



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

FOURTH SECTION

CASE OF EZEOKÉ v. THE UNITED KINGDOM

(Application no. 61280/21)

JUDGMENT

Art 6 § 1 (criminal) • Reasonable time • Applicant's conviction by a jury of two counts of murder after standing trial five times • One-year delays between the third and fourth trial and between the application for permission to appeal and its refusal • In exceptional case-circumstances proceedings did not proceed with the diligence necessary to keep delays to an absolute minimum
Art 6 § 1 (criminal) • Fair hearing • No indication in case-circumstances of any prejudice to the criminal proceedings on account of the successive trials

Prepared by the Registry. Does not bind the Court.

STRASBOURG

25 February 2025

FINAL

25/05/2025

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Ezeoke v. the United Kingdom,

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

Lado Chanturia, *President*,

Tim Eicke,

Lorraine Schembri Orland,

Ana Maria Guerra Martins,

Anne Louise Bormann,

Sebastian Rădulețu,

András Jakab, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having deliberated in private on 4 February 2025,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 61280/21) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a British national, Mr Obina Christopher Ezeoke (“the applicant”), on 15 December 2021.

2. Mr Ezeoke represented himself in the proceedings before the Court. The United Kingdom Government (“the Government”) were represented by their Agent, Mr M. Boulton of the Foreign, Commonwealth and Development Office.

3. On 31 August 2022 the Government were given notice of the complaints concerning the length and fairness of the criminal proceedings. The remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. INTRODUCTION

4. The present case concerns the length and fairness of criminal proceedings against the applicant, who stood trial five times before he was convicted by a jury of the offences with which he was charged. The applicant invokes Article 6 § 1 of the Convention.

II. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1992 and is currently serving a prison sentence in HMP Frankland, in Durham.

A. The applicant's arrest

6. The applicant was arrested on 18 September 2016 in respect of the murder of a woman ("BE") and her twenty-one-year-old nephew. The victims were believed to have been shot dead by the applicant as part of a gang-related revenge attack against BE's sons; BE and her nephew were not involved in gang-related violence and were not thought to have been the intended targets of the attack.

7. When interviewed by the police, the applicant gave no comment and delivered a prepared statement saying that he was not responsible and not present when the murders took place.

8. On 20 September 2016 the applicant was charged with the two murders.

9. Five months later, in a defence statement dated 7 February 2017, the applicant gave particulars of an alibi for the first time. He stated that at the time of the murders he was with CG, her two children, her sister ("RM") and his friend ("AMC") at CG's flat in London.

B. The criminal trials

10. The applicant stood trial on 21 March 2017, six months after his arrest and charge. When the trial had been underway for approximately four weeks and the prosecution case was almost complete, the trial judge fell ill. Once it became apparent that the judge would not be able to sit again within a reasonable time, the jury was discharged. The case was adjourned to start again before a different judge.

11. The second trial commenced on 3 April 2018. During the trial the applicant gave evidence in his defence and called witnesses, including the alibi witness, CG. He did not call RM or AMC. He also disclosed the identity of another key witness, JC, who he asserted had control of the vehicle used in the murders at the relevant time. After deliberating for several days (around forty-two hours in total) the jury indicated that it could not reach a majority verdict. The jury was discharged and the prosecution sought – and were granted – a retrial.

12. The third trial (the first retrial) commenced on 7 January 2019. Once again, the jury was unable to reach a verdict, and was discharged on the third day of deliberations when it indicated that there was no prospect of a majority verdict. The prosecution applied for a further retrial and this application was granted on 12 April 2019. The judge, in his written reasons dated 18 April 2019, referred to the applicable case law (see paragraphs 28-30 below) and concluded that the case easily qualified as one of extreme gravity; it concerned a crime that had undoubtedly occurred; the case against the applicant was a cogent, multistranded, circumstantial case which had not weakened with time, but instead had remained compelling; there was an overwhelming public interest in having a verdict, one way or another, in such

a serious case; and the condition of exceptionality, which the prosecution had to satisfy, was met.

13. The fourth trial (intended to be the second retrial) commenced on 10 February 2020. The jury retired on 18 March 2020, the twenty-sixth working day of the trial. By that point the country, and particularly London, was experiencing a public health emergency as a result of the spread of the Covid-19 virus. For reasons related to the public health emergency, by 24 March 2020 the jury had been reduced to eight members, an insufficient number to return a valid verdict. The jury was accordingly discharged.

14. The prosecution applied for the applicant to be retried by a fresh jury. Counsel for the applicant resisted the application on the basis that, owing to the passage of time, it would be oppressive for the applicant to be retried, and any trial proceedings would be unfair and/or constitute an abuse of the court's process. A jury had been empanelled on four occasions to try him, and he had given evidence on three separate occasions. Furthermore, he had spent the entire period following his arrest in custody under Category A conditions (that is, in a high security prison).

15. The trial judge rejected the applicant's arguments and, in a decision dated 20 April 2020, ordered a fresh (fifth) trial.

16. The judge noted that the issue to be determined was whether it would be appropriate for there to be a further attempt to reach a conclusion in the second retrial of the applicant. The second retrial had come to an end due to the public health emergency and not because the jury had failed to agree. Had that been the case, the application before the judge would have been an application for a third retrial, for which he would not have given leave.

17. The judge considered the circumstantial evidence relied on by the prosecution, which in his view was powerful and cogent.

18. Furthermore, in the course of oral submissions the judge had asked the applicant's Counsel if it would be oppressive for the applicant to have a fifth trial, had the fourth trial been aborted during the course of the evidence and the fifth trial started immediately or within a few days. Counsel had conceded that it would not.

19. The judge did not discount the impact of delay in the case. However, he noted that most of the evidence called by the prosecution had been and would be of a kind not reliant on the recollection of witnesses, such as documentary records, CCTV footage, telephone records and properly recorded scientific examinations. The defendant had given evidence in the second retrial before the judge and was not significantly hampered by the fact that he was giving evidence about matters that had occurred in or around 2016. CG's evidence was affected by the passage of time. However, she did not give any account to the legal representative or police officer until some months after the event which of itself had clearly affected her recollection.

20. The trial judge therefore reached the conclusion that it would not be unfair for a further trial to be held. The material aspects of the judge's conclusions were as follows:

“27. The position reached in this case is very unusual. For a second retrial to be sanctioned by the court the circumstances must be exceptional. Thus, a third effective trial will be a rarity. For the third effective trial in fact to be the fourth trial faced by defendant because of illness of the trial judge in the first attempt to try the case is bound to be even more rare. In this instance the second retrial was conducted against the backdrop of an increasingly serious public health emergency. It was as a consequence of that emergency – which has been described as the most serious health emergency since the 1918 flu pandemic – that the jury in the second retrial was unable to reach a conclusion of any kind. This combination of circumstances has never occurred previously. It may never occur again.

28. Despite the unprecedented nature of the factual position, the test I have to apply is simply stated. Can the defendant have a fair trial – in the sense of whether it would be fair to try him – if he is retried by another jury? That question requires balancing the effect on the defendant of a further trial and the public interest in the final determination by a jury of an indictment charging exceptionally grave crimes.

29. I do not take lightly the effect of requiring the defendant to stand trial again. I do not ignore the circumstances in which he is currently remanded. Equally, I take into account my own observation of the defendant when he gave evidence in the trial I conducted. That evidence spread over a number of days. If the defendant is a man with little formal education (about which I have no specific evidence), it did not impair his ability to deal with the matters about which he was asked both in evidence in chief and in cross examination. He was a confident witness well able to put over issues to the jury which he considered to be important. There was nothing in his evidence, whether its content or the manner of its delivery, that led me to have any concerns about his ability to present his case to the jury.

30. I have concluded that it would be fair to try this defendant again notwithstanding the delay that will occur. [Counsel for the applicant's] concession as set out at paragraph 21 above [see paragraph 18 above] means that there is no reason in principle why the second retrial should not be attempted again. The fact that the case had progressed as far as it had does not mean that the jury in the second retrial had reached an impasse. The defendant can have a fair trial and it would not be an abuse of process to try him.”

21. The fifth and final trial commenced ten weeks later, on 7 July 2020. It concluded on 9 September 2020, when the applicant was convicted of both counts of murder by a majority of 11 to 1. On 1 October 2020 he was sentenced to life imprisonment with a minimum term of forty years.

C. The appeal

22. The applicant sought an extension of time (thirty-four days) to appeal to the Court of Appeal against his conviction. By order dated 3 May 2021 the single judge refused permission to appeal on the papers, noting that there would be no point granting the short extension of time sought as none of the applicant's grounds of appeal were arguable. The application for permission was renewed. On 6 October 2021 the Court of Appeal dismissed the

applicant's application for leave to appeal following a hearing. In a detailed and carefully reasoned ruling, it noted that had there been merit in the appeal, it would have granted an extension of time. According to the court, "no criticism" could be laid at the door of the applicant's Counsel in relation to time, as they had diligently prosecuted the applicant's defence throughout, including the application for permission to appeal.

23. The applicant had pursued his appeal to the Court of Appeal on six grounds, including, insofar as is relevant to the application before the Court: the decision to proceed to trial for the fifth time constituted a breach of his right to a fair hearing within a reasonable time, pursuant to Article 6 of the Convention; that decision failed properly to deal with the issue of oppression; and the repeated trials and the delay had such a detrimental effect on the quality of the defence evidence that the outcome of the fifth trial was "at least arguably" unsafe. The applicant pointed out that he had attended five trials over 168 days. While the Crown's evidence might not have turned upon the recollection of witnesses of fact, the defence case did: the applicant was forced to rely on his memory and that of CG, both of which would have degraded across time. CG's evidence in particular was fundamental to the applicant's defence, as he could not have been convicted if her evidence was accepted. By the fifth trial it was clear that she was struggling to recall detail, as a result both of the delay and the confusing and stressful requirement repeatedly to give evidence, and this was very likely to have diminished her credibility in the eyes of the jury. Consequently, there was an increasing imbalance over the course of the successive trials in the ability of the parties adequately to present their case.

24. The Court of Appeal did not consider that the discretion exercised by the fourth trial judge in deciding that the fifth trial should go ahead was perverse, or that no reasonable judge could have reached the same decision. The judge's ruling was clear and careful; he considered the applicant's submissions and properly took them into account. Moreover, he was ideally placed to make a judgment about whether the fifth trial should proceed, and ideally placed to determine whether the applicant could have a fair trial. He had observed the applicant giving evidence, and was satisfied that there was nothing in his evidence, whether in its content or delivery, that gave rise to concern about his ability to present his case. He also dealt with the effect of delay on the recollection of the alibi witness, CG. He referred expressly to the strain and pressure on the applicant which would be occasioned by the requirement to stand trial again and made it clear that he did not take it lightly; and he balanced the impact on the applicant with the gravity of the criminality involved and the public interest in convicting the guilty of exceptionally grave crimes.

25. In addition, in the exceptional circumstances of the case the Court of Appeal did not consider it arguable that the requirement to hold a trial within a reasonable time had been breached. In particular, it noted that "exceptional

arrangements were put in place to ensure that the fifth trial proceeded quickly despite the pandemic and in the exceptional circumstances that pertained at the time.”

26. Finally, the Court of Appeal considered it unarguable that the delay had such a detrimental effect on the quality of the defence case or evidence that the outcome of the trial was unsafe. It had regard to the following factors:

a. The prosecution case did not involve any contested eyewitness testimony, but was mainly based on evidence from professionals who had contemporaneous notes to help them.

b. There was no difficulty in the defence challenging the prosecution case and any prejudice resulting from the delay was therefore very limited.

c. While the applicant’s evidence was factual and depended on his own contested recall of the relevant events, together with the evidence of CG, the judge was best placed to assess the impact of further delay in relation to that evidence. The judge had no concerns about the applicant’s ability to give evidence in his own defence at a future trial, finding that “he was a confident witness, well able to put over the issues to the jury which he considered to be important.”

d. The quality of CG’s evidence was not arguably diminished by the delay. On the contrary, she was able to moderate her evidence about the nature of her relationship with the applicant, having been shown to be lying about it in the second trial. She gave evidence on four occasions and had no difficulty in recalling the events of September 2016, other than her general lack of particular recollection which was evident when she first attended the police interview on 15 March 2017. Her consistent alibi evidence was that she could clearly remember where the applicant had been, that he was with her and that he could not have committed the murders.

e. The defence expert also gave evidence without any difficulty caused by delay.

27. Leave to appeal was accordingly refused.

III. RELEVANT LEGAL FRAMEWORK AND PRACTICE

28. In relation to whether a second or subsequent retrial would amount to an abuse of process, the Court of Appeal in *R v. Bell* ([2010] EWCA Crim 3; [2010] 1 Cr App. R. 27), having examined the authorities in the United Kingdom and other common law jurisdictions, stated that the applicable principles were to be found in the following observations of Lord Bingham in *Bowe v. R* ([2001] UKPC 19):

“It is a common practice for prosecutors in England and Wales to offer no evidence against a defendant if two previous juries have been unable to agree... That is no more than a convention, as recognised by the Court of Appeal...in *Henworth* [2001] EWCA Crim 120; [2001] 2 Cr.App.R.4. It may well be that the prosecuting authorities, having failed to obtain a conviction even by majority on two occasions, judge that a further trial will not have a reasonable prospect of culminating in a conviction. It is in

the first instance for the prosecutor to judge whether, taking account of all relevant considerations, the public interest is better served by offering no evidence or by seeking a further retrial. There is plainly no rule of law in this country which forbids a prosecutor from seeking a second retrial... There may of course be cases in which, on their particular facts, a second retrial may be oppressive and unjust.. Whether a second retrial should be permitted depends on an informed and dispassionate assessment of how the interests of justice in the widest sense are best served. Full account must be taken of the defendant's interests. ... account must also be taken of the public interest in convicting the guilty, deterring violent crime and maintaining confidence in the efficacy of the criminal justice system."

29. In *R v. Bell* the Court of Appeal added that a second retrial should only be sought in the small number of cases involving a crime of extreme gravity which had undoubtedly occurred and in which the evidence that the defendant committed it on any fair-minded objective judgment remained powerful.

30. In *Burton v. R* ([2015] EWCA Crim 1307; [2016] 1 Cr. App. R. 7) the Court of Appeal further stated that there must in any case be an informed, dispassionate and searching examination of why a third trial was justified if there had been no irregularities in the first two.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

31. Invoking Article 6 § 1 of the Convention, the applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, and that he did not have a "fair hearing" as a consequence of the delay and repeated retrials.

Article 6 § 1 of the Convention reads as follows:

"In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing within a reasonable time ... by [a] ... tribunal ..."

A. Admissibility

32. The Government submitted that the applicant's complaints were manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. However, the Court is of the opinion that the complaints raise sufficiently complex issues of fact and law, so that they cannot be rejected as manifestly ill-founded. It is further satisfied that they are not inadmissible on any other ground. They must therefore be declared admissible.

B. Merits

(a) The parties' submissions

(i) The applicant

33. The applicant argued that the criminal proceedings against him, which lasted five years and one month, were unreasonably long, and that the length was not justified or appropriate. It was common sense that human memory faded over time. His alibi, CG, was the main part of the defence and her recollection was clearly affected by the passage of time. This was acknowledged by the judge when he ordered the fifth trial.

34. The applicant stated that he was in no way responsible for any of the delays that occurred during the proceedings.

35. According to him, the delay and repeated retrials prejudiced the defence case and had a substantial impact on the outcome of the proceedings. By the fifth trial both his memory and the ability of CG, his alibi witness, to give specific details about the day of the murders were significantly affected. A fifth trial was unprecedented in the United Kingdom, no such trial having previously been allowed to take place.

(ii) The Government

36. The Government submitted that there had been no breach of the “reasonable time” requirement. The prosecution case against the applicant was based on a range of circumstantial evidence of some complexity, including contested expert evidence. The period of five years from the commencement to the conclusion of the criminal proceedings was not such as to give rise to obvious concern, even having regard to the fact that the applicant was in custody throughout the proceedings.

37. The circumstances in which the first and fourth trials were adjourned were beyond the control of any person, and the responsibility for that delay did not lie at the door of the State authorities. There was disruption in the entire criminal justice system at the onset of the Covid-19 pandemic. Nonetheless, there was only a short period of ten weeks between the fourth trial and the commencement of the fifth and final trial. This was, as the Court of Appeal observed, “prompt and diligent”.

38. The second and third trials resulted in the jury failing to agree a verdict, and the domestic courts upheld as reasonable the prosecution application for a further retrial in the exceptional circumstances of the case. The allegations against the applicant were of the very greatest seriousness and there was a strong interest in the holding of an effective trial in which a jury was able to reach a concluded view as to guilt or innocence.

39. The appeal proceedings before the Court of Appeal (involving both the decision of the single judge and that of the full court following a hearing) were thereafter resolved within twelve months.

40. Consequently, this was not a case where any failure by any State authority could be identified as having contributed to the five-year time period in which the criminal proceedings had commenced and concluded. Indeed, the applicant did not allege that the conduct of the prosecution was dilatory: his complaint was directed at the repeated retrials, which were beyond the control of the prosecuting authorities.

41. The Government further denied that the period of four years between the charge and the original conviction caused prejudice to the applicant in the conduct of his defence, or more broadly rendered the proceedings unfair. As a matter of law, there was nothing inherently objectionable or unlawful about the decision to require the applicant to stand trial on a fifth occasion. The judge who ordered the fifth trial had seen the applicant give evidence throughout the course of the fourth trial and he was satisfied that there was nothing in his evidence that gave rise to any concern about his ability to present his case. The judge had balanced the impact of a further trial on the applicant with the exceptional gravity of the criminality involved and the public interest in convicting the guilty of very grave crimes. In his view, the balance lay in favour of proceeding to an effective trial.

42. Had any prejudice to the applicant been identified, there was every reason to believe that the trial process would have been able to accommodate and/or remedy it. The fact that it was not necessary for the trial judge to make such accommodations was indicative of the weakness of the applicant's case.

(b) The Court's assessment

43. According to the relevant general principles, as summarised in *Pélissier and Sassi v. France* ([GC], no. 25444/94, § 67, ECHR 1999-II), the reasonableness of the length of proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court's case-law, in particular the complexity of the case, the applicant's conduct and the conduct of the competent authorities. In the present case it is not in dispute that the period to be taken into consideration began on 18 September 2016, when the applicant was arrested (see paragraph 6 above) and ended on 6 October 2021, when the Court of Appeal dismissed his application for leave to appeal following a hearing (see paragraph 22 above).

44. The applicant's case does not appear to have been particularly complex for a contested double murder charge. It was initially brought to trial within six months (see paragraph 10 above), and the fifth trial took place only ten weeks after it was ordered, notwithstanding the ongoing pandemic (see paragraph 21 above).

45. With regard to the conduct of the parties, neither has pointed to any particular period of unreasonable delay attributable to the other. Rather, the applicant's main complaint is that the repeated retrials caused unacceptable delay and prejudiced the outcome of the case (see paragraphs 33-35 above).

The Court's case-law on this issue, such as it is, would suggest that successive trials do not *per se* raise an issue under Article 6 § 1 of the Convention; in this regard, it has acknowledged that where a serious crime has been committed, there may well be a clear public interest in a jury deciding one way or another whether the charge was established (see *Henworth v. the United Kingdom*, no. 515/02, §§ 28-31, 2 November 2004). Nonetheless, in the event of successive trials the State will be under a responsibility to proceed with particular diligence, and it will be incumbent on the authorities to ensure that any delay is kept to an absolute minimum (see *ibid.*, § 29).

46. In the case at hand the fact that the first four trials ended without a verdict was due to factors outside the control of either party. The first trial ended due to the illness of the judge (see paragraph 10 above); the second ended because the jury could not reach a verdict (see paragraph 11 above); the third (and first retrial) also ended because a different jury could not reach a verdict (see paragraph 12 above); and the fourth (and second retrial) ended due to the global public health emergency caused by Covid-19 (see paragraph 13 above).

47. Furthermore, the facts disclose no unusually long and unexplained periods of inactivity attributable to the State. As already noted, the applicant was arrested and charged promptly and the first trial took place six months later (see paragraphs 6, 8 and 10). The second trial commenced less than a year after the first jury was discharged (see paragraph 11 above); the third trial appears to have commenced six to seven months after the second jury was discharged (see paragraph 12 above); the fourth trial commenced approximately one year after the third jury was discharged, and ten months after a second retrial was ordered (see paragraph 13 above); the fifth trial commenced three months after the fourth jury was discharged, and ten weeks after the judge ordered a fresh (fifth) trial (see paragraphs 15 and 21 above); a single judge refused permission to appeal eight months after the applicant was convicted (see paragraph 22 above); and five months after the single judge decision the Court of Appeal dismissed the applicant's application for leave to appeal following a hearing (see paragraph 22 above).

48. However, throughout the proceedings the applicant – who faced a lengthy prison sentence (he was ultimately sentenced to life imprisonment with a minimum term of forty years – see paragraph 21 above) – was detained under Category A conditions, in a high security prison (see paragraph 14 above). While the fifth trial appears to have proceeded with particular diligence, the delay of approximately one year between the third and fourth trial is more problematic. In this regard, it is not clear why the “exceptional arrangements” which were put in place to ensure that the fifth trial proceeded quickly despite the pandemic (see paragraph 25 above) were not put in place as soon as a second retrial was – exceptionally – ordered so as to ensure that any delay was kept to an absolute minimum (see *ibid.*, § 29). The lapse of

twelve months between the application for permission to appeal and the refusal of permission to appeal would also appear to be of some concern. In particular, although the applicant sought permission to appeal some thirty-four days out of time (albeit through no fault of his Counsel), it still appears to have taken more than six months for the single judge to refuse permission to appeal on the papers (see paragraph 22 above).

49. In light of the exceptional circumstances in the case at hand, the Court is of the view that these two delays disclose that the proceedings did not proceed with the diligence necessary to keep delays to an absolute minimum (see *ibid.*, § 29).

50. There has, accordingly, been a violation of the “reasonable time” requirement in Article 6 § 1 of the Convention.

51. With regard to the overall fairness of the proceedings, the Court reiterates that as one of the features of the wider concept of a fair trial, each party must be afforded a reasonable opportunity to present his case under conditions that do not place him at a disadvantage vis-à-vis his opponent (see, among other authorities, *Faig Mammadov v. Azerbaijan*, no. 60802/09, § 19, 26 January 2017; *Bulut v. Austria*, 22 February 1996, Reports of Judgments and Decisions 1996-II, p. 359, § 47; and *Öcalan v. Turkey* [GC], no. 46221/99, § 140, ECHR 2005-IV).

52. In the present case the Court notes that the fourth trial judge, having heard the relevant evidence and observed the witnesses in the witness box, saw no impairment of the applicant’s ability to deal with the matters about which he was asked both in evidence in chief and in cross examination. According to the judge, the applicant was a confident witness well able to put over issues to the jury which he considered to be important. There was nothing in his evidence, whether its content or the manner of its delivery, that led him to have any concerns about the applicant’s ability to present his case to the jury (see paragraph 20 above). Although the judge accepted that CG’s evidence had been affected by the passage of time, he considered that the fact she did not give any account to the legal representative or police officer until some months after the murders of itself clearly affected her recollection (see paragraph 19 above).

53. In concluding that it would be fair to try the applicant again, the trial judge clearly considered it relevant that in the course of oral submissions the applicant’s Counsel had conceded that it would not have been oppressive for him to have a fifth trial, had the fourth trial been aborted during the course of the evidence and the fifth trial started immediately or within a few days (see paragraph 18 above). In the end the fifth trial commenced only three months after the fourth trial was abandoned (see paragraphs 13 and 21 above).

54. In refusing permission to appeal against conviction, the Court of Appeal had the benefit of seeing how the fifth trial had proceeded, and in particular whether there had in fact been any prejudice to the defence case. It considered it unarguable that the delay had such a detrimental effect on the

quality of the defence case or evidence that the outcome of the fifth trial was unsafe (see paragraph 27 above). The court considered the evidence given by CG during the fifth trial and – notwithstanding the comments made by the fourth trial judge about the evidence she gave before him (see paragraph 19 above) – found that it had not been arguably diminished by the delay. On the contrary, in the course of the fifth trial she had been able to moderate her evidence about the nature of her relationship with the applicant, having been shown to be lying about it in the second trial. Furthermore, she had no difficulty in recalling the events of September 2016, other than her general lack of particular recollection which was evident when she first attended the police interview on 15 March 2017. Her consistent alibi evidence was that she could clearly remember where the applicant had been, that he was with her and that he could not have committed the murders (see paragraph 26 above).

55. In light of the conclusions of both the trial judge and the Court of Appeal, and having particular regard to the concession made by the applicant’s Counsel prior to the fifth trial (see paragraph 18 above), the Court finds no support for the applicant’s contention that the successive trials prejudiced the outcome of the criminal proceedings.

56. Therefore, notwithstanding the undoubted strain placed on the applicant on account of the successive criminal trials, the Court does not consider that the criminal proceedings were unfair, within the meaning of Article 6 § 1 of the Convention. Accordingly, it finds no violation of that Article in relation to this aspect of the applicant’s complaint.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

57. 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.”

58. The applicant did not submit a claim for just satisfaction, asking instead for his immediate release from prison. However, the Court has no jurisdiction to order such a measure and in any event it does not follow from the Court’s finding of a violation of the “reasonable time” requirement in Article 6 § 1 of the Convention that the applicant was wrongly convicted.

59. Accordingly, the Court considers that there is no call to award the applicant any sum by way of just satisfaction.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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2. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the excessive length of the criminal proceedings against the applicant;
3. *Holds* that there has been no violation of Article 6 § 1 of the Convention on account of the fairness of the impugned criminal proceedings.

Done in English, and notified in writing on 25 February 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski
Deputy Registrar

Lado Chanturia
President