ECHR Article 6 ADFs

This document presents the five non-admissibility issues that determine whether one's right to a fair trial has been violated in accordance with article 6 of the ECHR (European Convention on Human Rights), namely: Fair, Public Hearing, Reasonable Time, Presumption of Innocence, and Had the Minimum Rights.

If all five issues are positively ascribed (i.e. satisfied) then the applicant's right has not been found to be violated, but if at least one issue is found to be negatively ascribed (i.e. satisfaction is rejected) then the applicant's right is found to have been violated.

An issue is positively ascribed if all of its relevant legal factors (children nodes) are also positively ascribed. An issue is negatively ascribed if at least one of its relevant legal factors is negatively ascribed.

Right Not to Incriminate Oneself

Accept if: The following applies
• The applicant is not compelled to testify under pressure or sanctioned for refusal;

- Authorities do not employ subterfuge to elicit testimony unobtainable during questioning;
- The applicant clearly understands their right if providing relevant testimony.

Independent and Impartial

Accept if: Independence and impartiality are upheld for both situations that are

- Functional in nature (e.g., objective procedures in place to identify and prevent conflicts of interest):
- Of a personal nature (e.g., suitable identification and response to signs of subjective bias).

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Adversarial Hearing

Accept if: All parties

Equality of Arms and

- Have a fair balance in presenting their case;
- Are given fair opportunity to access and comment on evidence relevant to proceedings.

Integrity of Evidence

Fair

Accept if: The following applies

- Evidence is fairly obtained (e.g., entrapment is prohibited) and administered;
- Evidence raises no reasonable concerns with respect to other articles of the convention (e.g., a reasonable concern could be present if evidence is obtained in a manner that potentially violates article 3 prohibition of torture);
- The principle of immediacy is upheld evidence is heard in the presence of the judicial panel that decides the case, or reasonable actions are taken if the composition of the court is changed.

Access to Court

Accept if: One of the following applies

- ♦ The applicant is given the opportunity for their case to heard by tribunal;
- ⋄ There are legitimate practical and effective reasons for any limitations.

Legal Certainty is Upheld

Accept if: The following applies

- The highest court's decision is legally binding where appropriate;
- There exist no conflicting decisions in case law which affect the fairness of the proceedings.

Figure 1: Partial ADF representation on the issue of Fairness.

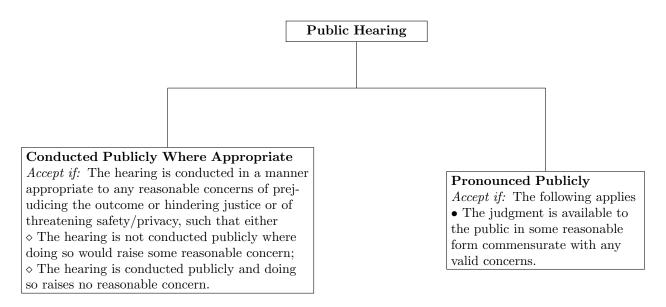


Figure 2: Partial ADF representation on the issue of Public Hearing.

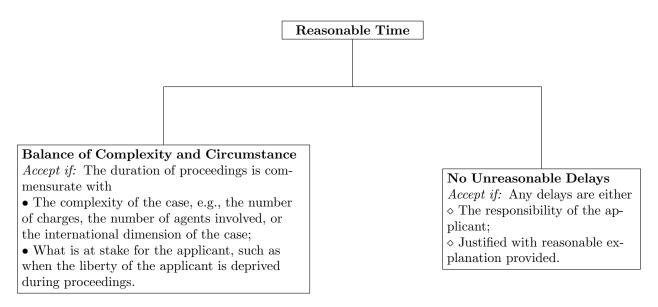


Figure 3: Partial ADF representation on the issue of Reasonable Time.

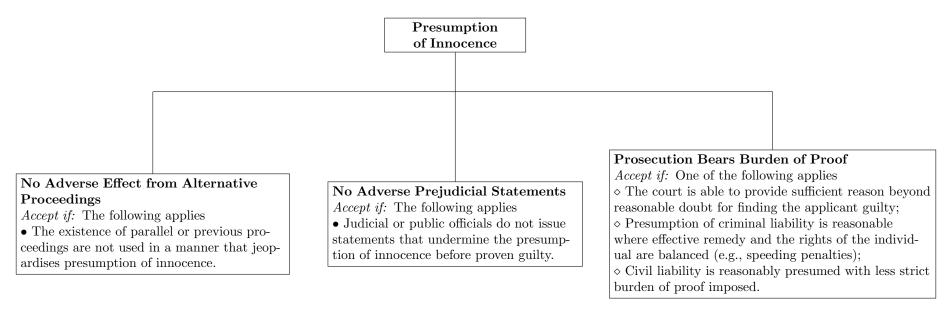


Figure 4: Partial ADF representation on the issue of Presumption of Innocence.

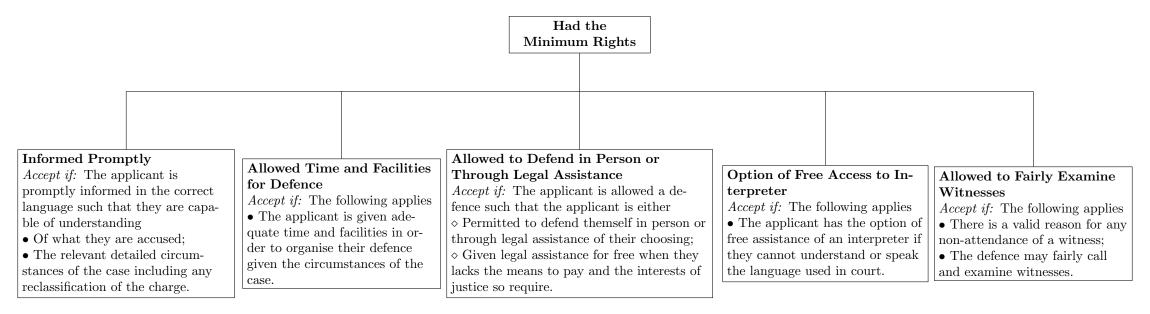


Figure 5: Partial ADF representation on the issue of Minimum Rights.