



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

FIFTH SECTION

CASE OF ALAKHVERDYAN v. UKRAINE

(Application no. 8838/20)

JUDGMENT

Art 6 § 1 (criminal) and Art 6 § 3 (b) to (d) • Fair hearing • Limited extraordinary review by Supreme Court of applicant's conviction following the Court's finding of a violation in the initial proceedings on account of the use of his confession made in the absence of a lawyer • Conviction confirmed after Supreme Court excluded part of the evidence considered to be tainted by his confession • Failure by Supreme Court to explain why it considered some remaining evidence not tainted despite indications it too had originated in his confession • Whether the remaining evidence was sufficient to confirm the applicant's guilt required a thorough examination of the entire body of evidence which could only be ensured by a full rehearing • Lack of full rehearing deprived applicant of the right to adequate time and facilities for the preparation of his defence • Supreme Court's reading of the Court's findings in its initial judgment not entirely in line with the Court's conclusions • Supreme Court's review marked by several deficiencies

Prepared by the Registry. Does not bind the Court.

STRASBOURG

26 June 2025

FINAL

26/09/2025

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

In the case of Alakhverdyan v. Ukraine,

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

Kateřina řimáčková, *President*,

María Elósegui,

Stéphanie Mourou-Vikström,

Andreas Zünd,

Diana Sârcu,

Mykola Gnatovskyy,

Vahe Grigoryan, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 8838/20) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Ukrainian national, Mr Sergiy Volodymyrovych Alakhverdyan (“the applicant”), on 31 January 2020;

the decision to give notice to the Ukrainian Government (“the Government”) of the applicant’s complaints under Article 6 of the Convention;

the parties’ observations;

Having deliberated in private on 3 June 2025,

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

INTRODUCTION

1. The case concerns the alleged unfairness of the proceedings before the Supreme Court for the review of the applicant’s conviction based on the Court’s findings in his previous case. The applicant complained under Article 6 of the Convention.

THE FACTS

2. The applicant was born in 1984. He is serving life imprisonment in Vinnytsya. He was granted legal aid and was represented by Mr M.O. Tarakhkalo and Ms Y.O. Kovalenko, lawyers practising in Kyiv.

3. The Government were represented by their Agent, Ms M. Sokorenko.

4. The facts of the case may be summarised as follows.

A. Background information

5. On 10 December 2004 the bodies of two women, D. and S., were found in a village – in D.’s house – with numerous stab wounds. The prosecutor’s office instituted criminal proceedings on the same day, and proceeded to

interview those of the victims' neighbours and relatives who might know something about the incident.

6. On 11 December 2004 the police searched the house of Dor., another resident of same village, and found clothes bearing traces of blood. According to the case file, on the same day the applicant, who knew both D. and Dor., was summoned in the context of those proceedings by a prosecutor. However, he did not appear. No other details are available in the file in this regard.

7. On 12 December 2004 police officers arrived at the applicant's home and asked him to go with them to the investigator. The applicant agreed. On their way they picked up G., an acquaintance of his.

8. At the police station the applicant was questioned as a witness in connection with the murder of D. and S. He provided no information that would suggest he had been involved in the murder. According to the applicant, the police officers had then taken him and G. to a forest. D.'s husband had been there and had offered them money in exchange for their confession to the murder of D. and S., which had been ordered by Dor. The applicant said that he and G. had refused and had been tortured by the police until he had finally agreed to plead guilty to the murder, which he had not in fact committed.

9. Later that day the applicant signed a formal confession to the murder of D. and S. and the wounding of N. It appears that N., who was an accidental victim, was mentioned for the first time in the proceedings by the applicant. The applicant also gave a detailed account of the way the murder had been organised and committed, of his role and that of G., and of the objects used and what they did after the murder to cover up their involvement (including the disposal of clothes and weapons).

10. That same day, and still having no access to a lawyer, the applicant was made to participate in a reconstruction of the crime scene during which he made further self-incriminating statements. Only after that, during the evening of the same day, was the applicant given access to a legal-aid lawyer.

11. The applicant had repeated his confessions on several occasions during further investigative actions and it was only during the trial before the court of first instance that he had retracted them, alleging that he had been ill-treated to force him to confess.

12. After one remittal of the case for a fresh examination, the applicant was eventually found guilty of a murder of two persons and of causing minor bodily injuries to N. The Odesa Region Court of Appeal, acting as a court of first instance, observed in its judgment of 25 July 2005 (upheld by the Supreme Court of Ukraine in cassation) that during the trial the applicant and G. had denied that they were guilty and had argued that they had given coordinated self-incriminating testimonies because they had been forced to do so by means of ill-treatment. The court, however, criticised their denials as a defence strategy. The court observed in that connection that there was nothing to show that the suspects had been subjected to ill-treatment or that

there had been serious breaches of criminal procedure during the pre-trial investigation. The court observed that the applicant and G. had given their statements freely and in the presence of their lawyers; they had also signed the relevant protocols of investigative actions. Their statements had been consistent and had included detailed accounts of how the crime was committed.

13. In reaching its conclusion that the applicant was guilty, the Odesa Region Court of Appeal referred, apart from the applicant's confession of 12 December 2004, to various pieces of evidence, including:

i) the confessions made by the applicant during the reconstruction of the crime scene, which was carried out in the presence of his lawyer, and during other investigative actions which were also conducted in the lawyer's presence;

ii) N.'s statements and the identification of the applicant by N. and her mentioning that she had heard D. addressing the applicant by name;

iii) the statements of the mothers of the applicant and of G.;

iv) the results of the forensic medical and technical examinations;

v) the statements of witnesses that they had seen the applicant and G. at Dor.'s home during the evening of 10 December 2004;

vi) the statement of N.'s husband, whom N. had told about the murder; and

vii) the results of the crime scene examination and the examination of the bodies.

14. The court also observed that:

"... the statements of [the applicant and G.] are consistent with other evidence in the case (the testimonies of the victims and witnesses and the conclusions of the forensic experts) and, most importantly, with the statements of the key witness of the crime – the eyewitness N."

15. The applicant was sentenced to life imprisonment.

B. Initial proceedings before the Court (application no. 12224/09)

16. In his application the applicant complained under Article 6 that his defence rights had been violated and that he had not had a fair trial.

17. In its judgment of 16 April 2019 (*Alakhverdyan v. Ukraine*, no. 12224/09; "the 2019 judgment"), the Court found a violation of Article 6 § 1 and 3 (c) of the Convention. In particular, the Court found that once the applicant had informed the investigator that he was going to make a statement of surrender and confess to the police, the authorities must have been aware that that would entail a possible sentence of life imprisonment and that domestic law would require the defendant to be represented by a lawyer. The effect of this amounted to the applicant's having his right to defence restricted when he made his confession on 12 December 2004 (see paragraphs 55-57 of the 2019 judgment, cited above).

18. The Court further found that the applicant made his confession when his status was still that of a witness. He not only confessed to the murder of two persons but also provided information that subsequently allowed the investigating authorities to adduce further evidence in the case against him, including physical evidence. Although he had later declared that he had not committed the crimes, the Court found it difficult to see how his statements could have been retracted effectively given that they had already led to the discovery of other evidence against him. The statements that the applicant had made on 12 December 2004 had, therefore, provided the domestic investigating authorities with the framework around which they had built their case and the focus for their search for other corroborating evidence. It therefore undoubtedly irreversibly affected the applicant's position (paragraphs 61-64 of the 2019 judgment). Furthermore, the domestic courts had also failed to address the early restrictions on the applicant's right to defence (paragraph 66 of the 2019 judgment).

19. The Court concluded that (paragraph 67 of the 2019 judgment):

“the criminal proceedings against the applicant, when considered as a whole, did not cure the procedural defects occurring at the pre-trial stage, and that the Government have failed to demonstrate convincingly why, exceptionally and in the specific circumstances of the case, the overall fairness of the criminal proceedings against the applicant was not irretrievably prejudiced by the restriction of his access to a lawyer on 12 December 2004.”

20. The execution of the 2019 judgment is pending before the Committee of Ministers of the Council of Europe.

C. Review proceedings in the Supreme Court

21. On 21 June 2019 the applicant lodged an application with the Supreme Court for a review of his criminal case based on the 2019 judgment of the Court (a review under exceptional circumstances). He asked the Supreme Court to quash his conviction and remit the case for rehearing.

22. The applicant argued that the Court had found that his conviction had been based to a decisive extent on evidence, such as the confession of 12 December 2004 and the results of the reconstruction of the crime scene, which had been obtained in breach of his right to defence and which were therefore inadmissible in evidence and should have been excluded, along with other pieces of evidence derived from them. The applicant also pointed out that the courts had relied on his confession as grounds for treating N. as a victim. The need to exclude those pieces of evidence further to the Court's findings would have been an important change to the body of evidence in his case overall, and the applicant submitted that it should have been reassessed in its entirety and that the Supreme Court was precluded from doing so as that was the role of a trial court. In that connection the applicant referred to *Yaremenko v. Ukraine* (no. 2) (no. 66338/09, 30 April 2015).

23. The Supreme Court held several hearings in the applicant's case. The applicant and his lawyer were present in those hearings. According to the applicant, during the hearings the parties were limited solely to issues relating to the request for an extraordinary review and had not been allowed to raise the merits of the case. In that respect the applicant pointed out that he had been clearly asked by the presiding judge to limit his statements only to the issues related to his request for review and not to deal with issues related to evidence or whether or not he was guilty of the crime. The applicant also stated that being the person requesting the review he went first in the hearing, and the prosecutor presented his case afterwards, so the applicant had not known about and could not comment on the prosecution's statements. Moreover, the prosecutor had not filed any written submissions and only presented his arguments orally during the hearing, giving the applicant no opportunity to prepare a reply in advance. The applicant also contended that he and his lawyer had a total of ten minutes during which they were allowed to speak before the Supreme Court in each of the two hearings. He provided the recordings of the court hearings to support that argument.

24. On 13 November 2019 the Grand Chamber of the Supreme Court delivered its decision allowing the applicant's application for review in part. The Supreme Court changed his conviction by way of excluding from it the references to the applicant's confession of 12 December 2004 and to several other pieces of evidence which it considered to have been derived from that tainted confession. It referred to the concept of the "fruit of the poisonous tree" according to which if one piece of evidence is inadmissible for having been unlawfully obtained, all evidence derived from it must also be inadmissible as if all the evidence formed a "linked chain".

25. The Supreme Court therefore found that, apart from the confession and the results of the reconstruction of the crime scene of 12 December 2004 obtained in breach of the applicant's right to defence, the following pieces of evidence should also have been excluded:

i) the applicant's further self-incriminating statements, namely those given during the face-to-face confrontation with Dor. and two other witnesses, even though at that time he was assisted by a lawyer;

ii) the explanations given by the applicant during the forensic medical examination carried out to verify what his mental condition had been when the crime was committed and in which he essentially repeated the information provided in his confession;

iii) the clothes which the applicant had indicated in his confession and the conclusions of forensic experts about what those clothes showed.

26. Overall, however, the Supreme Court found that the exclusion of the above-mentioned evidence:

"did not affect the lawfulness and [the showing of] good grounds for the courts' conclusion that [the applicant was] guilty of the crimes of which he had been convicted, the charges had been correctly brought and the appropriate penalty applied. The courts'

conclusions were based on other pieces of evidence taken cumulatively, and which was described in detail in the judgment, having been examined in court hearings; [it had been] verified and assessed by the courts with appropriate care and in accordance with Article 67 of the Criminal Code of 1960. [The Court] did not find that those pieces of evidence had been obtained in breach of [established] procedures”.

27. The Supreme Court noted in that connection that such evidence as: i) N.’s “consistent and unchanged” testimony that she had seen the applicant at the crime scene and that it was him who murdered D. and S.; ii) the statements G. had made about the circumstances of the crime at various stages of the investigation, including during the face-to-face confrontation with Dor.; and iii) the statements of the husbands of N. and D., who knew about the circumstances of the murder from N., had not been directly derived from the tainted evidence and could therefore be used in the case. Furthermore, N.’s and G.’s statements were consistent with the results of the crime scene examination and the conclusions of the forensic expert assessment of the wounds on the bodies of D. and S.

28. As to the applicant’s arguments that he had been falsely implicated by G. because they had both been subjected to ill-treatment, the Supreme Court found that those allegations had been considered by two levels of court during the initial examination of the case and rejected as unfounded. It emphasised that when a domestic case is reviewed because of a judgment of the Court, its role was not to conduct a “repeat review [of the case] on cassation”, and that the lawfulness and proper reasoning of domestic judgments had to be considered solely in the light of the impact of the Court’s findings on the overall fairness of the proceedings. It further noted that:

“... based on the principle of the rule of law, the Grand Chamber, acting in the framework of the respective [review] proceedings, does not consider the correctness of the assessment of evidence by the courts, or of the criminal charges appropriate to the actions [the defendant was shown to have committed] nor whether the requirements of the criminal procedural law were observed where those were not directly related to the violations found by the [Court].”

29. The Supreme Court went on to analyse the difference between the applicant’s case and the *Yaremenko no. 2* (cited above) and *Shabelnik v. Ukraine* (no. 2) (no. 15685/11, 1 June 2017). For the Supreme Court, the key difference was that in those two cases further Convention violations as regards the review proceedings were found by the Court because during the review not all tainted evidence had been excluded, and by upholding the applicants’ convictions the violations found previously had essentially been perpetuated. In the present case, however, the remaining evidence (as described in paragraph 27 above) did not have any direct or indirect relation to the violations found by the Court. As an example, the Supreme Court observed that the victim N. and the applicant’s co-defendant G. had given information about the crime which they had witnessed or participated in, and that was independent from the information provided by the applicant. The same was true in the Supreme Court’s opinion for the conclusions from the

crime scene examination and forensic medical examinations of the bodies of D. and S..

30. The Supreme Court concluded on that matter that upholding the applicant's conviction on the basis of the remaining evidence "would not lead to the violation of [the applicant's] right to a fair trial in so far as his right to interview prosecution witnesses, as provided for in Article 6 § 3 (d) of the Convention, was concerned."

31. Lastly, the Supreme Court provided a detailed explanation why it considered that this approach was within its jurisdiction. It found that review on the basis of a judgment of the Court (as is provided for in Ukrainian law) is a form of "reopening" of a case within the meaning of the concept of *restitutio in integrum* and that it forms part of the individual measures to execute a Court's judgment. At the same time, the negative consequences that a person may still suffer as a result of a conviction can be stopped and remedied by way of a rehearing of the case and a quashing of that conviction only where "the procedure leading to the pronouncement of the judgment and/or its contents were found to be "generally incompatible with the fair trial guarantees under the Convention". The Supreme Court further observed that it could not be deduced from the Court's case law that the national courts could not, after such a review, change the respective judgments only in respect of matters depending on the evidence obtained in violation of the Convention without sending the case back for examination by the court of first instance.

32. The Supreme Court went on to examine the provisions of the domestic legislation governing review proceedings, namely Chapter 34 of the Code of Criminal Procedure ("the CCP"; see below, paragraph 38). Article 467 of that chapter established that when giving a new judgment on review the court examining the case shall have the powers of the court of the relevant level of jurisdiction. That meant that the Grand Chamber of the Supreme Court had the same jurisdiction as a court of cassation in what concerns the rectification of errors of the lower courts, with due regard to the specific provisions of Article 467. A court of cassation has power both to change court judgments and to quash them, fully or in part, and to remit a case for rehearing (Article 436). In that connection, the changing of a judgment was a "less intrusive" form of review and "would not lead to the limiting of a person's procedural rights as set out in national legislation and under international standards".

33. The Supreme Court concluded by stating that its decision in the applicant's case was informed by the fact that although the Court had based its conclusions as to the violation of the applicant's rights on

"81. ... certain significant procedural errors, they do not call into question the results of the entire trial, do not indicate that the verdict against [the applicant] does not comply with the requirements of the Convention both generally and in the part of the applicant's conviction for premeditated murder, and therefore are not grounds for finding his

conviction unfair. That conclusion of the Grand Chamber does not contradict the position of [the Court] expressed in § 79 of the judgment in *Alakhverdyan v. Ukraine* that the recognition of violations of Article 6 §§ 1 and 3 (c) in this case was in itself a fair compensation for the non-pecuniary damage suffered by the applicant and it does not imply that he was wrongly convicted.

82. The execution by the State of its international obligations in these particular circumstances does not therefore presuppose the need to restore [the applicant] to the situation he was in before his conviction.

83. ...[G]iven the stage of proceedings at which they occurred and their legal nature and consequences, the violations found by the Court can be remedied by way of changing the verdict, having excluded from the evidence suggesting the applicant was guilty of premeditated murder with aggravating circumstances any information obtained as a result of a breach of his Convention rights and any evidence derived from that.

84. The breach of [the applicant's] right to defence found by the Court in no way affected the lawfulness and reasonableness of the court decisions relating to his conviction for the intentional infliction of minor bodily injuries on [N.]. The charges were brought under section 2 of Article 125 of the Criminal Code, which does not require the defendant to be represented by counsel. The [Court] did not find any violations of the applicant's Convention rights during the trial on these charges."

34. Seven judges of the Grand Chamber of the Supreme Court wrote a dissenting opinion in which they observed that the Court had essentially found that the overall fairness of the criminal proceedings against the applicant had been irretrievably prejudiced by the restriction of his right to defence and that therefore the only remedy was to set aside the verdict and remit the case for rehearing at first instance. The judges noted in that connection that although the Supreme Court had excluded the applicant's confession and some of the evidence derived from it, it had nevertheless failed to explain why it had not excluded the testimony of N., whom the applicant had himself identified in his confession as the third victim.

35. The judges further stated that the Supreme Court had gone beyond its jurisdiction in that it had found that the remaining evidence was enough to uphold the applicant's conviction and so had made an assessment of the body of evidence in the case, which it had no right to do under the legislation. In that respect the judges referred to the Court's judgments in *Yaremenko (no. 2)* and *Shabelnik (no. 2)* (both cited above).

36. Judge H. submitted a separate opinion in which he disagreed that the applicant's case could be compared to *Yaremenko (no. 2)* and *Shabelnik (no. 2)*. He argued that the applicant's case turned on the scope of the Supreme Court's powers in review proceedings, and not so much on its perpetuation in the review process of the violations found by the Court. In that connection Judge H. analysed the provisions of the CCP relevant to the powers of the Supreme Court on a review. He argued that they did not allow a verdict to be changed and that therefore the Supreme Court had gone beyond its powers and could not be considered a "tribunal established by law", similarly to the findings in *Sokurenko and Strygun v. Ukraine* (nos. 29458/04

and 29465/04, 20 July 2006). He further agreed with the above-mentioned dissenting opinion regarding the use of the testimony of N., who had been involved in the proceedings and testified against the applicant only after he himself had mentioned her in his confession.

37. Judge Ya. gave a concurring opinion in which she observed that the exclusion by the Supreme Court of certain inadmissible evidence (following the Court's finding of a violation) formed part of the process of verifying the correctness of the first-instance and appellate courts' legal assessment of the circumstances of a case, as provided for by Articles 433 and 467 of the CCP. In her opinion, that operation did not require the examination or reassessment of evidence, and therefore fell within the jurisdiction of the Supreme Court. She also provided a list of conditions which, if fulfilled, would in her opinion allow the Supreme Court to change a court decision on review, in particular:

1) there must be a decision of an international court the jurisdiction of which is recognised by Ukraine finding that the State had violated its international obligations in the course of the consideration of a case by the domestic courts;

2) the violation found must have affected the overall fairness of the trial;

3) the violation found must have resulted in the restriction, narrowing or deprivation of an applicant's rights in relation to the submission of evidence (the collection and evaluation of evidence, the presentation and substantiation of one's legal position before the court);

4) correction of the established violation of an applicant's rights during the review under exceptional circumstances must not require the examination of evidence or reassessment of the credibility of evidence; and

5) when applying the so-called doctrine of the "fruit of the poisonous tree", the body of evidence that remains after exclusion of the evidence obtained in violation of the Convention as well as evidence derived from that must be sufficient to confirm the person's guilt of the criminal offences he/she was charged with.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. CODE OF CRIMINAL PROCEDURE (2012)

38. The Code, as in force at the material time, provided as follows:

Article 433. Scope of a review by the court of cassation

"1. The court of cassation shall ascertain whether the courts of the first and appellate instances correctly applied the rules of substantive and procedural law and made an appropriate legal assessment of the circumstances of the case, and shall not have the right to examine evidence, find facts or recognise as proven anything that was not established in the contested court decision nor to resolve the question of the credibility of any particular piece of evidence.

2. The court of cassation shall review the judgments of the courts of the first and appellate instances within the scope of the cassation appeal. The court of cassation has the right to go beyond the scope of the cassation appeal, if that does not worsen the situation of the convicted person (...). If the [cassation appeal] is allowed and that would provide grounds to make a decision in favour of other convicted persons from whom no appeals have been received, the court of cassation is obliged to make such decisions.”

Article 436. Powers of the court of cassation following examination of a cassation appeal

“1. The court of cassation has power to:

- 1) leave the court decision unchanged, and not to allow the cassation appeal;
- 2) quash the court decision and refer the case for rehearing in the court of first instance or an appeal court;
- 3) quash the court decision and terminate the criminal proceedings;
- 4) change the court decision.”

Article 438. Grounds for the court of cassation to quash or change a court decision

“1. Grounds for quashing or changing court decisions following the examination of a case by the court of cassation are:

- 1) serious violation of the requirements of criminal procedure;
- 2) incorrect application of the law of Ukraine on criminal responsibility;
- 3) inconsistency of the sentence given with the severity of the criminal offence and the personality of the person convicted.

2. When deciding whether there are grounds as specified in the first section of this article, the court of cassation shall be guided by Articles 412-414 of this Code.”

Article 463. Procedure for submitting an application for review of a court decision based on newly discovered or exceptional circumstances

“...

3. An application for review of a court decision under exceptional circumstances based on the findings of an international court, the jurisdiction of which is recognised by Ukraine, of a violation of Ukraine’s international obligations in court proceedings shall be submitted to the Supreme Court for it to be considered by the Grand Chamber.”

Article 467. Court decisions following criminal proceedings based on newly discovered or exceptional circumstances

“1. The court shall have power to quash a judgment or ruling and to give a new judgment or ruling, or to dismiss a request for a court decision to be reviewed in the light of newly discovered or exceptional circumstances. When delivering a new

judgment, the court will exercise the powers of a court of the relevant level of jurisdiction.

As a result of reviewing a court decision in the light of newly discovered or exceptional circumstances, the Supreme Court may also quash a court decision (or decisions) in whole or in part and remit the case to the first-instance court or to an appeal court for rehearing.”

II. SUPREME COURT CASE LAW

39. On 27 May 2020 in the case No. 1-1/07 the Grand Chamber of the Supreme Court ruled as follows:

“The judgment of the European Court of Human Rights (...) of 23 January 2020 in the case of *Golovko v. Ukraine* established that in the criminal case against [the applicant] Ukraine did not comply with the requirements of Article 3 in its procedural aspect and Article 6 §§ 1 and 3 (c) (...).

...

(...) [T]aking into account that the violation of [the applicant’s] right to a fair trial was caused by the use of the applicant’s confession, which had been obtained in violation of his right to defence, which necessitates a re-examination and assessment of the evidence available in the case file, the Grand Chamber of the Supreme Court, whose powers are set out in Article 33 § 5 and Article 467 of the CCP of Ukraine and Article 36 of the Law of Ukraine on the Judiciary and the Status of Judges of 02 June 2016 No. 1402-VIII, does not have the power to make a new decision in this case (...).

At the same time, the above-mentioned violations of the applicant’s rights, as established in the Court judgment, indicate a significant violation of the requirements of criminal procedure by the domestic courts (Article 398 § 1 (1) of the CCP of 1960). Having considered the above facts and arguments, the Grand Chamber of the Supreme Court holds that the decisions in the criminal case against [the applicant] should be set aside.

...

The nature of the violations, their legal classification, the stage of the proceedings at which they were committed and at which they can be corrected, as stated by the Court, give grounds to believe that those violations can be corrected by applying such an individual measure as a re-examination of the case [against the applicant].

During the new trial, the court must ensure proper consideration of all the evidence collected in the case in terms of its admissibility, relevance and credibility; the totality of the evidence collected must be assessed in terms of their sufficiency in their relationship to conclude on the guilt or innocence of [the applicant] (...).”

40. On 6 July 2021 in case No. 1-7/2010 the Grand Chamber of the Supreme Court ruled as follows:

“9. On 8 October 2020 in *Shumansky v. Ukraine*, in a judgment which has become final, the European Court of Human Rights (...) found that the [the applicant’s] Convention rights had been breached during the pre-trial investigation and trial of the case.

...

86. ... [T]he Grand Chamber draws attention to the fact that in review proceedings under exceptional circumstances (...), no repeat cassation review is carried out, and court decisions are reviewed only from the point of view of the impact of Ukraine's non-compliance with [its] international obligations (...) on the overall fairness of the trial. On the basis of the principles set out above, and being guided by the principle of legal certainty, the Supreme Court will not examine the correctness of the courts' decisions on other issues that are not related to violations of the applicant's Convention rights found by an international institution.

87. As a court of law, not of fact, the Supreme Court does not have power to independently examine evidence, to evaluate it, or to ensure that the conclusions of lower courts are consistent with the facts of the cases or to find new circumstances that were not established in the court decisions complained about. At the same time, the Grand Chamber as well as a cassation court (...) also has power to decide whether a first instance court complied with the requirements of criminal procedure, in particular, provisions (...) regarding the assessment of evidence based on a comprehensive, full and objective consideration of all the circumstances of the case in their totality, the obligation to give reasons for accepting or rejecting each piece of evidence and the delivery of a guilty verdict only if the defendant's guilt in committing the offence is proved during the trial."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

A. Scope of the case

41. The applicant complained under Article 6 of the Convention that the Supreme Court, instead of referring the case to the trial court for rehearing, had reassessed the evidence in his case, which it had no power to do. Because of that, it was not a "tribunal established by law". The applicant further complained that the exclusion of some evidence by the Supreme Court created a new "evidential situation" which required the fresh examination (including cross-examination) of the witnesses, especially G. and N., which had not been done, and that he had inadequate time and facilities to prepare his defence in that new situation.

42. The applicant's application was communicated to the Government of Ukraine together with another similar case under Article 6 § 1 and 6 § 3 (a-d), the question under Article 6 § 3 (a) referring specifically to the second case.

43. In his observations the applicant raised complaints and provided comments as to the violation of his right under Article 6 § 3 (a) to be informed about the nature and cause of the accusation against him in the proceedings in the Supreme Court. The Court notes that those new complaints cannot be considered an elaboration of the applicant's original complaints to the Court. It considers, therefore, that it is not appropriate to take up these matters in the context of the present case (see, for example, *Piryanik v. Ukraine*, no. 75788/01, § 20, 19 April 2005).

44. The Court will examine the applicant's complaints under Article 6 § 1 and 6 § 3 (b)-(d), which read as follows:

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

3. Everyone charged with a criminal offence has the following minimum rights:

...

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him..."

B. Admissibility

1. The parties' submissions

45. The Government argued that Article 6 was not applicable to the domestic proceedings complained about. They asserted that Article 6 does not normally apply to proceedings concerning extraordinary remedies, such as the reopening of a case; only the new proceedings which are conducted after a request to reopen a case has been granted can be regarded as the "determination of a criminal charge". In the present case, the proceedings in the Grand Chamber of the Supreme Court were not "new" within the meaning of the Court's case-law but were limited to the restoration of the applicant's rights to the state that existed before the violation of the Convention (restitution, or *restitutio in integrum*). The Government contended that there had been no retrial in the applicant's case and that in its review of the lower courts' decisions the Grand Chamber of the Supreme Court had been guided only by the circumstances and evidence established and examined by those courts, and in respect of which the Court did not establish a violation of the applicant's rights. In support of their argument, the Government referred to *Moreira Ferreira v. Portugal* (no. 2) [GC], no. 19867/12, §§ 60-61, 11 July 2017); *Fischer v. Austria* ((dec.), no. 27569/02, 6 May 2003); *Löffler v. Austria* (no. 30546/96, §§ 18-19, 3 October 2000); and *Öcalan v. Turkey* ((dec.), no. 5980/07, 6 July 2010).

46. The applicant disagreed. He emphasised that the review proceedings in the Supreme Court raised new facts and new complaints. In that connection he referred to the Court's judgment in *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland* (no. 2) ([GC], no. 32772/02, ECHR 2009) in which the Court observed that it might entertain a complaint that a retrial at the domestic level by way of implementation of one of its judgments had given rise to a new breach of the Convention. The applicant further submitted that according

to the Court's case law, should an extraordinary appeal entail or actually result in a rehearing of a case, Article 6 applies in the ordinary way to the relevant proceedings. In that connection he observed that the legal situation in which he found himself was similar to that in *Yaremenko (no. 2)* (cited above) and *Bochan v. Ukraine (no. 2)* ([GC], no. 22251/08, ECHR 2015), in that the Supreme Court, though acting in the framework of extraordinary review proceedings following a judgment of the Court, had in fact re-examined the case and made a new decision. In the applicant's situation that meant that the question of his guilt in the commission of a crime was reheard *de novo* and therefore Article 6 of the Convention was applicable under its criminal head.

2. The Court's assessment

47. The Court reiterates that under its case-law, Article 6 § 1 does not guarantee a right to the reopening of proceedings (see, *inter alia*, *Zawadzki v. Poland* (dec.), no. 34158/96, 6 July 1999, and *Sablon v. Belgium*, no. 36445/97, § 86, 10 April 2001) and does not normally apply to extraordinary appeals in which a rehearing is sought unless the nature and scope and specific features of the proceedings in the particular legal system concerned may be such as to bring them within the ambit of Article 6 § 1 (see, *Moreira Ferreira (no. 2)*, cited above, § 60).

48. As regards Ukraine, the Court has already dealt with review proceedings following a judgment of the Court in both civil and criminal cases. In *Bochan (no. 2)* (cited above, § 54), which concerned a civil case, the Court found that, exceptionally, Article 6 applied, because the Supreme Court had conducted a "rehearing" of the applicant's claim on new and fresh grounds linked to its interpretation of the Court's judgment, albeit it decided to uphold the outcome of the case and, in particular, not to order a full rehearing of the case by a lower court.

49. In *Shabelnik (no. 2)* (cited above), which concerned criminal proceedings, no issue as to applicability of Article 6 arose because review proceedings then comprised two stages: at the first stage the Supreme Court quashed the applicant's conviction and remitted the case for rehearing, and at the second stage a different formation of the Supreme Court examined the case under the standard rules for a cassation review. The applicant's complaints concerned only the second stage (§§ 34-35). On the other hand, in *Yaremenko (no. 2)* the Supreme Court, acting in the framework of the procedure for review under exceptional circumstances, excluded some pieces of evidence from the applicant's case and concluded that the remaining body of evidence was sufficient to prove Mr Yaremenko's guilt. The Court considered that such an approach by the Supreme Court constituted a "re-examination" of the applicant's case (§§ 55-56).

50. In the present case, on 13 November 2019 the Grand Chamber of the Supreme Court allowed the applicant's application for review in part and, in

the same procedure, changed his verdict by way of exclusion of some pieces of evidence previously admitted in the applicant's case, but concluded that the remaining body of evidence was sufficient to prove his guilt. The Court notes that this approach is essentially the same as in *Yaremenko (no. 2)* (cited above) and it is not a mere refusal to remit the case for rehearing. Nor is it a simple textual amendment of the original judgment in order to execute the Court's judgment. The Court finds that in the present case the Supreme Court undertook a re-examination of the applicant's case (see also *Serrano Contreras v. Spain (no. 2)*, no. 2236/19, § 28, 26 October 2021).

51. The proceedings at issue therefore concerned the "determination of a criminal charge" within the meaning of Article 6 of the Convention. The Government's objection that the Court lacks jurisdiction *ratione materiae* must therefore be dismissed.

52. The Court further notes that those proceedings were new in relation to the domestic proceedings forming the subject of the 2019 judgment and were subsequent to them. The question of whether they fulfilled the guarantees of a fair trial under Article 6 of the Convention can be examined by the Court separately from the aspects relating to the execution of the 2019 judgment (see, *Moreira Ferreira*, §§ 54-59 and *Yaremenko (no. 2)*, §§ 54-56, both cited above).

53. In the light of the foregoing, the Court notes that the applicant's complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

C. Merits

1. The parties' submissions

(a) The applicant

54. The applicant alleged that the Supreme Court, when changing the verdict as a result of the extraordinary review proceedings, went beyond its powers as provided for in legislation. In particular, in review proceedings the Supreme Court had the same powers as those of a court of cassation, that is ensuring the correct application of substantive and procedural law and legal qualification of the circumstances of the case and was expressly prohibited from examining evidence. The applicant therefore asserted that by excluding significant pieces of evidence in his case and at the same time reassessing the remaining evidence and ruling that it was sufficient to convict the applicant, the Supreme Court had acted *ultra vires*. In that connection the applicant referred to *Sokurenko and Strygun* (cited above).

55. In that connection the applicant provided references to several Supreme Court judgments given in review proceedings between 2019 and 2024 following a judgment of the Court, in which the Supreme Court had

remitted the cases back to a trial court for the evidence to be reassessed, as such reassessment was outside its powers (see citation of some of those judgments in paragraphs 39-40 above).

56. The applicant also provided references to some other Supreme Court judgments in which it had applied the same approach as in his case arguing that that approach was only being applied where someone had been sentenced to life imprisonment, as all the cases in which the Supreme Court had ordered retrial concerned other sanctions. The applicant considered that to be a selective approach which undermined the principles of the rule of law and of legal certainty.

57. The applicant argued in that connection that his confession and evidence derived from it had defined the course of the investigation in his case as well as framed the direction and scope of the examination of other evidence. The applicant also stated that given the rules for the use of evidence that existed at the time, he had been bound by his confession “throughout the initial proceedings”. That confession had also been a key factor in his defence strategy, including in the interviewing of witnesses and examination of other pieces of evidence. Moreover, the applicant’s confession had undoubtedly influenced the conduct of his co-defendant G., who had given his statements in the same circumstances as the applicant, and had also influenced the statements of other witnesses. In that respect he considered that those statements had to be reassessed, and he had to be given an opportunity to examine those witnesses.

58. The applicant further argued that the approach chosen by the Supreme Court to deal with his case precluded him from effectively preparing his defence and presenting his line of argument, particularly because, given the divergent case law as described in paragraphs 55-56 above, he did not know what to expect at the hearing. The applicant observed in that respect that in the hearing before the Supreme Court his lawyer had asked the court to allow additional time for him to prepare his case for any rehearing should the Supreme Court decide to do that. There was no response to that request. The applicant further emphasised that although the Supreme Court had held an “evidential hearing”, the parties had nevertheless been limited solely to issues relating to the request for an extraordinary review and had not been allowed to raise the merits of the case. The applicant also stated that the prosecutor had not filed any written submissions and only presented his arguments orally during the hearing. Furthermore, the applicant went first in the hearing, and the prosecutor presented his case afterwards. That situation gave the applicant no opportunity to prepare a reply in advance and comment on the prosecution’s statements (see paragraph 23 above). Lastly, the applicant argued that he had not been able to challenge the veracity or credibility of the (remaining) evidence as he could not know what evidence would be excluded and what would remain.

59. The applicant also asserted that the Supreme Court had grossly misinterpreted the Court's findings in his initial case, as the Court had found that the overall fairness of the proceedings had been prejudiced by the restriction on the applicant's right to defence, but the Supreme Court in its judgment had essentially stated that no doubt had been cast on the overall fairness of the applicant's conviction.

60. In reply to the Government's observations (see paragraph 64 below) the applicant stated that the argument that the Supreme Court's practice of excluding some evidence and upholding verdicts in the framework of an extraordinary review was a settled one did not apply to his case, as it had been examined before the Supreme Court had given the judgments referred to by the Government in support of their position. The applicant also contended that his case was the first one in which the Supreme Court had expressly formulated and applied the doctrine of the "fruit of the poisonous tree" which it used to exclude tainted evidence.

61. As to the Government's argument that Article 433 of the CCP did not mean that the court was unable to undertake other actions related to the assessment of evidence, only the assessment of its credibility (see paragraph 65 below), the applicant submitted that, firstly, the Government had taken that argument from the President of the Supreme Court's letter (attached to their observations) and presented it as though it derived from the text of the Supreme Court's judgment in the applicant's case, which had not been true. The applicant considered that that was a too far-reaching statement which was not based on any reliable source, let alone on the judgment in his case (or any other judgment, for that matter).

(b) The Government

62. The Government submitted that the powers of the Grand Chamber of the Supreme Court to review cases under exceptional circumstances were clearly provided for in law. Furthermore, Article 467 of the CCP provided that when taking a new decision in the framework of a review under exceptional circumstances, the Supreme Court would have the powers of a court of the relevant level of jurisdiction. That is to say, when deciding on a review under exceptional circumstances, the Grand Chamber of the Supreme Court has the powers of a cassation court "when it is setting out how errors made by lower courts may be corrected", taking into account the specific provisions of Article 467. They further contended that under Article 436 § 1 (4) of the CCP, following a cassation review of a cassation appeal, the court has the right to change the decisions taken by the lower courts. According to the Government, the fact that Article 467 allowed for the quashing of lower courts' decisions in full or in part does not mean that that was an obligation on the court to do either of those things but rather that those were powers which the court could use.

63. In that connection the Government also emphasised that changing the verdict involves a lesser degree of interference with a court decision and does not lead to a restriction of the applicant's procedural rights.

64. In support of its arguments the Government provided references to seven Supreme Court judgments taken in standard cassation reviews between 2019 and 2022 in which the previous verdicts had been overridden after certain evidence had been excluded but the convictions had been upheld. They further referred to three judgments of the Grand Chamber of the Supreme Court delivered in 2021 and 2023 specifically in review proceedings following a judgment of the Court and in which the same approach had been applied. In the Government's view that demonstrated the unity and consistency of the Supreme Court's approach to the issue of whether the Supreme Court, acting as a court of cassation, had power to change a verdict without remitting the case for rehearing.

65. The Government further contended that in its decision of 13 November 2019 the Supreme Court had created a new rule which allowed it to change a verdict without sending a case for retrial. It appears that when describing that rule, the Government was referring to the list of conditions set out by Judge Ya. in her concurring opinion (see paragraph 37 above). The Government considered that in the present case the Grand Chamber of the Supreme Court had the right on the basis of that rule and those conditions to change the verdict in the applicant's case and that it had used a procedure prescribed by law.

66. The Government further commented on the question of whether the Supreme Court had reassessed the evidence in the applicant's case. They observed that in cassation proceedings a court is expressly prohibited by law from deciding on the credibility of evidence (Article 433 of the CCP). They considered that other actions related to the assessment of evidence were not prohibited, including deciding whether the evidence was sufficient and consistent. The Supreme Court's exclusion of the evidence obtained in violation of the Convention and its examination of the case on the basis of the remaining evidence had not entailed, in the Government's view, "the examination of evidence and the reassessment of the credibility of evidence". In the present case, according to the Government, the Supreme Court "assessed the totality of the evidence collected to ensure that it was sufficient and consistent enough".

67. Lastly, the Government submitted that the applicant's case was different from *Yaremenko (no. 2)* and *Shabelnik (no. 2)* (both cited above) in that in those cases the Court found a repeated violation because the Supreme Court, while excluding the applicants' confessions, re-admitted other inadmissible evidence, thus perpetuating the violations previously found by the Court. In the present case, the Grand Chamber took due account of the Court's conclusions in those cases and excluded not only the evidence that was directly inadmissible but also several other pieces of evidence derived

from them. The remaining evidence had neither direct nor indirect relation to the violations of the applicant's Convention rights found in the 2019 Court's judgment.

2. *The Court's assessment*

68. The Court observes at the outset that, apart from the complaints related to the fairness of the proceedings in the Supreme Court, including the lack of an opportunity to prepare his defence and to challenge evidence, the applicant raised a distinct complaint that that court was not a "tribunal established by law". In that respect the applicant argued that the Supreme Court, even if acting as a court of cassation, had no power to reassess evidence, but had done that in his case. He considered that his case was therefore similar notably to *Sokurenko and Strygun* (cited above).

69. In *Sokurenko and Strygun* the Court found that the Supreme Court, having quashed the resolution of the Higher Commercial Court, went on to uphold the decision of the Court of Appeal, although it could only have either remitted the case for a fresh consideration by the lower court or nullified the proceedings (§ 26). The Supreme Court had therefore clearly done something that was not provided for under the Code of Commercial Procedure, and there was no other sufficient legal basis for its exercise of that jurisdiction. Likewise, no clear and plausible reasons for the exceptional departure from its usual jurisdiction had been given by the Supreme Court.

70. In the present case, on the contrary, the question of the Grand Chamber's powers within the review under exceptional circumstances was one of the central ones and the Supreme Court (and its judges in their separate opinions) dealt specifically, and at length, with that question and provided specific explanations as to the legal basis of the approach applied. The Court reiterates in that connection that it is not its task to substitute the domestic courts' conclusions as to the interpretation and application of the domestic law or to propose a concrete solution for a particular situation.

71. The Court also emphasises that it cannot be called on to rule in the abstract as to whether the practice of excluding some – tainted – evidence but upholding the conviction on the basis of the remaining evidence is incompatible with the Convention, as the applicant seems to suggest. The Court can only examine the particular case before it and decide whether or not there was a Convention violation in the circumstances of that case. In the present case the Court considers that the core issue before it is whether, all factors combined, the guarantees of a fair trial under Article 6 of the Convention had been fulfilled in the proceedings which determined the criminal charges against the applicant following his application for review in the light of the Court's earlier judgment. The circumstances of the present case are, therefore, more comparable to *Yaremenko (no. 2)* (cited above, § 64) rather than to *Sokurenko and Strygun*, cited above, or *Ukrkava, TOV v. Ukraine* (no. 10233/20, 6 February 2025, not yet final).

72. The Court refers to its finding in the 2019 judgment that when he made his confession on 12 December 2004 the applicant's right to legal assistance had been restricted. The Court emphasised that the statements that the applicant had made in his confession provided the domestic investigating authorities with the framework around which they built their case and directed them in their search for other corroborating evidence; it therefore undoubtedly irreversibly affected the applicant's position. That defect was also not duly addressed at later stages of the proceedings (see paragraphs 17-18 above).

73. In the review proceedings in the applicant's case which led to the present application to the Court, the Supreme Court excluded not only the applicant's confession but also a considerable number of other pieces of evidence directly derived from it, as those were also considered tainted. It referred specifically to the Court's findings in *Yaremenko (no. 2)*, in which the exclusion of only part of the tainted evidence and the use of the remainder of the evidence to uphold the applicant's conviction had been found to have perpetuated the violations previously found by the Court. In contrast to what it had done in that case, in the applicant's case the Supreme Court considered that it had rightly excluded all tainted evidence.

74. The Court acknowledges that the Supreme Court had taken note of its findings in *Yaremenko (no. 2)* and excluded not only the confession clearly obtained in breach of the applicant's right to prepare and present his defence, but also other tainted evidence. It observes, however, that the statement made by N., the surviving victim about whom the authorities became aware after the applicant mentioned her in his confession, was found to have no direct relation to the tainted evidence. Her testimony, together with the statements of her husband and the husband of D., who both had heard about the murder from N., were the remaining evidence that essentially formed the basis for upholding the applicant's conviction (see paragraph 27 above). The Supreme Court did not explain why it considered that that evidence was not tainted by the applicant's confession, even though there were indications that it originated in that confession. The Court does not consider that such an assessment could be safely made in the absence of a full rehearing of the case.

75. The Court further observes that the Supreme Court found modification of the judgment after exclusion of part of the evidence to be "a less intrusive" form of review which was appropriate in the applicant's case (as compared, apparently, to the remittal of the case for rehearing) and which would have no impact on the conclusiveness of the remaining evidence in the case and would not lead to a restriction of the applicant's procedural rights (see paragraph 32 above). As in *Yaremenko no. 2* (§ 66, cited above) and *Shabelnik no. 2* (§ 56, cited above), the Court finds that the question of whether the remaining evidence was sufficient to confirm the applicant's guilt would in itself require a thorough examination of the entire body of evidence

in the case, which could only be ensured by a full rehearing and not by the very limited review as carried out by the Supreme Court.

76. The Court consequently further finds that after such important evidence had been excluded, the applicant's case required a full rehearing and that, no such rehearing having been undertaken, the applicant was deprived of the right to adequate time and facilities for the preparation of his defence in the proceedings complained of. He had been unable to predict the scope of the review that would be conducted by the Supreme Court or what evidence would be excluded or would remain. He therefore could not foresee how the overall assessment of the case would be affected by the review and therefore could not construct his line of argument.

77. Lastly, the Court turns to the Supreme Court's interpretation of the Court's findings. In particular, the Supreme Court said in its judgment that the Court had based its conclusions as to the violation of the applicant's rights on "particular serious procedural mistakes" but that those mistakes did not bring into question the results of the proceedings as a whole and did not mean that the applicant's sentence was not fair and not in conformity with the Convention (see paragraph 33 above for the citation of the relevant parts of the Supreme Court's judgment). In this connection the Court reiterates its findings in paragraph 67 of the 2019 judgment that it has not been demonstrated convincingly why the overall fairness of the criminal proceedings against the applicant was not irretrievably prejudiced by the restriction of his access to a lawyer on 12 December 2004 (see paragraph 19 above for the citation). While the Court formulated its conclusion in the negative, it must have been clear to any reader that the Court considered that the overall fairness in the applicant's case had indeed been irretrievably prejudiced. It also appears that the official Ukrainian translation of the 2019 judgment correctly represents what was said by the Court.

78. The Supreme Court's reading of the Court's findings in the applicant's 2019 judgment was, therefore, not entirely in line with the Court's conclusions and may have been one of the reasons for not quashing the applicant's conviction in its entirety and remitting the case for rehearing.

79. To sum up, in the light of all the above considerations, the Court finds that the review of the applicant's case as conducted by the Supreme Court was marked by several deficiencies and that it failed to comply with the requirements of fair trial as provided for by Article 6 of the Convention.

80. There has, accordingly, been a violation of Article 6 §§ 1 and 3 (b-d) of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

81. 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

82. The applicant claimed 50,000 euros (EUR) in respect of non-pecuniary damage. He submitted that the damage caused by the violations of the Convention and the uncertainty in which he found himself could not be made good by a mere declaratory judgment.

83. The Government contested those claims as unfounded and excessive.

84. The Court awards the applicant EUR 3,600 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

85. The applicant also claimed EUR 7,500 for the costs and expenses incurred before the Court. In support the applicant submitted a contract between him and his lawyer which set an hourly rate of EUR 150 and allowed payment for the services provided to be deferred until the Court gave its judgment. The applicant also submitted a timesheet showing 23 hours for the preparation of the application to the Court and 27 hours for the preparation of the observations. He requested that that amount be transferred directly to the account of his lawyer.

86. The Government contested those claims as excessive.

87. 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 were actually and necessarily incurred and are reasonable as to quantum. In that connection the Court notes, firstly, that even though the applicant has not yet paid for the lawyer’s services, he is under a contractual obligation to do so. Further, regard being had to the documents in its possession and the above criteria, and bearing in mind that the applicant has already been paid EUR 850 under the Court’s legal aid scheme, the Court considers it reasonable to award the applicant EUR 5,000 in respect of costs and expenses plus any tax that may be chargeable to him. At the request of the applicant, the amount awarded under this head should be paid directly into the bank account of Mr M. Tarakhkalo (see, for a similar approach, *Belousov v. Ukraine*, no. 4494/07, §§ 116-17, 7 November 2013).

88. The Court further 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 admissible;

2. *Holds* that there has been a violation of Article 6 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, 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 currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 3,600 (three thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid directly into the bank account of Mr M. Tarakhkalo;
 - (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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

Kateřina Šimáčková
President