

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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<p>Recommendations for Improving the Implementation of the European Convention for Human Rights in Domestic Legal Order: Measures for Addressing Excessive Length of Proceedings</p>

The Commission issued a decision related to the acceleration of the procedures before Courts, in accordance with article 6 of the European Convention for Human Rights, the Recommendations No 2004/5 and 2004/6 of the Committee of Ministers of the Council of Europe and the European Court of Human Rights which not only has issued an “arrêt de principe” *Koudla v. Poland* condemning the latter for the excessive length of its trials on the basis of articles 6 and 13 of the ECHR, but it has also passed many judgements against Greece, the 2/3 of which tackled the problem of the excessive duration of proceedings before the Courts. Consequently, our country had to adopt legal measures providing for a special legal means concerning the excessive duration of trials, especially the administrative ones.

The Commission undertook a complete analysis of the law of most member States of the Council of Europe on the question of excessive duration of judicial procedures, underlying that the overwhelming majority of these laws provide for a special legal means that can be lodged before the Court of a higher instance (or before the same Court where the case is pending) for excessive duration of the trial either during the trial process or after the Court’s decision has been issued. Legal provisions concerning the liability of litigants that have not complied with their

obligations under article 6 of the ECHR or the reduction of the sentence inflicted to the person convicted or the personal liability of the judges that are in delay in issuing court decisions, are also found in many legal systems of the member States of the Council of Europe.

Based on this comparative analysis and on the existing provisions of the Greek Code of Civil Procedure - bearing, also, in mind the provisions of the Greek Constitution- concerning the independence of Judges, the NCHR adopted the following conclusions:

a) *First*, in compliance with article 13 of the ECHR and the jurisprudence of the ECtHR, there should be a special legal means that could be lodged during the main trial and filed by the litigant to the Court of a higher degree on the grounds of the excessive duration of the main trial. This Court (of a higher degree or, in general, the Court which is competent to decide upon the issue of excessive duration) could issue a decision (in the form of a recommendation or of a circular) “urging” the Court, before which the main case is pending, to decide upon it within a reasonable time-limit.

b) *Second*, the litigant that has suffered damages from the excessive length of the trial can claim damages for this delay from the other litigant part, provided that the behavior of the former before the Court has been flawless from the point of view of prompt acting.

c) *Third*, techniques should be provided for and established in order to support judges in carrying out their duties faster, such as the litigants’ obligation to lodge their documents in an electronic form as well.

d) *Fourth*, in case of a penal procedure, there should be a possibility of reducing the sentence of the convicted person if the excessive length of the procedure and the way this procedure took place, contravened articles 6 and 13 of the European Convention of Human Rights, on the condition that the person accused, as well as his/her legal defenders and witnesses acted in accordance with the provisions of the ECHR and that the penalty’s reduction stays in proportion with the damage he suffered from the trial’s delay.

e) *Finally*, our Commission expressed its wish that the Greek State should support the judicial system from the point of view of increasing its personnel and upgrading its technical means, so that “the administration of Justice” would be more efficient according to the provisions of the European Convention of Human Rights and in compliance with the jurisprudence of the European Court of Human Rights.

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