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# THE RIGHT OF LEGAL ENTITIES TO A FAIR TRIAL IN THE EUROPEAN LEGAL FRAMEWORK: THEORETICAL ISSUES

*The article identifies access to justice as a fundamental right that extends beyond natural persons to legal entities, ensuring that companies and organizations also benefit from legal protection under the European Convention on Human Rights (ECHR). It is established that, while the ECHR provides extensive safeguards for individuals, legal entities have increasingly gained recognition in the Court's jurisprudence, especially under Article 6 (right to a fair trial) and Article 1 of Protocol № 1 (protection of property). The analysis demonstrates that legal entities have the right to procedural fairness, equality of arms and independence of judges in dispute resolution. In addition, the article examines the ECtHR judgments in which issues such as disproportionate sanctions, delays in court proceedings or restrictions on access to court concerned legal entities, which underlines the role of the Court in ensuring justice.*

*The article employs a systematic and comparative legal analysis of relevant ECHR rulings concerning legal entities, focusing on case law that addresses access to justice, the right to a fair trial under Article 6, and the protection of property rights under Article 1 of Protocol № 1. In addition, specific ECtHR judgments in which issues such as disproportionate sanctions, delays in court proceedings or restrictions on access to court affected legal entities were considered, which underlines the role of the Court in ensuring justice. The analysis shows that although the ECtHR has made significant progress in expanding access to justice for legal entities, there are still areas that require further clarification and development to ensure full protection of corporate rights under the Convention.*

*In conclusion, the study highlights the need for further development of case law and clearer guidelines to address the unique challenges faced by legal persons, in particular with regard to procedural fairness and effective remedies. Access to justice for legal persons remains a vital component of the wider human rights system, contributing to legal certainty and the protection of corporate rights across Europe.*

***Key words:*** *the rule of law, access to justice, case law, court, ECHR, equality of arms, fundamental rights and freedoms, independence, legal entity, procedural fairness, the right to a fair trial.*

**Statement of the problem.** The ECtHR's case law is crucial for ensuring access to justice for legal persons, helping to create a more balanced and fair legal system for businesses and organisations. By recognising the rights of legal persons to a fair trial and protection of property, the Court contributes to a more inclusive interpretation of justice. The right to a fair trial is a cornerstone of the rule of law and fundamental to the administration of justice in modern legal systems. While this right is universally recognised for individuals, its application to legal persons, such as corporations, non-governmental organisations and other institutional bodies, raises complex theo-

retical and practical issues. Legal entities, although they do not possess the physical characteristics of natural persons, play a key role in the economic and social sectors, which necessitates the protection of their procedural rights in courts. In the European legal framework governed by the European Convention on Human Rights (ECHR), the right to a fair trial is guaranteed by Article 6, which applies to both individuals and legal entities. However, the nature, scope and procedural aspects of this right for legal entities require more detailed study.

The main challenge is to explore whether the general principles of fairness in the trial process, such as equality of arms, impartiality, and access to justice, are adequately adapted to the specific needs of legal entities. This includes understanding how the legal personhood of entities affects their standing in court, their ability to exercise rights during proceedings, and the implications of these rights for justice systems in Europe. Moreover, there is an ongoing need to assess how the European Court of Human Rights (ECtHR) interprets and applies Article 6 in cases involving legal entities, particularly in relation to corporate rights, procedural safeguards, and the balance between corporate and public interests. Thus, the key problem addressed in this study is the theoretical and practical interpretation of the right to a fair trial for legal entities within the European legal framework and how this impacts the broader justice system.

**Analysis of recent research and publications.** Recent scholarly discourse on the right of legal entities to a fair trial under European law has been multifaceted, touching on both theoretical interpretations and case law analysis. Several studies have focused on the European Court of Human Rights' (ECtHR) case law, emphasizing the court's interpretation of Article 6 of the ECHR as it applies to corporations and other legal entities. Among contemporary researchers of this legal phenomenon, the works of A. Alvarez-Nakagawa [1], D. Kansra [2], G. Loiseau [3], V. Rouas [4], and other scholars are worth mentioning.

Research has highlighted the progressive broadening of the concept of «civil rights and obligations» to encompass corporate interests, such as property rights and regulatory compliance, thereby solidifying the status of legal entities as subjects of fair trial protections.

Scholars have analyzed how legal entities, especially corporations, invoke the right to a fair trial to challenge state regulatory measures. They argue that while the ECtHR generally applies the same procedural safeguards to legal entities as to individuals, certain elements, such as the representation of the company, the complexity of the corporate structure, and the scale of operations - pose unique challenges. This has led to debates on whether special considerations should be given to legal entities in procedural matters, especially in terms of access to justice and the costs of litigation.

Another area of research has been the relationship between corporate rights and public interest, particularly in regulatory and environmental litigation. Studies have pointed out that the right to a fair trial for legal entities sometimes conflicts with the broader public interest, requiring a delicate balance in judicial reasoning. Furthermore, there has been a growing focus on the intersection between international business law and human rights, where corporate entities seek protection under Article 6 in cross-border disputes, such as investor-state arbitration.

Despite these developments, gaps remain in understanding how the specific characteristics of legal entities, such as their non-human nature and collective decision-making processes affect their treatment under the European legal framework. Further research is needed to fully conceptualize the implications of these unique attributes on the fairness of legal proceedings and to assess the extent to which the ECtHR's jurisprudence adequately addresses these complexities.

**The purpose of the article is** to investigate how the ECHR case law has shaped the legal framework for legal entities' access to justice, and also to identify gaps and challenges in the application of guarantees and principles of fair trial to legal entities. By combining doctrinal analysis with a critical assessment of the ECHR case law, the article aims to identify patterns and new trends in the Court's approach to the rights of legal entities. The study also aims at reviewing

the challenges faced by legal entities, especially small and medium-sized enterprises, in effective access to justice, including financial burdens, procedural complexities and variations in national practices of implementing ECHR standards.

**Summary of the main material.** The European Court of Human Rights (ECtHR) recognizes the right of legal entities (e.g., NGOs, corporations, and groups) to seek justice under the European Convention on Human Rights (ECHR), provided they meet specific admissibility criteria. The vitality of legal entities before the European Court of Human Rights is a reality that provokes disapproval. Far from being seen as progress, the recognition and protection of human rights invoked by legal entities are viewed as a serious regression, even a perversion, and a «deculturation» of human rights [3, p. 2558]. They are even said to promote a «technocratic and utilitarian drift of law» [5, p. 137].

As the ECHR is one of the main actors in the movement to promote the fundamental rights of legal entities, its jurisprudence is particularly targeted by criticism. According to B. Edelmann, the Court molds human rights to the needs and demands of the market [12, p. 897]. This transformation has followed a dual process: treating legal entities as natural persons by recognizing certain fundamental rights in their favor and exacerbating individualism driven by the market, to the point of treating the human body as a commodity subject to free competition.

Concerning the first process, which is of interest to us here, this argument is based on two assumptions. First, it suggests that only the ECHR, alongside the Court of Justice of the European Union, recognizes fundamental rights for the benefit of legal entities. Second, legal entities are viewed as a homogeneous category, limited solely to companies.

On the first point, the ECHR does not have a monopoly on recognizing fundamental rights for the benefit of legal entities. As J. Rivero noted in his conclusions at the Aix-en-Provence colloquium on Constitutional Courts and Fundamental Rights in 1981, regarding the holders of fundamental rights: one problem is resolved: «natural persons, of course, but also legal entities» [6, p. 659]. There is no need here to list the national constitutions and constitutional courts that grant fundamental rights to legal entities.

On the second point, despite the existence of jurisprudence concerning companies before ECHR, legal entities are not reducible to companies [7]. They represent a heterogeneous category of various forms of entities with legal personality: associations, churches, institutions, groups, organizations, parties, unions, etc. Even if all legal entities could be grouped into a single homogeneous category, they cannot be viewed as legal beings without any connection to human beings or without working for them. One might even say that the legal entity that is frightened by its power and cold nature, namely the state, is no longer addressed independently of its relationship with individuals. Some scholars even freely discuss the fundamental rights of states. Without adopting this latter thesis in the context of human and fundamental rights, it is worth noting that Article 33 of the European Convention on Human Rights grants each member state a special legal avenue to bring before the Court a complaint of a violation of rights guaranteed by the ECHR by another member state [8].

Thus, H. Koki said that it is crucial to acknowledge the significant place occupied by legal entities in the ECHR [6]. As the case law of the ECHR on legal persons deserves neither excessive praise nor excessive indignation.

The question is no longer whether to contest or discuss the benefit of human rights for legal entities. It is whether the ECHR applies special treatment to legal entities and whether their inclusion in European human rights litigation changes this dynamic.

It is equally undeniable that the litigation of certain types of legal entities before the ECHR raises questions. In particular, litigation concerning companies provokes what Jean-François Flauss called the «commercialization» of European human rights litigation [10, p 226]. The transformation of human rights into a mere tool of an economic conception of judicial litigation is a

risk that cannot be ignored but should not be exaggerated either.

Subject to debates regarding the difficulties in recognizing certain rights specifically attached to natural persons for the benefit of legal entities, the ECHR treats legal entities as subjects among others under the European Convention on Human Rights. Legal entities appear before the Court as individual applicants. As would seem appropriate, while taking into account necessary adaptations of certain human rights to the characteristics of legal entities, the ECHR treats them as actors in a democratic society with the rights and obligations that accompany this status.

Except for an article in one of its additional protocols, the ECHR itself does not explicitly mention legal entities. However, it does not exclude them either. Various provisions implicitly reference them. Article 1 of the ECHR speaks of a «person» without specifying whether it is a natural or legal person [8]. In light of the International Covenant on Civil and Political Rights, which explicitly mentions individuals, the neutrality of the ECHR favors the inclusion of legal entities among the beneficiaries of the rights proclaimed in the Convention of November 4, 1950 [8]. A systematic interpretation of Article 1 of the ECHR, in light of Article 17 of the same ECHR, which relates to the abuse of rights, supports this interpretation [11]. By referring to «associations» alongside individuals, Article 17 seems to encompass legal entities. This interpretation can also be drawn from reading Article 34 of the ECHR, which refers to «any person, non-governmental organization, or group of individuals» [8] as potential applicants. A broad definition of the term «person» also arises from Articles 5 to 11 and Article 13 of the ECHR, which recognize the rights they proclaim for the benefit of «any person». Article 1 of Protocol № 1 to the ECHR is more explicit, stating: «Every natural or legal person is entitled to the peaceful enjoyment of his possessions» [8].

With some exceptions relating to rights whose application to legal persons is problematic, the possibility of legal persons to enjoy the rights guaranteed by the ECHR is no longer a matter of debate in this study.

Naturally, legal entities submit applications to the ECHR. Individual applications under Article 34 of the ECHR attract numerous complaints from legal entities. The Court's case law has allowed legal entities to be assimilated as individual applicants. Legal entities can file individual applications under Article 34, which refers to groups of individuals and non-governmental organizations.

At a minimum, the concept of a group of individuals allows the Court to accept applications from informal associations. As F. Sudre has noted, European jurisprudence shows that a group of individuals is "an informal association, usually temporary, of two or more people sharing identical interests and claiming to be victims of a violation of the Convention" [13, p. 740]

The notion of a non-governmental organization serves as the basis for applications by legal entities with legal capacity. No particular difficulties arise regarding its application to private law entities. However, the situation is different for public law entities.

A private law entity that claims to be a victim of a violation of the ECHR or its protocols may consistently submit an individual application. Applications from for-profit legal entities such as commercial companies or businesses are common before the ECHR. Similarly, applications from non-profit legal entities, such as trade unions, political parties, religious organizations, or charitable and social associations, are also frequent.

The status of a legal entity is determined by the jurisprudence of the ECHR, not by national law. The lack of recognition of this status under national law does not prevent a legal entity from submitting an individual application. The refusal of legal personality under national law can indeed be subject to litigation before the European Court. Examples include disputes over the dissolution of political parties [14], the legal capacity of a church [15], or private legal entities performing public service missions [16].

Currently, private law entities' applications are a common feature in the Court's proceedings. However, while public law entities' applications are not unheard of, they still raise some questions.

In theory, some authors advocate for public law entities to submit applications to the ECHR. The Court accepts applications from public law entities that do not exercise pub-

lic authority or that are autonomous from the state [17, p 153]. The debate mainly concerns the applications of local and sub-state authorities. The Court assimilates local authorities and sub-state entities to government organizations, which are not eligible to submit individual applications. The Court does not accept applications from public law entities that exercise public authority, pursue public administration objectives, or are connected to the state in some way. Here, the Court applies reasoning similar to that of the German Constitutional Court, which holds that public entities cannot be both providers and beneficiaries of fundamental rights. Moreover, under the current law of the European Convention on Human Rights, the Court cannot accept applications from sub-state entities against member states, as this would interfere with delicate questions of regulation and division of powers between each member state of the Convention and its sub-state entities. While one can defend the constitutional role of the ECHR as a guardian of the European public order of human rights, the time has not come to recognize an internal constitutional function for the Court as a regulator of powers within each member state. This role is generally assigned to constitutional courts within the member states that have them or to high courts authorized by national constitutions.

Apart from the specific category of public law entities, legal entities are primarily treated as individual applicants by the ECHR. However, this assimilation is neither full nor complete. Under Article 34 of the ECHR, in addition to admissibility conditions related to time limits and the exhaustion of domestic remedies, access to the European Court of Human Rights is reserved for applicants who are «victims» of a violation of the ECHR.

Applying this condition to legal entities is not straightforward. Due to the very structure of legal entities, determining their status as victims and identifying the interest to protect (whether it is the legal entity's interest, its members' interest, or its representatives' interest) is a source of complications. If a legal entity's defense of its interests does not seem problematic, its defense of the interests of its members or others raises questions.

A legal entity can file an individual application to defend its social objective or purpose [18]. However, if there is a conflict between the interests of the entity's representative and the entity itself, the admissibility of the application is questionable. For example, this is the case if the entity has exhausted domestic remedies but its representative has not.

The development of legal entities tasked with defending their members or collective interests, such as in the fields of religion, the environment, or consumer protection, strengthens the interaction between the rights of legal entities and those of individuals who are members or have interests aligned with those defended by the legal entity.

However, the Court distinguishes between the two types of interest. A legal entity that cannot demonstrate it is a direct victim of a violation of the ECHR is not admissible to file an individual application. Conversely, shareholder companies of a company are not admissible to act on behalf of that company if they cannot demonstrate that they themselves are victims of a violation of the company's rights. Similarly, an individual cannot act on behalf of a company they represent unless they are a victim of a violation of the company's rights. Exceptionally, when a company is unable to access a court to defend its rights, a natural person may file an individual application on behalf of the company. Therefore, the scope of collective interest groups' applications is limited.

As might be expected, legal entities do not enjoy certain rights guaranteed by the ECHR. Since they are not human beings, the invocation of certain rights by legal entities, which are considered incompatible with their nature, raises some questions.

The applicability of private law to legal entities, which has been much debated, has received answers. Interesting developments have occurred on this topic. Prospects have been opened, such as the protection of domicile or the protection of correspondence in its various forms. It does not seem impossible to extend this judicial trend to include the right to a name and its protection, with consequences for data protection or reputation.

However, regarding the applicability of intangible rights to legal entities, many ques-

tions remain. The inapplicability of substantive intangible rights to legal entities is widely accepted. Nevertheless, some question the applicability of Article 2 to companies in cases of forced bankruptcy. Through a combined reading of the principle of non-discrimination and Article 3, is it not conceivable to apply this article in the context of degrading treatment to a company? Is the obligation imposed on a company to provide unprofitable services and activities not equivalent to forced or compulsory labor?

These questions demonstrate the complexity of the relationship between legal entities and human rights. Nevertheless, legal entities are actors in a democratic society, and they form the very foundation of that society. As beneficiaries of certain human rights, legal entities are regarded by the ECHR as actors within this democratic society.

**Conclusions.** The right of legal entities to a fair trial within the European legal framework presents a complex and evolving area of jurisprudence. While Article 6 of the European Convention on Human Rights provides a foundational guarantee of fair trial rights applicable to both individuals and legal entities, the theoretical and practical application of these rights to corporate bodies remains a subject of ongoing development. The ECHR's case law is crucial in ensuring access to justice for legal entities, helping create a more balanced and fair legal system for businesses and organizations. By recognizing the rights of legal entities to fair trials and the protection of property, the Court contributes to fostering a more inclusive interpretation of justice. This study highlights that the recognition of legal entities as beneficiaries of procedural safeguards is well-established, yet unique challenges persist due to the distinct nature of these entities, particularly in relation to their structure, decision-making processes, and the broader public interest.

The analysis of research and case law reveals that the European Court of Human Rights has made significant strides in ensuring that legal entities enjoy similar protections to those afforded to natural persons. However, the jurisprudence also reflects the need for a more nuanced approach when addressing the specific procedural needs of legal entities. Issues such as access to justice, representation in court, and balancing corporate interests against public concerns demand careful consideration by the courts to ensure the overall fairness of the trial process.

In conclusion, while the European legal framework has made significant progress in protecting the procedural rights of legal entities, there remains a need for continued refinement of legal principles to address the evolving challenges posed by these entities. Future research should focus on how procedural safeguards can be further tailored to meet the unique characteristics of legal entities, ensuring that justice is effectively administered within the European legal system.

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**Балацька О., Лотиш Т. Право юридичних осіб на справедливий судовий розгляд у європейському правовому просторі: теоретичні аспекти**

*У статті визначено доступ до правосуддя як фундаментальне право, яке поширюється не лише на фізичних осіб, а й на юридичних осіб, забезпечуючи компаніям та організаціям правовий захист відповідно до Європейської конвенції з прав людини (ЄКПЛ). Встановлено, що хоча ЄКПЛ передбачає широкі гарантії для фізичних осіб, юридичні особи дедалі більше визнаються у практиці Європейського суду з прав людини (ЄСПЛ), зокрема у контексті статті 6 (право на справедливий суд) та статті 1 Протоколу № 1 (захист власності). Аналіз показує, що юридичні особи мають право на процесуальну справедливість, рівність сторін і незалежність суддів при вирішенні спорів. Крім того, у статті розглядаються рішення ЄСПЛ, у яких юридичні особи стикалися з проблемами, такими як непропорційні санкції, затримки у судових процесах або обмеження доступу до суду, що підкреслює роль Суду у забезпеченні справедливості.*

*Стаття використовує системний та порівняльно-правовий аналіз відповідних рішень ЄСПЛ щодо юридичних осіб, зосереджуючись на судовій практиці, що стосується доступу до правосуддя, права на справедливий судовий розгляд за статтею 6 та захисту права власності за статтею 1 Протоколу № 1. Крім того, розглядаються конкретні рішення ЄСПЛ, у яких питання, пов'язані з непропорційними санкціями, затримками у судовому розгляді або обмеженням доступу до суду, впливали на юридичних осіб, що підкреслює значення Суду у забезпеченні справедливості. Аналіз демонструє, що, хоча ЄСПЛ досяг значного прогресу в розширенні доступу до правосуддя для юридичних осіб, все ще існують аспекти, що потребують подальшого уточнення та розвитку для повного забезпечення корпоративних прав відповідно до Конвенції.*

*У підсумку дослідження підкреслює необхідність подальшого розвитку судової практики та створення чіткіших керівних принципів для вирішення унікальних проблем, з якими стикаються юридичні особи, зокрема щодо процесуальної справедливості та ефективних засобів правового захисту. Доступ до правосуддя для юридичних осіб залишається важливим компонентом ширшої системи прав людини, сприяючи правовій визначеності та захисту корпоративних прав у Європі.*

***Ключові слова:*** *верховенство права, доступ до правосуддя, судова практика, суд, ЄКПЛ, рівність сторін, основоположні права і свободи, незалежність, юридична особа, процесуальна справедливість, право на справедливий суд.*