THE APPLICATION OF THE PRINCIPLE OF FAIR TRIAL IN THE REPUBLIC OF MACEDONIA: THE CASE OF SMICHKOVSKI V MACEDONIA


Abstract

The principle of a fair trial is the legal pillar of democratic societies and countries where the rule of law is the bases on which every step is built on. It guarantees to every person the right to a fair trial in both civil and criminal cases and protection of his/her human rights during the legal procedure. It is a right which is an essential part of a just society, where equality is non-discussed and guaranteed. It is the only way to prevent one-way justice and protect every suspect or defendant. Also, its existence and proper practicing makes societies safer and stronger place, with confident justice system. The article’s subject is the application of this principle in the legal procedures in Macedonian courts (criminal and civil) analyzed through the European Court of Human Rights’ Case Law (the case of Smičkovski v Macedonia). Method: Content analysis, normative and comparative methods. Aim: Analyze and conclude which are the factors influencing the lack of guarantees in courts procedures in Macedonian courts regarding the ECHR article 6: right to a fair trial; having in mind that Republic of Macedonia is very often a respondent in front of European Court in Strasbourg, especially in procedural matters. Conclusion: Conclude whether Macedonia has a lack of democratic sense, a non-functional legal system, or imaginary rule of law; or the variety of ECHR cases are just systematic errors which could be removed.

Keywords: ECHR, fair trial, principle, rule of law, Republic of Macedonia

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