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Judicial proceedings within a reasonable time: European experience and Ukrainian realities

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Abstract
The study addresses the increasing number of appeals against Ukraine to the European Court of Human Rights, most of which highlight violations of the right to a fair trial within a reasonable time. The purpose of the study is to clarify the content of procedural time limits for criminal proceedings and conduct a comparative analysis of legislative approaches in European countries to regulate the mentioned issues. The methodological basis of the study is the principle of consistency, within which the methods of comparative and system-structural analysis, synthesis, logical-legal, statistical and heuristic methods were used. The study explores the existing legislative shortcomings related to ensuring reasonable time frames for criminal justice and investigates problematic issues for its improvement. It is noted that the previous criminal procedural legislation did not declare the principle of reasonable time for criminal proceedings and lacked means for its enforcement. The necessity of ensuring judicial proceedings within a reasonable time is declared in Articles 21, 28, and 318 of the Criminal Procedure Code of Ukraine. Emphasis is placed on the interconnection between reasonable time and the continuous nature of judicial proceedings, considering the proceedings as a whole to ensure their prompt conclusion. The absence of procedural safeguards in Ukrainian legislation against unjustified delays in the trial of criminal proceedings in the first-instance court is highlighted. The study analyses the legal provisions of national criminal procedural legislation and the regulatory framework of European countries (Bulgaria, Estonia, Italy, Croatia). The necessity of strengthening guarantees for timely justice is substantiated. A set of measures to ensure the time parameters of the trial in the first-instance court is proposed, encompassing both organisational and procedural guarantees. The need for establishing a justified legislative procedure for expediting judicial proceedings in case of violations of the accused's and the victim's right to a reasonable time for conducting criminal proceedings is justified. The practical value of the study lies in the fact that its results and recommendations can be utilised for the reform of the judicial system

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Introduction

The declaration by the legislator of the principle of reasonable time frames for criminal proceedings as a whole and judicial proceedings in particular aims to ensure procedural discipline, continuity, consistency, systematicity, and efficiency in conducting the main stage of criminal proceedings – the judicial process. However, timely judicial proceedings are often not realised in practice and can sometimes have unpredictable consequences. Slow justice can actually be caused by objective factors, as criminal proceedings vary in complexity. Some cases are complex due to the large number of evidence that needs investigation, while others involve numerous defendants. Moreover, the complexity of individual cases is determined by the weight of factual and legal issues that need resolution during the judicial process. This complexity is often the sole reason for the excessive duration of the trial procedure. Therefore, among the common factors influencing the duration of the procedure are various obstacles, which sometimes can be justified. However, in some cases, delays in the judicial process are intentional actions aimed at prolonging the resolution of the substantive proceedings. Efforts by the defence party to extend criminal proceedings for as long as possible, possibly even until the expiration of the statute of limitations for criminal prosecution, are not uncommon.

Several researchers have dedicated their works to the issue of compliance with reasonable time frames during criminal proceedings. For instance, N. Pascucci (2020) investigates this principle as an objective and subjective guarantee, along with its correlation with other constitutional guarantees of fair trial, analysing the main difficulties of the current legislation in achieving swift and fair justice using official data on the quantity and duration of criminal proceedings. O.M. Skryabin (2020), based on the analysis of studies, proposed objective criteria for the reasonableness of time frames, including the recipient, method of determination, calculation method, stages of the process, and more. Scientific approaches to ensuring reasonable time frames during pre-trial proceedings were the subject of A. Pakhlevanzadeh's (2021) scientific reflection. Yu.Yu. Ivchuk (2022) examined reasonable time frames as a principle of criminal proceedings, focusing on the features and shortcomings of its implementation in pre-trial investigations, drawing on the practice of the European Court of Human Rights and the provisions of the current criminal procedural legislation. P.V. Zhovtan & A.A. Kapitsa (2021) examined the implementation of legislative requirements regarding compliance with reasonable time frames through the prism of the mechanism for exercising the right to challenge reasonable time frames in criminal proceedings during the pre-trial investigation stage. V. Kushnerov (2020), exploring the issue of conducting criminal proceedings within reasonable time frames, concluded that the least problems in this area arise during pre-trial proceedings due to the legislation establishing clearly defined deadlines for pre-trial investigation, prosecutorial supervision, and judicial control over compliance with deadlines, as well as the possibility of holding guilty parties accountable.

Considering that the reasonableness of procedural time frames is an interdisciplinary legal institution, it is noteworthy that it is the subject of research in other areas of procedural law. For example, S.V. Dyachenko & N.O. Zborovska (2019), examining the content of reasonable time frames in civil proceedings, defines it as an evaluative concept, a legal postulate that arose based on Article 6(1) of the Convention for the Protection of Human Rights[1] and decisions of the European Court of Human Rights regarding its interpretation, serving as a perfect example of justice administration. V.V. Boyko (2022b) confirms that the term for the reasonable resolution of any case by any court, as well as overall judicial proceedings, is determined from the beginning of the case's consideration by the court of first instance to its completion in the court of cassation. M.V. Dzhafarova (2020), examining the issue of procedural time frames in connection with the timely resolution of administrative cases, notes that the institution of procedural time frames in the procedural-legal context performs various functions, such as regulatory, protective, defensive, stimulating, stabilising, and preventive. This institution contributes to the timely conduct of the judicial process, influences the achievement of its tasks and goals, optimally determines the duration of its forms, stages, and individual procedural actions. As a result, priorities for further improvements in the temporal characteristics of this type of judicial activity can be identified.

In light of the above, it appears that the issue of promptness and timeliness of judicial review of criminal proceedings remains unresolved both at the legislative level and in legal practice. Therefore, the purpose of this study is the theoretical consideration of legislative regulation of procedural time frames for judicial review of criminal proceedings and conducting a comparative analysis of legislative approaches of European countries to regulate the announced issues.

Literature Review

The analysis of specialised sources on the announced issue illustrates the scholarly search for a balanced model of effective justice, which includes the realisation of both swift and objective judicial proceedings. A.V. Lapkin (2018) highlighted the role of the court in ensuring reasonable time frames for judicial proceedings, addressing the issue of compliance with these time frames during court hearings. On the other hand,

[1] European Convention on Human Rights. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004.

O.G. Yanovska (2016) discussed issues related to compliance with reasonable time frames during the preparatory stage of judicial proceedings, considering reasons for violating temporal rules, such as sending the indictment back to the prosecutor, postponing the preparatory court hearing by the judge, and violating deadlines for scheduling court hearings. P.D. Guivan (2019), investigating the content and essence of the principle of reasonable time for case consideration by the court, concluded that new legislative changes did not contribute to improving the situation with unjustified delays in the judicial process. Using specific court cases as examples, he emphasised shortcomings in the national justice system in terms of the timeliness of initiating investigations, forming complete texts, and sending court decisions to participants in the judicial process.

Organisational issues of the efficiency of Italian courts in terms of the duration of court proceedings were examined by A. Peyrache & A. Zago (2016), who concluded that the average duration of court proceedings in Italy varies from region to region. In the poorest and less industrially developed southern regions, the average duration of court proceedings is twice as long as in wealthier and more industrially developed northern regions. G. Coretti (2022) analysed the Cartabia reform, which took place in 2021 and involved targeted measures by the Italian state aimed at reasonably speeding up justice. On the other hand, F. Falato (2021) focused on the implementation of the right of the victim to a timely court hearing. L.A.D.S. Gruginskie & G.L.R. Vaccaro (2018) dedicated their study to exploring the factors influencing the duration of court proceedings. According to their findings, the main criteria affecting temporal characteristics include the stage at which a final decision is made, the legal and factual complexity of the proceedings, the number of lawyers, experts, plaintiffs involved in the proceedings, and more.

B. Spaic & M. Dordevic's (2022) study is illustrative. The researchers, analysing the judicial systems of Serbia, Croatia, Slovenia, France, Austria, and Norway, concluded that the complexity of the court network, the number of judges, and other institutional elements of the judicial system do not directly relate to the effectiveness of judicial institutions. Therefore, simpler judicial systems with fewer judges and non-judicial personnel (Norway) achieve better results in the rule of law than systems with more judges and more complex and branched judicial systems (Serbia, Croatia). The issue of complying with procedural deadlines in extraordinary conditions, including during a state of war, was addressed by B.I. Andrusyshyn *et al.* (2023) and T. Loskutov (2022), noting the risk of reducing the efficiency of criminal proceedings in general and judicial proceedings in particular.

Materials and Methods

To achieve the purpose and ensure the scientific objectivity of the research results, a set of both general scientific and special methods of cognition was chosen, allowing for the formulation of the essence and significance of reasonable time frames during judicial proceedings. The use of the heuristic method of expert assessments allowed for the exploration of the conceptual apparatus of the issue by reproducing a rational debate among procedural scholars who examined the temporal characteristics of conducting criminal proceedings from different perspectives. The study utilises a systemic approach, contributing to identifying procedural gaps through the method of systemic analysis of legislation. This includes significant shortcomings in the implementation of the principle of reasonable time frames for both criminal proceedings in general and judicial proceedings in particular, as stipulated by Article 28 of the Criminal Procedure Code of Ukraine[1]. The comparative-legal method was used in two modes: Synchronous comparison, to analyse the procedural legislation of Ukraine with the legislation of other countries (Bulgaria[2], Estonia[3], Italy[4], Croatia[5]). Asynchronous comparison, to contrast modern legislation with regulations of past periods, in particular with the legal provisions of the Criminal Procedure Code of Ukraine of 1960[6]. The use of this method allowed for forming an opinion on the possibility of using procedural safeguards in national legislation to prevent unjustified delays in the consideration of criminal proceedings in the first-instance court and to ensure the full implementation of the principle of reasonable time frames in criminal proceedings. The logical-legal method was used to propose regulatory changes to ensure prompt and timely justice. The synthesis method was employed during the study to formulate conclusions and proposals to address identified gaps.

The normative basis of this study is the Criminal Procedure Legislation of Ukraine. Alongside this, empirical methods were used in the study, involving the analysis of legal positions of the Supreme Court[7],

[1] Criminal Procedure Code of Ukraine. (2012, May). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[2] Criminal Procedure Code of Bulgaria. (2006, May). Retrieved from https://justice.government.bg/home/normdoc/2135512224.
[3] Criminal Procedure Code of Estonia. (2003, February). Retrieved from https://www.riigiteataja.ee/akt/543365.
[4] Criminal Procedure Code of Italy. (2023, December). Retrieved from https://www.brocardi.it/codice-di-procedura-penale/.
[5] Law of Croatia No. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19, 130/20 "On the Tainted Procedure". (2021, January). Retrieved from https://www.zakon.hr/z/3199/Zakon-o-kaznenom-postupku-2020-2022.
[6] Criminal Procedure Code of the Ukrainian SSR. (1960, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1001-05#Text.
[7] Generalisation of the Judicial Chamber on Criminal Cases of the Supreme Court of Ukraine No. n0220700-03 "Practice of Observance by Courts of the Terms of Proceedings in Criminal Cases Concerning Defendants in Custody". (2003, January). Retrieved from https://zakononline.com.ua/documents/show/234628234693.

concepts[1,2] approved by the decree of the President of Ukraine aimed at reforming Ukraine's criminal justice, and decisions of the European Court of Human Rights[3]. This allowed for creating the most general picture of defining the content of reasonable time frames during the judicial consideration of criminal proceedings and the prospects for improving the mechanism of their observance in the central stage of criminal proceedings. The complex of the above-mentioned methods was applied in mutual connection and interdependence, and their use created conditions for forming a substantive and comprehensive understanding of the research subject.

Results and Discussion

The exploration of the problem should begin with the regulation of procedural time frames for judicial consideration by the Criminal Procedure Code of 1960[4], analysing the provisions of which one can conclude that the duration of judicial consideration was not legislatively ensured. The previous criminal procedural legislation not only did not establish the maximum period for judicial consideration but also did not declare the principle of reasonable time frames for criminal proceedings and did not contain guarantees for its observance. As a result, according to the Practice of Compliance by Courts with Deadlines for Criminal Proceedings Regarding Defendants Detained, as of January 1, 2003, for the period of 2001, 4466 criminal cases were scheduled for consideration with a violation of deadlines, and investigations were completed beyond one month in 58320 criminal cases. In total, investigations were completed with a violation of deadlines in 29.8% of criminal cases. Thus, a fairly widespread "dragging" during judicial proceedings was noted, and particular concern was related to defendants held in custody[5].

The importance of establishing the objective duration of judicial consideration was also highlighted in the Concept of Improving the Judiciary to Establish a Fair Trial in Ukraine in Accordance with European Standards dated May 10, 2006[6]. In Section IV (Judicial Proceedings), it was defined that judiciary, as the most effective institution ensuring the rule of law, should be based, among other things, on the principle of reasonable time frames for case consideration, obliging the court to decide cases without unjustified delays or avoiding haste that harms fair judicial proceedings. Alongside this, in Section II of the Concept of Reforming Ukraine's Criminal Justice dated April 8, 2008, the tasks of reforming criminal procedure included legislatively defining specific procedural time frames during pre-trial and judicial proceedings[7].

It is clear that a more effective way to eliminate the practice of conducting judicial proceedings without undue delays would be to ensure reasonable time-limits for criminal proceedings in the provisions of the Criminal Procedure Law. Thus, with the adoption of the current Criminal Procedure Code of Ukraine, a tendency to improve the legislative approach regarding the reasonable duration of criminal proceedings is notable. Ultimately, unlike the Code of Criminal Procedure of 1960, the current Criminal Procedure Code[8], by establishing the basis of reasonable time limits in its provisions, defines certain guarantees for its provision, including during court proceedings. However, unfortunately, a radical improvement in the state of timely justice cannot be stated. This is evidenced by the statistics of the ECHR, according to which in 2022, among other things, 45 violations of the duration of proceedings in cases against Ukraine were recorded. For comparison with other countries of the European community in the same period, either no analysed violations were recorded at all (Bulgaria, Czech Republic, Germany, Estonia, Spain and even Turkey, etc.), or several times less were recorded (Hungary – 17; Poland – 7; Greece, Italy – 2; Romania, Slovenia, Malta, Croatia – 1) (Statistical data of the European Court..., 2022).

The need to conduct judicial proceedings within a reasonable time is declared in Articles 21, 28, 318 of the Criminal Procedure Code of Ukraine.[9] In this regard, guarantees for ensuring this principle can be considered legal provisions regarding the necessity of involving a reserve judge; the duty of the presiding judge to supervise the participants in the judicial proceedings in fulfilling their duties (especially concerning the duty to appear at the court's summons); the consequences of the non-appearance of participants in the proceedings

[1] Decree of the President of Ukraine No. 361/2006 "On the Concept of Improvement of the Judiciary for the Establishment of Fair Trials in Ukraine in Accordance with European Standards". (2006, April). Retrieved from http://zakon4.rada.gov.ua/laws/show/361/2006.
[2] Decree of the President of Ukraine No. 311/2008 "On the Decision of the National Security and Defence Council of Ukraine and Defence Council of Ukraine of 15 February 2008 "On the Progress of Reforming the System of Criminal Justice and Law Enforcement Agencies"". (2008, May). Retrieved from https://zakon.rada.gov.ua/laws/show/311/2008#Text.
[3] Judgment of the European Court of Human Rights in the case No. 30210/96 of "Kudla v. Poland". (2000, October). Retrieved from https://hudoc.echr.coe.int/fre#{%2 2itemid%22:[%22002-7174%22]}.
[4] Criminal Procedure Code of the Ukrainian SSR. (1960, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1001-05#Text.
[5] Generalisation of the Judicial Chamber on Criminal Cases of the Supreme Court of Ukraine No. n0220700-03 "Practice of Observance by Courts of the Terms of Proceedings in Criminal Cases Concerning Defendants in Custody". (2003, January). Retrieved from https://zakononline.com.ua/documents/show/234628234693.
[6] Decree of the President of Ukraine No. 361/2006 "On the Concept of Improvement of the Judiciary for the Establishment of Fair Trials in Ukraine in Accordance with European Standards". (2006, April). Retrieved from http://zakon4.rada.gov.ua/laws/show/361/2006.
[7] Decree of the President of Ukraine No. 311/2008 "On the Decision of the National Security and Defence Council of Ukraine and Defence Council of Ukraine of 15 February 2008 "On the Progress of Reforming the System of Criminal Justice and Law Enforcement Agencies"". (2008, May). Retrieved from https://zakon.rada.gov.ua/laws/show/311/2008#Text.
[8] Criminal Procedure Code of the Ukrainian SSR. (1960, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1001-05#Text.
[9] Criminal Procedure Code of Ukraine. (2012, May). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.

at a court hearing. Alongside this, the legislator, in Part 6 of Article 28 of the Criminal Procedure Code of Ukraine[1], provides procedural possibility for the accused, victim to apply to the court with a motion stating circumstances justifying the need for conducting criminal proceedings (or individual procedural actions) within shorter time frames than those provided by this Code. However, the procedural mechanism for implementing such a right is not specified in the legal provisions of this Code. This is a significant omission in national legislation since, in the judgment in the case of "Kudła v. Poland"[2], the European Court of Human Rights found a violation of Article 13 of the Convention for the Protection of Human Rights[3] and Fundamental Freedoms, stating that the applicant had no national means of judicial protection to realise his right to a "trial within a reasonable time", as guaranteed by Article 6(1) of the Convention[4]. In particular, the decision notes the absence of a legal instrument through which the applicant could challenge the duration of the judicial proceedings. The lack of such means in Ukrainian legislation is evidenced by the ECtHR decision "Babkin and Others v. Ukraine"[5], in which the Court found a violation of Article 6(1) of the Convention due to the excessive duration of the criminal proceedings and the absence of effective legal procedures in Ukrainian procedural legislation for judicial protection regarding unjustified delays in conducting criminal proceedings.

In this context, it is worth considering the legislative experience of Estonia. Thus, Article 274-1 of the Criminal Procedure Code of Estonia[6] stipulates that if a criminal case has been under investigation for at least nine months and the court, without valid reasons, fails to take necessary procedural actions, including not scheduling a timely court hearing to ensure criminal proceedings within a reasonable time, or if it is evident that the planned time for considering the case does not allow for uninterrupted proceedings, the party to the legal proceedings may petition the court to take appropriate measures for the expeditious completion of the proceedings. If the court finds the motion justified, it must schedule the implementation of measures that are likely to facilitate the conclusion of the proceedings within a reasonable time within thirty days of receiving the motion.

Simultaneously, the reasonable duration of the trial in the first-instance court is interrelated with the continuity of the judicial process because the timeliness of the criminal proceedings is an objectively time-related category necessary for the thorough and comprehensive examination of all circumstances of the criminal offence by the court. This overarching provision allows considering the court case as a whole and ensuring its expeditious completion by rendering a final court decision.

The category of "continuity" of the judicial process implies a legal process that occurs continuously, without interruption, all the time, except for periods designated for rest and instances of adjournment of court hearings for reasons stipulated in Part 2 of Article 322 of the Criminal Procedure Code of Ukraine[7]. Alongside this, the requirement of continuity can be defined as an obligation for the investigation of evidence, court debates to proceed without interruption and persist through consecutive sessions until its completion, aiming to ensure a constant and consistent pace that guarantees not only timely judicial proceedings but also an objective judicial review (Kubarieva, 2023). In this context, the provision of Article 259 of the Criminal Procedure Code of Bulgaria[8] regarding the continuity of the court hearing is noteworthy, stipulating that after hearing the court arguments and the last words of the defendant, the court members cannot consider another case until delivering the verdict. Undoubtedly, this will contribute to the court's focus on the case details when issuing a final decision and, at the same time, serve as a means to ensure the efficiency of justice.

Contemplating the issue of timely judicial proceedings, researchers present various perspectives on the optimal resolution of this problem in their studies. C. Castelliano *et al.* (2023) substantiate the effectiveness of electronic case hearings in the Brazilian judiciary, arguing that the introduction of electronic courts increases productivity, reduces processing time, and enhances speed, thus unequivocally contributing to the efficiency of courts across different jurisdictions. A similar position was expressed by other scientists. For instance, W. Jasiński & A. Kowalczyk (2021) state that the digitisation of the judiciary will contribute to the reasonable duration of proceedings. According to M. Dymitruk (2019), concerning the duration of judicial proceedings (the most obvious element of the right to a fair trial from the perspective of process automation), artificial intelligence has undeniable advantages: it can process information on a scale inaccessible to any judge. Through machine learning and other artificial intelligence methods, the work of judges can be significantly improved.

In particular, V. Kushnerov (2020) suggests establishing time limits for the consideration of cases in the first-instance court, as well as the possibility of their extension with justified reasons. However,

[1] Criminal Procedure Code of Ukraine. (2012, May). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[2] Judgment of the European Court of Human Rights in the case No. 30210/96 of "Kudla v. Poland". (2000, October). Retrieved from https://hudoc.echr.coe.int/fre#{%2 2itemid%22:[%22002-7174%22]}.
[3] European Convention on Human Rights. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004.
[4] Ibidem, 1950.
[5] Judgment of the European Court of Human Rights in the case No. 36496/21 of "Babkin and others v. Ukraine". (2023, November). Retrieved from https://hudoc.echr.coe.int/#{%22itemid%22:[%22001-229164%22]}.
[6] Criminal Procedure Code of Estonia. (2003, February). Retrieved from https://www.riigiteataja.ee/akt/543365.
[7] Criminal Procedure Code of Ukraine. (2012, May). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[8] Criminal Procedure Code of Bulgaria. (2006, May). Retrieved from https://justice.government.bg/home/normdoc/2135512224.

V.V. Boyko (2022a) argues that the concept of a "reasonable time" is evaluative and does not necessarily need to legislatively prescribe strict limits on conducting judicial proceedings or establish a clear schedule for a judge's procedural duties. O.A. Tymoshenko (2021) recommends enshrining alternative sanctions in the law, which can be applied to those participants who, through deliberate non-appearance, jeopardise the observance of the principle of reasonableness of time in criminal proceedings. These may include monetary penalties, forced appearance, and so on. This perspective is worth agreeing with, as the researcher notes that such a practice should be in place when participants purposefully avoid attending court sessions, especially when attending court is mandatory for a fair resolution of the case on its merits. According to P.D. Guivan (2019), introducing civil and administrative liability at the legislative level for those responsible for ensuring timely justice, including judges and other participants in the process in this field, will contribute to ensuring a reasonable duration of judicial proceedings.

O.Yu. Lyoshenko (2018), recognising the urgent need for an immediate solution to the highlighted problem and drawing on the legislative experience of Poland, deems it necessary to develop and adopt a separate law dedicated to protecting the individual's rights to conduct pre-trial investigations, judicial, and executive proceedings within a reasonable time. In the study, the researcher proposes the adoption of a law "On the Protection of the Right of Individuals to Conduct Pre-trial Investigations, Judicial Proceedings, and Enforcement Proceedings Within a Reasonable Time", which would establish procedures for the courts to handle cases related to the violation of the right to a legally defined reasonable time, especially during criminal investigations. The law would also provide for personal accountability of individuals responsible for violating the requirements of a "reasonable time".

In this context, it is worth emphasising the legislative practices of European countries in ensuring the timely adjudication of criminal proceedings. The Croatian legislator, in particular, places special emphasis on preventing such abuses, declaring in Article 11 the right of the suspect to an independent and impartial court that delivers a fair decision publicly and within a reasonable time according to the law. The procedure should be performed without delay, and the court and other state bodies are obliged to prevent any abuse of the rights of participants in the process.

According to Article 397 of the Croatian Code of Criminal Procedure[1], during proceedings, the court may fine a defender, lawyer, or legal representative, whether a victim as a plaintiff or private prosecutor, if their actions are clearly aimed at delaying criminal proceedings. In such cases, the court informs the Croatian Bar Association of the imposition of such measures. Moreover, if the prosecutor does not timely submit proposals to the court or considerably delays other actions in the process, leading to a delay in the proceedings, the court notifies the senior state prosecutor. According to the legislative practice of Bulgaria[2], in all cases of postponement of the trial, a reasonable time is set, but not later than three months. Therewith, when the trial is postponed due to the non-appearance of a party, witness, or expert without valid reasons, the court imposes a fine of up to one thousand levs.

The perspective of the Italian legislator is interesting, aiming to ensure speed and focus in judicial proceedings. Article 477, part 1, of the Italian Code of Criminal Procedure[3] provides for the judge's establishment of a hearing schedule. Such a hearing schedule serves as a tool to streamline the course of court sessions, avoiding unnecessary delays through planning. The schedule is drawn up by the judge based on the needs of the parties, specifying specific procedural measures to be taken for each session.

Similar provisions are found in the Criminal Procedure Code of Estonia. According to Article 268-1 of the Estonian Code of Criminal Procedure (Integrity of Consideration of a Criminal Case in General Procedure), the court establishes a schedule for the consideration of criminal cases in general procedure. The court also has the option to consider a criminal case in parallel concerning: a person accused of committing a crime while being a minor; an accused person for whom pre-trial detention has been applied. In case of an inevitable postponement of proceedings in a criminal case considered in general procedure, the court may proceed to consider another criminal case sent for trial in general procedure, as long as it does not harm the schedule of the previous case. At the same time, the court is not bound by the order of arrival of criminal cases to the court. However, to ensure the comprehensive consideration of a criminal case and the prompt issuance of a court decision, the court has the right to start considering a criminal case independently of the order of arrival, considering the volume of the criminal case accepted for consideration.

A.V. Lapkin (2018) proposes an optimal solution to the analysed issue. The scholar recommends legislatively establishing a system of guarantees for adhering to reasonable time frames for judicial proceedings, both organisational and procedural. Among the guarantees in the first group, the researcher includes measures to influence participants in legal proceedings whose actions or inaction lead to delays in court proceedings.

[1] Law of Croatia No. 152/08 "On the Tainted Procedure ". (2021, January). Retrieved from https://www.zakon.hr/z/3199/Zakon-o-kaznenom-postupku-2020-2022.
[2] Criminal Procedure Code of Bulgaria. (2006, May). Retrieved from https://justice.government.bg/home/normdoc/2135512224.
[3] Criminal Procedure Code of Italy. (2023, December). Retrieved from https://www.brocardi.it/codice-di-procedura-penale/.

Regarding guarantees on the procedural level, it should involve specific procedural consequences for the systematic non-appearance of the prosecution side, such as the court closing the criminal proceedings.

Based on the above and considering the differentiation of guarantees proposed by A.V. Lapkin (2018), the system of organisational guarantees for adhering to the temporal principles of fair justice should include: a legislatively defined obligation for the court to establish a schedule of court sessions in criminal proceedings, composed during a preparatory court session after receiving the indictment or other conclusive decision at the pre-trial investigation stage, considering the positions of the parties; strengthening procedural sanctions that can be applied to participants in the proceedings for non-appearance at court sessions. A procedural safeguard against unjustified delays during court proceedings should primarily be a legislatively provided mechanism for expediting justice in case of violation of the right of the accused, the victim to a reasonable time frame for conducting criminal proceedings.

Therefore, it is worth noting that with the adoption of the current procedural legislation, a fundamental improvement in the state of timely justice has not occurred. In light of this, it is necessary to strengthen the system of procedural guarantees for adhering to reasonable time frames during court proceedings. The set of means to ensure the temporal parameters of proceedings in the court of the first instance should include organisational guarantees, in particular: 1) obliging the court, in legal provisions, to form a schedule of court sessions in criminal proceedings at the stage of a preparatory court session after receiving the indictment or other conclusive decision at the pre-trial investigation stage, taking into account the positions of the parties; 2) strengthening the procedural responsibility of participants in legal proceedings for non-appearance at court sessions. The next group of guarantees is procedural, aimed at establishing a reasoned legislative procedure for expediting justice in case of violation of the right of the accused, the victim to a reasonable timeframe for conducting criminal proceedings.

Conclusions

Considering the analysis of the provisions of the national criminal procedural legislation and the experience of European countries (Bulgaria, Estonia, Italy, Croatia), as well as doctrinal and other assessments, it is worth aligning with the views presented in the study that the identified gaps require the swiftest filling or overcoming, as conducting judicial proceedings outside reasonable temporal principles leads to violations of the rights of victims and defendants to have their cases heard within a reasonable timeframe.

The previous criminal procedural legislation of Ukraine did not declare the principle of reasonable time frames for criminal proceedings and did not include means to ensure its compliance. With the adoption of the current Criminal Procedure Code of Ukraine, there is a trend towards improving the legislative approach to the reasonable duration of criminal proceedings, as the necessity of conducting judicial proceedings within reasonable time frames is declared in Articles 21, 28, and 318 of the Criminal Procedure Code of Ukraine. In this regard, guarantees for ensuring this principle can be considered legal provisions regarding the necessity of involving a reserve judge; the duty of the presiding judge to supervise the participants in the judicial proceedings in fulfilling their duties (especially concerning the duty to appear at the court's summons); the consequences of the non-appearance of participants in the proceedings at a court hearing.

During the study, unified scientific views on ensuring reasonable time frames for criminal proceedings were systematised, including: digitalisation of the judiciary; setting limits on the duration of proceedings in the first-instance court and the possibility of extension in the presence of justified grounds; enshrining in law alternative sanctions (monetary fines, forced appearance) that can be applied to participants who intentionally fail to appear, jeopardising the principle of reasonableness of time frames; introducing civil and administrative liability for those responsible for ensuring timely justice; adopting a separate law on protecting the individual's right to timely pre-trial investigation, judicial, and enforcement proceedings, etc. Based on the analysis of scientific approaches, a system of means to ensure timely justice was systematised, involving organisational guarantees (the court's obligation to schedule court sessions in criminal proceedings and strengthening procedural responsibility of participants in judicial proceedings in case of non-appearance) and procedural measures (establishing a mechanism for expediting judicial proceedings in case of violations of the rights of the accused, victim to a reasonable duration of criminal proceedings).

A promising area for further research is the possibility of strengthening procedural responsibility and sanctions that can be applied to participants in the judicial process who, through their actions, jeopardise the principle of reasonableness of time frames in criminal proceedings.

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Conflict of Interest

None.

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Судовий розгляд у розумні строки: європейський досвід та українські реалії

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Анотація
Дослідження проблематики актуалізується у зв'язку зі збільшенням кількості звернень проти України до Європейського суду з прав людини, у більшості з яких констатовано порушення права на справедливий судовий розгляд у розумні строки. Метою статті є з'ясування змісту процесуальних строків судового розгляду кримінального провадження та проведення порівняльного аналізу законодавчих підходів європейських країн до врегулювання анонсованої проблематики. Методологічну основу наукової статті становить принцип системності, у межах якого було використано методи порівняльного й системно-структурного аналізу, синтезу, логіко-юридичний, статистичний та евристичний методи. У статті на основі окреслення наявних у законодавстві недоліків, що стосуються забезпечення розумних строків кримінального судочинства, досліджено проблемні питання його вдосконалення. З'ясовано, що попереднє кримінальне процесуальне законодавство не декларувало принципу розумних строків кримінального провадження та не містило засобів його дотримання. Зауважено, що необхідність здійснення судового розгляду в розумні строки задекларовано в статтях 21, 28, 318 Кримінального процесуального кодексу України. Акцентовано на взаємозв'язку розумного строку судового розгляду з його безперервністю, що дає підстави розглядати провадження як одне ціле й тим самим забезпечувати якнайшвидше завершення його розгляду. Констатовано відсутність в українському законодавстві процесуальних запобіжників від невиправданої затримки розгляду кримінального провадження в суді першої інстанції. Проаналізовано правові приписи національного кримінального процесуального законодавства й досвід нормативно-правового забезпечення європейських країн (Болгарія, Естонія, Італія, Хорватія). Обґрунтовано необхідність посилення гарантій, що забезпечують своєчасне правосуддя. Запропоновано комплекс засобів забезпечення часових параметрів розгляду провадження в суді першої інстанції, який повинен передбачати гарантії як організаційного, так і процесуального характеру. Доведено необхідність встановлення обґрунтованої законодавчої процедури прискорення судочинства в разі порушення права обвинуваченого, потерпілого на розумний строк здійснення кримінального провадження. Практична цінність дослідження полягає в тому, що його результати й надані рекомендації можна буде використати для реформування системи судочинства

Ключові слова:
правосуддя; судочинство; кримінальне провадження; процесуальні строки; судове провадження; процесуальна дисципліна