



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

SECOND SECTION

CASE OF RIBAREV v. NORTH MACEDONIA

(Application no. 39987/22)

JUDGMENT

Art 6 § 1 (civil) • Access to court • Applicant's inability to appeal against the State Judicial Council's ("SJC") decision dismissing him from his judicial post following the remittal of his cases by a second-instance Appeal Panel • Art 6 applicable • Genuine and serious dispute over arguable civil "right" under domestic law to serve an unlimited term of office • SJC and Appeal Panel satisfied Art 6 § 1 "tribunal" requirements • Inability to ascertain the SJC's compliance in the remitted proceedings with the Appeal Panel's binding instructions issued when it quashed the dismissal decision • Strong public interest in upholding the rule of law and ensuring public confidence in the judiciary required such an assessment • Absence of any judicial mechanism capable for subsequent review practically rendered the first appeal before the Appeal Panel devoid of any meaning, undermining the effectiveness of the appeal process and weakening the practical guarantees of judicial protection under Art 6 § 1 • Very essence of right of access to court impaired

Prepared by the Registry. Does not bind the Court.

STRASBOURG

13 November 2025

FINAL

13/02/2026

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

In the case of Ribarev v. North Macedonia,

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

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Péter Paczolay,

Oddný Mjöll Arnardóttir,

Gediminas Sagatys,

Stéphane Pisani,

Juha Lavapuro, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 39987/22) against the Republic of North Macedonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Macedonian/citizen of the Republic of North Macedonia, Mr Stojanche Ribarev (“the applicant”), on 3 August 2022;

the decision to give notice to the Government of North Macedonia (“the Government”) of the applicant’s complaints concerning his inability to appeal (after the remittal of his case) against the decision of the Judicial Council of the Republic of North Macedonia (hereinafter “the State Judicial Council” or “the SJC”) dismissing him from his post as a judge, as well as the manner in which the SJC applied the statutory provisions regarding the applicable time-limit for initiating the proceedings for his dismissal, and to declare the remainder of the application inadmissible;

the withdrawal of Judge Jovan Ilievski, the judge elected in respect of North Macedonia, from sitting in the case (Rule 28 § 3 of the Rules of Court) and the decision of the President of the Chamber to appoint Judge Oddný Mjöll Arnardóttir to sit as an *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 of the Rules of Court);

the parties’ observations;

Having deliberated in private on 14 October 2025,

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

INTRODUCTION

1. The case concerns the applicant’s inability under domestic law to appeal against a decision of the State Judicial Council (“the SJC”) dismissing him from his post as a judge, following the remittal of his case by a second-instance panel of the Supreme Court (“the Appeal Panel”), as well as the manner in which the SJC applied the relevant statutory provisions when accepting the request for his dismissal as having been lodged in time. The applicant complained of a violation of his rights under Article 6 § 1 of the Convention.

THE FACTS

2. The applicant was born in 1964 and lives in Shtip. He was represented by Mr A. Novakoski, a lawyer practising in Skopje.
3. The Government were represented by their Agent, Ms D. Djonova.
4. The facts of the case may be summarised as follows.

I. BACKGROUND TO THE CASE

5. The applicant is a former judge of the Supreme Court. Between 14 March and 25 October 2017 he was acting President of the Skopje Criminal Court of First Instance (“the Skopje Criminal Court”). He resigned from that position and returned to work as a judge at the Supreme Court.

6. In his capacity as acting President of the Skopje Criminal Court, on 17 March 2017 the applicant adopted its 2017 annual work schedule, which took effect on 5 May 2017.

7. On 22 September 2017 the Minister of Justice established a working group on the functioning of the automated court case management information system (“ACCMIS”) and the implementation of the Rules of Court (*Судски деловник*) in the courts of the respondent State in 2016 and 2017.

On 21 February 2018 the SJC received the working group’s record and report of 26 October and 20 December 2017, respectively, which concluded that there had been inconsistencies in the application of ACCMIS in the Skopje Criminal Court.

8. On 16 April 2018 the then President of the SJC established a commission consisting of three of its members, tasked with verifying the findings of the working group (“the Verification Commission”). On 18 December 2018 the Verification Commission submitted a report to the SJC, which did not identify any irregularities related to the 2017 annual work schedule of the Skopje Criminal Court. The report further stated that the mandate in the SJC of two members of the Verification Commission had expired on the same date (18 December 2018), but that additional inquiries were needed concerning the cases which had been distributed manually rather than through ACCMIS. On 7 February 2019 the SJC deliberated on the report and appointed two new members to the Verification Commission.

9. On 2 October 2019 the Verification Commission submitted an additional report to the President of the SJC, which established, *inter alia*, that cases had been allocated to certain judges of the Skopje Criminal Court contrary to (*напротив од*) the 2017 annual work schedule. On 25 December 2019 a member of the Verification Commission presented the report to the SJC.

10. In the meantime, on 12 December 2019, the Parliament appointed V.D. as a member of the SJC. Her mandate commenced on 27 December

2019. On 5 February 2020 she was appointed as a member of the Verification Commission.

II. DISMISSAL PROCEEDINGS AGAINST THE APPLICANT

11. On 24 April 2020 V.D. requested that the SJC conduct professional misconduct proceedings against the applicant. The request stated that between 15 May and 3 July 2017 two judges of the Skopje Criminal Court had been allocated criminal cases, despite being assigned to its misdemeanour section on the basis of the 2017 annual work schedule.

12. On 10 June 2020 the SJC established, by drawing lots from among its members (excluding V.D.), a three-member commission to examine the request for professional misconduct proceedings (“the Commission of Rapporteurs”), which on 27 August 2020 established that the request had been lodged within the six-month time-limit specified in section 61(1) of the SJC Act (see paragraph 34 below). The Commission of Rapporteurs found that the relevant period had started to run on 5 February 2020, when V.D., who had lodged the request, had become a member of the Verification Commission (see paragraph 10 above) and learned of the applicant’s alleged misconduct.

13. On 4 March 2021 copies of the request for professional misconduct proceedings and supporting documentary evidence were served on the applicant.

14. In a written reply, the applicant argued, *inter alia*, that the request for professional misconduct proceedings had been lodged belatedly, as the SJC had been informed of the relevant events when it had received the working group’s record and report of 26 October and 20 December 2017, and the Verification Commission’s reports of 18 December 2018 and 2 October 2019 (see paragraphs 7-9 above).

15. On 24 March 2021 the Commission of Rapporteurs heard the applicant and V.D. and admitted documentary evidence. At the hearing, V.D. clarified (*нпечузупа*) the request for professional misconduct proceedings, submitting that between 15 May and 3 July 2017 five judges of the Skopje Criminal Court had not been allocated any misdemeanour cases, despite being assigned to its misdemeanour section, and had not been allocated any newly received criminal cases. The applicant stated *inter alia* that the amendments to the request essentially amounted to a new request.

16. On 6 July 2021 the Commission of Rapporteurs prepared a report on the applicant’s case and submitted it to the SJC.

17. On 14 July 2021 the SJC held a session in the absence of V.D. The Minister of Justice and the President of the Supreme Court, who were *ex officio* members of the SJC (see Amendment XXVIII to the Constitution, paragraph 32 below), did not attend either. The SJC established professional misconduct on the part of the applicant and dismissed him from his post as a

judge. The SJC found that five judges from the Skopje Criminal Court had not been allocated any new criminal or misdemeanour cases, despite being assigned to its misdemeanour section, and had only worked on old criminal cases. The SJC confirmed that the request for professional misconduct proceedings had been lodged in time, given that V.D., who had submitted it, only became aware of the relevant events when she had become a member of the Verification Commission. It further found that the clarifications to the request had not changed its substance.

18. On 9 August 2021 the applicant appealed against the SJC's decision.

19. On 1 December 2021 the Appeal Panel, formed within the Supreme Court pursuant to section 72(2) of the SJC Act, upheld the applicant's appeal and quashed the SJC's decision to dismiss him after having heard him. It took into consideration the reports sent to the SJC dated 20 December 2017, 18 December 2018 and 2 October 2019 (see paragraphs 7-9 above). It concluded as follows: (i) the SJC had not provided sufficient reasoning as to the running of the time-limit for submitting the request for professional misconduct proceedings; (ii) the applicant had not had an opportunity to contest the clarified request; and (iii) the SJC's decision had been unclear in respect of the grounds for his dismissal (namely, he had been dismissed from his post as a judge of the Supreme Court on account of his conduct in his capacity as acting President of the Skopje Criminal Court, even though the statutory grounds for the dismissal of a judge and a court president were different).

20. On 9 February 2022 the Commission of Rapporteurs heard the applicant and V.D. again. On 23 February 2022 it submitted a fresh report to the SJC concerning the applicant's case.

21. At a session held on 7 April 2022, the SJC once again dismissed the applicant. As the minutes of the session show, V.D., the Minister of Justice and the President of the Supreme Court were not present. The SJC found that, under the Skopje Criminal Court's 2017 annual work schedule, the applicant had transferred to its misdemeanour section five judges who had previously worked on criminal cases. The head of the misdemeanour section had informed him that there was no need for any new judges. The five judges in question had not been assigned any new misdemeanour or criminal cases. They had only been formally removed from the criminal section in order not to be assigned cases initiated by the Special Prosecutor's Office (for background on the latter, see *Taleski v. North Macedonia* (dec.), no. 77796/17 and five other applications, §§ 8 et seq., 24 January 2023). On 3 July 2017, as soon as the deadline for the Special Prosecutor to file indictments had expired, the applicant had transferred the five judges back to the criminal section. The professional misconduct was committed while the applicant was acting as President of the Skopje Criminal Court, but it concerned his disciplinary liability as a judge. The time-limit for submitting the request for professional misconduct proceedings had started to run on the

date when V.D. had become a member of the Verification Commission. Lastly, at the hearing held on 24 March 2021 the applicant had become acquainted with the clarified request.

22. On 9 May 2022 the applicant appealed against the second dismissal decision of the SJC. He argued that the SJC had not complied with the Appeal Panel's instructions when it had remitted the case. Furthermore, he claimed that the fact that an SJC decision after remittal was not amenable to appeal under section 72(6) of the SJC Act (see paragraph 34 below), amounted to a violation of his rights under Articles 6 and 13 of the Convention.

23. On 21 July 2022 the SJC held a session in the absence of V.D., the Minister of Justice and the President of the Supreme Court, and rejected the applicant's appeal as inadmissible, referring to section 72(6) of the SJC Act. On 29 July 2022 the applicant lodged an appeal against that decision.

24. On 23 February 2023 the Supreme Court adopted a general position stating that, in deciding an appeal against a decision of the SJC issued after remittal, the Appeal Panel formed for the case could directly apply Articles 6 and 13 of the Convention, as well as Amendment XXI (which amended Article 15, guaranteeing the right to appeal, see paragraph 26 below) and Article 50 of the Constitution (guaranteeing the right to judicial protection of rights and freedoms, see paragraph 27 below). It found that the inability to appeal against decisions of the SJC issued after remittal directly impacted the effectiveness of an appeal to the Appeal Panel and limited the right of access to a court. The reasoning of the general position referred, *inter alia*, to the international materials described in paragraphs 40, 42, 48 and 49 below.

25. On 6 March 2023 the Supreme Court requested the applicant's case file from the SJC. On 14 March 2023 the SJC, presided over by V.D., declined to provide it. Consequently, at a plenary session on 27 March 2023, the Supreme Court adjourned the selection of members of a further second-instance panel (Appeal Panel) to decide the applicant's appeals of 9 May and 29 July 2022 for an undetermined period of time (see paragraphs 22 and 23 above).

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT DOMESTIC LAW AND PRACTICE

A. 1991 Constitution, as amended by the 2005 Constitutional Amendments

26. Amendment XXI, which replaced Article 15 of the Constitution, guarantees the right to appeal against first-instance court decisions and provides that the right to appeal or to another type of remedy (*правна заштита*) against individual decisions adopted at first instance by an

administrative authority or another body performing public functions (*јавни овластувања*) is regulated by law.

27. Article 50 § 2 guarantees judicial protection of the lawfulness of individual acts of the State administration and other institutions which perform public functions.

28. Amendment XXV, which replaced Article 98, provides, *inter alia*, that the courts are autonomous and independent, and that they adjudicate on the basis of the Constitution, laws and international agreements ratified in accordance with the Constitution. Extraordinary courts are prohibited.

29. Article 99 and Amendment XXVI, which partly replaced it, provide that a judge's term of office is unlimited in duration and ceases if the judge requests it, if the SJC decides that the judge is permanently unable to perform judicial functions, if the judge retires, if the judge is convicted and sentenced to at least six months' imprisonment, and (under certain conditions) if he or she is elected to another public office. A judge may be dismissed from judicial office if he or she commits a serious disciplinary violation, as provided for by law, which renders him or her unfit to perform judicial functions, or if he or she exercises the functions of a judge in an unprofessional and unconscientious manner, under the conditions provided for by law.

30. Under Article 100 § 3 and Amendment XXVII, judicial office is incompatible with membership in a political party or the exercise of another public function or profession as determined by law. Article 100 § 4 forbids political organisations and activities in the judiciary.

31. Under Article 101, the Supreme Court is the highest court providing uniformity in the implementation of laws by the courts.

32. Amendment XXVIII, which replaced Article 104, reads as follows:

“[The SJC] is an autonomous and independent institution of the judiciary. [It] ensures and guarantees the autonomy and independence of the judiciary.

[The SJC] is composed of fifteen members.

The President of the Supreme Court ... and the Minister of Justice are *ex officio* members of [the SJC].

Eight members of [the SJC] are elected by judges from among their peers ...

Parliament elects three members of [the SJC] with a majority of all members of Parliament (*мнозинство гласови од вкупниот број пратеници*), which must include a majority of members of Parliament belonging to the non-majority communities (*заедниците кои не се мнозинство*)...

Two members are proposed by the President [of the State] ... and elected by Parliament...

The members of [the SJC] elected by Parliament, and those proposed by the President [are] university law professors, lawyers or other prominent jurists.

The members of [the SJC] are elected for a term of six years, with the possibility of re-election.

...

The functions of a member of [the SJC] are incompatible with membership in a political party and with the exercise of another public function or profession, as determined by law.”

33. The relevant parts of Amendment XXIX, which replaced Article 105, read as follows:

“[The SJC]:

- elects and dismisses judges and lay judges;
- establishes the termination of a judge’s functions;
- elects and dismisses court presidents;
- monitors and assesses the work of judges;
- decides on judges’ disciplinary liability;
- decides whether to strip judges of their immunity;
- proposes two judges of the Constitutional Court ...

...

[The SJC] submits an annual report on its work to Parliament ...”

B. State Judicial Council Act (*Закон за судскиот совет на Република Северна Македонија*, Official Gazette no. 102/2019 – “the SJC Act”)

34. The relevant provisions of the SJC Act, as applicable to the applicant’s case, read as follows:

Political activities (*политичко дејствување*)

Section 3

“(1) Political organisation[s] and activities in [the SJC] are prohibited.

(2) [The SJC’s] members, in the performance of its functions, shall not take part in partisan activities.

(3) Through its work, [the SJC] shall prevent political influence over the judiciary.

...”

Composition of [the SJC]

Section 6

“(1) [The SJC] is composed of fifteen members, out of which:

- the President of the Supreme Court ... and the Minister of Justice are *ex officio* members...;

- eight members ... are elected by judges from among their peers ...

- three members ... are elected by Parliament with a majority of all members of Parliament, which must include a majority of members of Parliament belonging to the non-majority communities ... and

- two members ... are proposed by the President [of the State] and elected by Parliament ...

(2) The *ex officio* members of [the SJC] shall participate in [its] work, without the right to vote.

(3) The *ex officio* members of [the SJC] shall not participate in [the SJC's] work at the sessions at which professional misconduct proceedings (*постанка за утврдување на одговорност*) or the appointment or dismissal of a judge or court president are being discussed and decided."

Term of office of members of [the SJC]

Section 7

"(1) The term of office of members of [the SJC] elected by judges shall be six years, with the possibility of re-election after at least six years following the termination of the previous term of office.

(2) The term of office of members ... elected by Parliament ... shall be six years, with the possibility of re-election.

(3) The term of office [in the SJC] of the President of the Supreme Court and the Minister of Justice shall cease upon the termination of their functions.

..."

Election and term of office of the president of [the SJC]

Section 8

"(1) The work of [the SJC] is directed by its President.

(2) The President ... has a Deputy, who acts in his or her stead during his or her absence.

(3) The President ... and his or her Deputy shall be elected from among the voting members of [the SJC], who have been appointed by Parliament ...

(4) The President ... and his or her Deputy shall be elected by a minimum of eight votes of the members entitled to vote.

(5) The term of office of the President ... and the Deputy ... shall be two years, without the possibility of re-election."

Conditions for electing [or appointing] a member of [the SJC]

Section 11

"(1) Any judge ... fulfilling the following conditions may apply to the vacancy notice for the election of a member of [the SJC] from among the judges:

- [he or she] has at least six years' experience as a judge;
- [his or her] performance of judicial functions has been positively appraised; and
- [he or she] has not, in a final decision in disciplinary proceedings, been subjected to a 15-30% decrease in salary that remains in effect at the time of the vacancy notice.

(2) Any person fulfilling the following conditions may apply to the vacancy notice for the election of a member of [the SJC] on the proposal of Parliament:

- ...

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- [he or she is a] lawyer with at least fifteen years' experience in the legal profession, who has passed the bar exam and who ... has distinguished [him or herself] through scientific or professional work or ... public activity;

...

- [he or she] has [the requisite] reputation and integrity for the performance of the functions of a member of [the SJC].

(3) At the proposal of the President of [the State], Parliament ... may elect a person as a member of [the SJC] who ...:

...

- [is a] lawyer with at least fifteen years' experience in the legal profession, who has passed the bar exam and who ... has distinguished [him or herself] through scientific or professional work or ... public activity;

...

- has [the requisite] reputation and integrity for the performance of the functions of a member of [the SJC].

...

(4) In the cases referred to in subsections (2) and (3) above, a person who ... in the past four years has been a member of parliament or the government, or who has performed functions within a body of a political party, shall not be elected as a member of [the SJC].

(5) Members of [the SJC] elected by Parliament ... as well as those elected by Parliament on the proposal of the President [of the State], shall be selected from among university law professors, lawyers, former judges of the Constitutional Court, international judges and other prominent jurists."

Termination of the term of office of a member of [the SJC]

Section 31

"(1) The term of office of a member of [the SJC] shall end:

- 1) upon the expiry of the term for which he [or she] is elected;
- 2) at his [or her] own request;
- 3) if he [or she] is dismissed from judicial office in accordance with the law; and
- 4) if he [or she] is [convicted and] sentenced ... to at least six months' imprisonment, rendering him [or her] unfit to perform the functions of an [SJC member];
- 5) if it has been established that he [or she] has permanently lost the ability to perform his [or her] functions; or
- 6) if he [or she] is elected to perform another public function or profession.

..."

Grounds for submitting a request for disciplinary proceedings against a member of [the SJC]

Section 34

“(1) A reasoned request for the initiation of disciplinary proceedings against a member of [the SJC] may be submitted to [the SJC] by at least twenty judges or by any member of [the SJC] with the right to vote, if a member of [the SJC]:

- influences the independence of judges and exerts pressure in relation to the adjudication of certain cases;
- neglects and does not perform his [or her] functions in the work of [the SJC];
- refuses to submit a declaration of assets and interests in accordance with the law or if the data contained in the declaration are largely inaccurate; or
- breaches the rules for recusal in situations in which the member of [the SJC] knew or ought to have known that there was a reason for recusal provided for by law.

(2) A member of [the SJC] shall be dismissed from his [or her] functions on the grounds referred to in subsection (1) if the breach was committed:

- with intent or obvious negligence on the part of the member of [the SJC] without justified reasons; and
- the breach caused serious consequences.”

Proceedings for deciding a request for disciplinary proceedings against a member of [the SJC]
Section 35

...

“(6) The SJC shall adopt a decision to dismiss [its] member with at least eight votes from the members with the right to vote, with at least two members elected by Parliament ... voting in favour of the dismissal.

(7) The *ex officio* members [of the SJC], the member whose liability is being decided and the member who has submitted the request for disciplinary proceedings shall not participate in the adoption of the decision referred to in subsection (6).

...”

President of [the SJC]
Section 40

“The President ... shall:

- represent [the SJC];
- chair and direct its sessions;
- participate in the work and decision-making of [the SJC];
- sign the ... acts of [the SJC] and ensure their enforcement;
- ensure the enforcement of [the SJC’s] Rules of Procedure;
- perform other duties as prescribed by law and the Rules of Procedure.”

Equality of the members of [the SJC]

Section 41

“The members of [the SJC] with a right to vote are equal in their rights and obligations in the performance of the function of a member of [the SJC].”

Rights, duties and responsibilities of a member of [the SJC]

Section 43

“(1) A member of [the SJC] with voting rights shall have the following rights, duties and responsibilities:

- to participate in the work and decision-making of [the SJC];
- to submit initiatives, proposals and opinions on matters within [the SJC’s] competence;
- to take part in the work of [the SJC’s] working bodies to which he or she has been appointed;
- upon a decision of [the SJC], to inspect (*осматува увид*) a judge’s work and undertake other actions, and to report thereof to [the SJC];
- to be liable for any violation of the Constitution or law in connection with the performance of his or her function within [the SJC]; and
- to perform other tasks as prescribed by this law.

(2) The Minister of Justice and the President of the Supreme Court, as *ex officio* members ... , shall have the same rights, duties and responsibilities as the voting members referred to in subsection (1) ... , except in cases provided for by this law.”

Grounds for dismissal of a judge

Section 60

“A judge shall be dismissed from judicial office:

- 1) for a serious disciplinary breach (*потешка дисциплинска повреда*), as provided for by law, which renders him [or her] unfit to perform judicial functions; and
- 2) for unprofessional and unconscientious performance of judicial functions, as prescribed by law.”

**Proceedings for establishing professional misconduct (*утврдување на одговорност*)
on the part of a judge or court president**

Section 61

“(1) Professional misconduct proceedings concerning a judge or court president shall be initiated within six months from the date of discovery of the [misconduct] (*од денот на осознавање на сторената повреда*), but no later than three years from the date on which [it] was committed.

(2) The proceedings shall be urgent and confidential, [and shall be] conducted without the presence of the public and by respecting the reputation and dignity of the judge or court president ...

(3) At the request of the judge or court president, [the SJC] shall decide that the proceedings shall be conducted in public.

(4) At the request of the judge or court president, a representative of the Judges' Association may also attend the session."

Commission of Rapporteurs

Section 63

"(1) Upon receiving a request [for] professional misconduct proceedings ... [the SJC], by drawing lots from among its members with the right to vote, shall establish a commission of rapporteurs (hereinafter "the Commission"), composed of three members, two of whom shall be from among the members elected by judges, and one of whom shall be from among the members elected by Parliament ... The president of the Commission shall be selected by lot from among [its] members.

(2) [The SJC] member who submitted the request [for professional misconduct proceedings] ... may not be a member of the Commission.

...

(4) The Commission shall reject the request ... if it is:

- lodged out of time;

..."

Gathering data and evidence

Section 64

"(1) The Commission shall gather data and evidence ... for establishing the matters (*cocmojōama*) relating to the request.

..."

Service

Section 65

"(1) The Commission shall serve the request and evidence personally on the judge or court president, through the [registry] of [his or her] court ... or by registered mail to the home address.

...

(3) The judge or court president may reply in writing to the allegations in the request or give an oral statement ... within eight days from the date of receiving the request.

(4) The judge or court president ... shall have the right to be defended by a lawyer ...

(5) Together with the reply to the request, the judge or court president shall submit all evidence in support of the reply.

..."

Hearing ...

Section 66

"(1) The Commission shall schedule a hearing within seven days of receiving the judge's or court president's reply to the request ...

(2) The judge or court president shall be summoned to the hearing.

(3) If the judge or court president duly summoned does not appear at the hearing and does not justify [his or her] absence, the hearing shall be held.

(4) Evidence proposed by the person who has submitted the [request for professional misconduct proceedings] and by the judge or court president, as well as evidence obtained by the Commission, shall be presented at the hearing.

(5) The judge or court president shall have the right to comment on all evidence presented at the hearing, orally ... or in writing within three days.

(6) Minutes shall be drawn up of the actions taken at the hearing ... by a member of [the SJC registry].

(7) The minutes shall contain, in particular, information on: the date, time and place of the hearing, the president and members of the Commission ... the names of the persons present, the statement of the judge or court president or his [or her] counsel and the evidence presented. The minutes shall be signed by the applicant, the judge or court president, his [or her] counsel, the Commission and the person taking the minutes.

(8) If any of the persons ... does not sign the minutes, [this] shall be noted therein.

(9) During... the hearing ... an audio-recording shall be made.

...”

Report of the Commission

Section 67

“(1) The Commission shall submit a report ... to [the SJC] within fifteen days from the date of the hearing.

(2) The report shall contain all files and documents that the Commission had at its disposal in the course of the proceedings, as well as the statement of the judge or court president and the description of the actions taken.

(3) All files shall be made available to [the SJC’s] members.”

[The SJC’s] deliberations (*пакпага нред Собетом*)

Section 68

“(1) The president of the Commission shall present its report at [the SJC’s] deliberations.

(2) The president and members of the Commission shall participate in the deliberations and vote on the decision.

(3) If the request [for professional misconduct proceedings] was submitted by a member of [the SJC], he [or she] shall not participate in [the SJC’s] deliberations and shall be exempted from voting on the final decision.

...”

Proceedings for deciding upon a draft decision [regarding professional misconduct]

Section 69

“(1) At its session, [the SJC] shall deliberate on the report of the Commission ... and ... with at least seven votes from the total number of members with the right to vote, shall stay the proceedings if it determines that there are no grounds for [establishing professional misconduct].

...

(3) If [the SJC] does not stay the proceedings [and] establishes [professional misconduct] on the part of the judge or court president ... it shall dismiss [him or her] ... with at least eight votes from the total number of members with the right to vote.

...”

Service of the decision

Section 71

“(1) The decision [establishing professional misconduct] shall be prepared within ten days from its adoption and shall include an introduction, operative provisions, reasoning and a legal instruction.

...”

Right to appeal

Section 72

“(1) Only the judge or court president [against whom the professional misconduct proceedings were conducted] has the right to appeal against the decision of [the SJC] before a panel of the Supreme Court ... (hereinafter “the Appeal Panel”), within eight days from the date of service of the decision.

(2) The Appeal Panel shall be composed of nine members, three of whom shall be judges of the Supreme Court ... one judge from each of the appellate courts and two judges from the court where the judge against whom the [professional misconduct] proceedings were conducted sat as a judge. The members shall be selected publicly by drawings lots at a plenary session of the Supreme Court, and of the [other] relevant court, within ten days from the date of receipt of the appeal.

(3) The Appeal Panel shall decide the appeal no later than thirty days after being formed, assessing the legality of the proceedings (*законитоста на постапката*).

(4) ... the Appeal Panel may confirm or quash [the SJC’s] decision in the event of a gross breach of the provisions concerning [professional misconduct] proceedings (*груба повреда на одредбите за постапката за одговорност*).

(5) If the Appeal Panel quashes [the SJC’s] decision, the [latter] shall conduct the proceedings anew, in strict compliance (*задолжително почитувајќи ги*) with the instructions of the Appeal Panel. [It] shall adopt a decision and publish it on its website.

(6) No appeal or [other claim] may be brought against the decision referred to in subsection (5).

(7) The President of the Supreme Court and a judge participating in the proceedings before the SJC may not be members of the Appeal Panel ...”

Right to a fair trial

Section 74

“In the course of the proceedings before [the SJC], the judge or court president against whom the proceedings are being conducted has the right to a fair trial in accordance with the guarantees of Article 6 of the [Convention].”

C. Relevant practice of the SJC

35. In a decision dated 23 December 2010 the SJC found that the time-limit for submitting a request for professional misconduct proceedings against a judge had started to run when it (the SJC) had become aware of the judge's actions, which had occurred at the moment when it had adopted a decision allowing that judge to be detained.

D. Relevant practice of the Supreme Court

36. The relevant general position of the Supreme Court, dated 23 February 2023, is described in paragraph 24 above.

E. Relevant practice of the Constitutional Court

37. By decision U. br. 137/2019 of 25 March 2021 the Constitutional Court decided not to initiate constitutionality review proceedings concerning parts of section 72(3) and (4) of the SJC Act. The relevant part of the decision reads as follows:

“... the statutory rules provide that[:] the right to appeal of a dismissed judge ... be exercised in proceedings at two instances; [that] at the second instance, a judicial body decides [the appeal]; [that] the decision of the second-instance body is binding; [and that] within the framework of the legality of the proceedings conducted by [the SJC], the [Appeal Panel] may assess questions related to [the facts of the case] and the application of substantive law.”

By decision U. br. 42/2022 of 7 September 2022 the Constitutional Court decided not to initiate constitutionality review proceedings concerning section 72(6) and parts of section 72(5) of the SJC Act. The relevant parts of the decision read as follows:

“The right to appeal (and its intensity) stem from Amendment XXI to the Constitution, [in view of] the constitutional authority granted to [the SJC] to decide on the dismissal of a judge or court president[. It] presupposes that the right to a real and effective appeal ... must also be ensured [in the proceedings] before that body of the judiciary, without thereby violating the constitutional authority of [the SJC] to decide on the dismissal of a judge or court president.

... On multiple occasions the Constitutional Court has analysed the substance of Amendment XXI to the Constitution and taken the position that the guarantee of the right to appeal established therein concerns only a first-instance court decision, and [that] the right to appeal against individual decisions adopted in proceedings before a body of the State administration or a ... body performing public functions, is in a certain way relativised, that is, it is no longer a constitutional guarantee as it used to be, but the constitution-maker (*ycmaBomBoeyom*) leaves space for that right to appeal to be regulated by law, such as in ... section 72(6) in the [present] case.

... The [Constitutional] Court finds that the [claimant before it] wrongly considered that [the SJC's] decision to dismiss a judge ... is a court decision against which the right to appeal is guaranteed ...”

38. By decision U. br. 46/2023 of 14 November 2023 the Constitutional Court decided not to initiate constitutional review proceedings concerning section 72(2) of the SJC Act, dismissing the claimant's arguments that the Appeal Panel was an "extraordinary court". Referring to its previous decisions (see paragraph 37 above), the court rejected, as substantially the same, the request to assess the constitutionality of, *inter alia*, section 72(3), (4), (5) and (6) of the SJC Act. By decision U. br. 66/2023 of 5 December 2023, the Constitutional Court rejected as substantially the same the Supreme Court's request to assess the constitutionality of section 72(6) of the SJC Act.

39. By decision U. br. 233/2020 of 7 March 2023 the Constitutional Court struck down section 8(3) of the SJC Act in its part providing that only a member of the SJC elected by Parliament (that is, a lay member of the SJC) could be elected its President.

II. INTERNATIONAL MATERIALS

A. United Nations

40. The United Nations (UN) Basic Principles on the Independence of the Judiciary were adopted by the Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders held in Milan from 26 August to 6 September 1985 and endorsed by General Assembly Resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. The relevant parts read as follows:

Discipline, suspension and removal

"17. A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure. The judge shall have the right to a fair hearing ...

...

20. Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review. This principle may not apply to the decisions of the highest court and those of the legislature in impeachment or similar proceedings."

41. In Report A/HRC/38/38 of 2 May 2018 the UN Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, made, *inter alia*, the following recommendations:

Disciplinary proceedings

"101. The responsibility for disciplinary proceedings against judges should be vested in an independent authority composed primarily of judges, such as a judicial council or a court.

102. ...

103. These authorities may include members from outside the judicial profession (lawyers, academics, members of civil society), but in no case should such persons be members of the legislative or executive branches.

104. ...

105. Decisions of the disciplinary body should be reasoned and subject to appeal before a competent court.

...”

Composition of judicial councils and selection of their members

“107. ... Active politicians and members of the legislative or executive branches of power cannot simultaneously serve on a judicial council ...

111. When members of the executive branch, for example the Minister of Justice, participate in the work of a council as *ex officio* members, appropriate measures should be developed to ensure their independence from any potential interference.”

B. Council of Europe

1. European Commission for Democracy through Law (Venice Commission)

42. In Opinion CDL-AD(2018)022, adopted in October 2018, the Venice Commission assessed certain parts of the previous version of the SJC Act, in force until 30 May 2019 and replaced by the SJC Act currently in force (paragraph 34 above). The relevant part of the Opinion reads as follows (footnote omitted):

“39. The second question concerns the effects the determination of the [Appeal Panel] might have ... the law should explain what happens if [the SJC], following the re-opening of the case, insists on its original position and disregards the guidelines of the [Appeal Panel].”

43. The subsequent Opinion (CDL-AD(2019)008), adopted in March 2019, concerned the draft of the SJC Act currently in force. The relevant parts read as follows (footnotes omitted):

“34. The Venice Commission has consistently asserted that there should be the possibility of an appeal to an independent court against decisions of disciplinary bodies ... the present draft leaves simply the final decision up to [the SJC] without any obligation for the latter to take into consideration the decision (or guidelines) of the [Appeal Panel]. This solution makes the right of appeal ineffective for the person who introduced the appeal. The Venice Commission is of the opinion that once the [Appeal Panel] has found in favour of the judge/court president, this decision should be final and implemented accordingly by [the SJC] which might eventually necessitate reopening the disciplinary proceedings (e.g. in the event of violation of procedural rights of the judge/court president during the previous proceedings).

35. That being said, the [Appeal Panel] should not substitute [the SJC]. In a recent opinion, the Commission stressed that ‘Judicial Councils should have a certain discretion, which must be respected by the appellate body’, and that ‘in exercising its appellate review the appellate body should act with deference to [the SJC] as regards the establishment of the factual circumstances and interpretation of the relevant rules of conduct’. The [Appeal Panel] should be able to annul decisions of [the SJC] only in cases of gross errors in the application of procedural and substantive law.

...

60. On 6 March 2019 the Venice Commission received a revised text of the draft law amended by the authorities of North Macedonia in the light of the above recommendations ...

61. *Inter alia*, the following improvements deserve to be mentioned: ... the [Appeal Panel] has the power to annul a decision of [the SJC] regarding the disciplinary liability of judges/court presidents only in cases of gross errors in the application of law, and its decisions are final ...”

In June 2025 the Venice Commission adopted its Opinion CDL-AD(2025)026 concerning a new draft Act on the SJC, the relevant parts of which read as follows:

“28. ... The Minister of Justice is an *ex officio* member of [the SJC]. The European Court of Human Rights considers that the presence of a member of the government in [the SJC], even if passive, is very problematic from the point of view of the separation of powers [with reference to *Catană*, cited above, § 75]. The Venice Commission has also taken a critical stance on such arrangement [reference omitted], as has the GRECO [reference omitted]. The Venice Commission therefore recommends that the Minister of Justice should not be any more a member of [the SJC]; it must be noted that in practice, according to the information obtained during the online meetings, Ministers of Justice have not taken part in the meetings of [the SJC] for at least twelve years, so that the revision of the law would thus make it consistent with practice. It is noted that there remains a constitutional obstacle to that change. Article 43(2) includes a general limitation according to which the Minister and the President of the Supreme Court are assumed to be in the same position as all other members of [the SJC] except in matters prescribed by this law. It would be suitable that the legislation be clearer as to what differences apply to those two members. A cross reference in Article 43(2) would help to clarify this issue.”

...

“53. Article 72 (in two versions) provides for the right to appeal. In Alternative 1, the appeal would be filed to a Special Appeals Council, which would have the power to confirm or annul the decision of [the SJC]. The draft does not specify the composition and the nature (judicial or administrative) of this Special Appeals Council, nor the manner of appointment of its members, their term of office or responsibilities. Alternative 2 provides for an appeal to two levels of administrative courts against the dismissal decision: first to the Administrative Court and then to the High Administrative Court.

54. Alternative 2 of Article 72 can be considered as a legitimate choice, even if the administrative judges, like all judges apart from those of the Constitutional Court, are not fully independent from [the SJC].

55. In the absence of more precise provisions on the Special Appeals Council, the Venice Commission cannot assess version 1. At any rate, this provision should be clarified. The Venice Commission recommends addressing in detail the composition of this Council, as well as the manner of appointment of its members, their term of office, and responsibilities. It reminds that, in a series of judgments related to the operation of a judicial council in North Macedonia (“The former Yugoslav Republic of Macedonia” at the time of the judgments), the European Court of Human Rights made it clear that when deciding on disciplinary matters resulting in the dismissal of a judge, a judicial council had to meet the conditions foreseen by Article 6 of the ECHR [reference omitted]. Every system in accordance with these conditions would be acceptable.”

...

“60. ... the Venice Commission makes the following key recommendations:

A. Removing the Minister of Justice from the Judicial Council...

...

G. Addressing in detail the composition of the Special Appeals Council, as well as the manner of appointment of its members, their term of office, and responsibilities ...”

44. In its Report on the Independence of the Judicial System, Part I: the Independence of Judges (CDL-AD(2010)004) of 16 March 2010, the Venice Commission, among other things, stated as follows:

Conclusions

“ ...

4. It is an appropriate method for guaranteeing the independence of the judiciary that an independent judicial council have decisive influence on decisions on the appointment and career of judges. While respecting the variety of legal systems existing, the Venice Commission recommends that states not yet having done so consider the establishment of an independent judicial council. In all cases the council should have a pluralistic composition, with a substantial part if not the majority of the members being judges.

...

6. Judicial councils, or disciplinary courts, should have a decisive influence in disciplinary proceedings. The possibility of an appeal to a court against decisions of disciplinary bodies should be provided for.”

2. Consultative Council of European Judges (CCJE)

45. The relevant parts of Opinion no. 10 (2007) of the Consultative Council of European Judges (CCJE) on the Council for the Judiciary at the service of society (Strasbourg, 23-27 November 2007) read as follows:

“23. Prospective members of the Council for the Judiciary, whether judges or non-judges, should not be active politicians, members of parliament, the executive or the administration. This means that neither the Head of the State, if he/she is the head of the government, nor any minister can be a member of the Council for the Judiciary. Each state should enact specific legal rules in this area.

...

63. A judge who neglects his/her cases through indolence or who is blatantly incompetent when dealing with them should face disciplinary sanctions. Even in such cases, as indicated by CCJE Opinion no. 3(2002), it is important that judges enjoy the protection of a disciplinary proceeding guaranteeing the respect of the principle of independence of the judiciary and carried out before a body free from any political influence, on the basis of clearly defined disciplinary faults: a Head of State, Minister of Justice or any other representative of political authorities cannot take part in the disciplinary body.”

46. The relevant parts of Opinion no. 24 (2021) of the CCJE on the evolution of the Councils for the Judiciary and their role in independent and

impartial judicial systems (CCJE(2021)11, 5 November 2021) read as follows (reference omitted):

“12. ... Every Council for the Judiciary and the judiciary it represents must earn the trust of the public and its support through excellent, transparent work and accountability. In times of conflict with other powers, the support of the public will depend at least to a large extent on this perceived legitimacy of a Council.

...

28. The CCJE is aware that in some member states, Councils for the Judiciary include *ex officio* members. *Ex officio* membership is not acceptable, except in a very small number of cases, for example the president of the supreme court but should not include members or representatives of the legislature or the executive. An *ex officio* member who is not a judge should not participate in disciplinary decisions.”

47. Opinion no. 27 (2024) on the disciplinary liability of judges (CCJE(2024)5, 6 December 2024) states, *inter alia*, as follows (reference omitted):

“38. The CCJE reiterates its position that judges should be granted the right to appeal against disciplinary decisions and sanctions.”

48. In Opinion no. 3 (2002) on the principles and rules governing judges’ professional conduct, in particular ethics, incompatible behaviour and impartiality, the CCJE made, *inter alia*, the following observations:

“72. In some countries, the initial disciplinary body is the highest judicial body (the Supreme Court). The CCJE considers that the arrangements regarding disciplinary proceedings in each country should be such as to allow an appeal from the initial disciplinary body (whether that is itself an authority, tribunal or court) to a court.”

49. The relevant parts of the Magna Carta of Judges (Fundamental Principles) (CCJE (2010)3 Final, 17 November 2010) are set out in, for example, *Jakšovski and Trifunovski v. the former Yugoslav Republic of Macedonia* (nos. 56381/09 and 58738/09, § 28, 7 January 2016).

3. *Group of States against Corruption of the Council of Europe (GRECO)*

50. In December 2013, in its Evaluation Report on the respondent State, adopted within the Fourth Evaluation Round (Prevention of corruption in respect of members of parliament, judges and prosecutors), GRECO recommended that, in order to strengthen the independence of the judiciary from undue political influence, the *ex officio* membership of the Minister of Justice in the SJC be abolished.

51. In its Compliance Report, adopted in July 2016, GRECO considered the above recommendation to have been partially implemented, given that constitutional amendments removing the Minister of Justice from the composition of the SJC had been prepared but not yet adopted.

52. In its Second Compliance Report, adopted in June 2018, GRECO noted as follows (emphasis in the original, footnote omitted):

“34. GRECO ... regrets the fact that the intended constitutional amendments have been abandoned and that there are thus no more prospects of removing the participation of the Minister of Justice from [the SJC]. The authorities now refer to the recent adoption of legislation which has removed his/her right to vote. In GRECO’s views, this does not fundamentally change the situation and the Evaluation Report (para. 100) had already noted that the Minister lost his voting right concerning the appointment of judges. In GRECO’s views, a risk of political influence always exists without formal voting rights or even formal attendance of the Minister in person at meetings (see also paragraph 118 of the Report which refers to actual problems observed in practice). Given that there are no more concrete projects aimed at implementing the present recommendation, GRECO cannot maintain its earlier assessment.

35. GRECO concludes that recommendation v has not been implemented.”

53. In the Addendum and Second Addendum to the Second Interim Compliance Report, adopted in March 2022 and December 2023 respectively, GRECO similarly concluded that the recommendation had not been implemented, as the Minister of Justice was still an *ex officio* member of the SJC. It pointed out the potential for political influence by the Minister of Justice even without voting rights or formal attendance at SJC meetings.

4. Other relevant Council of Europe material

54. On 13 November 2019 the Committee of Ministers closed the examination of the judgments in *Gerovska Popčevska v. the former Yugoslav Republic of Macedonia* (no. 48783/07, 7 January 2016), *Jakšovski and Trifunovski* (cited above) and *Poposki and Duma v. the former Yugoslav Republic of Macedonia* (nos. 69916/10 and 36531/11, 7 January 2016). In these cases, the Court had found violations of Article 6 of the Convention on account of the fact that members of the SJC, who had acted as complainants in professional misconduct proceedings against judges, had subsequently taken part in the SJC’s decisions dismissing those judges (see *Jakšovski and Trifunovski*, § 44, and *Poposki and Duma*, § 48, both cited above) or, among other issues, on account of the participation of the Minister of Justice in the dismissal decision taken by the SJC (see *Gerovska Popčevska*, cited above, §§ 53 and 55).

55. The relevant part of the European Charter on the Statute for Judges (DAJ/DOC (98) 23, Strasbourg, 8-10 July 1998) reads as follows:

5. LIABILITY

“5.1. The dereliction by a judge of one of the duties expressly defined by the statute, may only give rise to a sanction upon the decision, following the proposal, the recommendation, or with the agreement of a tribunal or authority composed at least as to one half of elected judges, within the framework of proceedings of a character involving the full hearing of the parties, in which the judge proceeded against must be entitled to representation ... The decision of an executive authority, of a tribunal, or of an authority pronouncing a sanction, as envisaged herein, is open to an appeal to a higher judicial authority.”

The Explanatory Memorandum to the Charter further clarifies as follows:

“5.1. ... the Charter provides for a right of appeal to a higher judicial authority against any decision to impose a sanction taken by an executive authority, tribunal or body, at least half of whose membership are elected judges.”

56. The relevant parts of Recommendation CM/Rec(2010)/12 of the Committee of Ministers to member States on judges: independence, efficiency and responsibilities (17 November 2010) read as follows:

“46. The authority taking decisions on the selection and career of judges should be independent of the executive and legislative powers. With a view to guaranteeing its independence, at least half of the members of the authority should be judges chosen by their peers.

...

69. Disciplinary proceedings may follow where judges fail to carry out their duties in an efficient and proper manner. Such proceedings should be conducted by an independent authority or a court with all the guarantees of a fair trial and provide the judge with the right to challenge the decision and sanction ...”

C. European Union

57. In its 2023 and 2024 Progress Reports in respect of the respondent State (Brussels, 8 November 2023, SWD(2023) 693 final and 30 October 2024, SWD(2024) 693 final respectively), the European Commission recommended, *inter alia*, that the respondent State revise the legislative framework and overall functioning of the SJC to enhance its transparency and independence. Other relevant parts of the 2023 Progress Report read as follows:

“... Both [the SJC] and the [Council of Public Prosecutors] need to act decisively to promote and safeguard the independence, integrity and professionalism of judges and prosecutors. Further efforts are needed to increase transparency and prevent any attempt to exert undue influence or intimidation.”

D. Organisation for Security and Co-operation in Europe (OSCE)

58. A document entitled “Corruption Risk Assessment of the Judiciary in North Macedonia” was published on 12 June 2023 by the OSCE Mission to Skopje. It was produced, *inter alia*, on the basis of an anonymous survey among judges and found, among other issues, that approximately 72% of the judges surveyed disagreed that the SJC safeguarded judicial independence (as opposed to only 26% who agreed), and that the majority of judges (57%) did not believe that disciplinary proceedings initiated by the SJC were conducted objectively. Furthermore, 62% of the judges surveyed did not perceive the SJC as an independent entity in practice.

THE LAW

I. SCOPE OF THE CASE

59. The Court notes that the Government raised objections regarding the admissibility of the applicant's complaints concerning the alleged lack of subjective impartiality of V.D. and the absence of an oral hearing following changes to the request for professional misconduct proceedings lodged against him.

60. In reply to the Government's observations, the applicant complained that the SJC had not provided sufficient reasonings for its decisions and had failed to communicate the reports of the Commission of Rapporteurs to him.

61. The Court will not examine complaints that were not communicated to the Government or additional grievances that do not constitute a development of, or relate to, the applicant's original complaints (compare *Škoberne v. Slovenia*, no. 19920/20, § 89, 15 February 2024). The Court will therefore not examine separately the complaints concerning the alleged lack of impartiality of V.D., the alleged absence of an oral hearing following the changes to the request for professional misconduct proceedings and the alleged lack of reasoning in the SJC's decisions as well as the failure to communicate the reports of the Commission of Rapporteurs to him.

II. ALLEGED VIOLATIONS OF ARTICLE 6 OF THE CONVENTION

62. The applicant complained under Articles 6 and 13 of the Convention that he had been unable to challenge the SJC's decision to dismiss him following the remittal of his case by the Appeal Panel. He also complained that in the remitted proceedings, the SJC had not complied with the instructions of the Appeal Panel regarding the time-limit applicable in the proceedings for his dismissal. The applicant further complained about the manner in which the SJC had applied the relevant rules concerning the time-limit for initiating the proceedings for his dismissal.

The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 110-26, 20 March 2018, and *Grosam v. the Czech Republic* [GC], no. 19750/13, § 90, 1 June 2023) considers it appropriate to examine the above complaints solely under Article 6 § 1 of the Convention, the relevant part of which reads as follows:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law.”

A. Inability to appeal against an SJC decision following remittal

1. Admissibility

63. The Government did not raise any objections as to the admissibility of this complaint.

64. However, the issue whether a particular Article of the Convention or a Protocol thereto is applicable or not is a matter that goes to the Court's jurisdiction *ratione materiae*. Accordingly, the Court has to satisfy itself that it has jurisdiction in any case brought before it, and is therefore obliged to examine the question of its jurisdiction of its own motion (see *Grosam*, cited above, § 107).

65. The Court observes that it has not been argued by either party that Article 6 § 1 is applicable in its criminal aspect. The Court also considers that the proceedings at issue did not concern the determination of a criminal charge and therefore the criminal limb of that Article is not engaged (compare *Eminağaoğlu v. Turkey*, no. 76521/12, § 58, 9 March 2021, and *Suren Antonyan v. Armenia*, no. 20140/23, § 80, 23 January 2025).

66. The parties did not contest the applicability of Article 6 § 1 of the Convention under its civil limb. The Court reiterates that for Article 6 § 1 in its “civil” limb to be applicable, there must be a dispute (“contestation” in the French text) over a “right” which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether it is protected under the Convention. The dispute must be genuine and serious; it may relate not only to the actual existence of a right but also to its scope and the manner of its exercise; and, finally, the result of the proceedings must be directly decisive for the right in question, mere tenuous connections or remote consequences not being sufficient to bring Article 6 § 1 into play (see, among many other authorities, see *Denisov v. Ukraine* [GC], no. 76639/11, § 44, 25 September 2018; *Grzęda v. Poland* [GC], no. 43572/18, § 257, 15 March 2022; and *Fabbri and Others v. San Marino* [GC], nos. 6319/21 and 2 others, § 76, 24 September 2024). Lastly, the right must be a “civil” right (*ibid.*).

67. The Court has previously summarised its approach as to the scope of the “civil” concept in Article 6 in, for example, *Eminağaoğlu* (cited above, § 60). Furthermore, according to its case-law, disputes between civil servants and the State may fall outside the civil limb of Article 6 provided that two cumulative conditions are fulfilled. In the first place, the State in its national law must have excluded access to the courts for the post or category of staff in question. Secondly, the exclusion must be justified on objective grounds in the State's interest (see *Grzęda*, cited above, §§ 261 and 292; and *Eminağaoğlu*, cited above, § 61, both with reference to the criteria established in *Vilho Eskelinen and Others v. Finland* [GC], no. 63235/00, ECHR 2007-II). Article 6 § 1, under its civil head, has been applied to proceedings relating to the dismissal of judges on account of the fact that judges had access to the national courts to challenge their dismissal (see

Xhoxhaj v. Albania, no. 15227/19, § 237, 9 February 2021, and the cases cited therein).

68. Turning to the present case, the Court observes that the applicant could arguably claim to have an entitlement under domestic law to serve an unlimited term of office, which would only cease in certain expressly enumerated circumstances set by the Constitution (see Article 99 and Amendment XXVI thereof, cited at paragraph 29 above). Furthermore, the outcome of the professional misconduct proceedings against the applicant was directly decisive for the manner of the exercise of that right (compare *Sturua v. Georgia*, no. 45729/05, § 24, 28 March 2017). The Court therefore finds that in the present case there was a genuine and serious dispute over a “right” which the applicant could claim on arguable grounds under domestic law (compare *ibid.*, and *Suren Antonyan*, cited above, § 82). It remains to be determined whether the nature of the right in question was civil.

69. In this connection, the Court notes that the applicant was dismissed by the SJC in a decision made during proceedings following the Appeal Panel’s remittal of his case. Given that the Court has to determine whether the SJC and the Appeal Panel in the applicant’s case were “tribunals” within the meaning of Article 6 § 1 and whether the applicant had access to a court for the purposes of the *Eskelinen* test, it considers that the question of the applicability of that provision under its civil head must be joined to the merits of this complaint (compare *Suren Antonyan*, cited above, § 84).

70. The Court further considers that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

2. Merits

(a) The parties’ submissions

(i) The applicant

71. The applicant submitted that he had been unable to challenge the SJC’s decision following the remittal of his case and that, in the remitted proceedings, the SJC had not complied with the instructions of the Appeal Panel.

72. The applicant further submitted that V.D. had not been independent and impartial, that it was immaterial that she had not participated in the SJC’s decision to dismiss him, as she had worked with other members of the SJC on a daily basis, that she had been a member of the legal committee of a then-governing political party before becoming a member of the SJC, and that she was not a prominent jurist as required by the relevant domestic law. Moreover, another member of the SJC had previously been a legal adviser to the Prime Minister, and two other members had worked at the Ministry of Justice and were allegedly officials of another governing political party. In 2017 representatives of the governing political parties had announced that

“judges who, according to them, were not independent and impartial, would be dismissed”. The lack of independence of the SJC had also been criticised in the reports of international organisations.

73. The applicant further submitted that, following the dismissal decision taken after the remittal of his case, the SJC had not provided the case file to the Appeal Panel, thus preventing it from deciding his second appeal in line with the Supreme Court’s general position (see paragraph 24 above). He added that there was no mechanism to ensure that, after remittal, the SJC would comply with the Appeal Panel’s instructions, even though, under the statutory provisions, they were binding for the SJC.

(ii) *The Government*

74. The Government submitted that the SJC was an independent and autonomous judicial body established by the Constitution and the SJC Act, tasked with ensuring the independence and autonomy of the judiciary in line with Recommendation CM/Rec(2010)/12 of the Committee of Ministers of the Council of Europe. The SJC had exclusive competence to appoint and dismiss judges, lay judges and court presidents, in proceedings regulated by law which ensured the protection of a judge’s rights and interests, including the right to a fair trial as guaranteed by Article 6 of the Convention. The fact that the Constitutional Court had found the SJC not to constitute a “court” under domestic law (see paragraph 37 above) did not mean that it was not a “tribunal” within the autonomous meaning of the Convention. Furthermore, the SJC was independent and impartial. The Minister of Justice and the President of the Supreme Court were its *ex officio* members. However, neither they nor the member of the SJC, who submitted the request for professional misconduct proceedings, had the right to vote, nor did they participate in the SJC sessions at which the request was deliberated and decided upon. The SJC had a balanced structure in which the judges outnumbered the lay members, in line with, *inter alia*, the recommendations of the Committee of Ministers and the Venice Commission (see paragraphs 44 and 56 above). The independence of the SJC’s members was ensured by their manner of appointment and term of office, and the incompatibility of their functions with membership in a political party or with another public function or profession. The applicant’s allegations about the political affiliation of members of the SJC were belated and ill-founded, in view of the prohibition against political activities by SJC members. The SJC Act provided for specific procedural guarantees in proceedings for the dismissal of judges. In the remitted proceedings, the SJC had complied with the Appeal Panel’s instructions, which had been procedural in nature.

75. The Government further submitted that the Appeal Panel was a judicial body established by law with exclusive competence to decide appeals lodged by judges. The proceedings before it were regulated by law and, as found by the Constitutional Court (see paragraph 37 above), could encompass

a review of the facts and procedural and substantive law. The fact that the Appeal Panel's composition was not permanent did not mean that it was an "extraordinary court". Its decisions were binding. It was composed of sitting judges, who were independent and impartial, and were selected by drawing lots. The fact that some of them could have theoretically been subject to appraisal by the SJC did not automatically cast doubt on their impartiality, in the absence of specific indications to that effect.

76. The Government submitted that the applicant had had access to a court, notably before the SJC. Domestic law went beyond the minimum guarantees of Article 6 of the Convention by ensuring the right to appeal before the Appeal Panel. The specific modalities of regulating the right to appeal were within the margin of appreciation of the State, which took into account considerations such as the special status of judges, the length of proceedings, the constitutional position of the SJC, the scope of review of the Appeal Panel and the right of access to a court as guaranteed by Article 6 of the Convention. The Constitutional Court had found that the SJC was not a "court" within the meaning of domestic law, and therefore Amendment XXI to the Constitution did not require that the SJC's decisions be amenable to appeal. In adopting its general position (paragraph 24 above), the Supreme Court had focused mostly on international materials. Its general position did not provide for procedural rules for appeal proceedings after remittal and therefore created legal uncertainty. The relevant legislation pursued the legitimate aim of safeguarding the exclusive competence of the SJC to decide on judges' liability. The SJC's decision in the applicant's case to reject his second appeal had had the legitimate aim of respecting the rule of law and ensuring legal certainty. The Appeal Panel could assess both the facts and law and remit the case to the SJC for fresh consideration. The decision on the merits, however, remained in the SJC's hands, in accordance with the recommendations of international bodies.

(b) The Court's assessment

(i) Preliminary remarks

77. The Court notes that the applicant's complaint regarding his inability to lodge a second appeal against the SJC's dismissal decision, rendered after the case had been remitted by the Appeal Panel, mainly concerns an alleged infringement of his right of access to a court. It reiterates that in cases concerning disciplinary proceedings against judges, the Convention requires the establishment of at least one of the following two mechanisms: either the professional disciplinary bodies themselves meet the requirements of Article 6 of the Convention, or the proceedings before them are subject to subsequent review by a judicial body with full jurisdiction which itself offers the guarantees of Article 6 (see, for example, *Catană v. the Republic of Moldova*, no. 43237/13, § 61, 21 February 2023). When considering this complaint, the

Court must first determine whether the SJC that dismissed the applicant was a “tribunal” within the meaning of Article 6 § 1. If the answer to that question is negative, it must then establish whether the Appeal Panel was a “tribunal” (compare *Eminağaoğlu*, cited above, §§ 95-96, and *Xhoxhaj*, cited above, § 280, in the context of a complaint regarding the impartiality of vetting bodies in Albania).

78. In this connection, in the cases of *Mitrinovski v. the former Yugoslav Republic of Macedonia* (no. 6899/12, 30 April 2015), *Gerovska Popčevska v. the former Yugoslav Republic of Macedonia* (no. 48783/07, 7 January 2016), *Jakšovski and Trifunovski v. the former Yugoslav Republic of Macedonia* (nos. 56381/09 and 58738/09, § 28, 7 January 2016) and *Poposki and Duma v. the former Yugoslav Republic of Macedonia* (nos. 69916/10 and 36531/11, 7 January 2016), the Court found that Article 6 was applicable under its civil head on the basis of the *Eskelinen* test, thereby accepting the status of the SJC as a “tribunal” within the meaning of the aforementioned provision. However, since the delivery of those judgments, the Court has adopted a more nuanced approach in assessing whether a domestic body can be regarded as a “tribunal” within the meaning of Article 6 § 1.

The domestic legislation governing the establishment and functioning of the SJC has also changed (see paragraph 34 above, and compare *Mitrinovski*, § 20; *Gerovska Popčevska*, §§ 25-27; *Jakšovski and Trifunovski*, § 21; and *Poposki and Duma*, §§ 24-25, all cited above). In the light of developments in its case-law and domestic legislation, the Court must therefore conduct a fresh review to determine whether the SJC that dismissed the applicant was a “tribunal” that complied with the requirements of Article 6 § 1.

(ii) *Whether the SJC was a “tribunal”*

(α) General principles

79. The Court reiterates that an authority which is not classified as one of the courts of the State may, for the purposes of Article 6 § 1, fall within the concept of a “tribunal” in the substantive sense of this expression (see, for example, *Xhoxhaj*, cited above, § 282; *Ali Rıza and Others v. Turkey*, nos. 30226/10 and 4 others, § 195, 28 January 2020; and *Mutu and Pechstein v. Switzerland*, nos. 40575/10 and 67474/10, § 139, 2 October 2018).

80. A tribunal, within the meaning of Article 6 § 1, is characterised, in the substantive sense of the term, by its judicial function, that is to say, to determine matters within its competence on the basis of rules of law and after proceedings conducted in a prescribed manner. A power of decision is inherent in the very notion of “tribunal”. The procedure before it must ensure the “determination of the matters in dispute” as required by Article 6 § 1. In addition, only an institution that has full jurisdiction and satisfies a number of requirements, such as “independence, in particular of the executive; impartiality; duration of its members’ terms of office; ...”, merits the

designation “tribunal” within the meaning of Article 6 § 1 (see, for example, *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 219, 1 December 2020, and *Bilgen v. Turkey*, no. 1571/07, § 73, 9 March 2021, with further references).

(β) Application of those principles to the present case

81. The Court notes at the outset that the Constitutional Court considered the SJC not to be a “court” within the meaning of Amendment XXI to the Constitution (see paragraph 37 above *in fine*). However, this does not mean that it cannot be considered a “tribunal” within the autonomous meaning of Article 6 § 1 of the Convention, if it complies with the requirements described in paragraph 80 above.

82. The Court observes that the SJC is a specialised full-time body established by law, namely the Constitution and the SJC Act (see paragraphs 32-34 above, and compare *Cotora v. Romania*, no. 30745/18, § 37, 17 January 2023). Under the relevant constitutional and statutory provisions, the SJC has full jurisdiction and power to decide matters concerning judges’ appointment, career and disciplinary proceedings, including their dismissal (see Amendment XXIX to the Constitution, paragraph 33 above, and compare *Bilgen*, cited above, § 74 *ab initio*, and *Donev v. Bulgaria*, no. 72437/11, § 84, 26 October 2021). Professional misconduct proceedings against judges, such as those which are the subject of the present case, are regulated by the SJC Act and include a set of procedural guarantees, including the principle of adversarial proceedings, the right to be heard and to be represented by a lawyer, and the right to submit evidence (see, in particular, sections 65 and 66 of the SJC Act, cited at paragraph 34 above). The SJC Act contains a specific provision stating that, in professional misconduct proceedings, a judge enjoys the fair trial guarantees enshrined in Article 6 of the Convention (*ibid.*, section 74 of the SJC Act). In such circumstances, the Court accepts that the SJC performs a judicial function in professional misconduct proceedings relating to judges, to which the guarantees of Article 6 § 1 apply (compare and contrast, for instance, *Eminağaoğlu*, cited above, § 99, and *Bilgen*, cited above, § 74).

83. Turning to the guarantees of independence and impartiality required of a “tribunal”, the Court observes that the SJC is composed of fifteen members, the majority of whom are judges. These include the President of the Supreme Court, who sits *ex officio*, and eight other judges who are elected by their peers.

84. The composition of the SJC further includes five non-judicial members elected by the Parliament, with two of them being proposed by the President of the State (see Amendment XXVIII to the Constitution, paragraph 32 above). In this connection, the Court reiterates that, although the notion of the separation of powers between the political organs of government and the judiciary has become increasingly important in its case-

law, the election or appointment of judges by the executive or the legislature is permissible under the Convention. However, once elected or appointed, judges must be free from influence or pressure, and must exercise their judicial functions with complete independence (see, for example, *Guðmundur Andri Ástráðsson*, cited above, § 207, and *Xero Flor w Polsce sp. z o.o. v. Poland*, no. 4907/18, § 252, 7 May 2021).

85. The members of the SJC are elected for a term of six years, which can be renewed under certain circumstances (see section 7 of the SJC Act, cited at paragraph 34 above). Furthermore, they can only be removed from office in cases expressly provided for by law (see section 34 of the SJC Act, *ibid.*; and compare with *Xhoxhaj*, cited above, § 298). Both the Constitution and the SJC Act contain provisions that guarantee the independence and impartiality of the SJC, including against outside pressure (see, in particular, Amendment XXVIII to the Constitution, and section 3 of the SJC Act, cited at paragraphs 32 and 34 above, respectively).

86. The Minister of Justice is also an *ex officio* member of the SJC. The Court observes that the UN Special Rapporteur on the independence of judges and lawyers recommended that when members of the executive branch, for example the Minister of Justice, participate in the work of a council as *ex officio* members, appropriate measures should be developed to ensure their independence from any potential interference (see paragraph 41 above). In the respondent State, the Minister of Justice is expressly prevented from participating in disciplinary proceedings against judges and does not have the right to vote not only in respect of appointments or dismissals of judges but also in respect of any other issues decided by the SJC (see section 6(2) and (3) as well as section 35(6) and 7 of the SJC Act, cited at paragraph 34 above).

87. The Court has previously considered that even the passive presence of a member of government in a body competent to conduct disciplinary proceedings against judges is, in itself, extremely problematic in the light of the requirements of Article 6 of the Convention and, in particular, the requirement of independence of the disciplinary body (see *Catană*, cited above, § 75). The relevant international materials (see paragraphs 41, 45, 46, 50 and 52 above) similarly indicate that the participation of a politician or a member of the executive in the work of a body in charge of disciplinary proceedings against judges could call into question its independence. Having regard to GRECO's concerns that the risk of political influence may persist even in the absence of formal voting rights or the Minister's actual attendance at the SJC's sessions (see paragraph 53 above), as well as to the Venice Commission's Opinion CDL-AD(2025)026 (see paragraph 43 *in fine* above), the Court notes that these considerations could raise doubts as to the SJC's independence. However, in the absence of a specific complaint by the applicant on this point, it is not called upon to assess the issue of the Minister of Justice's *ex officio* membership in the SJC.

88. In view of the above considerations, the Court concludes that the SJC, which dismissed the applicant from his post as a judge, was a “tribunal” within the meaning of Article 6 § 1 of the Convention. Consequently, the applicant had access to a national court in respect of his dismissal, and Article 6 § 1 is applicable to the proceedings at issue under its civil head.

89. Given this conclusion, the Court considers that the applicant’s complaint about his inability to appeal against the SJC’s second decision should be assessed as a complaint concerning access to a higher court.

90. The Court reiterates that Article 6 does not compel the Contracting States to set up courts of appeal or of cassation. However, where such courts are in place, the guarantees enshrined in that provision must be complied with. For instance, it guarantees to litigants an effective right of access to the courts for the determination of their civil rights and obligations (see *Zubac v. Croatia* [GC], no. 40160/12, § 80, 5 April 2018). The Court will therefore assess whether a court of appeal existed in the context of the present case. In other words, it will consider whether, in view of its features, the Appeal Panel could be considered a higher court. If so, the Court will next assess whether the applicant’s access to it was limited in contravention of Article 6 of the Convention.

(iii) Whether the Appeal Panel was a higher court

91. Referring to the general principles summarised in paragraph 80 above, the Court notes that, under section 72 of the SJC Act, the Appeal Panel, formed within the Supreme Court for each specific case, has exclusive jurisdiction to hear appeals lodged against SJC decisions regarding professional misconduct by judges. While it appears from the wording of section 72(4) that its jurisdiction is limited to assessing the SJC’s compliance with procedural law, the Constitutional Court found that the Appeal Panel can also assess the facts of the case as established by the SJC, as well as compliance with substantive law (see paragraph 37 above). Furthermore, the Appeal Panel may quash the decision of the SJC, which is then obliged to conduct the proceedings anew (contrast *Denisov*, cited above, § 74, in the context of an assessment of whether a body had the power of sufficient review of a disciplinary decision). Moreover, the Appeal Panel is composed of nine professional judges, who are selected by drawing lots. The fact that the Appeal Panel is composed on an *ad hoc* basis does not affect its independence, given that the judges have a permanent term of office and can only be dismissed under certain clearly defined circumstances (see Article 99 of the Constitution and Amendment XXVI to it, paragraph 29 above). Lastly, for similar reasons as those advanced in *Ramos Nunes de Carvalho e Sá* (cited above, §§ 157-65), the sole fact that members of the Appeal Panel are subject to the SJC’s disciplinary jurisdiction cannot cast doubt on their impartiality.

92. The Court therefore concludes that the Appeal Panel formed for the applicant’s case was a “tribunal” within the meaning of Article 6 § 1 of the

Convention. It remains to be assessed whether the applicant had an effective right of access to it.

(iv) *Whether the applicant's right to access to the Appeal Panel was effective*

(α) General principles

93. The Court refers to the general principles on access to a court (see *Grzęda*, cited above, §§ 342-43, and *Zubac*, cited above, §§ 76-79), and the principles relating access to superior courts (see *Zubac*, cited above, §§ 80-82 and 84; see also paragraph 90 above). In particular, it reiterates that the right of access to a court must be “practical and effective”, not “theoretical or illusory”. However, that right is not absolute but may be subject to limitations; these are permitted by implication since the right of access by its very nature calls for regulation by the State, regulation which may vary in time and in place according to the needs and resources of the community and of individuals. In laying down such regulation, the Contracting States enjoy a certain margin of appreciation. Whilst the final decision as to observance of the Convention's requirements rests with the Court, it is not the Court's role to substitute the national authorities' assessment of the best policy in this area with its own. Nevertheless, any limitations applied must not restrict access for individuals in such a way or to such an extent that the very essence of the right is impaired. Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved.

The manner in which Article 6 § 1 applies to courts of appeal or of cassation depends on the special features of the proceedings concerned and account must be taken of the entirety of the proceedings conducted in the domestic legal order and the court of cassation's role in them (*ibid.*, §§ 77, 78 and 82, with further references).

94. In addition, the Court has emphasised the special role in society of the judiciary which, as the guarantor of justice, a fundamental value in a State governed by the rule of law, must enjoy public confidence if it is to be successful in carrying out its duties. It has already held that this consideration also applies in cases concerning the right of access to a court for members of the judiciary in matters concerning their status or career. Given the prominent place that the judiciary occupies among State organs in a democratic society and the growing importance attached to the separation of powers and to the necessity of safeguarding the independence of the judiciary, the Court must be particularly attentive to the protection of members of the judiciary against measures affecting their status or career that can threaten their judicial independence and autonomy (see *Bilgen*, cited above, § 58, and *Gumenyuk and Others v. Ukraine*, no. 11423/19, § 52 and 71, 22 July 2021).

(β) Application of those principles to the present case

95. The Court notes at the outset that Amendment XXI to the Constitution guarantees the right to appeal against first-instance court decisions, and provides that the right to appeal against decisions adopted by administrative authorities and other bodies performing public functions is subject to further statutory regulation (see paragraph 26 above).

96. There is no dispute between the parties that domestic law, in particular section 72(1) of the SJC Act, provides for the possibility to appeal against a decision of the SJC in professional misconduct proceedings against a judge (contrast *Suren Antonyan*, cited above, §§ 19 and 84). The applicant resorted to such a possibility and lodged an appeal against the SJC's initial decision to dismiss him, which was considered on the merits by the Appeal Panel. Turning to the proceedings after remittal, the Court observes that, under section 72(5) of the SJC Act, when the Appeal Panel quashes a first-instance decision by the SJC and remits the case for reconsideration, the SJC is required to comply with the Appeal Panel's instructions in the remitted proceedings. Once the SJC adopted a new decision in the remitted proceedings, section 72(6) of the SJC Act expressly precludes any judge from appealing against that decision. Referring to this provision, the SJC rejected the applicant's appeal against its second dismissal decision as inadmissible. The Court therefore concludes that the applicant's access to the Appeal Panel was restricted.

97. In this connection, the Court notes that the Constitutional Court found section 72(6) of the SJC Act to be in conformity with the Constitution (see paragraph 37 above), particularly in terms of its relationship with Amendment XXI to the Constitution, which regulates the right to appeal against first-instance court decisions and administrative decisions. The Constitutional Court's finding, as also argued by the Government, implies that Amendment XXI to the Constitution allows for the limitation of the right to appeal against a second decision of the SJC through statutory provisions. However, in its general position of 23 February 2023, the Supreme Court referred to the constitutional guarantees of the right to judicial protection and the right of appeal, as guaranteed by Article 50 and Amendment XXI to the Constitution, and concluded that these rights can be applied directly in professional misconduct proceedings against a judge (see paragraph 24 above). The Supreme Court's reasoning implies that these constitutional provisions guarantee the right to appeal against a SJC decision after remittal.

98. It is not the Court's role to express a view on or resolve disputes over the interpretation of domestic law on the application of the constitutional right of appeal in professional misconduct proceedings against a judge, but to assess whether the application of the relevant domestic law in the applicant's case produced consequences that are in conformity with the Convention. The Court notes in this connection that by its decision of 1 December 2021, the Appeal Panel upheld the applicant's appeal and quashed the SJC's decision

to dismiss him on three grounds, including that the SJC had not provided sufficient and clear reasoning as to the running of the time-limit for submitting the request for professional misconduct proceedings and as to the fact that the applicant had been dismissed from judicial office in the Supreme Court on account of his conduct in his capacity as acting President of the Skopje Criminal Court (see paragraph 19 above). In its fresh consideration of the applicant's case, the SJC reconsidered the questions concerning the running of the time-limit for submitting the request for professional misconduct proceedings and his actions which served as grounds for his dismissal. The SJC was required, under section 72(5) of the SJC Act, to strictly comply with the instructions of the Appeal Panel. Since there was no possibility for a subsequent review of the SJC's decision taken after remittal, neither the Appeal Panel nor any other judicial body could address the question of whether the SJC had, in fact, complied with the instructions given by the Appeal Panel in its decision of 1 December 2021. The Court is concerned that this impossibility for a subsequent review practically rendered even the first appeal before the Appeal Panel devoid of any meaning. In particular, the absence of any judicial mechanism capable of verifying whether the SJC had duly complied with the binding instructions of the Appeal Panel undermined the effectiveness of the appeal process and weakened the practical guarantees of judicial protection inherent in Article 6 § 1 of the Convention.

99. The Court is not convinced by the Government's argument that the SJC rejecting the applicant's second appeal served the purposes of respect for the rule of law and legal certainty. It considers that, in the applicant's case, those considerations rather required a subsequent assessment of whether the SJC had, in fact, complied with the instructions given by the Appeal Panel when it remitted the case. The Court has already found that, in assessing any justification for excluding access to a court with regard to membership of judicial governance bodies, it is necessary to take into account the strong public interest in upholding the independence of the judiciary and the rule of law (see *Grzęda*, cited above, § 346, and *Kartal v. Türkiye*, no. 54699/14, § 93, 26 March 2024). It considers that the same applies with regard to disciplinary proceedings concerning judges.

100. The Government argued that restricting the applicant's right of access to a court was intended to ensure that the SJC had the final decision. The Court is mindful of the recommendations of the Venice Commission to the effect that judicial councils should have a "decisive influence" in disciplinary proceedings and "a certain discretion, which must be respected by the appellate body" (see paragraphs 43 and 44 above). However, when deciding the applicant's appeal, the Appeal Panel could not replace the SJC's decision with its own, but could quash it and remit the case to the SJC for reconsideration only in limited circumstances defined by the law (see section 72(4) of the SJC Act, cited at paragraph 34 above, as interpreted by

the Constitutional Court as noted in paragraph 37 above). With regard to the length of proceedings, the Court notes that, under sections 72(2) and (3) of the SJC Act, the Appeal Panel must decide an appeal within forty days of its introduction, which is a rather short period. The Court is mindful of the importance of deciding promptly in cases involving professional misconduct by judges. However, this interest does not outweigh the benefit of an independent review to establish whether the SJC complied with the Appeal Panel's instructions.

101. At this juncture, the Court considers it noteworthy to highlight that the relevant international materials (see paragraphs 40, 41, 44, 47 and 48 above) emphasise the importance of an independent review of, or a right of appeal against, disciplinary decisions concerning judges. The Court reiterates that the Convention requires that either the professional disciplinary bodies themselves must meet the requirements of Article 6 of the Convention, or that the proceedings before them must be subject to subsequent review by a judicial body with full jurisdiction (see paragraph 77 above). In other words, the Convention does not require that grievances relating to disciplinary proceedings against judges to be addressed at two levels of jurisdiction. However, as stated above, where such courts do exist, the guarantees of an effective right of access to them must be complied with (see *Zubac*, cited above, § 80).

102. In view of the considerations set out in paragraphs 98-100 above, and in particular the Appeal Panel's inability to ascertain whether the SJC had complied with its earlier instructions in the remitted proceedings, the Court considers that the applicant's right of access to the Appeal Panel, even in proceedings before remittal, was practically deprived of any substance. The Court therefore concludes that the applicant's right of access to a court was restricted to such an extent that the very essence of that right was impaired.

103. There has accordingly been a violation of Article 6 of the Convention.

B. Alleged lack of legal certainty

104. The applicant further complained about the manner in which the SJC had applied the relevant rules concerning the time-limit for initiating the proceedings for his dismissal. He submitted that, in the remitted proceedings, the SJC had not complied with the instructions of the Appeal Panel in this regard.

105. Having regard to the facts of the case, the parties' submissions and its finding of a violation of the applicant's right of access to a court (see paragraph 101 above), the Court considers that it has examined the main legal question raised in the present application, and that there is no need to give a separate ruling on the admissibility and merits of the above-mentioned

complaint (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

106. 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.”

107. The applicant did not submit a claim under Article 41. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the applicant’s complaint concerning his inability to appeal against a decision of the SJC taken following the remittal of his case admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention under this head; and
3. *Holds* that there is no need to examine the admissibility and merits of the applicant’s complaint of a violation of the principle of legal certainty.

Done in English, and notified in writing on 13 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim
Deputy Registrar

Arnfinn Bårdsen
President