Article 6 of the European Convention on Human Rights (Convention) and Article 47 of the European Union Charter on Fundamental Rights (Charter).

Mutual Relation, Scope, and Interpretation

Presentation by Prof. Julia Laffranque, Judge at the European Court of Human Rights
Barcelona 28 April 2014

ARTICLE 6 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

“1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.”

ARTICLE 47 OF THE EUROPEAN UNION CHARTER ON FUNDAMENTA RIGHTS

Right to an effective remedy and to a fair trial

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.

Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.
FURTHER CONSIDERATIONS IN A FAIR TRIAL CONTEXT

- Article 13 of the Convention – Right to an effective remedy;
- Article 48 of the Charter – Presumption of innocence and right of defence (according to Charter explanations this right has same meaning and scope as Article 6 (2) and (3) of the Convention);
- Articles 51 – 53 of the Charter – Field of application, Scope and interpretation of rights and principles; Level of protection;

SOME RELEVANT EU SECONDARY LAW

- Directive 2012/13/EU of the European Parliament and the Council of 22 May 2012 on the right to information in criminal proceedings;
- Directive 2013/48/EU of the European Parliament and the Council of 22 October 2013 on the right to access to a lawyer in criminal proceedings and European arrest warrant proceedings and on the right to communicate upon arrest and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty;
- EU Legislative proposals 2013 – presumption of innocence, legal aid, vulnerable suspects European Commission’s a package of proposals to further strengthen procedural safeguards for citizens in criminal proceedings.

RELEVANT COUNCIL OF EUROPE INSTRUMENTS

- Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings adopted by the Committee of Ministers of the Council of Europe on 24 February 2010;
- Recommendation of the Committee of Ministers of the Council of Europe to Member States on judges: independence, efficiency and responsibilities, adopted on 17 November 2010;
- Magna Carta of European Judges (Fundamental principles), 2010 and opinions adopted by the Consultative Council of European Judges (CCJE) (especially Opinion no 6 on fair trial within a reasonable time, 2004).
USEFUL MATERIALS

Vitkauskas, Dovydas; Dikov, Grigory, *Protecting the right to a fair trial under the European Convention on Human Rights*, Council of Europe human rights handbooks, Strasbourg, 2012;


All guides: [http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=](http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=)

*Explanations to the Charter*, 2007/C 303/02;

Doobay, Anand, *The right to a fair trial in light of the recent ECtHR and CJEU case-law*, ERA Forum, 2013;


USEFUL LITERATURE


CASE LIST

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A. Menarini Diagnostics S.R.L. v. Italy, no. 43509/08, 27 September 2011
Airey v. Ireland, 9 October 1979, Series A no. 32
Chahal v. the United Kingdom, 15 November 1996, Reports of Judgments and Decisions 1996-V
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Åklagaren v. Hans Åkerberg Fransson, C-617/01, 26 February 2013
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Chalkor AE Epexergasias Metallon v. European Commission, C-386/10 P, 8 December 2011
DEB Deutsche Energiehandels- und Beratungsgesellschaft mbH contre Bundesrepublik Deutschland, C-279/09, 22 December 2010
EG v. Otis, C-199/11, 6 November 2012
Gascogne Sack Deutschland v. Commission, C-40/12 P, 26 November 2013
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Günter Fuss v. Stadt Halle, C-243/09, 14 October 2010
Kendrion v. Commission, C-50/12 P, 26 November 2013
KME Germany AG v. Commission, C-389/10 P, 8 December 2011
N. S. v. Secretary of State for the Home Department, C-411/10, 21 December 2011
Schindler Holding and Others v. Commission, C-501/11, 18 July 2013
Stefano Melloni v. Ministerio Fiscal, C-399/11, 26 February 2013
ZZ v. Secretary for the Home Department, C-300/11, 4 June 2013