



**LAW ON PROTECTION OF  
THE RIGHT TO A TRIAL  
WITHIN A REASONABLE TIME**

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**“...the legislator’s intention was to comprehensively and in detail define the right to a trial within a reasonable time. Given that the Law will be applied from January 1st, 2016, it is expected that the application of the law in practice will produce its first results at the end of 2016.”**

On May 7th 2015 the National Assembly of the Republic of Serbia passed the Law on Protection of the Right to a Trial within a Reasonable Time (hereinafter: “the Law”). The Law will enter into legal force and be applied starting from January 1st, 2016. The reason for this delay in the Law’s coming into force is to give the judges time to prepare for compliance with the Law.

The Law completely changes the current system of protection of the right to a trial within a reasonable time, and comprehensively defines the legal remedies which protect this right. In Serbian legislation this legal matter was covered by just a few articles of the Law on Organization of Courts (“The Official Gazette of Republic of Serbia”, No. 101/2013), which was obviously not enough to solve the problem of frequent violations of the right to a trial within a reasonable time.

The purpose of the Law is not only judicial protection of this right, but also preventing violations of the protected right. The Law stipulates the conditions, manner and procedure for achieving protection of the right to a trial within a reasonable time, as well as fair redress in case of violation of this right.

The Law provides protection to all parties in all kinds of proceedings before Serbian courts, except proceedings before administrative authorities, the public prosecutor in criminal proceedings, or a private and subsidiary prosecutor, if a pecuniary claim was not filed.

Legal remedies for protection of the right to a trial within a reasonable time are:

1. Request for acceleration of proceedings (hereinafter: “the Request”),
2. Appeal, and
3. Action for fair redress.

The Request and Appeal are remedies for accelerating the proceedings, with preventive character, and should be filed before the end of the ongoing proceedings. The president of the court is in charge of deciding on the Request.

After reviewing the course of the proceedings, he may issue an order for effective acceleration of the proceedings. If the Request is not acknowledged, the party in question is allowed to file an Appeal. The appellate proceedings are conducted by the president of the directly higher court.

Only the party who applied for acceleration of the proceedings by submitting the Request and/or Appeal is entitled to file an Action for fair redress, and this only when it was determined during these preventive proceedings that the court violated the right to a trial within a reasonable time.

The Action for fair redress grants the right to:

- fair compensation - payment of monetary compensation for intangible damage and
- publishing of the ruling that the right of the party to a trial within a reasonable time has been violated.

Cumulating of both rights is possible in case of serious violation of the right to a trial within a reasonable time. The amount of monetary compensation ranges from EUR 300.00 to EUR 3,000.00. The Action for fair redress is first conducted before the State Attorneys' Office, and in the second instance before a court of law.

In adopting the Law, the legislator's intention was to comprehensively and in detail define the right to a trial within a reasonable time. Given that the Law will be applied from January 1st, 2016, it is expected that the application of the law in practice will produce its first results at the end of 2016. In any case it goes without saying that parties will have new legal remedies to protect their right to a trial within a reasonable time.

**Commented by:**

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