible remedies which can be sought are outside the scope of this article and will not be analysed.

<sup>10</sup> International Covenant on Civil and Political Rights, New York, 16 December 1966.

<sup>11</sup> According to Article 8(1) of the American Convention on Human Rights, 'Pact of San Jose', Costa Rica, 22 November 1969: 'Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature'.

<sup>12</sup> According to Article 7(1)(d) of the African Charter on Human and Peoples' Rights ('Banjul Charter'), 27 June 1981: 'Every individual shall have the right to have his cause heard. This comprises: ... (d) the right to be tried within a reasonable time by an impartial court or tribunal'.

<sup>13</sup> Trechsel, *Human Rights in Criminal Proceedings*, (Oxford University Press, 2005), at 135.

Within the ECHR – the same can be found within the ICCPR regime – the protection provided by Article 6(1) ECHR overlaps, in certain cases, with the right guaranteed in Article 5(3) ECHR.<sup>14</sup> In the event of pre-trial detention, both provisions state that a person arrested and detained on a criminal charge is to be tried within a reasonable time. The criteria to assess the reasonable time requirement in Article 5(3) ECHR are however different from those incorporated by the same terminology in Article 6(1) ECHR, or at least they have a differentiated application as the word ‘reasonable’ in Article 5(3) ECHR is not associated with the length of investigation and trial, but with the length of the detention itself.<sup>15</sup> Hence, as soon as the suspect has been released, Article 5(3) no longer applies, and the obligation that the accused be tried within a reasonable time can thereafter only be based upon Article 6(1) ECHR.<sup>16</sup> Moreover, the right granted by Article 5(3) ECHR ceases to apply the day the judgment, even a first instance judgment, has been rendered, as from that day on the individual is either released (in case of acquittal or discharge from further prosecution) or detained ‘*after a conviction by a competent court*’ within the meaning of Article 5(1)(a) ECHR.<sup>17</sup> The right contained within Article 5(3) will not be examined further in this article. However, as will be underlined below in section 3.2.1., the fact that the suspect or the accused remains in detention during the proceedings has a specific relevance for the assessment of the reasonableness of the length of the proceedings against the individual under Article 6(1) ECHR, and in some cases may well be a determinative factor.

### 3. DETERMINATION OF THE RELEVANT PERIOD AND THE CRITERIA TO BE CONSIDERED IN ANALYSING THE REASONABLENESS OF THE LENGTH OF CRIMINAL PROCEEDINGS

As the Court has consistently upheld, the reasonable time guarantee enshrined in Article 6(1) ECHR serves to ensure public trust in the administration of justice and to

<sup>14</sup> According to Article 5(3) ECHR: ‘*Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.*’ For Articles 14(3)(c) and 9(3) ICCPR, see Nowak, *U.N. Covenant on Civil and Political Rights, CCPR Commentary*, 2<sup>nd</sup> ed. (N.P. Engel, 2005), ad Article 14 No. 52.

<sup>15</sup> *Stögmüller v Austria*, No. 1602/62, 10 November 1969, at para 5; Van Dijk/van Hoof/van Rijn/Zwaak (eds), *Theory and Practice of the European Convention on Human Rights*, 4<sup>th</sup> ed. (Intersentia, 2006), at 492; European Commission for the Efficiency of Justice (CEPEJ), Calvez/Régis, *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* (31 July 2012), 2<sup>nd</sup> ed. (Council of Europe Publishing, 2012), at 8.

<sup>16</sup> Van Dijk/van Hoof/van Rijn/Zwaak, *supra* n 15, at 491–492.

<sup>17</sup> *Gil v Poland*, No. 29130/10, 20 December 2011, at para 36; *Borisenko v Ukraine*, No. 25725/02, 12 January 2012, at para 37; Van Dijk/van Hoof/van Rijn/Zwaak, *supra* n 15, at 492 which refer in particular to the ‘*Wemhoff case*’ (*Wemhoff v Germany*, No. 2122/64, 27 June 1968).

protect parties to proceedings against excessive procedural delays. Especially in criminal matters, it is designed to avoid the person charged with a criminal offence remaining too long in a state of uncertainty about his fate. This guarantee underlines the importance of administering justice without delays which might jeopardise the effectiveness and credibility of a national justice system.<sup>18</sup>

In order to assess whether the reasonable time requirement has been respected, the Court first determines the period to be taken into consideration (see below section 3.1.) before considering the criteria in favour of, respectively against, a finding as to the reasonableness of that period (see below section 3.2.).

### 3.1. RELEVANT PERIOD

#### 3.1.1. *Beginning of the period*

The period to be taken into consideration in determining the length of criminal proceedings begins with the day on which a person is ‘charged’ (*accusée*) within the autonomous and substantive meaning given to that term by the Court.<sup>19</sup> ‘Charged’ has been 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 of whether the situation of that individual ‘has been substantially affected’.<sup>20</sup>

The Court notes that a person is usually ‘charged’ on the date of arrest, or the date when the person concerned was officially notified that he would be prosecuted or otherwise the date when the preliminary investigations were opened.<sup>21</sup> The ECtHR also considers that the period to be taken into consideration begins on the date the applicant was questioned as a suspect in the case,<sup>22</sup> even if his formal capacity at the time was that of a witness.<sup>23</sup>

In fact, while considering a complaint of violation of the reasonable time requirement provided for by Article 6(1) ECHR, the Court attaches a specific

<sup>18</sup> *Dimitrov and Hamanov v Bulgaria*, Nos 48059/06 and 2708/09, 10 May 2011, at para 70 and case law cited; *Pimentel Lourenço v Portugal*, No. 9223/10, 23 October 2012, at para 32; *Ardelean v Romania*, No. 28766/04, 30 October 2012, at para 82.

<sup>19</sup> *Assunção Santos v Portugal*, No. 6015/09, 26 June 2012, at para 39; *Grigoryan v Armenia*, No. 3627/06, 10 July 2012, at para 126.

<sup>20</sup> *Eckle v Germany*, No. 8130/78, 15 July 1982, at para 73; *Todorov v Ukraine*, No. 16717/05, 12 January 2012, at para 84; *Assunção Santos v Portugal*, No. 6015/09, 26 June 2012, at para 39; *Grigoryev v Russia*, No. 22663/06, 23 October 2012, at para 90.

<sup>21</sup> *Assunção Santos v Portugal*, No. 6015/09, 26 June 2012, at para 39; *Grigoryan v Armenia*, No. 3627/06, 10 July 2012, at para 126; *Grigoryev v Russia*, No. 22663/06, 23 October 2012, at para 90.

<sup>22</sup> *Dimitar Vasilev v Bulgaria*, No. 10302/05, 10 April 2012, at para 25; *Grishin v Russia*, No. 14807/08, 24 July 2012, at para 168; *Svinarenko and Slyadnev v Russia*, Nos 32541/08 and 43441/08, 11 December 2012, at para 74 (referred to the Grand Chamber).

<sup>23</sup> *Grigoryan v Armenia*, No. 3627/06, 10 July 2012, at para 128.

importance to the applicant's awareness of the proceedings or the police involvement in order to determine the *dies ad quo* and hence whether his situation has been 'substantially affected'.<sup>24</sup>

In determining the same, the fact that assets of the applicant have been seized has been considered by the Court to be determinative. In *Pimentel Lourenço v Portugal*,<sup>25</sup> the Court considered that even if the investigations were opened on a previous date, the date of the first seizure of the suspect's assets was crucial as it was from that date that '*les répercussions sur la situation du requérant ont été véritablement ressenties*'.<sup>26</sup>

Conversely, the Court considered that authorizing the interception of the applicant's telephone did not mean that he was 'charged' within the meaning of Article 6(1) ECHR since '*he was not given any official notification of an allegation that he had committed a criminal offence, nor can it be said that his situation had been 'substantially affected'*'.<sup>27</sup>

### 3.1.2. End of the period

The period to be taken into consideration ends with the day the charge is finally determined or the proceedings are discontinued,<sup>28</sup> bearing in mind that, Article 6(1) ECHR covers the whole of proceedings in issue, including appeal proceedings.<sup>29</sup>

The date the applicant becomes aware of the final decision regarding his conviction, acquittal or the dismissal of the proceedings is relevant.<sup>30</sup> As to knowledge of the verdict or the reasons for the decision, in a departure from the *Vallon* case,<sup>31</sup> the Court considered in *Pop Blaga v Romania*<sup>32</sup> that the *dies ad quem* corresponds to the day the applicant had been informed of the verdict, even if the judgment with the reasons for

<sup>24</sup> *Ustyantsev v Ukraine*, No. 3299/05, 12 January 2012, at para 91; *O. v Ireland*, No. 43838/07, 19 January 2012, at para 17; *Kechev v Bulgaria*, No. 13364/05, 26 July 2012, at para 47.

<sup>25</sup> *Pimentel Lourenço v Portugal*, No. 9223/10, 23 October 2012, at para 28. See also *Assunção Santos v Portugal*, No. 6015/09, 26 June 2012, at para 40.

<sup>26</sup> The wider issue of the applicability of Article 6(1) ECHR to seizure measures is outside the scope of the present study and will not be analysed further.

<sup>27</sup> *Polz v Austria*, No. 24941/08, 25 October 2011, at paras 43–45.

<sup>28</sup> *Grigoryan v Armenia*, No. 3627/06, 10 July 2012, at para 126.

<sup>29</sup> *Eckle v Germany*, No. 8130/78, 15 July 1982, at para 76; among others, *Grigoryev v Russia*, No. 22663/06, 23 October 2012, at para 91.

<sup>30</sup> *Kechev v Bulgaria*, No. 13364/05, 26 July 2012, at para 48.

<sup>31</sup> In its report regarding the *Vallon* case, the European Commission of Human Rights considered that the *dies ad quem* corresponded to the day the applicant was informed of the motivation of the judgement. In this case, there was a one month delay between the pronouncement of the sentence and the drafting of the final judgment (European Commission of Human rights, No. 9621/81, *Vallon v Italy*, report of the Commission, 8 May 1984, at paras 68–69 referred to also in *Van Dijk/van Hoof/van Rijn/Zwaak*, *supra* n 15, at 606).

<sup>32</sup> *Pop Blaga, v Romania* (decision), No. 37379/02, 10 April 2012, at para 120. In this case, there was a delay of more than two months between the pronouncement of the sentence and the drafting of the final judgement, the applicant becoming aware of the judgment (and the motivation) only four months later.

the decision was drafted subsequently with the applicant effectively becoming aware of those reasons at a later stage. Yet, in *Michelioudakis v Greece*<sup>33</sup> the Court considered the end of the proceedings to be the date the judgment of the *Cour de cassation* had been finalized (*'mis au net'*) and certified.

Furthermore, in *Eckle v Germany*<sup>34</sup> the Court found that upon conviction, there was no *'determination ... of any criminal charge'* within the meaning of Article 6(1) ECHR so long as the sentence was not definitively fixed.

The Court, however, underlined in *Hartman v Slovenia*<sup>35</sup> that in accordance with its established case law Article 6(1) ECHR does not apply to domestic proceedings for reopening a trial, since someone who applies for his case to be reopened and whose sentence has become final is not *'someone charged with a criminal offence'* within the meaning of Article 6(1) ECHR. The same principle applies to proceedings following the request for an extraordinary mitigation of sentence, as the Court considers that Article 6(1) ECHR does not apply to proceedings for review of a sentence after the decision has become *res judicata*. The Court nonetheless accepted to take into account the period following the quashing of the appeal judgement by way of supervisory review and the remittal of the case to the appeal court for fresh consideration (i.e., after the applicant's conviction became final) in *Buldashev v Russia*.<sup>36</sup>

Where proceedings relate to the seizure of assets of the applicant, they are taken into account by the Court. In particular, the Court in *Pimentel Lourenço v Portugal*<sup>37</sup> considered that even if the case was ended by a final decision of the court of appeal confirming the decision to dismiss the proceedings (*'ordonnance de non-lieu'*) which was rendered before the lifting of the seizure measures, the *dies ad quem* was fixed as the date the lifting was actually ordered.

Moreover, as regards confiscation proceedings, in *Crowther v the United Kingdom*,<sup>38</sup> the Court found that in the context of an undue length complaint under Article 6 of the Convention, criminal proceedings *'incorporated the applicant's arrest, charge and trial together with the making and enforcement of a confiscation order'*.<sup>39</sup> Consequently, the Court held that the criminal proceedings commenced on the date the applicant was first arrested and questioned in connection with the charge. They were terminated when he was denied leave to appeal to the House of Lords against the refusal to grant his application for judicial review of the magistrates' decision to

<sup>33</sup> *Michelioudakis v Greece*, No. 54447/10, 3 April 2012, at paras 13–14 and 39. In this case, there was a delay of less than one month between the dismissal of the appeal by the court and the date the court's judgment had been finalized and certified. See also *Sagropoulos v Greece*, No. 61894/08, 3 May 2012, at para 37.

<sup>34</sup> *Eckle v Germany*, No. 8130/78, 15 July 1982, at para 77.

<sup>35</sup> *Hartman v Slovenia*, No. 42236/05, 18 October 2012, at para 40.

<sup>36</sup> *Buldashev v Russia*, No. 46793/06, 18 October 2011, at para 107.

<sup>37</sup> *Pimentel Lourenço v Portugal*, No. 9223/10, 23 October 2012, at paras 28–29.

<sup>38</sup> *Crowther v the United Kingdom*, No. 53741/00, 1 February 2005, at para 26.

<sup>39</sup> *Minshall v the United Kingdom*, No. 7350/06, 20 December 2011, at para 30.

commit him to prison following non-payment of a confiscation order. In *Bullen and Soneji v the United Kingdom*,<sup>40</sup> the proceedings under review started when the applicants were convicted and became liable to have confiscation orders made against them. The conclusion of proceedings was considered to be the point where the Court of Appeal re-imposed the confiscation orders and sentences of imprisonment in default following the order of the House of Lords.<sup>41</sup>

Finally, it is noteworthy that an accused can raise a claim of violation of the reasonable time requirement with the Court even though the domestic proceedings are still pending and no final decision has yet been rendered.<sup>42</sup>

### 3.1.3. *Periods to be excluded from the calculation of the length of the procedure*

Periods during which the applicant was on the run, or unlawfully at large have been excluded from the length of the procedure.<sup>43</sup>

Furthermore, only the period during which the ECHR is in force for the respondent State Party is relevant. More than that, the period to be taken into consideration begins only on the day when the recognition by the State of the right of individual petition took effect. However, in assessing the reasonableness of the time elapsed after the entry into force of the ECHR for that State, or the date the right of individual petition took effect, the Court considers that account must nevertheless be taken of the state of the proceedings at the commencement of that relevant time.<sup>44</sup>

Finally, only the periods during which the case was actually pending before the domestic courts are to be taken into account.<sup>45</sup> For example, in *Buldashev v Russia*<sup>46</sup> the Court considered that the period from the date the applicant's conviction became final and there were no proceedings pending, to the date the appeal judgement was quashed by way of a supervisory review with the case remitted to the appeal court for fresh consideration, should not be taken into consideration.

<sup>40</sup> *Bullen and Soneji v the United Kingdom*, No. 3383/06, 8 January 2009, at para 48.

<sup>41</sup> See also *Minshall v the United Kingdom*, No. 7350/06, 20 December 2011, at para 31, in which the applicant was only complaining about the length of the confiscation proceedings.

<sup>42</sup> *Stratégies and Communications and Dumoulin v Belgium*, No. 37370/97, 15 July 2002, at para 42; *Riccardi v Romania*, No. 3048/04, 3 April 2012, at para 85; *Hasdemir v Turkey*, No. 44027/09, 22 May 2012, at paras 37–38.

<sup>43</sup> *Buldashev v Russia*, No. 46793/06, 18 October 2011, at para 107; *Zandbergs v Latvia*, No. 71092/01, 20 December 2011, at para 86; *Borisenko v Ukraine*, No. 25725/02, 12 January 2012, at para 57.

<sup>44</sup> *Zandbergs v Latvia*, No. 71092/01, 20 December 2011, at para 86; *Kryuk v Russia*, No. 11769/04, 13 December 2011, at para 55; *Solovyevy v Russia*, No. 918/02, 24 April 2012, at para 143; *Głowacki v Poland*, No. 1608/08, 30 October 2012, at para 111.

<sup>45</sup> *Pop Blaga, v Romania*, No. 37379/02, 10 April 2012, at para 118.

<sup>46</sup> *Buldashev v Russia*, No. 46793/06, 18 October 2011, at para 107. See also *Kryuk v Russia*, No. 11769/04, 13 December 2011, at para 56.

### 3.2. CRITERIA OF REASONABLENESS/UNREASONABLENESS

According to the ECtHR's constant case law which has been reaffirmed in the Grand Chamber judgements *McFarlane v Ireland*<sup>47</sup> and *Idalov v Russia*,<sup>48</sup> the length of the proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: (1) what is at stake for the applicant, (2) the complexity of the case, (3) the conduct of the applicant and (4) the conduct of the relevant authorities (see below sections 3.2.1. to 3.2.4. Moreover, whilst not expressly mentioned as criteria *per se* by the Court, the number of domestic jurisdictions before which the proceedings have been pending is also taken into account (see below section 3.2.5).

#### 3.2.1. *What is at stake for the applicant: length of custody and length of the state of uncertainty*

The impact of the proceedings on the suspect or the accused's life could be considered as the main factor of relevance for the Court.

The Court has emphasised that '*an accused in criminal proceedings should be entitled to have his case conducted with special diligence*'.<sup>49</sup> The Court underlines, in this respect, that in criminal matters, Article 6(1) ECHR is designed to prevent a person who is charged from remaining in a state of uncertainty about the outcome of the proceedings for too long, bearing in mind that this person usually risks criminal conviction.<sup>50</sup>

Moreover, the fact that the accused may be held in custody throughout the proceedings requires particular diligence on the part of domestic authorities to administer justice expeditiously,<sup>51</sup> and a duration which might usually be considered as reasonable by the Court, may well be considered as a violation of Article 6(1) ECHR if the accused has been detained during the proceedings.

#### 3.2.2. *Complexity of the case*

As a matter of principle, the more complex the case is, the more latitude the State is granted at the outer limit of reasonable duration for the proceedings.

<sup>47</sup> *McFarlane v Ireland* (Grand Chamber), No. 3133/06, 10 September 2010, at para 140.

<sup>48</sup> *Idalov v Russia* (Grand Chamber), No. 5826/03, 22 May 2012, at para 186.

<sup>49</sup> *Grigoryan v Armenia*, No. 3627/06, 10 July 2012, at para 129.

<sup>50</sup> *McFarlane v Ireland* (Grand Chamber), No. 3133/06, 10 September 2010, at para 155; *Grigoryan v Armenia*, No. 3627/06, 10 July 2012, at para 129; *Yakovlev v Ukraine*, No. 18412/05, 26 July 2012, at para 23; *Ardelean v Romania*, No. 28766/04, 30 October 2012, at para 82.

<sup>51</sup> *Kryuk v Russia*, No. 11769/04, 13 December 2011, at para 67; *Borisenko v Ukraine*, No. 25725/02, 12 January 2012, at para 58; *Todorov v Ukraine*, No. 16717/05, 12 January 2012, at para 90; *Syngayevskiy v Russia*, No. 17628/03, 27 March 2012, at para 93; *Sizov v Russia* (No. 2), No. 58104/08, 24 July 2012, at para 64.

The complexity of the case may be assessed with reference to a number of factors such as: the number of accused or victims, the number of counts/charges or the nature of the charges (seriousness) laid against the accused, the volume of the case file and the number of documents, experts or witnesses to be examined, the number of hearings held, the need for cooperation from the authorities of a third State (in particular the need of rogatory commission) and even the number of pages of a judgement rendered.<sup>52</sup>

The Court usually states a position that the complexity of the case, on its own, cannot justify the length of proceedings.<sup>53</sup> Yet, in *Breinesberger and Wenzelhuemer v Austria*,<sup>54</sup> in which the Court examined quite surprisingly the reasonableness of the length of the proceedings under the 'not manifestly ill-founded' admissibility requirement (pursuant to Article 35(3)(a) ECHR),<sup>55</sup> the Court concluded that the length of the proceedings (7 years and 5 months across three levels of jurisdiction) was reasonable, principally on the basis of the complexity of the case.

### 3.2.3. Conduct of the applicant

Only delays attributable to the respondent State may justify a finding of failure to comply with the reasonable time requirement.<sup>56</sup> The applicant's conduct constitutes an objective fact which cannot be attributed to that State and which has to be taken into account when determining whether or not the proceedings lasted longer than a 'reasonable' period.<sup>57</sup>

The Court considers in particular that the applicant can contribute to the length of the proceedings through his (numerous) requests for adjournments, or through failing to appear in court.<sup>58</sup> However, a suspect or accused cannot be required to cooperate actively with the judicial authorities, nor can he be criticised for having

<sup>52</sup> *Kowalenko v Poland*, No. 26144/05, 26 October 2010, at para 77; *Buldashev v Russia*, No. 46793/06, 18 October 2011, at para 109; *Todorov v Ukraine*, No. 16717/05, 12 January 2012, at para 91 (referring in particular to 160 hearings and a 200 pages long judgement); *Dementjeva v Latvia* (decision), No. 17458/10, 13 March 2012, at para 24; *Serrano Contreras v Spain*, No. 49183/08, 20 mars 2012, at para 56; *Valeriy Kovalenko v Russia*, No. 41716/08, 29 May 2012, at para 59. See also Edel, *The length of civil and criminal proceedings in the case-law of the European Court of Human Rights*, 2<sup>nd</sup> ed., Human Rights Files, No. 16 (Council of Europe Publishing, 2007), at 39–43 and case law cited.

<sup>53</sup> *Grigoryev v Russia*, No. 22663/06, 23 October 2012, at para 93; *Beggs v United Kingdom*, No. 25133/06, 6 November 2012, at para 238; *Borodin v Russia*, No. 41867/04, 6 November 2012, at para 150; *Serrano Contreras v Spain*, No. 49183/08, 20 mars 2012, at para 56.

<sup>54</sup> *Breinesberger and Wenzelhuemer v Austria* (decision), No. 46601/07, 27 November 2012, at paras 30–33.

<sup>55</sup> According to Article 35(3)(a) ECHR: 'The Court shall declare inadmissible any individual application submitted under Article 34 if it considered that: (a) the application is... manifestly ill-founded ...'.

<sup>56</sup> *Kryuk v Russia*, No. 11769/04, 13 December 2011, at para 61; *Serrano Contreras v Spain*, No. 49183/08, 20 March 2012, at para 58; *Idalov v Russia* (Grand Chamber), No. 5826/03, 22 May 2012, at para 186; *Sizov v Russia* (No. 2), No. 58104/08, 24 July 2012, at para 59; *Borodin v Russia*, No. 41867/04, 6 November 2012, at para 148.

<sup>57</sup> *Eckle v Germany*, No. 8130/78, 15 July 1982, at para 82; *Michelioudakis v Greece*, No. 54447/10, 3 April 2012, at para 43.

<sup>58</sup> *Dolutaş v Turkey*, No. 17914/09, 17 January 2012, at paras 29–31; *Solovyevy v Russia*, No. 918/02, 24 April 2012, at para 148; *Idalov v Russia* (Grand Chamber), No. 5826/03, 22 May 2012, at para 189. See also Edel, *supra* n 52, at 52–54 and case law cited.

made full use of the remedies available under the domestic law in the defence of his interests.<sup>59</sup> Yet, he should defend his interests with diligence, an aspect that may be lacking if he has filed endless challenges, motions and other requests, and may be clearly lacking where such submissions are ill-founded or formally inadmissible.<sup>60</sup>

Even though not wilfully brought about by the applicant, delays due to an accused or suspect's health are also taken into consideration by the Court. In *Krakolinig v Austria*,<sup>61</sup> the Court noted that repeated postponements and stays were caused by the applicant's ill-health. While he could not be considered responsible, as that was a matter beyond his control, the Court considered that it was the objective reason for the resulting length of the proceedings. As highlighted by the Court, delays due to the health of the accused cannot usually be attributed to the domestic courts and a breach of the reasonable time requirement under Article 6(1) ECHR can only be found when they are attributable. The Court observed further that Article 6(1) ECHR did not grant the accused a right to have criminal proceedings terminated on account of his state of health. In this way, even though the proceedings in *Krakolinig v Austria* lasted more than 25 years, they were considered as reasonable by the Court under an analysis of the 'not manifestly ill-founded' admissibility requirement.

Finally, and as will be discussed further under section 4 below, the Court's analysis of the applicant's conduct is balanced by an assessment for possible delays that are attributable to the authorities. The proportion of culpable delays is then considered in light of the overall length of the proceedings. As an example, in *Ioannis Karagiannis v Greece*,<sup>62</sup> the Court recognized that more than seven months of the total length of the proceedings before the national courts was attributable to the applicant. The Court did not find however that it was the applicant's conduct alone which contributed to the length, on the contrary, the Court found that the actual length of the proceedings – approximately 6 years and 2 months, without taking into account the delays attributable to the applicant – remained excessive.

### 3.2.4. Conduct of the authorities

The domestic authorities may also contribute to the length of proceedings in various ways,<sup>63</sup> including unusually lengthy investigations,<sup>64</sup> delays in relation with the

<sup>59</sup> *Eckle v Germany*, No. 8130/78, 15 July 1982, at para 82; *McFarlane v Ireland* (Grand Chamber), No. 31333/06, 10 September 2010, at para 148; *Solovyevy v Russia*, No. 918/02, 24 April 2012, at para 147; *Yakovlev v Ukraine*, No. 18412/05, 26 July 2012, at para 25.

<sup>60</sup> *McFarlane v Ireland* (Grand Chamber), No. 31333/06, 10 September 2010, at para 148; *Kowalenko v Poland*, No. 26144/05, 26 October 2010, at para 80; *Idalov v Russia* (Grand Chamber), No. 5826/03, 22 May 2012, at para 189.

<sup>61</sup> *Krakolinig v Austria* (decision), No. 33992/07, 10 May 2012, at para 27.

<sup>62</sup> *Ioannis Karagiannis v Greece*, No. 66609/09, 3 May 2012, at para 20. See also *Grishin v Russia*, No. 14807/08, 24 July 2012, at para 182.

<sup>63</sup> Edel, *supra* n 52, at 58 ff and case law cited.

<sup>64</sup> *Pimentel Lourenço v Portugal*, No. 9223/10, 23 October 2012, at para 34.

obtaining of an expert opinion,<sup>65</sup> adjournments,<sup>66</sup> or stays of proceedings.<sup>67</sup> Procedural delays may also occur between the completion of the investigation and the first hearing at the trial court, between the last hearing in the first-instance court and the pronouncement of the judgment or between the pronouncement of the sentence and its review by the appeal court.<sup>68</sup>

When the Court considers that there have been delays in the proceedings, the burden falls upon the respondent State to provide the Court with reasons justifying the delay.<sup>69</sup> If the State fails to provide an acceptable justification, the Court usually considers the national authorities responsible for the delay.

As to the possible causes of delays, repeated remittals of a case for reinvestigation or prolonged failure of the authorities to produce to the domestic courts a case ready for trial are usually explicitly described by the ECtHR as '*indicative of a serious deficiency in the operation of the criminal justice machinery*'.<sup>70</sup> Similarly, repeated quashing and remittal of lower courts' decisions for re-examination are usually considered to be '*ordered as a result of errors committed by the latter, which, within one set of proceedings, discloses a deficiency in the operation of the legal system*'.<sup>71</sup>

Furthermore, a chronic overload of the domestic courts is not an acceptable justification. National authorities cannot seek refuge behind the possible failings of their own domestic law.<sup>72</sup> As emphasised by the ECtHR '*il incombe aux Etats contractants d'organiser leur système judiciaire de telle sorte que leurs juridictions puissent garantir à chacun le droit d'obtenir une décision définitive sur une contestation en matière pénale dans un délai raisonnable*'.<sup>73</sup>

It is notable that in this regard, the manner in which a State provides mechanisms to comply with the reasonable time requirement is for the State to decide.<sup>74</sup>

<sup>65</sup> *Masár v Slovakia*, No. 66882/09, 3 May 2012, at para 24.

<sup>66</sup> *G.O. v Russia*, No. 39249/03, 18 October 2011, at para 112.

<sup>67</sup> *Kalle Kangasluoma v Finland*, No. 5635/09, 5 February 2011, at para 23.

<sup>68</sup> *Todorov v Ukraine*, No. 16717/05, 12 January 2012, at para 92; *Solovyevy v Russia*, No. 918/02, 24 April 2012, at para 149.

<sup>69</sup> *Zelidis v Greece*, No. 59793/08, 3 May 2012, at para 27; *Petko Yordanov v Bulgaria*, No. 33560/06, 26 July 2012, at para 51; *Grigoryev v Russia*, No. 22663/06, 23 October 2012, at paras 93–94.

<sup>70</sup> *Kiryakov v Ukraine*, No. 26124/03, 12 January 2012, at para 64; *Yakovlev v Ukraine*, No. 18412/05, 26 July 2012, at para 27.

<sup>71</sup> *Hasko v Turkey*, No. 20578/05, 17 January 2012, at para 28; *Sizov v Russia (No. 2)*, No. 58104/08, 24 July 2012, at para 63; *E.M.B. v Romania*, No. 4488/03, 13 November 2012, at para 35.

<sup>72</sup> *Eckle v Germany*, No. 8130/78, 15 July 1982, at para 84; *Serrano Contreras v Spain*, No. 49183/08, 20 March 2012, at para 57.

<sup>73</sup> *Michelioudakis v Greece*, No. 54447/10, 3 April 2012, at para 43. See also *Serrano Contreras v Spain*, No. 49183/08, 20 March 2012, at para 57 and *Pimentel Lourenço v Portugal*, No. 9223/10, 23 October 2012, at para 32.

<sup>74</sup> *Beggs v The United Kingdom*, No. 25133/06, 6 November 2012, at para 239; *Mikhail Grishin v Russia*, No. 14807/08, 24 July 2012, at para 182.

Yet, the domestic courts have an obligation to take steps of their own motion if necessary, in order to advance proceedings in criminal cases.<sup>75</sup> If a State permits proceedings to last beyond a reasonable time without taking steps to expedite or advance those proceedings, it will be responsible for the resultant delay, especially considering the fact that the State itself is a party to criminal proceedings, being responsible for the prosecution of criminal matters.<sup>76</sup>

The Court considers nonetheless that in giving due weight to the various aspects of a fair trial as guaranteed by Article 6(1) ECHR:

‘difficult decisions have to be made by the domestic courts in cases where these aspects appear to be in conflict. In particular, the right to a trial within a reasonable time must be balanced against the need to afford to the defence sufficient time to prepare its case and must not unduly restrict the right of the defence to equality of arms. Thus in assessing whether the length of proceedings was reasonable, particularly in a case where an applicant relies upon the court’s responsibility to take steps to advance the proceedings, this [c]ourt must have regard to the reasons for the delay and the extent to which delay resulted from an effort to secure other key rights guaranteed by Article 6.’<sup>77</sup>

On numerous occasions the Court has considered that even if the State authorities took measures to ensure that the proceedings were not delayed, the main responsibility for the length of the proceedings remained with them. In particular in *Kayuda v Ukraine*<sup>78</sup> (a case in which there was a large number of adjournments of hearings), even though on a number of occasions the domestic courts issued compulsory summonses on the persons failing to appear, the Court noted that there were other effective mechanisms to ensure their presence at the domestic hearings. These mechanisms included administrative penalties, a measure that the Ukrainian courts did not apply when the compulsory summonses were ineffective. The Court therefore considered that Ukrainian authorities bore the main responsibility for the protracted length of the proceedings.

Similarly, in *Sizov v Russia (No. 2)*,<sup>79</sup> the Court could not discern any indication that the domestic court availed itself of the measures existing under national law to discipline the absent witnesses and procure their attendance, in order to ensure that the case was heard within a reasonable time. The Court therefore found that the delay occasioned by the witnesses’ failure to attend hearings and the domestic court’s failure to ensure their attendance was attributable to the State.

<sup>75</sup> *Beggs v The United Kingdom*, No. 25133/06, 6 November 2012, at para 239.

<sup>76</sup> *Mc Farlane v Ireland* (Grand Chamber), No. 31333/06, 10 September 2010, at para 152; *Grishin v Russia*, No. 14807/08, 24 July 2012, at para 182; *Beggs v The United Kingdom*, No. 25133/06, 6 November 2012, at para 239; *Svinarenko and Slyadnev v Russia*, Nos 32541/08 and 43441/08, 11 December 2012, at para 88 (referred to the Grand Chamber).

<sup>77</sup> *Beggs v The United Kingdom*, No. 25133/06, 6 November 2012, at para 240.

<sup>78</sup> *Kayuda v Ukraine*, No. 31467/06, 10 November 2011, at para 17. See also *G.O. v Russia*, No. 39249/03, 18 October 2011, at para 112.

<sup>79</sup> *Sizov v Russia (No. 2)*, No. 58104/08, 24 July 2012, at para 62.

On the other hand, in its decision *Ghiță v Romania*,<sup>80</sup> the Court considered that despite the adjournments due to witnesses' failure to appear (and even though the case was pending before the trial court for examination on the merits for three years), no reproach could be made against the authorities who had used the legal means at their disposal.

Furthermore, in order to find a violation, delays attributable to the domestic authorities must have a 'significantly adverse effect' on the length of the proceedings. For example, in both *Borodin v Russia* and *Idalov v Russia*,<sup>81</sup> the Court considered that adjournments owing to the judge's conflicting schedule or witnesses (or other parties) failing to appear as scheduled did not have such an effect.

Finally, it is noteworthy that failure to abide by a time-limit prescribed by domestic law does not in itself contravene Article 6(1) of the Convention.<sup>82</sup>

### 3.2.5. Levels of jurisdiction

While assessing the reasonableness of the length of criminal proceedings brought to it, the Court as a rule also takes into consideration the level and number of jurisdictions involved.

Thus, even though the length of proceedings may be considered reasonable when the case was examined at two or three levels of jurisdiction, it may well be considered unreasonable if only one jurisdiction examined the case or if the case remained at the investigation stage for that same length. For example, in *Struc v the Republic of Moldova*,<sup>83</sup> the Court held that proceedings lasting 3 years and 10 months for three levels of jurisdiction was reasonable. Similarly, in *Litwin v Germany*<sup>84</sup> 3 years and 9 months for three levels of jurisdiction was considered reasonable, but contrastingly in *Laimos and Kalafatis v Greece*,<sup>85</sup> the Court considered a length of 3 years 9 months for one level of jurisdiction as not reasonable.

## 4. FINDING OF THE COURT AS REGARDS THE LENGTH OF THE PROCEEDINGS

### 4.1. OVERALL ASSESSMENT OF THE CIRCUMSTANCES OF THE CASE

On the basis of the individual criteria mentioned above, the Court makes an overall assessment of the circumstances of the case. The Court establishes that reasonable

<sup>80</sup> *Ghiță v Romania* (decision), No. 18817/04, 25 September 2012, at para 36.

<sup>81</sup> *Idalov v Russia* (Grand Chamber), No. 5826103, 22 May 2012, at para 190; *Borodin v Russia*, No. 41867104, 6 November 2012, at para 152.

<sup>82</sup> *Mitkus v Latvia*, No. 7259/03, 2 October 2012, at para 88.

<sup>83</sup> *Struc v the Republic of Moldova*, No. 40131/09, 4 December 2012, at paras 75–80.

<sup>84</sup> *Litwin v Germany*, No. 29090/06, 3 November 2011, at para 51.

<sup>85</sup> *Laimos and Kalafatis v Greece*, No. 45658/09, 17 April 2012, at paras 7–13.

time is exceeded if, upon such a global assessment, it finds that the overall length of the proceedings is excessive in relation to: the complexity of the case, or the number of levels of jurisdiction involved, or upon finding that the accused was in custody, or that long periods of inactivity were attributable to the authorities. Conversely it may consider, in some cases, that there has been no violation of Article 6(1) ECHR, due to the overall duration of the proceedings, the complexity of the case, the conduct of the applicant or the fact that it was examined at a certain number of levels of jurisdiction, even if some of the delays were attributable to the authorities.

In several cases, instead of setting out a detailed written assessment of the circumstances of the case, the Court uses a standard formula such as

‘[t]he Court has frequently found violations of Article 6 §1 of the Convention in cases raising issues similar to the one in the present case ... Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject and the overall length of the proceedings, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the ‘reasonable time’ requirement’.<sup>86</sup>

The Court usually then refers to the *Pélissier and Sassi* case<sup>87</sup>, the *Frydlender* case<sup>88</sup> (the latter relating to length of administrative proceedings) or to the case law rendered concerning the respondent State.<sup>89</sup>

As appears from the table below of the ECtHR’s case law for 2012, the cases where the Court used this standard formula considering the length of the proceedings to be not reasonable varied from 3 years 9 months (in *Laimos & Kalafatis v Greece*<sup>90</sup>) to 16 years 4 months (in *Głowacki v Poland*<sup>91</sup>). In view of the significantly differing lengths of proceedings involved, it is difficult to find a reason for the use of this standard formulation. One can wonder whether this could correspond to a certain *ras le bol* of the Court toward certain States and the number of proceedings brought against those States, for example Turkey or Greece. This is particularly apparent for Greece since in *Micheloudakis v Greece* the Court decided, in view of the chronic and

<sup>86</sup> E.g., *C. v Ireland*, No. 24643/08, 1 March 2012, at paras 24–25; *Seta v Greece and Germany*, No. 30287/09, 3 May 2012, at paras 18–19; *Ademovič v Turkey*, No. 28523/03, 5 June 2012, at para 58; *Chyżyński v Poland*, No. 32287/09, 24 July 2012, at paras 48–49; *Głowacki v Poland*, No. 1608/08, 30 October 2012, at para 117.

<sup>87</sup> *Pélissier and Sassi v France*, No. 25444/94, 25 March 1999.

<sup>88</sup> *Frydlender v France*, No. 30979/96, 27 June 2000.

<sup>89</sup> E.g., *C. v Ireland*, No. 24643/08, 1 March 2012, at paras 24–25; *Seta v Greece and Germany*, No. 30287/09, 3 May 2012, at paras 18–19; *Ademovič v Turkey*, No. 28523/03, 5 June 2012, at para 58; *Chyżyński v Poland*, No. 32287/09, 24 July 2012, at paras 48–49; *Głowacki v Poland*, No. 1608/08, 30 October 2012, at para 117.

<sup>90</sup> *Laimos and Kalafatis v Greece*, No. 45658/09, 17 April 2012, at paras 7–13.

<sup>91</sup> *Głowacki v Poland*, No. 1608/08, 30 October 2012, at paras 110–119.

persistent problem of lengthy proceedings in Greece, to apply the pilot-judgment procedure.<sup>92</sup>

In the same way the Court has sometimes, without referencing the circumstances of the case in its assessment, determined that the case was manifestly ill-founded and had to be rejected in accordance with Article 35(3)(a) and (4) ECHR summarily determining that the length of the proceedings was clearly reasonable. In *Litwin v Germany*,<sup>93</sup> concerning a length similar to that established in *Laimos & Kalafatis v Greece* (3 years 9 months) the Court references the *Pélissier and Sassi* case and rules that ‘having regard to the criteria established in its case law ... considers that the overall length of the proceedings can be regarded as reasonable’. A complaint was similarly found to be manifestly ill-founded without an express assessment of the circumstances in *Trymbach v Ukraine*, where the length of the proceedings was 2 years and 1 month.<sup>94</sup> In *Gabrea and others v Romania*, the same finding was conveyed where the length of the proceedings was 2 years and 6 months.<sup>95</sup>

#### 4.2. SOME FIGURES ON ACCEPTABLE AND NON-ACCEPTABLE LENGTHS

Although the Court is reluctant to establish definitive rules, arguing that every case must be considered on its own merits, in an analysis and comparison of the ECHR’s case law up to 31 July 2011 regarding the length of civil, criminal and administrative proceedings, the CEPEJ highlighted that:

- a total duration of up to 2 years per level of jurisdiction in non-complex cases is generally regarded as reasonable. When proceedings have lasted more than 2 years, the Court examines the case closely to determine whether the domestic authorities have shown due diligence in the process;
- in priority cases (e.g., cases in which the applicant is in custody), the Court may depart from the general approach, and find violation even if the case lasted less than 2 years;
- in complex cases, the Court may allow a longer time, but it pays special attention to periods of inactivity (i.e., the conduct of the authorities) which are clearly excessive. However, this longer period permitted is rarely more than 5 years and almost never more than 8 years in total duration;
- the only cases in which the Court does not find a violation in spite of manifestly excessive duration of proceedings are cases in which the applicant’s behaviour contributed to the delay.<sup>96</sup>

<sup>92</sup> *Michelioudakis v Greece*, No. 54447/10, 3 April 2012, at paras 55 ff.

<sup>93</sup> *Litwin v Germany*, No. 29090/06, 3 November 2011, at para 51.

<sup>94</sup> *Trymbach v Ukraine*, No. 44385/02, 12 January 2012, at para 49.

<sup>95</sup> *Gabrea and others v Romania* (decision), No. 51157/10, 7 February 2012, at para 32.

<sup>96</sup> *Calvez/Régis*, *supra* n 15, at 5 and 12.

As regards criminal proceedings, the considerations of the CEPEJ can be refined, particularly in light of the Court's case law in 2012 (see table below). With reference to the parameters identified by the CEPEJ and these more recent cases, the following conclusions can be drawn:

- less than 3 years:  
Proceedings lasting 3 years or less are generally considered to be reasonable and any complaint regarding such length is usually rejected by the Court as '*manifestly ill-founded*' and therefore not admissible<sup>97</sup>;
- between 3 and 5 years:  
Except in cases where there are significant delays attributable to the authorities and/or the accused is in custody,<sup>98</sup> lengths of less than 5 years for more than one level of jurisdiction are usually considered as reasonable<sup>99</sup>;
- more than 5 years:  
On the other hand, lengths of more than 5 years are rarely considered as reasonable, save where it is considered that the authorities demonstrated sufficient diligence in handling the proceedings, the applicant was responsible for delays, the case was particularly complex or it has been examined at several levels of jurisdiction<sup>100</sup>;

<sup>97</sup> See in particular *Tryumbach v Ukraine*, No. 44385/02, 12 January 2012 (2 years 1 month); *J.M. v Denmark*, No. 34421/09, 13 November 2012 (1 year 4 months).

<sup>98</sup> The length of the proceedings has not been considered reasonable in: *Jusuf v Greece*, No. 4767/09, 10 January 2012 (4 years 9 months for 2 levels of jurisdiction – delays attributable to the authorities); *Zafirov v Greece*, No. 25221/09, 6 March 2012 (4 years 7 months for 2 levels of jurisdiction – delays attributable to the authorities); *Syngayevskiy v Russia*, No. 17628/03, 27 March 2012 (3 years 8 months for 2 levels of jurisdiction – delays attributable to the domestic authorities and applicant in custody); *Masár v Slovakia*, No. 66882/09, 3 May 2012 (4 years 5 months for pre-trial proceedings – delays attributable to the domestic authorities); *Sizov v Russia (No. 2)*, No. 58104/08, 24 July 2012 (4 years 10 months for 2 levels of jurisdiction – delays attributable to the domestic authorities and applicant in custody).

<sup>99</sup> The length of the proceedings has been considered reasonable in: *Ustyantsev v Ukraine*, No. 3299/05, 12 January 2012 (3 years 6 months and 3 years 9 months for 3, respectively 2 levels of jurisdiction); *Timoshin v Russia*, No. 41643/04, 7 February 2012 (3 years 5 months for 2 levels of jurisdiction); *Idalov v Russia* (Grand Chamber), No. 5826/03, 22 May 2012 (4 years 11 months for 2 levels of jurisdiction); *Valeriy Kovalenko v Russia*, No. 41716/08, 29 May 2012 (3 years 6 months for 2 levels of jurisdiction); *Mitkus v Latvia*, No. 7259/03, 2 October 2012 (3 years 4 months for 3 levels of jurisdiction); *Struc v the Republic of Moldova*, No. 40131/09, 4 December 2012 (3 years 10 months for 3 levels of jurisdiction).

<sup>100</sup> See below the table of the case law of the Court for the year 2012, in particular the length of the proceedings has not been considered reasonable in: *Kiryakov v Ukraine*, No. 26124/03, 12 January 2012 (5 years 5 months for 3 levels of jurisdiction); *Dimitar Vasilev v Bulgaria*, No. 10302/05, 10 April 2012 (5 years 6 months for 2 levels of jurisdiction); *Lambadaris v Greece*, No. 47112/09, 17 April 2012 (5 years 9 months for 2 levels of jurisdiction); *Solovyevy v Russia*, No. 918/02, 24 April 2012 (5 years for 2 levels of jurisdiction); *Mahmut Öz v Turkey*, No. 6840/08, 3 July 2012 (over 5 years – still pending – for 2 levels of jurisdiction); *Grigoryan v Armenia*, No. 3627/06, 10 July 2012 (5 years and 3 months – and possibly still pending over 7 years later – for investigation stage); *Kechev v Bulgaria*, No. 13364/05, 26 July 2012 (over 5 years and 3 years 4 months both for preliminary investigation); *Pimentel Lourenço v Portugal*, No. 9223/10, 23 October 2012 (5 years 4 months for 2 levels of jurisdiction). See however the following cases in which the length of the proceedings has

- more than 7 years:

Finally, in nearly every case when the proceedings have lasted more than 7 years the Court considered that the length of the proceedings was excessive, at least for the year 2012.

It is however interesting to mention four decisions, not judgments, surprisingly rendered under the analysis of the ‘not manifestly ill-founded’ admissibility requirement by the Court in which proceedings lasting more than 7 years have been declared reasonable. In the first one, *Dementjeva v Latvia*,<sup>101</sup> whilst the proceedings had lasted for 8 years and 5 months (across three levels of jurisdiction) and a delay of 18 months was attributable to the authorities, the Court considered that the delays of the proceedings were mainly due to the applicant and therefore the length had to be considered reasonable. In the second case, *Breinesberger and Wenzelhuemer v Austria*,<sup>102</sup> the Court recognized that proceedings lasting more than 7 years and 5 months (across three levels of jurisdiction) were reasonable, in view of the considerable complexity of the case. The proceedings in *Ivanovas v Latvia*<sup>103</sup> lasted 7 years and 3 months and were also considered reasonable in view of the particular complexity of the case and the fact that the applicant had already served his sentence and that cross-border criminal co-operation was ‘*complicated and time-consuming*’ (*in casu* the appellate proceedings in Latvia continued after the applicant had been expelled to Lithuania). Finally, in *Krakolinig v Austria*,<sup>104</sup> the Court found that the length of the proceedings which lasted more than 25 years was reasonable since this length was ascribable to the applicant’s state of health.

## 5. CONCLUSION

Determining in abstract what is a reasonable length of criminal procedure under the Court’s case law is quite a challenge, taking into account the wide diversity of cases and circumstances. From a purely academic perspective, a perfect conclusion is impossible.

However, an overall review of the case law from a single year shows at least a rather clear trend allowing definition of the beginning and the end of the period to be considered for calculation. The criteria applied to in assessing the reasonable length of proceedings are also well established.

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been considered reasonable: *Horych v Poland*, No. 13621/08, 17 April 2012 (5 years 6 months for 2 levels of jurisdiction); *Ghiță v Romania* (decision), No. 18817/04, 25 September 2012 (6 years 5 months for 3 levels of jurisdiction and 2 cycles of proceedings); *Borodin v Russia*, No. 41867104, 6 November 2012 (5 years 3 months for 2 levels of jurisdiction).

<sup>101</sup> *Dementjeva v Latvia* (decision), No. 17458/10, 13 March 2012.

<sup>102</sup> *Breinesberger and Wenzelhuemer v Austria* (decision), No. 46601/07, 27 November 2012.

<sup>103</sup> *Ivanovas v Latvia* (decision), No. 25769/02, 4 December 2012.

<sup>104</sup> *Krakolinig v Austria* (decision), No. 33992/07, 10 May 2012.

The criteria ‘against’ reasonableness are the fact that: (1) the accused/suspect was held in custody during the proceedings, (2) the case is not complex, (3) no or only minor delays are attributable to the applicant conduct, (4) the case has been pending at the investigation stage or before only one level of jurisdiction and (5) delays are attributable to the national authorities. Conversely, the criteria ‘in favour’ of reasonableness are the fact that: (1) the accused/suspect was not held in custody during the proceedings, (2) the case is complex, (3) delays are attributable to the applicant’s conduct, (4) the case has been pending before several levels of jurisdiction and (5) no or only minor delays are attributable to the national authorities. Logically, the longer the proceedings lasted the more criteria in favour of reasonableness should be fulfilled for the Court to find with the State.

Yet, the prioritisation and weight given to the differing criteria vary from case to case. In fact, the finding of the Court looks sometimes hardly logical and Cartesian, as it rarely gives detailed reasons on how the criteria interact. Moreover, the Court decides quite surprisingly on certain cases when analysing the ‘manifestly ill-founded’ admissibility requirement, while those cases are obviously not ‘manifestly ill-founded’. This tendency seems set to have continued in 2013, as illustrated by the decisions *Dobaj v Slovenia*<sup>105</sup> (in which the proceedings lasted 6 years and 2 months across four levels of jurisdiction) and *Krawczak v Poland*<sup>106</sup> (in which the proceedings lasted 6 years and 9 months across three levels of jurisdiction).

In sum we conclude on a 3–5–7 schematic: below 3 years, the length of the procedure is deemed reasonable; above 7 years, the length of the procedure has been, in the large majority of cases, considered as unreasonable, at least in 2012.

The threshold between reasonable and unreasonable thus hinges around 5 years. This is where the different criteria interact in a difficult puzzle and where predicting an outcome seems the most hazardous.

Determining the reasonableness of criminal procedure’s length is not an exact science. At least the present analysis and its 3–5–7 conclusion may help those practitioners who want some answers to their questions on what is, theoretically, an acceptable length of criminal proceedings and under which circumstances. Like a rugby scrum, if it is sometimes easy to define the lines at the beginning of the action, the game quickly makes things blurred. But without the lines, there is no game at all.

<sup>105</sup> *Dobaj v Slovenia* (decision), No. 30157/08, 5 March 2013.

<sup>106</sup> *Krawczak v Poland* (decision), No. 10697/11, 15 January 2013.

When Does the Length of Criminal Proceedings Become Unreasonable According to the ECtHR?

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Svinarenko and Slyadnev v Russia</i> Nos 32541/08 and 43441/08 11 December 2012	6 years 10 months/ 6 years 6 months	2 levels	The case was very complex (number of counts, accused, victims and witnesses – many of whom resided far from the location of the trial, numerous expert reports and nature of the charges). Even though there were delays for which the applicants or their co-defendants were 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 amounting at least to about a year. This was during the period the applicants were detained on remand.	Not reasonable
<i>Struc v the Republic of Moldova</i> No. 40131/09 4 December 2012	3 years 10 months	3 levels	The case was of a certain complexity (two accused and three separate alleged crimes). The case was sent twice for a rehearing by the second-instance court, both times for essentially the same reason. However, the overall duration of the proceedings was relatively short, the case was complex, it was examined at 3 levels of jurisdiction, with a final judgment adopted in less than 4 years and compensation has been awarded by the domestic courts.	Reasonable
<i>Gürceğiz v Turkey</i> No. 11045/07 15 November 2012	over 7 years	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>E.M.B. v Romania</i> No. 4488/03 13 November 2012	10 years 4 months (still pending)		The case was complex (number of accused). No single judicial decision has been taken on the merits of the case. The only judicial decisions delivered in these proceedings established that the criminal investigation by the prosecutor had been marred by breaches of essential procedural rights and the case was therefore to be referred back to the prosecutor. Yet, it took more than 2 years to establish that the investigation was marred, for reasons that could have been established as early as the first hearings in the case.	Not reasonable
<i>J.M. v Denmark</i> No. 34421/09 13 November 2012	1 year 4 months		The matter did not disclose any appearance of violation of Article 6 and was rejected in accordance with Article 35(4).	Reasonable

<sup>104</sup> This table only includes the judgments – and not the decisions – rendered by the Court during the year 2012, in which the Court examined violations of the reasonable time requirement enshrined in Article 6(1) ECHR in relation with the length of criminal proceedings.

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Beggs v the United Kingdom</i> No. 25133/06 6 November 2012	10 years 3 months	proceedings on appeal only	The proceedings were particularly complex (several grounds of appeal were lodged covering diverse and complex matters, extensive case file, the appeal hearing itself took 8 days and the detailed judgment handed down was 128 pages long). What was at stake for the applicant was of importance, namely a conviction for a serious criminal offence and sentence of life imprisonment with a substantial tariff. A substantial proportion of the delay was attributable to the applicant's own conduct. Further delays were incurred through no fault of either party as a result of clarifications of points of law. The domestic courts were alive to the issue of delay and they were prepared to take steps to expedite the proceedings. However, there were periods of inactivity and failure of the judicial authorities during these periods to take steps to progress matters of their own motion.	Not reasonable
<i>Borodin v Russia</i> No. 41867/04 6 November 2012	5 years 3 months	2 levels	The proceedings were of a certain complexity (number of defendants, authorities' task of collecting and examining substantial forensic evidence). Considerable delays were attributable to the applicant (in particular the adjournments). The authorities demonstrated sufficient diligence in handling the proceedings (the investigation and appeal stages lasted approximately 9 months each, the hearings at the trial stage were held regularly and the adjournments attributable to the authorities did not have a significantly adverse effect on the length of the proceedings as a whole).	Reasonable
<i>Glowacki v Poland</i> No. 1608/08 30 October 2012	16 years 4 months	1 level	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Ardelean v Romania</i> No. 28766/0 30 October 2012	7 years 8 months	3 levels	The case was not particularly complex. The first instance decision was rendered 5 years after the applicant was aware of the existence of the proceedings. This length was excessive even if some adjournments were attributable to the applicant and the claimant. There were delays and quite lengthy periods of inactivity. Even if the phase posterior to the first instance judgement, i.e., 2 years and 8 months for 2 levels of jurisdiction did appear reasonable, the overall length was excessive.	Not reasonable

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Grigoryev v Russia</i> No. 22663/06 23 October 2012	8 years 2 months	2 levels	The case was rather complex. There were delays attributable to the authorities (in particular a period of 1 year and 1 month for the trial court to schedule the first hearing and another 9 months delay). Six different judges had examined the case and the co-defendants' cases were ultimately separated from the applicant's case. The delay resulting from the applicant's own conduct was rather limited compared to the overall length of the proceedings	Not reasonable
<i>Pimentel Lourenço v Portugal</i> No. 9223/10 23 October 2012	5 years 4 months	2 levels	The case presented some complexity (character economic and financial, need of actions with foreign authorities). The complexity did not justify the investigative authorities needing more than 4 years to conclude the investigation.	Not reasonable
<i>Hartman v Slovenia</i> No. 42236/05 18 October 2012	8 years 6 months	4 levels	The case was complex (nature of the offence, number of accused and amount of evidence to be considered). While the first instance court took 2 years and 3 months to deliver a judgment and the appeal court 7 months, the proceedings before the supreme court were pending for almost 4 years. Although acknowledging the substantive size of the case-file and the numerous legal issues that had arisen, deliberating on the matter for 3 years and 8 months was excessive.	Not reasonable
<i>Jurijs Dmitrijevs v Latvia</i> No. 37467/04 2 October 2012	6 years 2 months	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Mitkus v Latvia</i> No. 7259/03 2 October 2012	3 years 4 months	3 levels	Taking into account all the relevant factual and legal elements of the case namely; the complexity of the case; the delays caused by the attempts to ensure the attendance of a witness, and the overall speed with which the case was decided by the supreme court and the senate of the supreme court, the length of the proceedings was reasonable. The complaint was therefore considered manifestly ill-founded and rejected in accordance with Article 35(3)(a) and (4).	Reasonable

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Tarkan Yavař v Turkey</i> No. 58210/08 18 September 2012	10 years 1 month		Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Durmuř and Tařanarık v Turkey</i> No. 54625/09 31 July 2012	12 years 5 months (still pending)	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Kechev v Bulgaria</i> No. 13364/05 26 July 2012	over 5 years/ 3 years 4 months	preliminary investigation	First set of proceedings: While the charges raised against the applicant had a certain factual and legal complexity, it seems not to have had a decisive incidence on the proceedings, which was marked by numerous periods of inactivity. The applicant did not prevent the effective management of the proceedings. Second set of proceedings: There were long periods of inactivity and delays not attributable to the applicant.	Not reasonable (both proceedings)
<i>Yakovlev v Ukraine</i> No. 18412/05 26 July 2012	6 years 4 months	1 level	A great deal was at stake for the applicant as he was in a state of uncertainty as to his legal position and his future throughout the whole period and, furthermore, remained subject to an undertaking not to leave his place of residence. The case was not particularly complex (one criminal charge only, although involving several persons). The applicant merely exercised his procedural rights and the delays attributable to him were insignificant. Repeated remittals of the case for re-investigation (in particular more than 3 years after the case was sent for trial) and prolonged failure of the authorities to produce to the court a case ready for trial. Eventually, the charge against the applicant was dropped by the investigative authorities themselves, without going through judicial review.	Not reasonable
<i>Petko Yordanov v Bulgaria</i> No. 33560/06 26 July 2012	6 years 3 months	3 levels	The case was not complex. No delay was attributable to the applicant except the adjournment of one hearing. There were delays attributable to the authorities during the preliminary investigations. There was an unjustified delay of 3 years and 6 months, during which no activities had been undertaken.	Not reasonable

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Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Grishin v Russia</i> No. 14807/08 24 July 2012	6 years 10 months	2 levels	The case was very complex (number of counts, accused, victims and witnesses – many of whom resided far away from the place the trial was held, as well as expert reports, nature of the charges). Even though there clearly were delays for which the applicant, as well as his co-defendants, were 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 amounting at least to about 1 year, and during that period, the applicant was detained on remand.	Not reasonable
<i>Sizov v Russia (No. 2)</i> No. 58104/08 24 July 2012	4 years 10 months	2 levels	The proceedings were of a certain complexity (scope of the charges, number of defendants). Apart from an adjournment of the proceedings for 5 months (a delay which cannot be considered significant) due to the applicant's illness, the applicant himself did not contribute to the length of the proceedings. They were delays occasioned by witnesses' failure to attend hearing and trial court's failure to ensure their attendance. The appeal courts quashed the applicant's conviction twice. As a result, the applicant had to stand trial three times. The applicant was held in custody pending trial and appeal proceedings against him.	Not reasonable
<i>Hayrettin Demir v Turkey</i> No. 2091/07 24 July 2012	13 years 10 months	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Sarp Kuray v Turkey</i> No. 23280/09 24 July 2012	15 years		Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>D.M.T. and D.K.I. v Bulgaria</i> No. 29476/06 24 July 2012	6 years 2 months	3 levels	The case had a certain complexity (charges). Even if some delays were attributable to the applicant, the main delays (remittals of the case), i.e., 2 years and 6 months, were attributable to the authorities. The applicant was suspended of his functions during the proceedings and he was not permitted to undertake a remunerated activity except in two limited areas.	Not reasonable

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Chyžířský v Poland</i> No. 32287/09 24 July 2012	11 years 8 months (still pending)	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Grigoryan v Armenia</i> No. 3627/06 10 July 2012	5 years 3 months (possibly still pending over 7 years later)	investigation stage	Much was at stake for the applicant as he suffered feelings of uncertainty about his future for a protracted period of time, bearing in mind that he risked a criminal conviction. The case was not of particular complexity (the fact that it involved three accused is in itself not sufficient to make such an assumption). It is not clear if any investigative measures were carried out for 10 months, i.e., until the date on which the proceedings were suspended. Furthermore, nothing in the case file suggests that any investigative measures were carried out following the suspension of the proceedings, that is for at least a 4 years period.	Not reasonable
<i>Mahmut Öz v Turkey</i> No. 6840/08 3 July 2012	over 5 years (still pending)	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Assunção Santos v Portugal</i> No. 6015/09 26 June 2012	8 years 6 months	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Constantin Florea v Romania</i> No. 21534/05 19 June 2012	8 years 5 months	3 levels	There were various delays – in relation to the issue of jurisdiction and numerous referrals of the case between jurisdictions – not attributable to the applicant.	Not reasonable
<i>Ademović v Turkey</i> No. 28523/035 June 2012	10 years 7 months	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Valeriy Kovalenko v Russia</i> No. 41716/08 29 May 2012	3 years 6 months	2 levels	The case was particularly complex (number and nature of counts, number of victims, witnesses and expert examinations). The conduct of the applicant did not prolong the proceedings. Yet it took him nearly 1 year to study the case file. Having regard to the extensive investigation which the case necessitated, the length of the investigation, i.e., 1 year 6 months, was not excessive. Further there was no significant delay during the identified period of approximately 1 year, which in itself does not appear excessive, for court proceedings to have been completed at 2 levels of jurisdiction. The complaint was manifestly ill-founded and rejected in accordance with Article 35(3)(a) and 4.	Reasonable
<i>Idalov v Russia</i> No. 5826/03 22 May 2012	4 years 11 months	2 levels	The proceedings involved a certain degree of complexity (nature of charges and number of defendants). There were delays attributable to the applicant – adjournments. The authorities demonstrated sufficient diligence in handling the proceedings (the investigation stage was completed in 1 year and 8 months, trial hearings were held regularly and the adjournments did not have a significantly adverse effect on the length of the proceedings, the appeal proceedings lasted approximately 6 months).	Reasonable
<i>Hasdemir v Turkey</i> No. 44027/09 22 May 2012	12 years (still pending)	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Sagropoulos v Greece</i> No. 61894/08 3 May 2012	7 years 11 months	3 levels	There was a delay of 1 year and 8 months not attributable to the authorities. There was an unjustified period of inactivity (1 year and 5 months between the end of investigation and first hearing before the tribunal of first instance) attributable to the authorities.	Not reasonable
<i>Seta v Greece and Germany</i> No. 30287/09 3 May 2012	9 years 9 months (still pending)	3 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Ioannis Karagiannis v Greece</i> No. 66609/09 3 May 2012	6 years 9 months	3 levels	There were repeated procedural delays. More than 7 months of the total length of the proceedings before the courts was attributable to the applicant. However, it was not the applicant's conduct alone which contributed to the prolonged length of the proceedings. On the contrary, the actual length of the proceedings without taking into account the applicant's delay, was excessive.	Not reasonable
<i>Mas�r v Slovakia</i> No. 66882/09 3 May 2012	4 years 5 months	pre-trial proceedings	They were delays attributable to the authorities (in particular nearly 14 months to obtain a second expert opinion and another 5 months elapsed before the relevant documents were transferred to the authorities). At that time the criminal proceedings against the applicant had already lasted almost 3 years at pre-trial stage.	Not reasonable
<i>Zelidis v Greece</i> No. 59793/08 3 May 2012	6 years 5 months	3 levels	There was a period of more than 3 years between the applicant's arrest and the publication of the first instance judgment without the State giving any explanation for this length.	Not reasonable
<i>Solovyevy v Russia</i> No. 918/02 24 April 2012	5 years	2 levels	A delay (14 months at least) was attributable to the applicants. Substantial unjustified periods of inactivity or delay (among others 1 year and 5 months; 6 months; 3 months) were attributable to the authorities. The overall period, less the period attributable to the applicant, left the authorities accountable for a period of approximately 4 years.	Not reasonable
<i>Horych v Poland</i> No. 13621/08 17 April 2012	5 years 6 months	2 levels	The case was complex (charges). The investigation (11 months), the first-instance proceedings (3 years and 6 months) and the appellate proceedings (1 year) were terminated without undue delay and could not be considered excessive. The application was inadmissible as being manifestly ill-founded.	Reasonable
<i>Hatzioannidis v Greece</i> No. 51906/09 17 April 2012	8 years	3 levels	It took 3 years from the applicant's arrest until he was sent for trial, without the State providing any relevant explanation for this delay.	Not reasonable

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Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Lambadaris v Greece</i> No. 47112/09 17 April 2012	5 years 9 months	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Çatal v Turkey</i> No. 26808/08 17 April 2012	15 years (still pending)	2 levels	Having examined all the material submitted to it, the Court considered that the length of the criminal proceedings has been excessive.	Not reasonable
<i>Mitrelis v Greece</i> No. 45602/09 17 April 2012	8 years 9 months	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Laitinos &amp; Kalafatis v Greece</i> No. 45658/09 17 April 2012	3 years 9 months	1 level	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Petridou-Katakallidou v Greece</i> No. 3463/09 17 April 2012	7 years 2 months	3 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Dimitar Vasilev v Bulgaria</i> No. 10302/05 10 April 2012	5 years 6 months	2 levels	The case was not particularly complex (although it involved three defendants). The delay attributable to the applicant (four hearings were adjourned) did not appear significant. They were number of delays at the judicial stage, which were attributable to the authorities (in particular a delay of about 1 year because of the remittal of the case and repeated adjournments).	Not reasonable
<i>Michelioudakis v Greece</i> No. 54447/10 3 April 2012	7 years 1 month	3 levels	The case raised no complex factual or legal issues. The overall length of the proceedings (more than 7 years) was excessive, even if some of the adjournments were not attributable to the authorities.	Not reasonable

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Riccardi v Romania</i> No. 3048/04 3 April 2012	9 years (still pending)	1 level	The length of the proceedings was excessive and could not be justified by the complexity of the case and the adjournments requested by the applicant alone. There were repeated procedural delays.	Not reasonable
<i>Syngayevskiy v Russia</i> No. 17628/03 27 March 2012	3 years 8 months	2 levels	The case was of some complexity (nature of the charges, number of defendants and witnesses). There were considerable periods of inactivity attributable to the authorities. The length of the investigation (5 months) was not excessive. However there was a delay of 1 year and 8 months between the end of the investigation and the commencement of trial and delays in the examination of the applicant's appeal attributable to the authorities. The applicant was held in custody during the entire period.	Not reasonable
<i>Serrano Contreras v Spain</i> No. 49183/08 20 March 2012	11 years 1 month	3 levels	The case was of a certain complexity (number of documents to be examined, number of defendants, rogatory commissions). The chronic overload of a court cannot justify the excessive length of the proceedings. There were unjustified periods of inactivity. No reproach could be made to the applicant.	Not reasonable
<i>Aysu v Turkey</i> No. 44021/07 13 March 2012	9 years 7 months	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Zafirov v Greece</i> No. 25221/09 6 March 2012	4 years 7 months	2 levels	The proceedings before the court of appeal lasted more than 3 years and 2 months. The period of 2 years and 6 months from the date the applicant lodged his appeal to the date the case was initially set for hearing was excessive and completely attributable to the authorities.	Not reasonable
<i>Nizamettin Gezer v Turkey</i> No. 16155/04 6 March 2012	7 years 11 months	1 level	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable

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Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>C. v Ireland</i> No. 24643/08 1 March 2012	11 years 4 months	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Dimitar Ivanov v Bulgaria</i> No. 19418/07 14 February 2012	12 years	2 levels	The case was not particularly complex. The authorities were responsible for a large part of the delay as a result of their being inactive for a period of 9 years when the case remained dormant at the pre-trial stage.	Not reasonable
<i>Soulioti v Greece</i> No. 41447/08 7 February 2012	8 years 9 months	3 levels	Even if the delays attributable to the applicant (requests for adjournments) were deducted for the overall length of the proceedings, it remained excessive.	Not reasonable
<i>Vasilev Radev v Greece</i> No. 23211/08 7 February 2012	7 years 1 month (still pending)	3 levels	The proceedings before the court of appeal had lasted at least 4 years.	Not reasonable
<i>Timoshin v Russia</i> No. 41643/04 7 February 2012	3 years 5 months	2 levels	The case was not complex (concerned a single incident). While the total length of the investigation (approximately 18 months) could appear somewhat excessive in a relatively simple case, it was not sufficient by itself to conclude that the authorities failed to conduct the proceedings in an expeditious manner. A large number of hearings had to be adjourned because of the applicant or his counsel's failure to attend. There was no unjustifiable delay in the actions of the authorities. The applicant was not in detention for the most part of the proceedings.	Reasonable
<i>Nakonechnyy v Ukraine</i> No. 17262/07 26 January 2012	10 years 6 months (still pending)	3 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Medeni Uğur v Turkey</i> No. 49651/06 24 January 2012	over 6 years (still pending)	2 levels	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>O. v Ireland</i> No. 43838/07 19 January 2012	13 years 7 months	1 level	Having regards to its case law, the Court considered that the length of the proceedings was excessive.	Not reasonable
<i>Doludaş v Turkey</i> No. 17914/09 17 January 2012	13 years (still pending)	2 levels	The applicant contributed to a prolongation of the proceedings by 6 years through his own failure to appear before the court. The remaining period (7 years before 2 levels of jurisdiction) could not however be explained solely by the delaying conduct of applicant, complexity of the proceedings or number of the accused involved. There were unnecessary delays in the proceedings (number of adjournments and intervals between hearings), for which the authorities were responsible.	Not reasonable
<i>Hasko v Turkey</i> No. 20578/0517 January 2012	11 years 2 months	2 levels	The court of cassation quashed the judgment of the first-instance court on three separate occasions.	Not reasonable
<i>Todoorov v Ukraine</i> No. 16717/05 12 January 2012	6 years 7 months	2 levels	For the entire period of the proceedings the applicant was held in custody. The proceedings were of particular complexity (number of charges and individuals involved). The trial court held over 160 hearings within a 3-year term and produced a judgment of some 200 pages long. These circumstances were not sufficient to justify the entire delay of over 6 years in the resolution of the applicant's case, particularly as he was personally implicated in only two counts of criminal activity. There were several unexplained delays in the proceedings (9 months, 5 months, 6 months and over 1 year).	Not reasonable
<i>Kiryakov v Ukraine</i> No. 26124/03 12 January 2012	5 years 5 months	3 levels	The case was transferred back and forth between the investigative authorities and the first-instance court on four occasions and eventually the charges were dropped and the applicant acquitted. There were restrictions on the applicant's liberty in connection with the fact that he remained on an undertaking not to abscond.	Not reasonable

Case <sup>104</sup>	Total length	Levels of jurisdiction	Motivation	Result
<i>Ustyantsev v Ukraine</i> No. 3299/05 12 January 2012	3 years 6 months/ 3 years 9 months	3 levels/2 levels	The overall length of the proceedings was not excessive. The complaint was manifestly ill-founded and rejected in accordance with Article 35(3)(a) and (4).	Reasonable
<i>Borisenko v Ukraine</i> No. 25725/02 12 January 2012	7 years 5 months (periods during which the applicant was on run excluded)	3 levels	The applicant was kept in custody. The proceedings were of a certain complexity (charges, number of defendants) and required the collection of voluminous evidence. There was a tight schedule of hearings before trial court. However, nearly two-thirds of these hearings were eventually adjourned for various reasons not attributable to the applicant. No investigative activities were carried out in the case for 1 year and 8 months. Another separate and significant delay (1 year and 2 months) was observed.	Not reasonable
<i>Trymbach v Ukraine</i> No. 44385/02 12 January 2012	2 years 1 month	2 levels	The length of the proceedings was not so excessive as to raise an arguable claim under Article 6. The complaint was manifestly ill-founded and rejected in accordance with Article 35(3)(a) and (4).	Reasonable
<i>Jusuif v Greece</i> No. 4767/09 10 January 2012	4 years 9 months	2 levels	The proceedings before the court of appeal lasted more than 3 years and 8 months, which was excessive. In particular, a period of 2 years and 9 months that lapsed from the date the applicant lodged his appeal and the date the case was initially set for hearing was excessive and attributable to the authorities.	Not reasonable
<i>Getimis v Greece</i> No. 58040/09 10 January 2012	7 years 4 months (still pending)	2 levels	The case was complex (charges against 18 persons, number of witnesses and large volume of documents). A number of delays before the court of appeal, where the case was currently pending for more than 4 years, were at least in part attributable to the authorities.	Not reasonable
<i>Shaharov v Bulgaria</i> No. 16391/05 10 January 2012	9 years	2 levels	The most significant delays were due to the repeated adjournment of the trial and the remittal of the case (the majority of them due to reasons beyond the applicant's control).	Not reasonable