

Right to a fair trial under Article 6 of the ECHR: The balance between efficiency and fairness in European criminal law

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Abstract. The purpose of this study was to critically assess the mechanisms that allow reaching an adequate correlation between the effectiveness of trials and their consistency with the standards of fairness set out in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The study, using formal legal, hermeneutical, and comparative methods, analysed the differences in the implementation of fair trial principles in European countries and developed recommendations for harmonising national systems with international legal criteria. The findings of this study demonstrated the diversity of approaches to striking a balance between efficiency and fairness in court proceedings in countries such as Germany, France, Poland, Italy, and Albania. Specifically, it was found that the judicial systems of France and Poland, by giving preference to expedited consideration of cases, may negatively affect the assurance of rights of accused persons. At the same time, Germany, Italy, and Albania focus on comprehensive review of cases, which guarantees fairness but delays proceedings, which affects the overall efficiency of justice. A review of the practices of the European Court of Human Rights showed that it often focuses on remedying rights violations, but rarely includes suggestions for improving the mechanisms for ensuring balance. Based on the study of court decisions, recommendations were developed to clarify the criteria for achieving an adequate balance between efficiency and fairness in court proceedings. These recommendations included specifying the standards by which the speed of case processing is determined without compromising efficiency. The findings obtained suggest the need to improve legal mechanisms to achieve an effective balance between the speed of case consideration and fair trial, which will contribute to the improvement of justice in European jurisdictions

Keywords: procedural guarantees; impartiality; reasonable time; prosecution; adversarial proceedings; presumption of innocence

Introduction

The European legal system is constantly facing the challenge of balancing the efficiency of judicial proceedings with the principles of justice. The growing number of applications to the European Court of Human Rights (ECtHR) regarding violations of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (1950) suggests the need for a thorough review and modernisation of existing judicial procedures. Modern technologies and globalisation processes introduce new challenges for judicial systems, requiring a review and adaptation of conventional approaches to court management. Maintaining and enhancing public trust in the judiciary is a key aspect of strengthening

democracy in European countries. Thus, identifying ways to optimise court procedures that allow maintaining the high quality of justice without compromising the principles of fairness is important both to guarantee the proper protection of individual rights and to strengthen public confidence in the legal system. However, in the context of investigating the legal methods of ensuring an effective and fair trial, there are problems that require further research.

Notably, European countries interpret the principles of Article 6 of the ECHR (1950) differently due to distinctions in legal systems and cultural traditions. In Germany, the main emphasis is placed on equality of arms and protection

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of the procedural rights of the accused, providing them with access to evidence and the possibility of a full defence (Court Constitution Act, 1950). France, for its part, focuses on strict adherence to procedures and publicity of trials (Code of Criminal Procedure, 1958). Italy interprets the principles of Article 6 through the lens of a thorough and detailed examination of cases, providing the accused with maximum guarantees of defence, which can sometimes affect the length of the proceedings (Law of Italy No. 354, 1975). This diversity of approaches complicates the creation of a single set of criteria for assessing whether national practices are in line with European standards. Other researchers have noted this problem in their studies. A. Samartzis (2021) criticises approaches to the balance between efficiency and fairness in criminal law, noting that different jurisdictions apply different methods of assessing fairness, which leads to differences in ensuring a single standard. H. Davis (2021) analyses the guarantees of fair trial within the framework of general principles, noting that distinct approaches to the interpretation of legal norms in national jurisdictions lead to heterogeneous application of standards. In support of this, the researcher points out that in Spain, courts strictly observe the right to publicity of the trial, while in Romania, closed hearings are common; in Portugal, courts try to avoid delays, while in Serbia, delays are common, which may violate the right to a fair trial (Davis, 2021). Important findings can be found in the study by H. Morão and R.T. da Silva (2023). The researchers emphasise that critical and interdisciplinary analysis of justice in appellate cases reveals certain shortcomings. The existing mechanisms of control over the implementation of the standards of Article 6 of the ECHR (1950) do not always effectively implement European norms. Despite the valuable findings of the researchers, the question of how specific national legal traditions and cultural contexts affect the interpretation of fair trial standards and what adaptations may be necessary to ensure harmony between national systems and European norms stays unresolved.

Another challenge is adapting judicial systems to modern challenges, such as modern technologies, globalisation, and new forms of communication (Podoprigrora *et al.*, 2019). These challenges require updating the legal mechanisms to ensure fair consideration of cases in the new environment. The study of R. Perlingeiro (2024) confirms this conclusion. The researcher notes that globalisation and the latest communication technologies create new challenges for legal protection and implementation of effective legal mechanisms, which requires improvement of legal instruments and international cooperation. N.T.T. Trang *et al.* (2024) emphasise that the use of AI (artificial intelligence) systems in criminal justice potentially increases efficiency, but also jeopardises the principles of due process, including transparency and the right to defence. Thus, the researchers call for the creation of updated legal norms to ensure the fair use of technology. A. Paduch (2021) analyses the consequences of the epidemiological crisis for the right to a fair trial, noting that the rapid introduction of videoconferencing and other remote forms of legal proceedings has revealed substantial shortcomings in ensuring confidentiality and efficiency of the process. Despite the researchers' detailed analysis of the current challenges, the issues of the impact of technological inequality on access to justice and the integration of new legal mechanisms, including transnational criminal cases, which require national justice systems to cooperate more closely

with international organisations and courts, stay unresolved. The integration of European fair trial standards into national legal systems also faces a series of legal and practical challenges. These problems include legal conflicts between national and European norms, difficulties in adapting to local legal traditions, lack of political will or resistance from the authorities, lack of resources for reforming the judiciary, unpreparedness of the legal infrastructure for the implementation of new standards, and socio-cultural differences that may limit the effectiveness of European norms in a concrete national context. Therefore, harmonisation requires not only changes in laws, but also an active dialogue between national and European authorities, as well as monitoring the effectiveness of the implementation of standards in practice. P. Hirvelä and S. Heikkilä (2021), analysing the practice of application of Article 6 of the ECHR (1950), emphasises that effective integration of European norms requires constant monitoring and adjustment of law enforcement practice to avoid legal conflicts. D. Bosinceanu (2021) emphasises the significance of close cooperation between European and national institutions for the successful implementation of fair trial standards. R. Clayton and H. Tomlinson (2021) examine the difficulties of integrating European fair trial standards into national legal systems, emphasising the importance of flexible application of these standards depending on concrete legal traditions and circumstances. However, despite the detailed analysis of the integration of European standards, the researchers did not sufficiently address the issues of practical implementation of these standards in countries with substantially distinct legal systems, as well as the mechanisms for adapting national systems to the rapidly changing conditions of modern justice.

Thus, considering a series of unresolved issues, specifically in terms of the balance between efficiency and fairness in European criminal law, the purpose of the present study was to identify the key challenges and obstacles to striking this balance, as well as to formulate proposals for improving law enforcement practice and harmonising national approaches with European standards. To fulfil this purpose, several main tasks were to be completed: analysis of the principles of Article 6 of the ECHR (1950); study of the implementation of these principles, as well as the balance between efficiency and fairness in various European jurisdictions; identification of problems arising in the implementation of fair trial guarantees; development of recommendations for optimising national legal systems and their harmonisation with European standards.

Materials and methods

The study was based on two key methodological approaches: formal legal and hermeneutical, which were used to investigate the principles of fair trial. When considering the provisions of Article 6 of the ECHR (1950), the formal legal method helped to examine the text of the Article as part of the general legal mechanism guaranteeing the proper administration of justice. This method was used to structure the key provisions of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, including guarantees of defence, equality of arms, publicity of the trial, and reasonable time. The analysis of each of these elements helped to identify how they function in a unified legal system and how their interaction contributes to the achievement of the goals of impartial justice. The

application of this approach helped to identify potential contradictions and gaps in legal regulation, which requires further improvement of legal norms.

A considerable part of the study was devoted to the analysis of the ECtHR judgements on the interpretation and implementation of the Convention. The study selected key precedents that had a substantial impact on the development of the ECtHR practice, as they have established important criteria for the interpretation of Article 6 of the ECHR, which confirms their relevance and significance for the formation of legal standards in Europe. Specifically, the study analysed Case of Ugulava v. Georgia (No. 2) (2024), Case of Jann-Zwicker and Jann v. Switzerland (2024), Case of Riepan v. Austria (2000), Case of Snijders v. The Netherlands (2024), Case of Heaney and McGuinness v. Ireland (2000), Case of Kamasinski v. Austria. (1989), where the court considered aspects relating to guarantees of defence, equality of arms, publicity of trials, and reasonable time limits for consideration of cases. This helped to systematise the ECtHR's approaches to interpreting these aspects and identify the key criteria used by the court in analysing the consistency of national judicial systems with European norms. Furthermore, the study identified patterns in the ECtHR practice and summarised the conclusions that may be useful for national courts in ensuring guarantees of due process.

The hermeneutical method helped to analyse the interpretation of the principles set out in Article 6 of the ECHR (1950) in various European countries, including Germany, France, Poland, Italy, and Albania. This approach contributed to an understanding of how historical traditions, social conditions, and national legal cultures influence the interpretation and application of fair trial principles in each country. The hermeneutic method was used to analyse cases where national court decisions were contradictory or distinct from European standards. This approach helped not only to identify different approaches to the interpretation of the principles of fair trial, but also to understand the reasons for these differences. The differences identified helped to formulate recommendations for improving national legal systems and harmonising them with European standards.

A comparative method was used to investigate the observance of the principles of a fair trial and the balance between efficiency and fairness in different European jurisdictions. This method was used to analyse the implementation of Article 6 of the ECHR (1950) in Germany, France, Poland, Italy, and Albania, including the study of legislative acts, namely the Court Constitution Act (1950), the Code of Criminal Procedure (1958), the Act of Criminal Procedure Code (1997), the Law of Italy No. 354 "Rules of the Criminal Executive System and the Procedure for Execution of Deprivation of Liberty and Restriction of Liberty" (1975), and the Criminal Procedure Code of the Republic of Albania (1999). The comparative analysis showed differences in approaches to the implementation of fair trial principles, as well as difficulties encountered in different jurisdictions in achieving a balance between efficiency and fairness in court proceedings. This approach also helped to identify best practices and challenges faced by different countries, which helped to propose ways to harmonise enforcement in the European context. Thus, the application of the comparative approach contributed to a detailed analysis of the implementation of European fair trial standards in national systems, as well as to the identification of measures that should be taken to optimise this process.

Results

The principles of fair trial ensure that the fundamental freedoms of every person in a state governed by the rule of law are guaranteed. They ensure that everyone facing criminal charges can be heard by an objective and impartial court. A fair trial includes publicity, reasonable time limits, the right to defence, procedural equality, and the presumption of innocence (Lubis, 2023.). These principles ensure transparency, objectivity, and impartiality of the judicial process, which increases public confidence in the judicial system and the state as a whole. The guarantee of a fair trial is the primary mechanism for preventing abuse of power and ensuring that justice is delivered to high standards.

Article 6 of the ECHR (1950) sets out the fundamental principles that ensure fairness in judicial proceedings, including in criminal law. These include the independence and impartiality of the court, which are fundamental principles for ensuring fair justice. Independence can be interpreted as the absence of influence from other branches of government, from pressure from individuals or groups. This ensures that a legitimate court decision is made without any external interference. The impartiality of the court implies that judges must consider each case objectively, apart from not having a biased attitude towards the case or its participants and avoiding conflicts of interest (Komiti, 2023).

In the Case of Ugulava v. Georgia (No. 2) (2024), the ECtHR clearly stated that the principle of court independence was violated due to pressure from the executive branch, which affected the objectivity of the case. The Court emphasised that the procedure relating to the applicant's detention was unlawful, as decisions were made without proper judicial control. Furthermore, it was found that the applicant was unable to exercise their right to an effective defence due to unreasonable delays and lack of access to an impartial court. The ECtHR also noted that these circumstances violated the principle of impartiality, as judges dependent on political influence could not consider the case objectively. Thus, this position of the ECtHR underlines the critical significance of judicial independence for ensuring a fair trial, confirming that a violation of these principles constitutes a grave violation of Article 6 of the ECHR.

Another prominent aspect is to ensure that the case is considered within a reasonable time. The trial should be conducted without unreasonable delays that could violate the interests of the parties to the trial. Delays in the trial are interpreted as a violation of the defendant's guarantees, especially when the delay affects access to evidence or the possibility of an effective defence (Šalčius & Herke, 2023). Ensuring reasonable time also implies that courts should have sufficient resources and effective procedural mechanisms to resolve cases swiftly and efficiently, while maintaining a prominent standard of fairness. In the Case of Jann-Zwicker and Jann v. Switzerland (2024), the ECtHR considered the issue of reasonable time for consideration of the case, emphasising that delays in proceedings may affect the right to a fair trial. The Court noted that in this case, the length of the proceedings, which exceeded the acceptable time limits, negatively affected the applicants' ability to effectively defend their interests. The ECtHR found that a delay in the trial not only called into question the observance of the principle of fairness, but could also impede access to evidence, which was critical for the proper preparation of the defence (Case of Jann-Zwicker and Jann v. Switzerland, 2024).

The principle of public hearing, which is a key element of Article 6 of the ECHR (1950), is of great importance for ensuring transparent judicial proceedings. The public hearing means that representatives of the media and citizens can attend the hearings, which ensures public control over the administration of justice (Jain *et al.*, 2022). In its judgement in *Case of Riepan v. Austria* (2000), the ECtHR stressed that the publicity of the trial protects the defendant from secret justice, which may be outside the public's control. Such openness helps to maintain public confidence in the courts, as transparency of the judicial process ensures that decisions are made following the law and without outside influence. At the same time, Article 6 of the ECHR (1950) mandates certain exceptions that allow closing a trial or part of it to the public. Such restrictions may be imposed to ensure public safety, national interests, and the protection of the privacy of persons involved in the proceedings. Such exemptions should be substantiated and used only when strictly necessary, emphasising the balance between publicity and the protection of other important interests.

Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms also includes the principle of procedural equality, which ensures that all participants in the judicial process have equal rights and opportunities to present their positions. This provision is interpreted as a guarantee of equal access to evidence and witnesses, as well as the possibility of challenging the evidence against them, and that neither party has an advantage due to procedural restrictions (Omkar, 2017). The right to legal assistance is particularly important. This right includes the possibility to choose a defence counsel or to receive free legal aid in cases where the accused cannot afford it financially. The ECtHR, considering the case of *Case of Snijders v. The Netherlands* (2024), emphasised that limited access to a lawyer and insufficient time to prepare for the trial substantially affect a person's ability to represent their position. Furthermore, the Court emphasised that the violation of the right to legal assistance is a serious restriction that violates the principles of equality between the parties, as one of the parties gains an advantage due to the procedural restrictions of the other. This decision demonstrates that to ensure the fairness of the judicial process, it is essential to ensure the implementation of the principle of equality of arms, including equal opportunities for defence and access to effective legal aid.

One of the fundamental principles of justice is the presumption of innocence. This principle mandates that a person is presumed innocent until proven guilty in a lawful judicial process (Whelan, 2023). This principle is critical to ensuring a fair trial, as an accusation should not automatically

imply guilt. According to this principle, the burden of proof lies with the prosecution, which must provide convincing evidence of guilt following the procedures established by law. The presumption of innocence protects a person from unfounded accusations and ensures that all doubts are interpreted in favour of the accused. It also requires that the trial be structured to give the accused a meaningful opportunity to defend themselves, including providing time and opportunity to prepare their defence. Effective defence involves access to all the necessary case materials, the ability to collect and present evidence, and to interact with a lawyer who can provide qualified legal assistance.

In the *Case of Heaney and McGuinness v. Ireland* (2000), the ECtHR found a violation of the presumption of innocence when the accused were required to provide information under threat of punishment. In this situation, persons taken into custody on suspicion of involvement in extremist activities were obliged under Irish law to provide information to investigators under the threat of criminal liability for refusal to cooperate. The ECtHR found that such an obligation violated the principles of due process, namely Article 6 of the ECHR (1950). The Court emphasised that the use of evidence obtained under duress seriously undermines the guarantees of protection, including the right of a person not to incriminate themselves and not to confess guilt. It also undermines the fairness of the judicial process, as the presumption of innocence is a key element that ensures that the burden of proof is not placed on the defendant.

It is also important to mention the right to translation and interpretation. This right is crucial for ensuring fairness, as the language barrier should not prevent the right to a fair trial. The provision of translation of all case files and translation of court hearings ensures that the accused fully understands the nature of the charges, the nature of the trial, and can defend their rights (Sziójártó, 2023). This right is particularly important in cases where the language barrier may affect the defendant's ability to defend themselves effectively. In the *Case of Kamasinski v. Austria* (1989), the ECtHR ruled that the principles of fair trial guarantee the possibility of receiving information about the prosecution in an understandable language, as well as the provision of translation during the trial in case of a language barrier.

Thus, the relevant provisions of the European Convention define a standard of fairness that includes legal guarantees to ensure a balance between the efficiency of the judicial process and the fairness of its results, which is critical to ensuring confidence in the legal system and the rule of law. Between 1959 and 2022, the ECtHR recorded a considerable number of violations of fair trial guarantees in a series of European countries (Fig. 1).

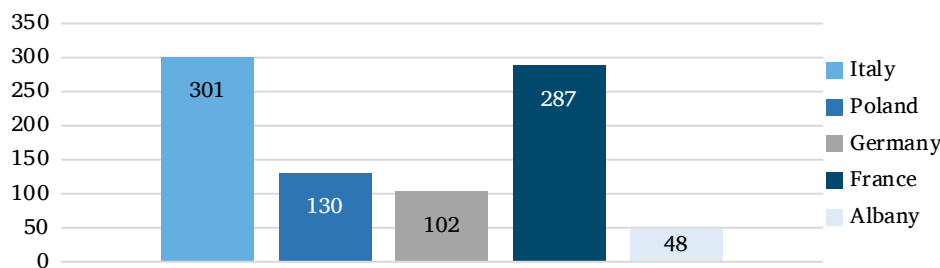


Figure 1. Number of violations of Article 6 of the ECHR in European countries (1959-2022)

Source: compiled by the authors based on *Violations by Article and by State* (2022)

The analysis of statistical data highlights the existence of critical problems in the justice systems of European countries that may affect public confidence in the courts and human rights. The largest number of violations is observed in Italy, which suggests systemic problems in the justice system that need to be addressed. France also has significant indicators related to deficiencies in the provision of legal safeguards. Poland, Germany, and Albania have a lower number of violations, but these figures still point to serious challenges in adapting to ECtHR standards. These data underline the need for a comprehensive approach to reforming European judicial systems.

The study revealed substantial distinctions in approaches to the implementation of the principles of due process in different countries. Thus, in Germany, the Court Constitution Act (1950) establishes the foundations of the judicial system and regulates the procedural aspects of court proceedings. One of the problematic provisions is § 26 of the Act, which regulates the recusal of judges and guarantees of their impartiality, as well as § 198 of the Act, which requires the implementation of the principle of “reasonable time”. Problems with these provisions arise when, in practice, the desire for swift trials leads to a violation of the parties’ guarantees of adequate defence, which directly contradicts fair trial standards (Liu, 2023). This problem was identified by the ECtHR in the case of *Case of Buchholz v. Germany* (1981), where the applicant’s rights were not respected due to the delay in the trial. The defendant claimed that the standards of fair trial were not met due to the lengthy consideration of his administrative case. The ECtHR recognised that the delay in the trial, which lasted about 4 years, was contrary to the principle of fairness of the trial, which requires that cases be heard within a “reasonable time”. This case illustrates that even with formal compliance with national legislation, situations may arise in practice where the length of a trial violates European fair trial standards.

In the *Case of Pélissier And Sassi v. France* (1999), the ECtHR found France guilty of violating fair trial standards because the French court did not provide the accused with sufficient information about the nature of the charges, which limited their ability to prepare a defence. In this case, the individuals were initially charged with one offence, but during the trial, the qualification of their actions was changed to a graver offence without prior notice. As a result, they lost the opportunity to properly prepare for a defence against the added charges. This situation became possible due to the application of Article 388 of the Code of Criminal Procedure (1958), which allows changing the qualification of a crime during the trial. However, this provision proved to be controversial in terms of compliance with the European standards set out in Article 6 of the ECHR (1950). This provision does not ensure that a person is properly informed of changes in the charges and does not provide sufficient time to prepare a defence. The ECtHR stressed that changing the classification of a crime without proper warning to the accused violates the principles of due process, as the accused is entitled to be informed in time about the nature of the charges to ensure an effective defence. This case highlights the problem faced by the French judicial system: the desire for swift trials leads to a restriction of the right to defence and, consequently, a violation of the right to a fair trial (Porret, 2024). The Constitution of the Republic of Poland (1997) proclaims guarantees of a fair and open trial by an independent

court. However, in practice, there are problems with the exercise of this right, especially regarding the guarantee of equality of arms in court proceedings. One of the prominent issues is the restriction of access to case files for the accused, which jeopardises their right to defence. In the case of *Matyjek v. Poland*, it was found that Polish legislation, namely Article 156 of the Act of Criminal Procedure Code (1997), allowed the court to restrict the accused’s access to certain evidence and case files under the pretext of protecting state security or other public interests (*Matyjek v. Poland*, 2007). This restriction created a significant inequality between the parties to the trial, as the person could not get acquainted with all the evidence used in the prosecution and properly prepare their defence. The ECtHR noted that the restriction of access to the case file violated the principle of equality of arms prescribed in the Convention. The Court emphasised that to follow the principles of due process, a person must be provided with the opportunity to review all the evidence in the case, especially those used against them (Szwed, 2023). This is necessary to ensure that the accused can effectively take part in the trial, challenge the prosecution’s evidence, and express their position on the same terms as the prosecution.

One of the key cases against Italy is *Domenichini v. Italy* (1996), which concerns the violation of the right to an effective defence. The ECtHR considered a situation where the Italian authorities intercepted and recorded telephone conversations between the accused and his defence counsel during the criminal trial. The court found such actions to be a violation of the standards of Article 6 of the ECHR (1950), as the right to confidentiality of communication with a lawyer is one of the main aspects of due process guarantees. Furthermore, in the context of this case, the issue of censorship of correspondence with a lawyer was raised. The ECtHR stressed that the confidentiality of communication between a defence lawyer and a client is a key guarantee of the effectiveness of the defence, and its violation may adversely affect the ability of a lawyer to properly perform their duties. Any restrictions or checks on correspondence may undermine the trust between the defendant and counsel, as well as adversely affect the quality of preparation for the defence (di Paolo, 2024). Thus, the censorship of correspondence between the lawyer and the accused, mandated in the Law of Italy No. 354 (1975), was found to be incompatible with the principles of Article 6 of the ECHR (1950).

Albania also faces certain challenges in the context of ensuring due process of law, as identified in the practice of the ECtHR. In the judgement in *Case of Berhani v. Albania* (2010), the Court found that the Albanian courts had violated the requirements of Article 6 of the ECHR (1950) regarding a fair trial. The ECtHR concluded that the court decisions were not properly substantiated, and the testimony of key witnesses was not properly verified in court. The court drew particular attention to the fact that the defendant was deprived of the opportunity to challenge the testimony of witnesses who were not present at the court hearings, and their testimony was not thoroughly examined. Moreover, the national courts did not pay sufficient attention to the contradictions and lack of convincing evidence that could justify the applicant’s conviction (Bode & Peppo, 2022). Based on these facts, the ECtHR found that such proceedings violated the requirements of fairness. Thus, a comparative analysis of the ECtHR cases against Germany, France, Poland, Italy, and Albania revealed substantial differences in the application of

the principles of due process. Despite the formal compliance with national legal requirements, in practice there are considerable problems relating to both the procedural aspects of the trial and the rights of the accused. Cases involving excessive delays, violations of defence guarantees, censorship of

lawyers' communications, and other shortcomings highlight the need to reform national justice systems to ensure their harmonisation with European standards. Based on the identified problems, a series of concrete measures were formulated to improve national legal systems (Table 1).

Table 1. Recommended measures to optimise the efficiency and fairness of national judicial systems in line with European standards

Area	Concrete measures	Ways of implementation
Strengthening guarantees of judicial independence	<ul style="list-style-type: none"> • Establishment of independent commissions for the selection of judges. • Assurance that decisions of the commissions are published and can be appealed. • Involvement of independent judicial associations or international experts in reviewing cases of dismissal of judges. • Improvement of disciplinary procedures, assurance of their publicity and the validity of decisions. • Introduction of programmes to protect judges and their families from physical threats and pressure. 	<ul style="list-style-type: none"> • Introduction of special criteria for the selection of judges that accommodate not only professional but also ethical standards. • Introduction of a mechanism for appealing against decisions of commissions on the selection or dismissal of judges, with the possibility of appeal to higher authorities, including independent judicial associations. • Introduction of open hearings in disciplinary cases of judges with mandatory publication of decisions and detailed substantiations to ensure transparency and public trust. • Development and funding of physical protection programmes for judges and their families in cases of threats to their life or health, with the possibility of confidential support.
Assurance of equal access to evidence for the parties	<ul style="list-style-type: none"> • Reform of criminal procedure rules. • Strengthening of the protection of the right to question witnesses. 	<ul style="list-style-type: none"> • Amendment of the legislation to require automatic provision of copies of all case files to the accused immediately after they are received by the court, with clear deadlines for appealing. • Introduction of the defence's right to additional questioning of prosecution witnesses.
Improvement of access to legal aid	<ul style="list-style-type: none"> • Expansion of opportunities to provide free legal assistance by increasing funding for state legal aid programmes. • Improvement of the system of distribution of lawyers. • Improvement of the training of lawyers. 	<ul style="list-style-type: none"> • Establishment of state centres for free legal assistance, where every accused person can choose a lawyer, receive counselling and defence, regardless of their place of residence or financial status. • Organisation of mandatory advanced training courses for lawyers, with access to the latest research and defence techniques, which will ensure a prominent level of legal services.
Improvement of procedural rules to reduce the duration of trials	<ul style="list-style-type: none"> • Introduction of mandatory procedural deadlines for each stage of the court process. • Optimisation of procedures by simplifying and eliminating bureaucratic obstacles. 	<ul style="list-style-type: none"> • Implementation of an electronic document filing system and automated court scheduling to reduce waiting times and eliminate delays caused by paperwork.
Implementation of a comprehensive system of supervision and analysis of court performance	<ul style="list-style-type: none"> • Establishment of independent bodies to monitor compliance with legal norms and analyse judicial practice. • Publication and accountability of monitoring results to the public. 	<ul style="list-style-type: none"> • Introduction of mandatory reports on the work of courts, which will be available to the public, with an analysis of violations and recommendations for their correction.

Source: created by the author of this study based on Case of Buchholz v. Germany (1981); Case of Pélissier And Sassi v. France (1999); Matyjek v. Poland (2007); Domenichini v. Italy (1996); Case of Berhani v. Albania (2010)

Strengthening guarantees of judicial independence. To ensure judicial independence and protect judges from undue influence, several concrete measures should be introduced. Firstly, convening independent commissions for the selection of judges, comprising judges, the legal community, and civil society organisations, will ensure transparency and objectivity of the process. Publication of the decisions of the commissions and the possibility of appealing them should be introduced, which will increase confidence in the selection of judges. Secondly, to protect judges from unsubstantiated dismissal, independent judicial associations or international experts should be involved in reviewing such cases, which would reduce the risk of political pressure. Furthermore, disciplinary procedures should be improved to ensure that they are public and that decisions are substantiated. It is also important to establish independent monitoring bodies to regularly evaluate the performance of judges and publish

reports, which will help reduce corruption and increase accountability. Programmes should be put in place to protect judges and their families from physical threats and pressure to ensure their safety and impartiality in decision-making. These measures will ensure greater independence of the judiciary, increase its transparency and help strengthen public confidence in the judiciary.

Assurance of equal access to evidence for the parties. To implement this aspect, it is necessary to initiate an update of procedural legislation, which will include amendments to national regulations to ensure equality between the prosecution and the defence in access to all case files. This means that the accused should be given the same access to evidence as the prosecution. It is also important to ensure transparent procedures that make it impossible to conceal or delay the provision of defence materials. It is vital to strengthen the guarantees of the right to examine witnesses by ensuring

that the defence has the same opportunities as the prosecutor to call and examine prosecution witnesses. This includes equal rights to call their witnesses, as well as equal opportunities to challenge the evidence against them. Such a reform of the procedural law will help to create a balanced process where each party has equal opportunities to present and defend its positions.

Improvement of access to legal aid. First and foremost, it is necessary to expand the possibilities for providing free legal assistance to guarantee access to quality legal services for all persons who cannot afford to pay for a lawyer. This requires an increase in funding for state legal aid programmes, which will allow more competent lawyers to be involved in the provision of free legal services. It is equally important to optimise the mechanism for appointing defence lawyers to ensure that defendants are assigned to counsel promptly and impartially, especially in complex or urgent cases. Apart from financial and organisational aspects, it is necessary to improve the training of lawyers representing defendants. This includes regular professional development, access to up-to-date legal resources and databases, and participation in professional trainings to ensure that lawyers can perform their duties effectively.

Improvement of the procedural rules to reduce the length of court proceedings is a key measure to improve the efficiency of justice. Legislation should prescribe mandatory procedural deadlines for all stages of the proceedings, from investigation, submission of evidence, to the trial and judgement. This will impose an obligation on the courts to adhere to the established deadlines, which will considerably reduce the number of unjustified delays and ensure prompt consideration of cases. Existing procedural procedures should be optimised by reviewing them to simplify and eliminate unnecessary bureaucratic obstacles that slow the judicial process down. A crucial step is the introduction of electronic court proceedings, which will allow for faster document exchange, automation of routine processes, and reduction of paperwork. The introduction of latest technologies, such as videoconferencing for procedural interrogation or the submission of evidence in digital format, will also help accelerate trials while maintaining high standards of fairness (Kovalchuk *et al.*, 2024). Such changes will not only reduce the burden on the judicial system but will also ensure prompt access to justice for each party to the proceedings.

The introduction of a comprehensive system of supervision and analysis of the performance of the courts is necessary to ensure its compliance with European standards and to increase public confidence in justice. Independent bodies should be established with the authority to regularly analyse court practice, including compliance with the legal norms enshrined in Article 6 of the ECHR (1950). These bodies should be able to monitor trials, identify shortcomings, and provide recommendations for improving the judicial system. The results of this monitoring should be made public and accountable, specifically through regular publication of reports accessible to the public. Such measures will contribute to greater transparency of judicial proceedings and strengthen public oversight of the implementation of legal norms. As a result, this will strengthen the rule of law and increase public confidence in the judiciary.

Thus, the implementation of the recommended changes will comprehensively improve the functioning of the judicial systems at the national level, enhancing their efficiency

and impartiality. This will eliminate key problems, such as unequal access to evidence, delays in proceedings, and insufficient independence of the judiciary. The implementation of these measures will also help national judicial systems to meet high European standards. Increasing the transparency and accountability of judicial processes will stimulate the development of a legal culture where the principles of justice and equality before the law are inviolable, which will ultimately strengthen the legal system and democratic institutions in society.

Discussion

The analysis of the findings confirmed that violations of Article 6 of the ECHR (1950), which guarantees the right to an impartial trial, are increasingly common in European countries. This trend suggests the need for further modernisation of the judiciary within certain states. To strengthen public confidence in the judiciary and ensure proper protection of human rights, it is crucial to improve the efficiency of the judiciary and ensure its compliance with European standards.

First of all, the analysis of Article 6 of the ECHR (1950) confirmed its significance as a key guarantee of due process. The analysis of the ECtHR practices suggested that the concept of fair trial is multifaceted and combines such elements as independence and impartiality of the court, publicity of the process, reasonable time limits for consideration, equality of parties, and presumption of innocence. These principles underlie an objective and impartial judicial process, while guaranteeing the protection of the interests of defendants. These conclusions are supported by the findings by other researchers. P. Lemmens (2014) analysed the various elements of a fair trial. The researcher focused on the autonomy of the judiciary as a determining factor in ensuring impartiality in case consideration. It should be agreed that the independence of the judiciary guarantees the impartiality of judicial proceedings and protects judges from the influence of the executive or legislative branches, which is the basis of democratic justice. P. Lemmens (2014) also considered the universality of fair trial guarantees, arguing that these principles should be applied equally in all states that have signed the ECHR (1950), regardless of their legal and cultural contexts. However, one can only partially agree with this statement. Admittedly, judicial independence is a fundamental element of justice and the rule of law, without which an impartial trial cannot be guaranteed (Kubarieva, 2023).

However, the critical point is to emphasise the universality of Article 6, as different states have their legal traditions and contexts that may affect the interpretation and implementation of fairness guarantees. However, this does not mean that the standards of Article 6 of the ECHR (1950) should not be integrated into national legal systems. Each country that has signed the ECHR (1950) must adapt these standards to its own legal system, considering local legal traditions and cultural characteristics. J. Vuille *et al.* (2017) focused on the significance of the evidence base in criminal proceedings and its impact on ensuring a fair trial. The researchers argue that evidence, if presented improperly or unreliably, can substantially change the course of a trial, which can violate the guarantee of the presumption of innocence and the objectivity of the trial. Furthermore, the significance of establishing strict standards for the

admission of such evidence was emphasised to avoid mistakes or misinterpretation that could lead to unjust convictions (Lemmens, 2014). One should agree with this position, as unreliable evidence can truly undermine the objectivity of court proceedings, which is a direct violation of the rights of the accused. N. Vogiatzis (2021) examined the right to translation and interpretation and noted the gradual evolution of this right in the ECtHR's practices. The researcher emphasised that the lack of proper translation can considerably complicate a person's participation in the process, which contradicts the guarantee of procedural equality.

The analysis showed that despite the general European standards of fair trial mandated in Article 6 of the ECHR (1950), their practical implementation varies considerably depending on the specifics of the legal systems of individual states. The analysed cases against Germany, France, Poland, Italy, and Albania revealed problems with excessive delays, restrictions on defence rights, lack of judicial independence, and non-compliance with procedural equality guarantees. This demonstrates the need for a more thorough consideration of local contexts when implementing European standards to ensure the effectiveness of justice. Analysing cases related to violations of Article 6 of the ECHR (1950), J. Mumford *et al.* (2024) found that the main problems of violation of fair trial standards are excessive delays and restrictions on access to legal protection. The researchers attributed this to administrative difficulties in national systems, such as insufficient numbers of judges, judicial workloads, and insufficient procedural training of judges, which leads to misapplication of the law or procedural errors. It is worth supporting the authors' position, since administrative obstacles can truly affect the efficiency of court proceedings and the observance of the rights of the parties. S. Schmahl (2021) emphasised that violations of procedural rights, such as equality of arms and access to a lawyer, are a systemic problem in many countries, often caused by insufficient legal culture. One can only partially agree with this opinion, as it is an oversimplification to reduce the problem to legal culture alone. Often, the causes of violations are institutional or systemic, including insufficient funding of the judiciary, corruption, or imperfect legislation (Khablo & Svoboda, 2024). Therefore, extensive institutional and structural reforms are also needed to effectively address these issues. L. Chanturia (2023) argued that the lack of an effective remedy is a key problem that leads to systematic violations of Article 6 of the Convention. The researcher noted that shortcomings in national legal mechanisms, including insufficient access to effective legal assistance, limit the ability of the accused to defend their interests. This includes the lack of the possibility to appeal promptly, limited access to evidence or lawyers, and a lack of proper verification of charges. This conclusion can be considered reasonable, as it clearly indicates systemic weaknesses that often lead to violations of the principle of due process. However, the problem may lie not only in legal aspects, but also in political and economic factors that affect the work of the judiciary (Spytska, 2023).

Based on the judicial practice of different countries and the identified problems of non-compliance with the principles of Article 6 of the ECHR (1950), recommendations for improving national legal systems were developed. These recommendations include measures to strengthen the autonomy of the judiciary, guarantee equal access to evidence

for the parties, improve the legal aid system, reduce the time for court proceedings, and introduce a system for monitoring the effectiveness of trials. Implementation of the proposed amendments will help to align national judicial systems with European standards and improve the quality of judicial proceedings.

Notably, some researchers also focus on measures to improve national judicial systems. M. Allena and F. Goisis (2020) explored the concept of "full jurisdiction" in the light of the requirements of Article 6 of the ECHR (1950) and focused on the need to ensure effective legal protection of fundamental rights. The researchers emphasise the significance of strengthening the independence of the judiciary, which should be protected from external pressure from the executive and legislative branches. Furthermore, M. Allena and F. Goisis (2020) recommended improving control over the implementation of court decisions to ensure their factual implementation and compliance. It is worth agreeing with the researchers' position on expanding the competence of courts in matters related to fundamental rights to ensure full judicial protection by national courts. M. Leloup and L. Spieker (2024) emphasised the importance of avoiding legal vacuums arising from contradictions between national law and European standards. They proposed to harmonise national legislation with EU law and emphasised the need to recognise the priority of EU law over internal legislation in the EU Member States. In the researchers' opinion, this will ensure greater consistency of court decisions and effective implementation of European legal standards at the national level. Undoubtedly, harmonisation of legislation will help to avoid contradictions between the rules, which is especially important in fair trial. This will increase legal predictability and stability in national systems. However, excessive primacy of EU law may lead to a loss of national legal sovereignty, as each country has its legal traditions that may not entirely follow European standards (Mikhnevych *et al.*, 2023).

M. Andenas and E. Borge (2013) addressed the significance of implementing ECtHR judgements into national legal systems. The researchers argued that the effective implementation of the rights under the Convention depends on how national courts integrate ECtHR judgements into their jurisprudence. This process not only contributes to the harmonisation of national systems with European standards, but also helps to create a unified practice of ensuring fundamental rights on the European continent. It is worth supporting the conclusions of M. Andenas and E. Borge (2013), as it really allows to ensure consistency of law enforcement, protection of citizens from violations at the level of national courts and increases the efficiency of national legal systems.

Thus, the study of the results obtained showed the need to improve national legal systems to ensure compliance with European law. Although Article 6 of the ECHR (1950) sets out general standards of due process, such as independence of the judiciary, equality of arms, and reasonable time limits for the consideration of cases, their implementation varies substantially from state to state depending on national legal systems and cultural contexts. The proposed measures to harmonise national legal systems with European standards, including strengthening the autonomy of the judiciary, improving access to evidence and legal assistance, and integrating ECtHR judgements into national law, are critical to increasing the efficiency and transparency of justice in European countries.

Conclusions

The analysis of the principle of fair trial, as defined by Article 6 of the European Convention on Human Rights, highlighted the importance of ensuring the basic principles of justice, including the autonomy and objectivity of the judiciary, procedural equality, presumption of innocence, publicity of the process, and prompt resolution of court cases.

The analysis of court cases revealed significant issues in the implementation of fair trial guarantees across several European countries. The findings highlight systemic problems in countries like Italy and France, where violations such as delays in proceedings and inadequate legal safeguards have undermined the fairness of trials. Poland and Germany, on the other hand, have difficulties with judicial independence and procedural equality even though their national laws are formally followed. These problems show that although there may be legislative frameworks in place, their actual application frequently falls short of European standards, pointing to the necessity of extensive judicial changes to increase the court system's effectiveness, openness, and equity. The study emphasises how crucial it is to close these disparities in order to preserve the values of justice and equality and boost public trust in the legal system.

The study identified the key challenges faced by European countries in ensuring fair trial guarantees. The qualitative indicators of the study point to systemic violations, including delays in the consideration of cases, limited access of the accused to the case file, inequality of the parties in the process, and insufficient independence of the judiciary from political influence. Statistical data confirmed a

considerable number of violations of Article 6 of the European Convention on Human Rights in countries such as Italy, France, Poland, Germany, and Albania. These countries face substantial challenges in ensuring judicial independence, timely trials, and equal access to legal aid, which undermine the fairness of their judicial systems. The study highlights that, although national laws may theoretically uphold the right to a fair trial, practical issues such as procedural delays, restrictions on evidence access, and lack of impartiality often lead to violations of these rights. These findings underline the need for comprehensive judicial reforms, including strengthening the independence of judges, improving access to legal representation, and implementing measures to expedite court proceedings. The study of the balance between efficiency and fairness in European criminal law indicates the significance of defining mandatory time limits for each stage of court proceedings, simplifying procedures, and using electronic justice, which will help to reduce the time for consideration of cases.

Further research should focus on developing effective tools for monitoring the judiciary, analysing the effectiveness of reforms, and their adaptation to the national conditions of each country, which will help to strengthen the compliance of national legal systems with the ECHR standards.

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Conflict of interest

None.

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Право на справедливий суд за статтею 6 ЄКПЛ: Баланс між ефективністю та справедливістю в європейському кримінальному праві

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Анотація. Метою цього дослідження була критична оцінка механізмів, які дозволяють досягти адекватного співвідношення між ефективністю судових процесів та їх відповідністю стандартам справедливості, викладеним у статті 6 Конвенції про захист прав людини і основоположних свобод. За допомогою формально-юридичного, герменевтичного та порівняльного методів було проаналізовано відмінності в реалізації принципів справедливого судового розгляду в європейських країнах та розроблено рекомендації щодо гармонізації національних систем з міжнародно-правовими критеріями. Результати дослідження продемонстрували різноманітність підходів до досягнення балансу між ефективністю та справедливістю в судочинстві в таких країнах, як Німеччина, Франція, Польща, Італія та Албанія. Зокрема, було виявлено, що судові системи Франції та Польщі, надаючи перевагу прискореному розгляду справ, можуть негативно впливати на забезпечення прав обвинувачених. Водночас Німеччина, Італія та Албанія зосереджуються на всебічному розгляді справ, що гарантує справедливість, але затягує розгляд, що впливає на загальну ефективність правосуддя. Аналіз практики Європейського суду з прав людини показав, що вона часто зосереджена на усуненні порушень прав, але рідко містить пропозиції щодо вдосконалення механізмів забезпечення балансу. На основі вивчення судових рішень були розроблені рекомендації щодо уточнення критеріїв досягнення належного балансу між ефективністю та справедливістю в судовому провадженні. Ці рекомендації передбачають уточнення стандартів, за якими визначається швидкість розгляду справ без шкоди для ефективності. Отримані висновки свідчать про необхідність удосконалення правових механізмів досягнення ефективного балансу між швидкістю розгляду справ та справедливістю судового розгляду, що сприятиме вдосконаленню правосуддя в європейських юрисдикціях

Ключові слова: процесуальні гарантії; неупередженість; розумні строки; обвинувачення; змагальність; презумпція невинуватості