



Tsvina Tetiana Andriivna,
*Candidate of Legal Science,
Assistant of Civil Procedure Department,
Yaroslav Mudryi National Law University,
Ukraine, Kharkiv
e-mail : tsvinat@gmail.com
ORCID 0000-0002-5351-1475*

UDC 347.932

REASONABLE TIME OF A TRIAL AND THE CONCEPTION OF JUDICIAL TIME MANAGEMENT

The paper addresses a reasonable time of a trial as an element of art. 6 (1) of European Convention on Human Rights within the conception of judicial time management. The author analyses specific features of the judicial time management according to the studies of the European Commission for the Efficiency of Justice (CEPEJ).

Keywords: reasonable time of a trial; right to a fair trial; judicial time management; optimum timeframe; foreseeable timeframe.

Цувина Т. А., кандидат юридических наук, ассистент кафедры гражданского процесса, Национальный юридический университет имени Ярослава Мудрого, Украина, г. Харьков.
e-mail : tsvinat@gmail.com ; ORCID 0000-0002-5351-1475

Разумный срок судебного разбирательства и концепция управления временем судебного рассмотрения

В статье рассматриваются вопросы разумных сроков судебного разбирательства как элемента п. 1 ст. 6 Европейской конвенции о защите прав человека и основных свобод в контексте концепции управления временем судебного разбирательства. Автор анализирует особенности управления временем судебного разбирательства согласно документам Европейской комиссии по эффективности правосудия (СЕПЕЖ).

Ключевые слова: разумный срок судебного разбирательства; право на справедливое судебное разбирательство; управление временем судебного разбирательства; оптимальный срок; предполагаемый срок.

Problem setting. A reasonable time of a trial is an element of the right to a fair trial according to the art. 6 (1) of European Convention on Human Rights (ECHR). European Court of Human Rights (ECtHR) interpreted this category in its decisions. In particular, ECtHR determined moments of beginning and ending of such period and qualified criteria of reasonableness, which must be taken into account to evaluate time of a trial as reasonable, such as the complexity of the case, the conduct of the applicant and the relevant authorities and what

was at stake for the applicant in the dispute. At the same time, in our opinion, there are all grounds to consider a reasonable time of a trial as a part of the wider conception of judicial time management in civil procedure.

Recent research and publications analysis. Foreign and Ukrainian scientists such as V. V. Komarov, T. M. Neshataeva, N. U. Sakara, F. Edel and others in their works paid attention to different aspects of problems connected with the right to a fair trial within a reasonable time. The analysis of the literature gives reasons to say that the category of «a reasonable time of a trial» was studied by scientists at least in terms of three main issues: as an element of the right to a fair trial, as a part of a right to access to justice and as one of the indicators of the efficiency of justice. However, studies of a reasonable time of a trial in the context of judicial time management in civil procedure were not conducted.

Paper objective. Main objective of the article is to study a reasonable time of a trial in the context of judicial time management in civil procedure according to the approach of The European Commission for the Efficiency of Justice (CEPEJ).

Paper main body. The reasonable time of a trial, as an imperative of a right to a fair trial, is one of the most significant in terms of the application of the ECHR and enforcement its provisions in judicial practice. The ECtHR emphasizes repeatedly that art. 6 (1) of the Convention imposes on Contracting States the duty to organize their judicial system in such a way that their courts can meet the obligation to decide cases within a reasonable time [1]. Despite some formalization of the concept of the reasonable time, expressed in categorical features mentioned above, the problem of the reasonable time of a trial is not purely formal. It is obvious that the research of the reasonable time of a trial provides an opportunity to reach the broader perspective which has a fundamental value for theoretic conceptualization. This entails a universal methodology of judicial time management in civil procedure, which can overcome the problem of excessive court delays and also ensure the requirements of the ECHR concerning reasonable time of a trial. In this context, the conception of judicial time management is an instrument of reflection of a reasonable time of a trial as a part of a fair trial according to art. 6 (1).

Unfortunately, the activity of CEPEJ and a Centre for judicial time management (SATURN Centre), created in 2007 is almost unknown for Ukrainian national practice. SATURN is aimed at collecting specific information necessary for achieving a sufficiently detailed knowledge of judicial timeframes in the member states enabling them to implement policies aiming to prevent violations of the right to a fair trial within a reasonable time as protected by art. 6 of ECHR [2].

The tasks of SATURN are, firstly, to analyze the quantitative and qualitative situation regarding time management in European courts (case-flow management, timeframes per types of cases, waiting times within proceedings, etc.); secondly, to provide member states with tools for knowledge and analysis of case-flows, backlogs and timeframes of judicial proceedings; thirdly, to promote and assess the implementation in the member states and ensure the updating of the SATURN Guidelines for judicial time management and other relevant CEPEJ's tools [2]. The main conception, which was created and developed by CEPEJ, is the judicial time management.

In our opinion, the judicial time management can be determined as systematic and methodical organization and overall direction of using time of a trial in concrete case by a judge with an active involvement of the parties and other participants of civil procedure for planning the general terms of a trial, the timing of the execution of certain procedural actions to prevent court delays and to process each case within an optimum and foreseeable timeframe. From this point of view, the conception of judicial time management can be seen as a part of a judicial case management and acts as the general model of providing a reasonable time of a trial, thanks to the consistent implementation of which at the level of national legal orders a harmonization of models of national procedural systems takes place.

The result of CEPEJ and SATURN work was a series of documents on the subject, which can be divided into several groups by their themes. The first group consists of studies on the nature and causes of judicial delays. They constitute the basis for the development of methods of judicial time management in accordance with the practice of the ECtHR on violations of reasonable time requirement (Preliminary Draft Report «Delay in Judicial Proceedings: a Preliminary Inquiry into the Relation between the Demands of the Reasonable Time Requirements of Article 6.1 ECHR and their Consequences for Judges and Judicial Administration in the Civil, Criminal and Administrative Justice Chains» [3], the Report on «Length of Court Proceedings in the Member States of the Council of Europe based on the Case-law of the ECHR» [4]).

The second group includes documents enshrining principles and methodological foundations of judicial time management (Framework Program «A New Objective for Judicial Systems: the Processing of Each Case within an Optimum and Foreseeable Timeframe» [5]; The Checklist for Time Management [6]; Compendium of Best Practices on Time Management of Judicial Proceedings [7]; Questionnaire on Common Case Categories, Judicial Timeframes and Delays [8]; Revised SATURN Guidelines for Judicial Time Management [9]; A Guide for Implementing the SATURN Time Management Tools in Courts [10]).

The third group includes the generalizations of the use of judicial time management in different countries (The Report on «Time Management in Judicial Systems: A Northern Europe study» [11]; Reports on the Implementation of the CEPEJ Guidelines for Judicial Time Management in 7 Pilot Courts / Institutions [12]; Implementation of SATURN Time Management Tools – Synthesizing Report from Seven Test Projects [13]; SATURN Guidelines for Judicial Time Management Comments and Implementation Examples [14]).

The analysis of these studies enables to outline the main issues of the judicial time management: 1) formation of principles and foundations of the concept of judicial time management; 2) development of the concept of an optimum and foreseeable timeframe as a key element of judicial time management; 3) working out qualitative and quantitative indicators of timeliness of a trial; 4) introduction of certain methods of judicial time management; 5) development of a list of priority or urgent cases, which should be considered in reduced time.

According to CEPEJ approach, the goal of judicial time management must be the timeliness of judicial proceedings, which means cases are managed and then disposed in due time, in optimum and foreseeable timeframe. An optimum timeframe of a trial is defined on the basis of monitoring standard term, usually needed to conduct cases of some particular category, which satisfies the society and the parties. A foreseeable timeframe is a timeframe, expected end of which is known for litigants from the beginning of a trial. Such quality timeframe gains due to the fact that there is standards of the optimum timeframe for a particular category of cases, which helps litigants to be able to foresee the completion date of the process. Besides this, a foreseeability of a timeframe is connected with the ability of parties to influence actively on the time management of their trial by speeding it up or slowing it down due to the conclusion of an agreement on the duration of proceedings, the procedural calendar etc.

Timeframes are inter-organisational and operational tools to set measurable targets and practices for timeliness case proceedings. Inter-organisational means that since the length of judicial proceedings is the result of the interplay between different players (judges, administrative personnel, lawyer, expert, witnesses etc.), timeframes have to be goals shared and pursued by all of them. Therefore, if the issue at stake is to tackle length of proceedings, it seems more appropriate to talk of «timeliness case processing» rather than «timeliness court processing». Operational tools means that there are targets to measure to what extent each court, and more generally the administration of justice, meets the timeliness of case processing, fulfilling the principle of fair trial within a reasonable time stated by the ECtHR [7]. In such theoretical context according to the standards of a reasonable time of a trial, developed in practice of ECtHR, the goal of the conception of judicial time management becomes timeliness of judicial proceedings, and a timeframe becomes an operational tool for its determination.

Achieving this goal is conditioned by a number of measures that reflect the essence of the conception of judicial time management. The analysis of CEPEJ studies shows that such measures are, in particular:

1) setting up an optimum timeframe of a trial (setting up in the ground of monitoring recommended and optimum timeframes of a trial for different categories of cases, different stages of civil procedure, developing a list of priority cases that should be conducted in short timeframes);

2) providing the effective mechanisms of impact to the timeframes of the trial (establishment of the post of court manager, who helps judges to implement methods of judicial time management; introduction of effective preventive and compensatory remedies of the right to a fair trial within a reasonable time; establishment of mechanisms for speeding up the proceedings, if there are judicial delays);

3) monitoring and dissemination of data on the effectiveness of time management (monitoring of so-called «working» and «inactive» time of a judge, creating transparency of data on court proceedings, the use of quantitative and qualitative indicators of effectiveness of judicial time management);

4) using procedural case management policies (stakeholders involvement in drafting court procedural guidelines; using judicial procedures according to complexity of the case, where the typical procedure should be based on no more than two hearings; active role of a judge in managing future proceedings in accordance with the principle of judicial case management; strict policy to minimize adjournments; arranging early meetings between parties; enforcement of timetables to present evidence; use of audio and video technology in court proceedings etc.);

5) usage of caseload and workload policies (forecast and monitoring of caseload and workload capacity of the courts; encouraging alternative dispute resolution and an early settlement between the parties; filtering and deflective tools to limit the number of cases to be filed in courts; establishing and developing of discretionary prosecution; increasing the use of a single judge instead of a panel; flexible case assignment system; limitation of extra judicial activities dealt with by the judges and by the courts etc).

General principles of conception of judicial time management are transparency and foreseeability; an optimum length; planning and collection of data; flexibility; loyal collaboration of all stakeholders. Guidelines for judges are active case management; timing agreement with the parties and lawyers; co-operation and monitoring of other actors (experts, witnesses etc.); suppression of procedural abuses; the reasoning of judgments [9].

Analyzing European systems of justice, CEPEJ also proposed quality indicators, the presence of which indicates the attempts of states to promote the application of a reasonable time of a trial, such as priority cases and urgent procedures, simplified procedures, modalities of proceedings.

In civil law, urgent procedures are mostly related to the following situations: to prevent imminent danger or irreversible damage to the claimant or to secure evidence. Also there are priority cases, which should be conducted in appropriate time, such as disputes where an interim/preliminary decision is necessary, employment disputes, matrimonial cases, alimony disputes, cases concerning the protection of rights and welfare of children and minors etc. [14, p. 258-259]. In Ukraine according to the art. 157 of Civil Procedure Code only two categories of cases are urgent - employment and alimony disputes, they should be conducted a trial in one month.

Also an indicator of effectiveness of justice is simplified procedures, which can be of different types: judicial decision without hearing or hearing in the judge's office, decision by a single judge, accelerated procedure, simplified judgment, etc. In many states, the simplified procedure in civil cases refers to payment orders and/or small claims' procedures. In addition, the member states of the European Union are subject to the European Small Claims Procedure designed to simplify and speed up litigation concerning small claims in cross-border cases, and to reduce costs (the European Small Claims Procedure is available to litigants as an alternative to the procedures existing under the laws of the member states of the EU). It can also be an order to do something (France) [14, p. 259-260].

One more indicator of effectiveness of judicial case management is modalities of the procedure. To improve the efficiency of judicial proceedings, the

parties (and their lawyers) should be free to negotiate with the judge how to process a case. Such action can be presentation of information/evidence in court, setting hearing dates, questions of law and fact that can be accepted by the parties before the hearing, setting a date of mailing of the findings of a lawyer to a court, reduced time limits prescribed by law or established by the court with the agreement of the parties or use of judicial mediation and an accelerated settlement of a civil litigation [14, p. 260].

Of course, for Ukrainian justice those problems are largely theoretical, not practical. However, today there is a real practice of mediation in Ukraine. Thus, in the framework of the Council of Europe «Transparency and efficiency of the judicial system» in four pilot courts (Bilotserkivskiy City Court of Kyiv region, District Administrative Court of Vinnitsa, Donetsk Administrative Court of Appeal, Ivano-Frankovsk City Court) there was an implementation of court mediation procedures. For the period from 5 July 2010 to 15 November 2010 83 cases were referred to mediation, in 50 cases mediation occurred, in 36 cases mediation ended successfully and in 33 cases parties signed mediation agreement [15]. In our opinion, there is a great potential of introducing mediation procedures in civil cases as one of the alternative dispute resolution methods in the Ukrainian practice. The implementation of alternative methods of civil proceedings at national practice should be one of the priorities for improving the efficiency of civil procedure.

An implementation of concept of judicial time management takes place in pilot courts in different countries of Council of Europe. One of the courts, which implemented such an approach, was the Court of First Instance of Turin. The goal of implementation of such approach was to dramatically decrease the length of civil proceedings. In particular, the objective was zeroing the more than three-year-old pending cases in order to avoid the starting of compensation damages proceedings. As of April 2009, the periodical report of the Turin court showed that less than 5% of all the civil cases still pending were more than three years old, and 85% of the civil caseload was not more than two years old [16, p. 20-21]. Such indicators show the effectiveness of judicial time management in this country.

Nowadays some reorientation of theory and practice from a reasonable time of a trial to an optimum and foreseeable timeframe is very important, and it is associated with the concept of judicial time management in civil procedure, which is the common trend for the majority of the States-parties of the ECHR. Such situation in no way represents a departure from previous notions of reasonableness of time of a trial in the context of the right to a fair trial, but rather proves its evolution and transformation. It can be proved by the usage of criteria of a reasonable time of a trial, developed in case-law of the ECtHR, to determine an optimum and foreseeable timeframe of a trial and a list of priority and urgent cases, the introduction of effective remedies to protect the violated right to a fair trial within a reasonable time etc.

According to above mentioned, a reasonable time of a trial is an optimum and foreseeable timeframes, which are objectively necessary for a fair trial, and which are estimated in each case having regard to the circumstances of the particular case

and on the basis of the criteria, developed in the jurisprudence of the ECtHR, such as: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute.

Taking this into account, along with the requirement of compliance with the provisions of the ECHR and the effective application of ECtHR case law regarding the reasonable time of a trial in civil proceedings at national courts, it is necessary to research and implement into national practice the concept of judicial time management in civil procedure.

The analysis of SATURN studies showed that they proposed a very large amount of time management tools, that warranted the adoption of a certain methodology in their application. In our opinion, for the implementation in Ukraine it is necessary to choose such tools, which would best fit the national system of civil procedure and at the early stages could be implemented with the least loss, setting the stage for further, more fundamental changes.

We believe that in Ukrainian civil procedure the following elements of the conception of judicial time management can be applied most successfully:

- monitoring to determine the optimum timeframes of judicial proceedings in concrete categories of cases as standards;
- development of a list of priority cases and urgent procedures in accordance with the practice of the ECtHR, which should be conducted in a shorter period;
- intensification of role of a judge in time management and a clear position to minimize timeframes of a trial;
- ensuring the foreseeable timeframes through the development of schedules of a trial, different stages of civil procedure with the active participations of litigants;
- using the CEPEJ methodologies of measuring the effectiveness of time management for monitoring the implementation of the judicial time management in civil procedure;
- encouraging the use of mediation and other methods of alternative dispute resolution in civil cases.

Список літератури:

1. *Bakiyevets v. Russia*, no. 22892/03, § 48, 15 June 2006 [Електронний ресурс]. – Режим доступу : <http://hudoc.echr.coe.int/eng?i=001-75840>.
2. Terms of reference of the Steering group of the SATURN Centre for judicial time management, renewed by the CEPEJ at its 22nd plenary meeting [Електронний ресурс]. – Режим доступу: http://www.coe.int/t/dghl/cooperation/cepej/Delais/mandat_2014_2015_en.asp.
3. Delay in Judicial Proceedings: a Preliminary Inquiry into the Relation between the Demands of the Reasonable Time Requirements of Article 6.1 ECHR and their Consequences for Judges and Judicial Administration in the Civil, Criminal and Administrative Justice Chains / Preliminary Draft Report by M. Fabry and Ph. Langbroek. [Електронний ресурс]. – Режим доступу: <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/FabriLangbroek.pdf>.
4. Report on «Length of Court Proceedings in the Member States of the Council of Europe based on the Case-law of the ECHR», CEPEJ(2006)15 [Електронний ресурс]. – Режим доступу : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2006\)15&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2006)15&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).
5. Framework Program «A New Objective for Judicial Systems: the Processing of Each Case within an Optimum and Foreseeable Timeframe», CEPEJ(2004)19Rev [Електронний ресурс]. –

Режим доступу : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2004\)19&Language=lanEnglish&Ver=rev2&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2004)19&Language=lanEnglish&Ver=rev2&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

6. The Checklist for Time Management, CEPEJ(2005)12 [Електронний ресурс]. – Режим доступу : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2005\)12&Language=lanBosnian&Ver=rev&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2005)12&Language=lanBosnian&Ver=rev&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

7. Compendium of Best Practices on Time Management of Judicial Proceedings, CEPEJ(2006)13 [Електронний ресурс]. – Режим доступу: [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2006\)13&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2006)13&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

8. Questionnaire on Common Case Categories, Judicial Timeframes and Delays, CEPEJ-SATURN(2007)3E [Електронний ресурс]. – Режим доступу : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ-SATURN\(2007\)3&Language=lanEnglish&Site=&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ-SATURN(2007)3&Language=lanEnglish&Site=&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864).

9. Revised SATURN Guidelines for Judicial Time Management, CEPEJ(2014)16 [Електронний ресурс]. – Режим доступу: [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2008\)8Rev&Language=lanEnglish&Ver=original&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2008)8Rev&Language=lanEnglish&Ver=original&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6).

10. A Guide for Implementing the SATURN Time Management Tools in Courts, CEPEJ(2015)18 [Електронний ресурс]. – Режим доступу: [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2015\)18&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2015)18&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864).

11. The Report on «Time Management in Judicial Systems: A Northern Europe study», CEPEJ(2006)14 [Електронний ресурс]. – Режим доступу: [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2006\)14&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2006)14&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

12. Reports on the Implementation of the CEPEJ Guidelines for Judicial Time Management in 7 Pilot Courts / Institutions, CEPEJ-SATURN(2011)1 [Електронний ресурс]. – Режим доступу: <https://wcd.coe.int/ViewDoc.jsp?id=1854989&Site=COE>.

13. Implementation of SATURN Time Management Tools – Synthesizing Report from Seven Test Projects, CEPEJ-SATURN(2011)2 [Електронний ресурс]. – Режим доступу : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ-SATURN\(2011\)2&Language=lanEnglish&Site=&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ-SATURN(2011)2&Language=lanEnglish&Site=&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864).

14. SATURN Guidelines for Judicial Time Management Comments and Implementation Examples, CEPEJ-SATURN(2015)2 [Електронний ресурс]. – Режим доступу: http://www.coe.int/t/dghl/cooperation/cepej/Delais/2_2015_Saturn_Guidelines_commentsimplementation.pdf.

15. European Judicial Systems. Edition 2014 (2012 data). European Commission for the Efficiency of Justice (CEPEJ). – Council of Europe, Belgium, 2014. – 545 p.

16. Прозорість і ефективність судової системи України : матеріали для підготовки медіаторів із кола суддів Верховного Суду України, Вищих спеціалізованих судів та представників вищих навчальних закладів у рамках реалізації спільної програми Європейського Союзу та Ради Європи (20-25 березня 2011 р.) – Київ, 2011. – 300 с.

17. Fabri M. The Italian Maze Towards Trials within Reasonable Time / M. Fabri // The Right to Trial within a Reasonable Time and Short-term Reform of the European Court of Human Rights: Round Table Organized by the Slovenian Chairmanship of the Committee of Ministers of the Council of Europe, Bled, Slovenia, 21-22 September 2009. – Ljubljana: Ministry of Foreign Affairs: Ministry of Justice, 2009. – P. 12-23.

References:

1. Bakiyevets v. Russia, no. 22892/03, § 48, 15 June 2006. – Retrieved from: <http://hudoc.echr.coe.int/eng?i=001-75840>.

2. Terms of reference of the Steering group of the SATURN Centre for judicial time management, renewed by the CEPEJ at its 22nd plenary meeting. – Retrieved from: http://www.coe.int/t/dghl/cooperation/cepej/Delais/mandat_2014_2015_en.asp.

3. Delay in Judicial Proceedings: a Preliminary Inquiry into the Relation between the Demands of the Reasonable Time Requirements of Article 6.1 ECHR and their Consequences for Judges and Judicial Administration in the Civil, Criminal and Administrative Justice Chains / Preliminary Draft Report by M. Fabry and Ph. Langbroek. – Retrieved from: <http://siteresources.worldbank.org/INT-LAWJUSTINST/Resources/FabriLangbroek.pdf>.

4. Report on «Length of Court Proceedings in the Member States of the Council of Europe based on the Case-law of the ECHR», CEPEJ(2006)15. – Retrieved from : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2006\)15&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2006)15&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

5. Framework Program «A New Objective for Judicial Systems: the Processing of Each Case within an Optimum and Foreseeable Timeframe, CEPEJ(2004)19Rev. – Retrieved from : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2004\)19&Language=lanEnglish&Ver=rev2&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2004)19&Language=lanEnglish&Ver=rev2&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

6. The Checklist for Time Management, CEPEJ(2005)12. – Retrieved from : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2005\)12&Language=lanBosnian&Ver=rev&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2005)12&Language=lanBosnian&Ver=rev&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

7. Compendium of Best Practices on Time Management of Judicial Proceedings, CEPEJ(2006)13. – Retrieved from : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2006\)13&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2006)13&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

8. Questionnaire on Common Case Categories, Judicial Timeframes and Delays, CEPEJ-SATURN(2007)3E. – Retrieved from : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ-SATURN\(2007\)3&Language=lanEnglish&Site=&BackColorInternet=DBDCF2&BackColorIntranet=FD-C864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ-SATURN(2007)3&Language=lanEnglish&Site=&BackColorInternet=DBDCF2&BackColorIntranet=FD-C864&BackColorLogged=FDC864).

9. Revised SATURN Guidelines for Judicial Time Management, CEPEJ(2014)16. – Retrieved from : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2008\)8Rev&Language=lanEnglish&Ver=original&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2008)8Rev&Language=lanEnglish&Ver=original&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6).

10. A Guide for Implementing the SATURN Time Management Tools in Courts, CEPEJ(2015)18. – Retrieved from: [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2015\)18&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FD-C864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2015)18&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FD-C864&BackColorLogged=FDC864).

11. The Report on «Time Management in Judicial Systems: A Northern Europe study», CEPEJ(2006)14. – Retrieved from: [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2006\)14&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2006)14&Language=lanEnglish&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679).

12. Reports on the Implementation of the CEPEJ Guidelines for Judicial Time Management in 7 Pilot Courts/Institutions, CEPEJ-SATURN(2011)1. – Retrieved from: <https://wcd.coe.int/ViewDoc.jsp?id=1854989&Site=COE>.

13. Implementation of SATURN Time Management Tools – Synthesizing Report from Seven Test Projects, CEPEJ-SATURN(2011)2. – Retrieved from : [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ-SATURN\(2011\)2&Language=lanEnglish&Site=&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ-SATURN(2011)2&Language=lanEnglish&Site=&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864).

14. SATURN Guidelines for Judicial Time Management Comments and Implementation Examples, CEPEJ-SATURN(2015)2. – Retrieved from: http://www.coe.int/t/dghl/cooperation/cepej/Delais/2_2015_Saturn_Guidelines_commentsimplementation.pdf.

15. European Judicial Systems. Edition 2014 (2012 data). European Commission for the Efficiency Justice (CEPEJ). – Council of Europe, Belgium, 2014. – 545 p.

16. Prozorist' i efektyvnist' sudovoyi systemy Ukrainy : materialy dlya pidhotovky mediatoriv iz kola suddiv Verkhovnoho Sudu Ukrainy, Vyshchykh spetsializovanykh sudiv ta predstavnykiv

vyschchykh navchal'nykh zakladiv u ramkakh realizatsiyi spil'noyi prohramy Yevropeys'koho Soyuzu ta Rady Yevropy [Transparency and efficiency of the judicial system of Ukraine: materials for training mediators from the circle of the Supreme Court of Ukraine, the High specialized courts and representatives of higher education institutions in the framework of a joint program of the European Union and Council of Europe] (20-25 bereznya 2011.) – Kyiv, 2011. – 300 p. [in Ukrainian].

17. Fabri M. The Italian Maze Towards Trials within Reasonable Time, in The Right to Trial within a Reasonable Time and Short-term Reform of the European Court of Human Rights: Round Table Organized by the Slovenian Chairmanship of the Committee of Ministers of the Council of Europe, Bled, Slovenia (21-22 September 2009). – Ljubljana: Ministry of Foreign Affairs; Ministry of Justice, 2009. – pp. 12-23.

Цувіна Т. А., кандидат юридичних наук, асистент кафедри цивільного процесу Національний юридичний університет імені Ярослава Мудрого, Україна, м. Харків.

e-mail: tsuvinat@gmail.com ; ORCID 0000-0002-5351-1475

Розумний строк судового розгляду та концепція керування часом судового розгляду

Розумний строк судового розгляду є невід'ємним елементом права на справедливий судовий розгляд, закріпленого у п. 1 ст. 6 Європейської конвенції про захист прав людини та основоположних свобод. Поряд із цим, наразі є всі підстави говорити про те, що поняття розумних строків судового розгляду має розглядатися як елемент більш широкої концепції з керування часом судового розгляду у цивільному судочинстві, розробленої Європейською комісією з ефективності правосуддя.

Різним аспектам дослідження поняття розумного строку судового розгляду була приділена увага у працях таких вітчизняних та зарубіжних вчених, як Ф. Едель, В. В. Комаров, Т. М. Нешатаєва, О. Б. Прокопенко, Н. Ю. Сакара та ін. Однак дослідження розумного строку судового розгляду у контексті концепції керування часом судового розгляду у цивільному судочинстві не проводилось.

Мета статті полягає у дослідженні поняття розумного строку судового розгляду у контексті концепції керування часом судового розгляду в цивільному судочинстві.

Концепція керування часом судового розгляду розроблена Європейською комісією з ефективності правосуддя та створеним при ній Центром з керування часом судового розгляду SATURN. Йдеться про вироблення універсальної методології з керування часом у цивільному судочинстві, яка дозволяє подолати проблему надмірних судових затримок та сприяє дотриманню вимог ЄКПЛ щодо розумності строків судового розгляду на національному рівні. Центральним компонентом зазначеної концепції є поняття оптимального та передбачуваного строку судового розгляду справи, що є певною трансформацією розумного строку судового розгляду як елемента права на справедливий судовий розгляд.

Наразі є важливою певна переорієнтація теорії і практики з розумних строків судового розгляду на оптимальні та передбачувані строки, впровадження яких пов'язується з концепцією керування часом судового розгляду, що є загальною тенденцією для більшості держав-учасниць Європейської конвенції про захист прав людини та основоположних свобод. При чому така ситуація жодним чином не свідчить про відмову від попереднього поняття розумності строків у контексті права на справедливий судовий розгляд, а навпаки, свідчить про певну його еволюцію та трансформацію. Підтвердженням цьому є насамперед використання критеріїв розумності строків, вироблених у прецедентній практиці Європейського суду з прав людини, для встановлення оптимальних строків судового розгляду, визначення переліку пріоритетних справ, запровадження ефективних засобів правового захисту порушеного права на розгляд справи впродовж розумного строку тощо.

Ключові слова: розумний строк судового розгляду; право на справедливий судовий розгляд; керування часом судового розгляду; оптимальний строк; передбачуваний строк.

Надійшла до редколегії 10.02.2016 р.