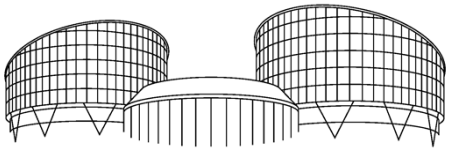

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF STOIMENOVIKJ AND MILOSHEVIKJ v. NORTH MACEDONIA

(Application no. 59842/14)

JUDGMENT

Art 6 § 1 (civil) • Impartial tribunal • Lack of impartiality of Supreme Court judge who sat in a five-judge panel in criminal and closely related subsequent civil proceedings • Failure in responsibility of the judge to bring the matter to the attention of the president of the court in the subsequent civil proceedings • Secrecy of deliberations precluding ascertainment of judge's actual influence in those proceedings

STRASBOURG

25 March 2021

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Stoimenovikj and Miloshevikj v. North Macedonia,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Síofra O'Leary, *President,*
Mārtiņš Mits,
Ganna Yudkivska, *judges*
Tim Eicke, ad hoc *judge,*
Lətif Hüseynov,
Ivana Jelić,
Mattias Guyomar, *judges,*
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 59842/14) against the Republic of North Macedonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Macedonians/citizens of the Republic of North Macedonia, Mr Nikola Stoimenovikj ("the first applicant") and Mr Marko Miloshevikj ("the second applicant", together "the applicants"), on 25 August 2014;

the decision to give notice to the Government of North Macedonia ("the Government") of the complaints concerning the alleged lack of impartiality of the Supreme Court's composition in a civil case and the alleged violation of the applicants' property rights and to declare inadmissible the remainder of the application;

the parties' observations;

Considering that Jovan Ilievski, the judge elected in respect of North Macedonia, was unable to sit in the case (Rule 28 of the Rules of Court) and that on 4 February 2021 the President of the Chamber decided to appoint Tim Eicke to sit as an *ad hoc* judge (Article 24 § 6 of the Convention and Rule 29 of the Rules of Court);

Having deliberated in private on 16 February 2021,

Delivers the following judgment, which was adopted on 3 March 2021:

INTRODUCTION

1. The application concerns, above all, a complaint under Article 6 § 1 of the Convention about alleged lack of impartiality of the Supreme Court, whose composition in a civil case included a judge who had previously participated as a judge of the Court of Appeal in a closely related criminal case.

THE FACTS

2. The applicants were born in 1965 and 2005 respectively and live in Skopje. The first applicant is the father of the second applicant. They are the

son and grandson respectively of the late B.S., who was a party to the criminal and civil proceedings described below (see paragraphs 5 to 16 below). The applicants were represented by Mr V. Trajkovski, a lawyer practising in Skopje.

3. The Government were represented by their Agent, Mr K. Bogdanov, subsequently succeeded by their current Agent, Ms D. Djonova.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

I. BACKGROUND

5. On 9 February 2007 an indictment was filed by the Prosecution Office for Organised Crime against twenty-one individuals, including the first applicant, B.S. and O.M., on charges of abuse of office, fraud and money-laundering. The case involved, *inter alia*, notaries public and Government officials.

6. On 12 April 2007 the Skopje Court of First Instance (*Основен суд Скопје I Скопје*), acting as a criminal court, convicted them of crimes committed while acting as part of an organised group. The first applicant, who had been a notary public, was convicted of abuse of office, fraud and money-laundering and sentenced to fourteen years' imprisonment. B.S. was convicted of money-laundering and given a suspended prison sentence. They were found guilty of, among other things, having laundered money through fictitious loan agreements that the first applicant had certified in his capacity as a notary public. On the basis of those agreements, third parties had made transfers to B.S.'s account by way of repayment of the fictitious loans; the transfers in question were found to constitute money-laundering. O.M. was found guilty of concluding fictitious loan agreements with B.S., thereby participating in money-laundering as described above. Other co-accused, including G.M. (see paragraph 10 below), were also found guilty of money-laundering for entering into similar fictitious loan agreements. The defendants, including the first applicant, B.S. and O.M. appealed against the judgment.

7. On 26 February 2008 the Skopje Court of Appeal (*Апелационен суд Скопје*), sitting as a panel of five judges, including Judge M.S., upheld the lower court's judgment. It dismissed the first applicant's request for a hearing (at which that court would re-hear already admitted evidence or could admit new evidence) and held a public session at which it heard oral arguments by the defendants and/or their representatives. In the judgment that runs at 114 pages, the Court of Appeal reproduced at length the defendants' objections and arguments and the findings of the trial court. It found no reasons to depart from the established facts and the reasons given by the trial court regarding the defendants' guilt. On 3 December 2009 the Supreme Court upheld the lower courts' judgments.

8. On an unspecified date the first applicant started serving his prison sentence.

9. At the time, the case was considered a high-profile case and it attracted considerable media attention.

II. CIVIL PROCEEDINGS

10. On 17 July 2008 B.S. brought a civil claim against O.M., D.M. and G.M., seeking an order for the defendants to pay back a loan that B.S. had given them pursuant to two loan agreements certified by the first applicant.

11. On 1 July 2010 O.M., D.M. and G.M. brought a civil claim against B.S. seeking to have the same loan agreements annulled (see paragraph 10 above), arguing that they had been fictitious. They stated that the agreements had been similar to those that were the subject of the criminal proceedings (see paragraph 6 above) in that they had never come into effect and that no money had been exchanged between the parties, since the real reason for concluding them had been money-laundering. The plaintiffs relied on the judgment and evidence from the criminal proceedings to support their claim. On 30 August 2011 the two claims were joined in a single set of proceedings.

12. On 12 September 2011 the Skopje Court of First Instance (*Основен суд Скопје II Скопје*), acting as a civil court, dismissed B.S.'s claim, upheld the claim brought by O.M., D.M. and G.M., and annulled the loan agreements in question. In determining the key issue, namely the fictitious nature of the agreements, the lack of any business relations (*постоење на должничко – доверителски односи*) and the lack of any money loaned between the parties, the court relied, *inter alia*, on the findings of the criminal court and the witness statements given in those proceedings (see paragraph 6 above).

13. On 12 October 2011 B.S. lodged an appeal. On 5 January 2012 she died.

14. On 25 April 2012 the Skopje Court of Appeal upheld the judgment and the lower court's findings in full.

15. On 15 June 2012 B.S.'s lawyer lodged, on her behalf, an appeal on points of law with the Supreme Court without informing the court of B.S.'s death. In the appeal, he complained, *inter alia*, of wrong assessment of evidence, errors on the facts and law and lack of reasons.

16. On 26 December 2013 the Supreme Court, sitting as a panel of five judges which included Judge M.S. (see paragraph 7 above), without being aware of B.S.'s death, examined the appeal on points of law on the merits and dismissed it, finding no grounds to depart from the lower courts' judgments. In so doing the Supreme Court referred to the relevant facts established by the lower courts (the absence of any money loaned between the parties; that B.S. had sustained no damage; that the loan agreements had

been certified by the first applicant) and the findings of the criminal courts about the guilt of B.S., O.M., G.M. and the first applicant. It held that the lower courts' judgments were clear and contained sufficient reasons for the decisive facts. It further ruled that on the basis of the established facts, which it upheld, the lower courts had correctly applied the substantive law. That judgment was served on B.S.'s lawyer on 4 March 2014.

17. On 6 February 2014 the first applicant began inheritance proceedings in respect of B.S., which included, *inter alia*, B.S.'s civil claim against O.M., D.M. and G.M. (see paragraph 10 above). The outcome of those proceedings is unknown.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

18. The relevant provisions (sections 64 and 400) of the Civil Proceedings Act are summarised in *Poposki and Duma v. the former Yugoslav Republic of Macedonia* (nos. 69916/10 and 36531/11, §§ 26-27, 7 January 2016).

19. Furthermore, section 375 of the Act provides that an appeal on points of law can be submitted on account of substantial procedural flaws and errors on the law. It cannot be lodged in respect of alleged errors on the facts.

20. The Government submitted a "conclusion" (*заклучок*) of the Civil Law Department of the Supreme Court (*Одделза граѓански дела на Врховниот суд*) under "Article 6 § 1 of the Convention in connection with section 64 § 1(6) of the Civil Proceedings Act" dated 2 April 2013 in which that Department held that there were grounds to cast doubt in the impartiality of a judge who had decided a civil claim and had previously participated in related criminal proceedings against the person concerned.

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLE 6 § 1 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

21. The applicants complained of a lack of impartiality of the Supreme Court's panel which had decided B.S.'s civil claim, given the participation of Judge M.S. in that panel and in the Court of Appeal that had decided the criminal case against her. As a consequence of that procedural shortcoming, the applicants had suffered pecuniary damage. They relied on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention, which read in their relevant parts as follows:

Article 6

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal ..."

Article 1 of Protocol No. 1

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

1. Incompatibility ratione personae

(a) The parties' submissions

22. The Government argued that the application was incompatible *ratione personae* with the provisions of the Convention owing to the fact that it had been lodged by the applicants following the death of B.S.

23. The applicants argued that they were B.S.'s heirs and they stood to inherit any gains that she might obtain in the proceedings in issue.

(b) The Court's assessment

24. The Court notes that the present application was lodged by the applicants after the death of B.S. In this connection, the Court has differentiated between applications where the direct victim has died after the application was lodged with the Court and those where he or she had already died beforehand. Where the direct victim dies *before* the application is lodged with the Court, the Court has, with reference to an autonomous interpretation of the concept of "victim", been prepared to recognise the standing of a relative either when the complaints raised an issue of general interest pertaining to "respect for human rights" (Article 37 § 1 *in fine* of the Convention) and the applicants as heirs had a legitimate interest in pursuing the application, or on the basis of the direct effect on the applicant's own rights. The latter cases, it may be noted, were brought before the Court following or in connection with domestic proceedings in which the direct victim himself or herself had participated while alive (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, §§ 97 and 98, ECHR 2014).

25. In the instant case the Court accepts that the first applicant has demonstrated a material interest in the outcome of the case, as he is a direct heir of B.S. and stands to inherit any pecuniary award that may have

resulted from the domestic proceedings. Moreover, the fact that he did not join the civil proceedings is not sufficient, in the opinion of the Court, to deprive him of his standing before it, as participation in the domestic proceedings has been found to be only one of several relevant criteria in this regard (see *ibid.*, § 100). Therefore, the Government's objection under this head regarding the first applicant must be rejected.

26. However, the same cannot be said with regard to the second applicant. As he is B.S.'s grandson and therefore not a direct heir, there is no evidence that at present he can derive victim status from inheritance, or from any other form of succession. In such circumstances, the Court accepts the Government's objection under this head in so far as it concerns the second applicant. Accordingly, the application in respect of the second applicant is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

2. Non-exhaustion of domestic remedies

(a) The parties' submissions

27. The Government submitted that B.S.'s lawyer could have requested the exclusion of Judge M.S. in the appeal on points of law. Such a request could have been lodged with the Supreme Court until it came to decide the case. The "conclusion" of the Civil Law Department of the Supreme Court (paragraph 20 above) was in support of the effectiveness of such a request.

28. The applicants submitted that the composition of the Supreme Court panel that had decided the case had been revealed only after B.S.'s lawyer had been served with that court's judgment. There had been no oral hearing held before that court and no real opportunity for B.S.'s lawyer to learn of the composition of the Supreme Court panel before he had been served with that court's judgment. It had been impossible to foresee that M.S., who had been a criminal judge before she had been elected a judge of the Supreme Court, would sit in a panel of the latter court in a civil case.

(b) The Court's assessment

29. The Court would reiterate that the obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances. The existence of the remedies in question must be sufficiently certain not only in theory but also in practice, failing which they will lack the requisite accessibility and effectiveness (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 71, 25 March 2014).

30. The Court agrees that in the given circumstances, there was no real opportunity for B.S.'s lawyer to learn that Judge M.S. would be a member

of the Supreme Court's panel, all the more so given that an oral hearing was not held before that court. Moreover, the Government failed to submit any relevant example of domestic practice to show that a request for the prospective exclusion of a judge would be an effective remedy in circumstances such as those in the present case. The Supreme Court's "conclusion" (see paragraph 20 above) is not conclusive in this regard. Therefore, the Government's objection of non-exhaustion of domestic remedies must be dismissed.

3. Conclusion

31. The Court notes that the application in respect of the first applicant is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible. The first applicant will be referred to hereinafter as "the applicant".

B. Merits

1. Complaint under Article 6 § 1 concerning the alleged lack of impartiality of the panel of the Supreme Court

(a) The parties' submissions

32. The applicant argued that Judge M.S. had been the acting president of the Supreme Court between 18 July and 5 December 2012 and accordingly had determined the composition of the panel of the Supreme Court that decided B.S.'s appeal on points of law lodged with that court shortly before. After that she had been assigned to sit in the Department on length-of-proceedings cases in which she had remained until her retirement. It was only in B.S.'s case that judge M.S. had been reassigned to sit in the panel of the Civil Law Department of the Supreme Court. In the applicant's view, judge M.S. should have withdrawn from the proceedings since she had already formed a view about B.S.'s role in lending money by means of loan agreements, given B.S.'s participation in the criminal proceedings. The two sets of proceedings did not concern the same agreements, but rather agreements of the same type: they involved B.S. in her capacity as lender and had been concluded before the applicant in his capacity as a notary public. Finally, the civil courts had relied on the judgment from the criminal proceedings and on the evidence set out in that judgment in order to determine whether the agreements were fictitious, which meant that any involvement of the same judge from the criminal proceedings was highly prejudicial to the outcome of the civil proceedings.

33. The Government submitted that Judge M.S. had been a member of a five-judge panel which had decided B.S.'s case. Therefore, her vote had not been decisive for the panel's decision. Judge M.S. had not taken any actions

during the proceedings that could have called her impartiality into question under the subjective test. As to the objective test, the applicant's fear with regard to the panel's lack of impartiality was ill-founded, given that the criminal and civil cases had dealt with unrelated issues.

(b) The Court's assessment

34. The general principles in respect of lack of impartiality are summarised in *Morice v. France* ([GC], no. 29369/10, §§ 73-78, ECHR 2015) and more recently in *Denisov v. Ukraine* ([GC], no. 76639/11, §§ 60-65, 25 September 2018).

35. In the present case, the Court notes that the applicant's concerns under this head stemmed from the fact that Judge M.S., who had previously sat on the panel of the Skopje Appeal Court, which had decided in the criminal proceedings against him and B.S., sat on the panel of the Supreme Court in the subsequent, allegedly related set of civil proceedings. As the applicant's grievances do not concern personal bias on the part of the judge in question, but rather objective, ascertainable facts which in his opinion raise doubts as to her impartiality, the Court will limit its examination to the objective test with regard to lack of judicial impartiality.

36. The Court notes that Judge M.S. was a member of the panel of the Skopje Appeal Court which, on 26 February 2008, in the exercise of its full jurisdiction to examine the case as to the facts and the law (see *Atanasov v. the former Yugoslav Republic of Macedonia*, no. 22745/06, § 32, 17 February 2011), dismissed B.S.'s appeal and confirmed her conviction. Judge M.S. was also part of the panel of the Supreme Court which dismissed the appeal on points of law submitted on behalf of B.S. in the civil proceedings on 26 December 2013.

37. The Court notes that the impugned civil proceedings concerned loan agreements in which B.S. had been the lender and O.M. the borrower; the applicant had certified the agreements in his capacity as a notary public. While they were not exactly the same as the loan agreements which were the object of the criminal proceedings, given this identity of the parties, the applicant's involvement as notary public and the context in which they had been concluded, the Court accepts that they were of a very similar, if not an identical nature. The near identical nature of the agreements in both sets of proceedings was also one of the arguments relied on by the plaintiffs in seeking their annulment in the civil proceedings (see paragraph 11 above). The civil courts found that the agreements in question had been fictitious and declared them null and void. In doing so they expressly relied, *inter alia*, on the findings of the criminal courts regarding the criminal liability of B.S., O.M. and G.M., as well as the applicant (see paragraphs 12 and 16 above), notwithstanding that, as said above, the criminal proceedings concerned different loan agreements and could not therefore be regarded *res judicata* for the issues raised in the impugned civil proceedings.

38. Furthermore, the Court considers it noteworthy that the examination carried out by the adjudicating panels of both the Court of Appeal, in the criminal proceedings, and the Supreme Court in the civil proceedings, of which judge M.S. was a member, concerned the merits of B.S.'s appeals (see, conversely, *Pasquini v. San Marino*, no. 50956/16, § 150, 2 May 2019).

39. The Court also notes that, in view of the secrecy of the deliberations, it is impossible to ascertain judge M.S.'s actual influence on that the decision of the Supreme Court panel (see *Morice*, cited above, § 89 and *Otegi Mondragon v. Spain*, nos. 4184/15 and 4 others, § 67, 6 November 2018). However, as alleged by the applicant and not disputed by the Government, judge M.S. was the acting president of the Supreme Court at the time when the appeal on points of law was lodged on behalf of B.S. and was assigned to a panel of that court.

40. Given the comprehensive assessment and the extensive scope of the review by the Court of Appeal (see paragraphs 7 and 36 above), coupled with the high profile of the criminal case at the time (see paragraph 9 above), it cannot be assumed that Judge M.S. would have been unaware of her participation in that case when deciding B.S.'s appeal on points of law in the impugned civil proceedings. However, there is nothing in the case file to suggest that Judge M.S. considered the possibility of withdrawing from the case or that she had informed the president of the Supreme Court of the fact that five years earlier she had sat in the criminal proceedings. In this connection the Court observes that an obligation on the part of a judge sitting in a case to inform immediately the president of the court of the circumstances justifying his or her removal is expressly set out in the national law (see paragraph 18 above). The Court has already found that it had been impossible for B.S. to request recusal of Judge M.S. from sitting in her civil case (see paragraph 30 above, conversely, *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, no. 16812/17, § 363, 18 July 2019). Consequently, it was the responsibility of Judge M.S., who was aware of the circumstances, to bring the matter to the attention of the President of the Supreme Court all the more so given the relevant "conclusion" of the Civil Law Department of the Supreme Court that pre-dated its decision in B.S.'s case (see paragraph 20 above) (see *Golubović v. Croatia*, no. 43947/10, § 58, 27 November 2012 also *Sigríður Elín Sigfúsdóttir v. Iceland*, no. 41382/17, § 35, *in fine*, 25 February 2020 and *Škrlj v. Croatia*, no. 32953/13, §§ 43-46, 11 July 2019).

41. It is true that, as argued by the Government (see paragraph 33 above), judge M.S. had been but one member of a five-judge panel of the Supreme Court which had decided on B.S.'s appeal on points of law. However, as noted above (see paragraph 39 above), in view of the secrecy of the deliberations, it is impossible to ascertain judge M.S.'s actual influence on that occasion (see *Morice*, cited above, § 89 and *Otegi*

Mondragon v. Spain, nos. 4184/15 and 4 others, § 67, 6 November 2018). Furthermore, it has not been explained why it had been necessary to assign her to sit on the panel of the Civil Law Department of the Supreme Court that decided B.S.'s appeal, which was allegedly the only case in that Department during her career in the Supreme Court after she had been assigned to the Department on length-of-proceedings (see *Fazlı Aslaner v. Turkey*, no. 36073/04, § 40, 4 March 2014).

42. In light of the above, the Court considers that, in the specific circumstances of this case, particularly those described in paragraphs 37-41 above, the first applicant's fears that Judge M.S. had already formed a view as to the merits of the civil case before it was brought before the Supreme Court can be considered to have been objectively justified. The composition of the panel of the Supreme Court accordingly failed to meet the required Convention standard under the objective test (see *Indra v. Slovakia*, no. 46845/99, § 54, 1 February 2005; *Bajaldžiev v. the former Yugoslav Republic of Macedonia*, no. 4650/06, §§ 30-39, 25 October 2011; and *Peruš v. Slovenia*, no. 35016/05, § 16, 27 September 2012, in which the Court's findings about lack of impartiality also concerned one member of an enlarged panel of the Supreme Court).

43. There has accordingly been a violation of Article 6 § 1 of the Convention.

2. Complaint under Article 1 of Protocol No. 1

44. The applicant complained under Article 1 of Protocol No. 1 that he, as the heir of B.S., had had legitimate property expectations with regard to the debt under the agreements in dispute.

45. Having regard to the facts of the case, the submissions of the parties and its findings under Article 6 § 1 of the Convention, the Court considers that it has examined the main legal question raised in the present application and that there is no need to give a separate ruling on the remaining complaints (see, *mutatis mutandis*, *Centre for Legal Resources on behalf of Valentin Câmpeanu*, cited above, § 156).

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

46. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

47. The applicant claimed 735,981 euros (EUR) overall in respect of pecuniary damage corresponding to the unrecovered debt pursuant to the agreements, or EUR 15,000 if the Court were to find a violation of only Article 6 § 1 of the Convention. He further claimed EUR 7,000 in respect of non-pecuniary damage.

48. The Government contested those claims as unsubstantiated and excessive.

49. The Court observes that an award of just satisfaction can only be based on the fact that the applicant did not have the benefit of all the guarantees of Article 6 § 1 of the Convention. However, the Court cannot speculate as to what the outcome of proceedings compatible with Article 6 § 1 of the Convention would have been had the violations not been found. In the present case the Court sees no causal link between the breach of Article 6 § 1 of the Convention and the alleged pecuniary damage. There is therefore no ground for an award under this head (see, for example, *Bajaldžiev*, cited above, § 52). On the other hand, it awards the applicant EUR 2,500 in respect of non-pecuniary damage, plus any tax that may be chargeable to him.

50. The Court further reiterates that in the event of a violation of Article 6 of the Convention, the applicant should as far as possible be put in the position he or she would have been in had the requirements of this provision not been disregarded. The most appropriate form of redress in cases like the present one would be the reopening of the proceedings, if requested. The Court notes, in this respect, that the Civil Proceedings Act provides for the possibility of proceedings being reopened where the Court concludes in a judgment that a court's decision or proceedings prior to it were in breach of the fundamental human rights or freedoms of the party (see paragraph 17 above, see also *Poposki and Duma*, cited above, § 63; *Jakšovski and Trifunovski v. the former Yugoslav Republic of Macedonia*, nos. 56381/09 and 58738/09, § 58, 7 January 2016; and *Mitrinovski v. the former Yugoslav Republic of Macedonia*, no. 6899/12, § 59, 30 April 2015).

B. Costs and expenses

51. The applicant also claimed EUR 7,308 for the costs and expenses incurred before the domestic courts and EUR 2,267 for those incurred before the Court, namely, for consultations with a lawyer with regard to the application and subsequent submissions to the Court.

52. The Government contested the claim as excessive and unsubstantiated.

53. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown

that these have been actually and necessarily incurred and are reasonable as to quantum (see *Éditions Plon v. France*, no. 58148/00, § 64, ECHR 2004-IV). Regard being had to the documents in its possession, the Court considers it reasonable to award the applicant EUR 250 for the costs and expenses incurred before the Court, plus any tax that may be chargeable to the applicant.

54. The Court makes no award in respect of the applicant's claim for the costs and expenses incurred in the domestic proceedings since they were not incurred in seeking the prevention of and redress for the alleged violation complained of before the Court (see *Petrović v. the former Yugoslav Republic of Macedonia*, no. 30721/15, § 44, 22 June 2017).

C. Default interest

55. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application concerning the first applicant (Mr Nikola Stoimenovikj) admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there is no need to examine the complaint under Article 1 of Protocol No. 1 to the Convention;

4. *Holds*,
   (a) that the respondent State is to pay Mr Nikola Stoimenovikj, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 2,500 (two thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 250 (two hundred and fifty euros), plus any tax that may be chargeable, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the first applicant's claim for just satisfaction.

Done in English, and notified in writing on 25 March 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Síofra O'Leary President