

The Right to a Fair Hearing within a Reasonable Time and Case Management

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Abstract

This paper has two related purposes. One is to analyse the right to a fair hearing within a reasonable time and remedy for its infringement. The other purpose is to describe and evaluate the recent case management in court praxis of Taiwan. To protect the right to a fair hearing within a reasonable time, Taipei District Court adopts means of case management with which one case is assigned to two judges. But this violates the principle of immediacy in Taiwan's Code of Civil Procedure. According to this principle, judges who do not participate in the arguments on which a judgment is based may not participate in making the judgment. An effective remedy for protection of rights to a fair hearing within a reasonable time is still lacking in Taiwan law due to lengthy civil proceedings. In view of cases of European Court of Human Rights and German Draft the compensation system shall be considered.

Keywords: the right to a fair hearing within a reasonable time, case management, court management, an effective remedy, principle of immediacy, principle of concentration, principle of legal judge, identify and narrow issues, preparation by preliminary hearing, European Court of Human Rights, European Convention on Human Rights, constitutional complaint, special complaint alleging inaction, action for damages

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