



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

SECOND SECTION

CASE OF GEROVSKA-POPCHEVSKA v. NORTH MACEDONIA (No. 2)

(Application no. 30989/20)

JUDGMENT

Art 6 § 1 (civil) • Tribunal established by law • Art 6 applicable to proceedings in which the State Judicial Council (“SJC”) found professional misconduct on the part of a retired judge in the performance of her judicial functions • Impugned proceedings directly concerned her civil right to enjoy a good reputation • SJC, albeit constituting “a tribunal”, was not “established by law” • Members of the SJC Commission which had submitted a report to the SJC on the applicant’s case later voted for the SJC’s final decision in the case, in contravention with the relevant procedural rules

Art 6 § 1 (civil) • Access to court • Applicant’s inability to appeal against the SJC’s decision following the remittal of her case by a second-instance Appeal Panel • Appeal Panel’s inability to ascertain whether the SJC complied with its earlier instructions in the remitted proceedings deprived the applicant’s right of access to the Appeal Panel of any substance, even in the proceedings before remittal • Very essence of right of access to court impaired • Importance of procedural safeguards in proceedings concerning the performance of the judicial function reiterated

Prepared by the Registry. Does not bind the Court.

STRASBOURG

5 May 2026

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

In the case of Gerovska-Popchevska v. North Macedonia (no. 2),

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,

Hugh Mercer, *judges*,

and Andrea Tamietti, *Section Registrar*,

Having regard to:

the application (no. 30989/20) 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, Ms Snezhana Gerovska-Popchevska (“the applicant”), on 13 July 2020;

the decision to give notice to the Government of North Macedonia (“the Government”) of the complaints under Article 6 of the Convention concerning the composition of the Judicial Council of the Republic of North Macedonia (hereinafter “the State Judicial Council” or “the SJC”) which established professional misconduct on the part of the applicant, the alleged lack of jurisdiction of the SJC to give a ruling on professional misconduct in respect of retired judges and the rejection of the appeal lodged by the applicant against the SJC’s decision following a remittal, and to declare the remainder of the application inadmissible;

the exemption 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 24 March 2026,

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

INTRODUCTION

1. The case concerns the fairness of the proceedings in which the State Judicial Council (“the SJC”) established that the applicant, a retired judge, had committed professional misconduct in performing her judicial functions. In particular, the case concerns the applicant’s complaints under Article 6 § 1 of the Convention that certain members of the SJC voted for the final decision of the SJC in her case, in violation of the procedural rules; that a member of the SJC who had participated in the proceedings against the applicant before

her case was remitted by a second-instance panel formed within the Supreme Court (“the Appeal Panel”), was subsequently replaced by another member of the SJC who had not participated in the previous stage of the proceedings; and that the SJC did not have jurisdiction to rule in professional misconduct proceedings against a retired judge. Lastly, the case concerns the applicant’s complaint that domestic law prevented her from appealing against the final decision of the SJC, delivered following the remittal of her case.

THE FACTS

2. The applicant was born in 1954 and lives in Skopje. She was represented by Mr V. Skrcheski, 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 OF THE CASE

5. The applicant was a judge of the Skopje Court of First Instance no. 1 until May 2007, when she was dismissed from judicial office. The proceedings for her dismissal were described in the case of *Gerovska Popčevska v. the former Yugoslav Republic of Macedonia* (no. 48783/07, §§ 7-15, 7 January 2016). Following her dismissal, the applicant worked as a lawyer.

6. In a judgment of 7 January 2016 the Court found a violation of Article 6 § 1 of the Convention in the proceedings for the applicant’s dismissal, holding that the SJC had lacked the requisite impartiality and independence, given the participation of the then President of the Supreme Court and the Minister of Justice in the SJC’s decision dismissing the applicant (*ibid.*, §§ 47-56 and point 2 of the operative provisions in that case).

7. On 17 February 2016 the applicant retired.

II. PROFESSIONAL MISCONDUCT PROCEEDINGS AGAINST THE APPLICANT

8. On 4 May 2016 the applicant submitted a request for the reopening of the proceedings before the SJC, in view of the Court’s judgment of 7 January 2016 (see paragraph 6 above).

9. On 23 January 2018 the SJC appointed its then President Z.K. (hereinafter “the complainant”) to act as a complainant in the applicant’s case before the SJC.

10. On 15 February 2018 the SJC allowed the applicant’s request for the reopening of the proceedings.

11. On 25 April 2018, referring to section 58 of the 2006 Act on the State Judicial Council (“the 2006 SJC Act”, see paragraph 32 below), the SJC

established a commission (“the Commission”), which included SJC member V.B. and four other SJC members, and was tasked with gathering data and evidence relevant for the proceedings against the applicant.

12. On 22 May 2019 the SJC recused one of its members (K.Z., who was not a member of the Commission referred to in paragraph 11 above) from the applicant’s case.

13. On the same day, the SJC established professional misconduct on the part of the applicant, but did not dismiss her from judicial office as she was no longer a sitting judge. The SJC found that she had acted unconscientiously and unprofessionally in a civil case and had thus committed professional misconduct under section 75(1)(2) in conjunction with section 74(1)(2) of the Courts Act (see paragraphs 29 and 30 below).

14. On 27 June 2019 the applicant appealed against the SJC’s decision. She argued, among other things, that the SJC did not have jurisdiction to rule in professional misconduct proceedings against a person who was no longer a judge.

15. On 8 October 2019 an Appeal Panel formed within the Supreme Court accepted her appeal, quashed the SJC’s decision and remitted the case for a fresh consideration. It held that from sections 74(1)(2) and 75(1)(2) of the Courts Act, on which the SJC had relied (see paragraph 13 above), it did not emerge that the SJC could adopt a declaratory ruling that a person had committed professional misconduct in the performance of his or her judicial functions, but that the SJC could only dismiss a sitting judge if he or she had committed professional misconduct. In addition, under sections 55 and 58 of the 2006 SJC Act (see paragraph 32 below), the SJC could dismiss a judge or stay the professional misconduct proceedings. Lastly, the SJC had not indicated which versions of the Courts Act and the SJC Act (which had been amended several times) it had applied to the applicant’s case.

16. On 22 October 2019 the SJC adopted a decision replacing all members of the five-member Commission established in April 2018 (see paragraph 11 above), except for V.B.

17. On 12 December 2019 the Commission heard the applicant and the complainant. On 25 December 2019 it submitted a report to the SJC proposing that the SJC dismiss the applicant, which in the Commission’s view was the sole possibility under the SJC Act.

18. On 26 December 2019 V.B.’s term of office as a member of the SJC expired. In a written submission to the SJC dated 7 February 2020, the applicant argued that she had become aware that the composition of the Commission had changed, in view of the expiration of V.B.’s term of office. She requested that the Commission in its new composition hold a hearing and submit a new proposal to the SJC in respect of her case. The Government submitted that V.B. was never replaced as a member of the Commission.

19. On 10 February 2020 the SJC (which, as confirmed by the Government, had 14 members at the time) held a session in the presence of

12 of its members, and in the absence of the Minister of Justice and the President of the Supreme Court, who were its *ex officio* members. The part of the SJC's session at which the applicant's case was discussed was not attended by K.Z. who had earlier been recused (see paragraph 12 above). The SJC further recused another member of the SJC (Z.T., who was also not a member of the Commission). Lastly, the complainant (Z.K., see paragraph 9 above) stated that he would not participate in the SJC's vote in respect of the applicant's case.

20. At the session, the president of the Commission presented its report and the proposal that the applicant be dismissed (see paragraph 17 above). Following deliberations, the SJC decided that the Commission's proposal should be amended, given that the applicant had already retired and, consequently, could not be dismissed. The president of the Commission orally amended the proposal, stating that the SJC should establish that the applicant had performed her judicial functions unprofessionally and unconscientiously. By nine votes of the then-members of the SJC, excluding the Minister of Justice, the President of the Supreme Court, and K.Z., Z.K. and Z.T. (see paragraph 19 above), the SJC accepted that proposal and held that while performing her judicial functions the applicant had committed professional misconduct under section 75(1)(2) and (9) in conjunction with section 74(1)(2) of the 2006 Courts Act (see paragraphs 29 and 30 below). The SJC found that the 2006 SJC Act as amended in 2018 ("the 2018 SJC Act") was applicable to the applicant's case, pursuant to section 52(2) of the 2018 amendments (see paragraph 33 below). The SJC based its decision on section 31(1)(7) of the 2018 SJC Act (cited in paragraph 34 below), according to which the SJC was competent to establish unprofessional and unconscientious performance of judicial functions.

21. On 5 March 2020 the applicant appealed against the SJC's decision. She argued notably that the SJC could not adopt a declaratory ruling of professional misconduct, and that the SJC had not complied with the Appeal Panel's instructions set out in its decision of 8 October 2019 (see paragraph 15 above). She argued that the SJC had inconsistently applied the different versions of the procedural rules, and that the 2018 SCJ Act could not apply to her case, as it was in contravention with the version of the SJC Act prior to its 2018 amendments and with the Rules of Procedure of the SJC (see paragraph 36 below). She further asked for an Appeal Panel to verify whether the SJC had adopted its decision with the requisite majority, given that certain SJC members had been recused (see paragraphs 12 and 19 above) and others had not had the right to vote. On 10 March 2020 she supplemented her appeal, arguing that section 31(1)(7) of the 2018 SJC Act (cited in paragraph 34 below) could not have been applied to a former judge.

22. On 20 March 2020 the SJC informed the applicant that it had adopted the decision for professional misconduct (see paragraph 20 above) with

9 votes out of the 12 SJC members present at the session. The complainant and the two recused SJC members had not participated in the voting.

23. By a decision of 24 March 2020, served on the applicant on 7 April 2020, the SJC rejected the applicant's appeal as inadmissible, referring to section 96(4) of the 2018 SJC Act (cited in paragraph 34 below) under which, following a remittal, the SJC adopted a final decision, assessing (*ценејќи ги*) the Appeal Panel's instructions.

III. OTHER RELEVANT INFORMATION

24. On 13 November 2019 the Committee of Ministers closed its supervision of the execution of the Court's judgment in *Gerovska Popčevska* (cited in paragraph 6 above; see Final Resolution CM/ResDH(2019)300).

25. On 4 March 2020 the applicant lodged an application before the Constitutional Court for a constitutional review of section 96(4) of the 2018 SJC Act (cited in paragraph 34 below). On 22 September 2021 the Constitutional Court rejected her application, referring to its earlier decision in which a similar application had been rejected because the 2019 SJC Act (see paragraph 35 below) had in the meantime replaced the 2006 SJC Act and all its amendments.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW AND PRACTICE

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

26. Article 25 of the 1991 Constitution guarantees the right to respect for and protection of the privacy of personal and family life, and of dignity and reputation.

27. The other relevant provisions of the Constitution and the corresponding amendments were presented in *Ilievska and Zdraveva v. North Macedonia* (nos. 19689/21 and 42794/22, §§ 29-36, 13 November 2025) and *Ribarev v. North Macedonia* (no. 39987/22, §§ 26-33, 13 November 2025).

B. Courts Act (*Закон за судовите*, Official Gazette no. 58/2006)

28. Under section 73(1)(3) of the 2006 Courts Act the judicial functions of a judge were terminated when he or she fulfilled the conditions for retirement.

29. Under section 74(1)(2), unprofessional and unconscientious performance of judicial functions was, under conditions established by law, a ground for the dismissal of a judge.

30. Under section 75(1), unconscientious, slow (*ненавременно*) or negligent (*немарно*) performance of judicial functions in individual cases (section 75(1)(2)), and a breach of relevant regulations, or violating in another manner the independence of the judges (section 75(1)(9)), amounted to unprofessional and unconscientious performance of judicial functions within the meaning of section 74(1)(2) (see preceding paragraph).

31. The Courts Act was subsequently amended in 2008, 2010, 2018 and 2019.

C. State Judicial Council Act (*Закон за судскиот совет*, Official Gazette no. 60/06; “the 2006 SJC Act”) and its subsequent amendments

32. Under section 55 of the 2006 SJC Act, when a request for disciplinary proceedings concerning a judge was submitted to the SJC, a five-member disciplinary commission was established to gather data and submit a report to the SJC. The SJC then either initiated or stayed the disciplinary proceedings. Under section 58(1) and (2), professional misconduct proceedings were conducted under the same rules provided in section 55 (that is, the rules concerning disciplinary proceedings), but by a five-member commission for establishing professional misconduct. Under section 58(4), the SJC could either stay the proceedings or dismiss the judge for professional misconduct.

33. The 2006 SJC Act was amended on five occasions between 2010 and 2017, and once again in 2018 with amendments which entered into force on 16 May 2018. Pursuant to section 52(2), the 2018 amendments applied to dismissal proceedings initiated under the previous versions of the SJC Act. Under section 52(3), the 2018 amendments applied to previously initiated disciplinary proceedings.

34. The relevant provisions of the 2006 SJC Act as amended in 2018 (“the 2018 SJC Act”) read as follows:

**Purpose of establishment
Section 2**

“[The SJC] is an autonomous and independent body of the judiciary. [It] ensures and guarantees the autonomy and independence of the judiciary through the exercise of its functions in accordance with the Constitution and the laws.”

**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 15 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 Minister of Justice ... shall participate in [the SJC’s] work without the right to vote.”

Term of office of [the SJC’s] members

Section 7

“(1) The term of office of the elected [SJC] members shall be six years with the possibility of re-election.

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

...”

Conditions for electing a member of [the SJC] from among judges

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 five years’ experience as a judge;
- [he or she] has received the highest appraisal notes in the last three years ...; and
- [he or she] enjoys the reputation and has the integrity to perform the functions of a [SJC] member and has the social skills [requisite] for performing judicial functions, for which integrity tests and psychological tests are conducted.

(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:

...

- [he or she is a] lawyer with at least 15 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; and

- [he or she] enjoys the reputation and has the integrity ... and social skills [requisite] for performing the functions of a member of the [SJC], for which integrity tests and psychological tests are conducted.

(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 15 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; and

- enjoys the reputation and has the integrity ... and social skills [requisite] for performing the functions of a member of the [SJC], for which integrity tests and psychological tests are conducted.”

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

Section 30

“(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] fulfilled the conditions for retirement, 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.
- ...”

Temporary suspension ...

Section 30-a

“(1) A member of [the SJC] may be temporarily suspended ... if:

- an indictment [against him or her] has been approved in the cases referred to in section 30(1)(4) of this Act.

(2) A decision for temporary suspension ... shall be made by [the SJC] with a two-thirds majority of votes from the total number of members with the right to vote, whereby the [SJC] member against whom the proceedings have been initiated shall be recused from the session and from voting.”

Competence

Section 31

“(1) [The SJC] shall have the competence:

- [1] to elect and dismiss judges;
- [2] to elect and dismiss the presidents of the courts;
- [3] to determine the termination of the office of a judge;
- [4] to elect and dismiss lay judges;
- [5] to monitor and evaluate the work of the judges;
- [6] to decide on disciplinary accountability of judges;
- [7] to establish unprofessional or unconscientious performance of judicial functions;
- ...

Grounds for dismissal of a judge

Section 53

“(1) A judge shall be dismissed from judicial office:

- 1) for a serious disciplinary breach, 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 54

“(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 for establishing professional misconduct on the part of a judge or a court president

Section 56

“(1) The ... request for establishing professional misconduct on the part of a judge or a court president shall be submitted to the member of [the SJC who acts as a] rapporteur ... who shall assess whether the request is timely and complete.

(2) If the request is untimely and incomplete, the rapporteur shall submit a proposal to [the SJC] ... which will reject the untimely or incomplete request with a decision[. If the request is timely and complete, [the SJC] shall form a Commission for establishing professional misconduct on the part of a judge or a court president (hereinafter: ‘the Commission’) consisting of a President and two members ... both from [the SJC] members elected by the judges and by Parliament.

(3) If a member of [the SJC] has submitted the request [for establishing professional misconduct], he or she cannot be a rapporteur or a member of the Commission from subsection 2 of this section.”

Service
Section 56-a

“(1) The Commission shall serve the request and evidence personally on the judge or court president.

(2) 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.

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

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

...”

Gathering data and evidence
Section 56-b

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

...”

Hearing concerning the request
Section 56-c

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

...”

Summons to a hearing
Section 56-d

“(1) The judge or court president ... and the person who has submitted the request shall be summoned to the hearing.

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

Hearing
Section 56-e

“(1) At the hearing, evidence proposed by the person who has submitted the request and by the judge or the court president shall be presented, as well as evidence obtained by the Commission.

(2) The judge or the court president has the right to comment on all evidence presented at the hearing, orally ... or in writing within three days [after the hearing].”

Report of the Commission
Section 56-g

“(1) The Commission shall submit a report ... to [the SJC] within 15 days from the date of the hearing ... with a proposal as to [whether the SJC should]:

- terminate the proceedings;
- impose a disciplinary sanction; or
- dismiss the judge or the court president ...

(2) The report should contain all the documents and files that the Commission had at its disposal during the proceeding, the statement of the judge or court president, the description of the actions carried out, as well as a reasoned proposal for [the SJC’s] decision.

(3) All documents ... must be available to [the SJC’s] members.”

[The SJC’s] deliberations ...
Section 60

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

(2) The [SJC] deliberates upon the Commission’s report and decides upon [the Commission’s] proposal.

(3) The President and the members of the Commission shall participate in the deliberations before [the SJC], but they shall be exempted from voting on the final decision.

(4) 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.

(5) The decision from subsection (2) of this section shall be adopted ... with a two-thirds majority of the total number of [SJC] members with the right to vote, [taking into account (*a vo vрска co*)] subsections 3 and 4 of this section.

(6) If the judge or the court president ... submits, during the proceedings, a request for termination of their judicial office, [the SJC] will stay the proceedings with a decision and declare termination of the judicial office, at his [or her] request.”

Decisions of [the SJC]
Section 60-a

(1) After the deliberations, [the SJC] can decide ...:

- to terminate the proceedings;
- to impose a disciplinary sanction; or
- to dismiss the judge or the court president ...”

Right to appeal
Section 96

(1) The judge or the court president has the right to appeal before the Supreme Court, within eight days from the day of receipt of [the SJC’s] decision.

(2) An Appeal Panel shall be composed of nine members, three of whom shall be judges of the Supreme Court, four judges from the appeals courts and two judges from the court where the judge against whom the proceeding were conducted sat as a judge [The members shall be selected publicly by drawing lots at a plenary session of the Supreme Court [and] ... of the relevant court, no later than ten days from the day of receipt of the appeal.

(3) The Appeal Panel shall, at the latest within 30 days of its establishment, decide the appeal by either confirming or quashing the [SJC's] decision.

(4) In the remitted proceedings, [the SJC] shall take a final decision, assessing (*υερεјќи ги*) the instructions of the Appeal Panel.

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

Reopening of the proceedings following a final judgment of the European Court of Human Rights in Strasbourg
Section 97

“(1) When [the Court] finds a violation ... the judge or court president ... may submit a request to [the SJC] for the reopening of the proceedings, within 30 days, but no later than three years from the finality of [the Court's] judgment ...

...

(3) In the reopened proceedings, [the SJC] must respect the legal positions expressed in the final judgment of [the Court] ...

...

(10) The reopened proceedings in the part concerning the violation found shall be conducted in accordance with the provisions of this law for establishing professional misconduct of a judge or court president, in which new evidence can be proposed and presented.

(11) The dissatisfied party has a right to appeal against the decision reached in the reopened proceedings, before the Appeal Panel within 15 days from the receipt of the decision.”

Section 97-a

“In the proceeding before [the SJC], the judge or court president ... has the right to a fair trial according to the guarantees established in Article 6 of [the Convention].”

35. On 30 May 2019 a new SJC Act entered into force, replacing the 2006 SJC Act and its amendments (see paragraph 33 above). It was replaced by a new 2025 SJC Act which entered into force on 8 January 2026. Under section 78(1) of the 2025 SJC Act, the judge or court president whose Convention rights or freedoms have been found by the Court to have been violated may request the reopening of the proceedings or the execution of the Court's judgment within 90 days from the date of service of the final judgment. Under section 78(3), if from the Court judgment a need for the reopening of the proceedings emerges, in the reopened proceedings the SJC is obliged to respect the legal positions expressed in the Court's judgment. Under section 78(9), the reopened proceedings, in their part concerning the

violation found, are to be conducted pursuant to the 2025 SJC Act (notably its section 66 which regulates professional misconduct proceedings (*постанка за утврдување одговорност*) in respect of a judge or a court president).

D. Rules of Procedure of the SJC (*Деловник за работа на Судскиот совет*, Official Gazette nos. 197/15 and 12/17)

36. Under Rule 32 § 10 of the Rules of Procedure of the SJC, adopted in 2015 and amended in 2017, the reopened proceedings before the SJC following a judgment of the Court finding a violation were conducted in accordance with the law in force at the time of the initial proceedings before the SJC.

E. Practice of the Constitutional Court

37. The relevant practice of the Constitutional Court has been summarised in *Ilievska and Zdraveva* (cited above, §§ 44 and 45) and *Ribarev* (cited above, §§ 37 and 38).

II. INTERNATIONAL MATERIAL

38. The relevant international material has been presented in *Ilievska and Zdraveva* (cited above, §§ 47-65) and *Ribarev* (cited above, §§ 40-58).

THE LAW

I. SCOPE OF THE CASE

39. The Court notes that in her reply to the Government's observations the applicant raised new complaints, concerning an alleged violation of the presumption of innocence (namely, that the SJC which had adopted the final decision had previously formed an opinion as to whether the applicant had committed professional misconduct). She further complained that the proposal of the Commission at the session of the SJC when it had adopted the final decision (see paragraph 20 above) had been amended contrary to the relevant SJC Act. Lastly, the applicant argued that there had been a violation of the principle of equality of arms in the proceedings before the SJC and that the SJC had not adequately reasoned its final decision in her case.

40. In the Court's view, these complaints are not an elaboration of the applicant's original complaints to the Court which were communicated to the Government. They therefore fall outside of the scope of the present case and will not be taken into consideration (compare, *mutatis mutandis*,

Tereshchenko v. Russia, no. 33761/05, § 75, 5 June 2014, and *Bogdan Shevchuk v. Ukraine*, no. 55737/16, § 32, 24 April 2025).

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

41. The applicant complained under Article 6 of the Convention that the members of the Commission which had prepared the report for the SJC had later voted for the SJC's final decision in her case, contrary to the applicable procedural rules; that in the remitted proceedings before the SJC, V.B. had been replaced with another member who had not participated in the previous stage of the proceedings, and who had replaced an SJC member with no right to vote; that the SJC had not had jurisdiction to give a ruling on professional misconduct in respect of retired judges; and that the SJC had rejected her second appeal. The relevant parts of Article 6 read as follows:

“1. In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law.”

A. Admissibility

42. The Government did not raise any objections as to the admissibility of the applicant's complaints.

43. The Court, however, considers that it must ascertain whether it has jurisdiction to consider the applicant's complaints without encroaching on the prerogatives of the respondent State and the Committee of Ministers under Article 46 of the Convention. It must also examine whether the guarantees of Article 6 of the Convention were applicable to the proceedings which took place after the reopening of the professional misconduct proceedings against the applicant on the basis of the Court's judgment in *Gerovska Popčevska v. the former Yugoslav Republic of Macedonia* (no. 48783/07, 7 January 2016). These matters go to the Court's jurisdiction, which is therefore obliged to examine them of its own motion (see *Grosam v. the Czech Republic* [GC], no. 19750/13, § 107, 1 June 2023, and *Mehmet Zeki Doğan v. Türkiye* (no. 2), no. 3324/19, §§ 54 and 55, 13 February 2024).

1. *Whether the Court has jurisdiction ratione materiae under Article 46 of the Convention to examine the present application*

44. The Court reiterates that the Committee of Ministers' role in the sphere of execution of its judgments does not prevent the Court from examining a fresh application concerning measures taken by a respondent State in the execution of a judgment if that application contains relevant new information relating to issues undecided by the initial judgment (see *Bochan v. Ukraine* (no. 2) [GC], no. 22251/08, § 33, ECHR 2015; *Serrano Contreras v. Spain* (no.2), no. 2236/19, § 24, 26 October 2021; and *Mehmet Zeki Doğan*, cited above, § 56). The determination of the existence of a “new issue” very

much depends on the specific circumstances of the case in question, and distinctions between cases are not always clear-cut (see *Moreira Ferreira v. Portugal* (no. 2) [GC], no. 19867/12, § 47 (d), 11 July 2017).

45. The applicant's complaints in the present case relate to the jurisdiction and the composition of the SJC, as well as the applicant's inability to challenge the SJC's final decision, in professional misconduct proceedings against the applicant following her successful application to have the earlier dismissal proceedings against her reopened. These complaints entail "new issues" which do not concern the legal issues examined in the Court's judgment in *Gerovska Popčevska* (cited above) of 7 January 2016, namely the lack of impartiality and independence of the SJC which had initially dismissed the applicant from judicial office (see paragraph 6 above). The Court therefore concludes that it is not prevented by Article 46 from examining the applicant's new complaints raised within the ambit of the present application (no. 30989/20).

2. *Applicability of Article 6 of the Convention to the impugned proceedings*

46. The Court observes that it has not been argued by the parties 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, *a fortiori*, *Ilievska and Zdraveva v. North Macedonia*, nos. 19689/21 and 42794/22, § 70, 13 November 2025, and *Ribarev v. North Macedonia*, no. 39987/22, § 65, 13 November 2025, which concerned the dismissal of judges).

47. The Government 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, lastly, 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, *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 (see *Grzęda*, § 257, and *Fabbri and Others*, § 76, both cited above).

48. Turning to the present case, the Court observes that the applicant, who had been dismissed from judicial office in May 2007 and had been since then working as a lawyer, retired in February 2016, before submitting in May 2016

her request for the reopening of the proceedings concerning her dismissal which had ended in 2007 (see paragraphs 7 and 8 above). For that reason, in the ensuing professional misconduct proceedings against the applicant the SJC did not dismiss her from judicial office, but it rather ruled that she had committed professional misconduct, prior to her retirement, while she had been performing her judicial functions (see paragraph 20 above). The proceedings in question, therefore, did not concern the applicant's civil right to continue serving her term of office as a judge (compare and contrast, among many others, *Ilievska and Zdraveva*, cited above, §§ 73-74; *Ribarev*, cited above, §§ 68-69; *Mnatsakanyan v. Armenia*, no. 2463/12, §§ 48-59, 6 December 2022; *Kamenos v. Cyprus*, no. 147/07, §§ 66-88, 31 October 2017; and *Sturua v. Georgia*, no. 45729/05, §§ 24-27, 28 March 2017).

49. In this context, however, the Court observes that in the impugned proceedings the SJC concluded that the professional misconduct on the side of the applicant had constituted unprofessional and unconscientious performance of judicial functions within the meaning of section 74(1)(2) of the 2010 Courts Act (cited in paragraph 29 above). There is no doubt that the SJC's finding that she had performed the judicial function unprofessionally and unconscientiously concerned the applicant's personal integrity and professional competence as a former judge. It therefore had a direct impact on the applicant's social and professional reputation (contrast *Aktay v. Türkiye* (dec.), nos. 56064/16, 58000/16 and 15087/17, § 44, 9 January 2024, and *Marušić v. Croatia* (dec.), no. 79821/12, §§ 76 and 77, 23 May 2017; and compare, for example, in the context of Article 8, *Ovcharenko and Kolos v. Ukraine*, nos. 27276/15 and 33692/15, § 86, 12 January 2023, and *Juszczyszyn v. Poland*, no. 35599/20, § 233, 6 October 2022). The Court reiterates that the right to enjoy a good reputation is a "civil right" within the meaning of Article 6 § 1 (see, for example, *Madaus v. Germany*, no. 44164/14, § 15, 9 June 2016, with further references, and *Grădinar v. Moldova*, no. 7170/02, § 92, 8 April 2008). This right is protected under domestic law (see paragraph 26 above; and compare, for example, *Pocius v. Lithuania*, no. 35601/04, § 41, 6 July 2010). The Court considers that a person's reputation developed during his or her professional career forms part of that person's social identity and does not cease to exist with retirement. Accordingly, the impugned proceedings for professional misconduct against the applicant as a retired judge directly concerned her civil right to enjoy a good reputation.

50. In the light of the above, the Court finds that the civil limb of Article 6 § 1 of the Convention is applicable to the circumstances of the present case.

3. *Other grounds for inadmissibility and conclusion on the admissibility of the application*

51. The Court further notes that the applicant's complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. *Preliminary remarks*

52. The Court considers that the applicant's grievances regarding the alleged breaches of the relevant rules in relation to the alleged replacement of V.B. with another member of the SJC and the composition of the SJC which decided her case, as well as its jurisdiction to do so, relate to the question of whether the SJC was a "tribunal established by law" (see *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 224, 1 December 2020, and *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, § 1010, 25 June 2024; compare also *Momčilović v. Serbia*, no. 23103/07, §§ 29-32, 2 April 2013; *Aviakompaniya A.T.I., ZAT v. Ukraine*, no. 1006/07, § 44, 5 October 2017; and *Jorgic v. Germany*, no. 74613/01, § 64, ECHR 2007-III). The applicant's complaint concerning the inability to lodge a second appeal against the SJC's decision, delivered after the case was remitted by the Appeal Panel (see paragraphs 20-23 above), concerns an alleged infringement of her right of access to a court (compare *Ilievska and Zdraveva*, cited above, § 81, and *Ribarev*, cited above, § 77).

53. In addressing the applicant's complaints, the Court will first examine whether the SJC which found that the applicant had committed professional misconduct was a "tribunal" within the meaning of Article 6 § 1 of the Convention.

54. If the answer to that question is negative, such a conclusion would render immaterial the question whether the SJC was "established by law". In that case, the Court will analyse whether the applicant had an effective right to access to a court before another body (namely, the Appeal Panel) meeting the requirements of Article 6 § 1 (compare *Eminağaoğlu v. Turkey*, no. 76521/12, § 94 *in fine*, 9 March 2021).

55. If, however, the Court concludes that the SJC was a "tribunal" within the meaning of Article 6 § 1, it will assess whether it was "established by law". It will further analyse the applicant's complaint about her inability to appeal against the SJC's second decision as a complaint concerning access to a higher court (compare, *mutatis mutandis*, *Ilievska and Zdraveva*, cited above, § 93, and *Ribarev*, cited above, § 89).

2. *Whether the SJC was a “tribunal”*

(a) The parties’ submissions

56. The applicant submitted that the SJC had not been an independent and impartial tribunal; that the proceedings before it had not been fair; and that it had wrongly applied the 2018 SJC Act, rather than the legislation in force at the time when the violation found by the Court in *Gerovska Popčevska* (cited above) had taken place.

57. The Government submitted that the SJC had been an independent and autonomous judicial body established by the Constitution and the 2018 SJC Act, which had been found to be applicable in the applicant’s case. The SJC had had exclusive competence to decide whether a judge had committed professional misconduct, in proceedings regulated by law which had ensured the fair trial guarantees under Article 6 of the Convention. Furthermore, the SJC had been independent and impartial. While the Minister of Justice and the President of the Supreme Court were its *ex officio* members, neither the Minister of Justice nor the member of the SJC who had acted as a complainant could vote for the SJC’s decision in the applicant’s case. The SJC had a balanced structure in which the judges outnumbered the lay members. 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.

(b) The Court’s assessment

(i) *General principles*

58. 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 v. Albania*, no. 15227/19, § 282, 9 February 2021; *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).

59. 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*, cited above, § 219, and *Bilgen v. Turkey*, no. 1571/07, § 73, 9 March 2021, with further references).

(ii) *Application of those principles to the present case*

60. In two recent cases concerning the respondent State (see *Ilievska and Zdraveva*, §§ 85-92, and *Ribarev*, §§ 81-88, both cited above), the Court assessed whether the SJC established pursuant to the 2019 SJC Act had been a “tribunal” within the meaning of Article 6 § 1 of the Convention. In the present case, the Court is tasked with assessing whether the SJC, governed by the version of the SJC Act applicable to the applicant’s case, was such a “tribunal”.

61. In this connection, the Court observes that, following the remittal by the Appeal Panel (see paragraph 15 above), the SJC found that the 2018 SJC Act was applicable to the applicant’s case (see paragraph 20 above). In reaching that conclusion, the SJC referred to section 52(2) of the 2018 amendments to the SJC Act (see paragraph 33 above) according to which those amendments were to be applied to dismissal and disciplinary proceedings initiated under the previous versions of the SJC Act. The Court reiterates that it is primarily for the national authorities to resolve problems of interpretation of domestic legislation (see, among many others, *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 186, 6 November 2018), in particular rules of a procedural nature (see *Alkes v. Turkey (no. 2)*, no. 16047/04, § 19, 8 June 2010). In the absence of any convincing arguments by the applicant, it sees no reason to question the SJC’s finding. It will therefore assess whether the SJC, in view of its structural features and the procedural rules provided in the 2018 SJC Act, was a “tribunal” within the meaning of Article 6 § 1 of the Convention.

62. In this connection, the Court observes that the SJC was a specialised full-time body established by law, namely the Constitution and the 2018 SJC Act (see paragraph 34 above, and compare *Cotora v. Romania*, no. 30745/18, § 37, 17 January 2023). Under the relevant constitutional and statutory provisions, the SJC had full jurisdiction and power to decide matters concerning judges’ appointment, career and disciplinary proceedings (see Amendment XXIX to the Constitution, cited in *Ribarev*, cited above, § 33; and compare *Bilgen*, cited above, § 74 *ab initio*, and *Donev v. Bulgaria*, no. 72437/11, § 84, 26 October 2021). Professional misconduct proceedings in respect of judges were regulated in detail by the 2018 SJC Act and included 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 56 a-e of the 2018 SJC Act, cited in paragraph 34 above). Furthermore, a specific provision provided that, in professional misconduct proceedings, a judge or court president enjoyed the fair trial guarantees enshrined in Article 6 of the Convention (*ibid.*, section 97-a of the 2018 SJC Act). There is no indication that, because

the applicant had already retired, the proceedings concerning her case were conducted under different procedural rules than those concerning professional misconduct proceedings against a sitting judge or court president. The Court therefore accepts that the SJC which acted in the applicant's case performed a judicial function in professional misconduct proceedings, to which the guarantees of Article 6 § 1 applied (compare, concerning cases of dismissal of judges, *Ilievska and Zdraveva*, cited above, § 86, and *Ribarev*, cited above, § 82; and contrast, for instance, *Eminağaoğlu*, cited above, § 99, and *Bilgen*, cited above, § 74). The question of whether the SJC had jurisdiction to rule on professional misconduct of former judges is a separate issue which does not affect the SJC's character as a tribunal, but rather concerns the issue of whether in the applicant's case the SJC exceeded its jurisdiction and was consequently not "established by law" (see paragraph 52 above).

63. Turning to the guarantees of independence and impartiality required of a "tribunal", the Court observes that under the Constitution and the 2018 SJC Act, the SJC was to be composed of 15 members. The majority of the SJC members were judges (the President of the Supreme Court, sitting *ex officio*, and eight other judges elected by their peers; see Amendment XXVIII to the Constitution, cited in *Ilievska and Zdraveva*, cited above, § 35, and section 6 of the 2018 SJC Act, cited in paragraph 34 above). The SJC further included five non-judicial members elected by the Parliament, with two of them being proposed by the President of the State (*ibid.*). Lastly, the SJC also included the Minister of Justice (see in this respect the analysis in paragraph 66 below).

64. At this juncture, the Court notes that, as also confirmed by the Government, at the time when it decided the applicant's case, the SJC was only composed of 14 members (see paragraphs 19 above and 69 below). However, this fact alone cannot deprive the SJC of the characteristic of a tribunal. While it may concern the issue of whether or not the SJC was established by law, in the absence of any corresponding arguments of the applicant, the Court does not consider it relevant for the purposes of the present analysis.

65. The members of the SJC were elected for a term of six years, which could be renewed (see section 7 of the 2018 SJC Act, cited in paragraph 34 above). They could only be removed from office or temporarily suspended in cases expressly provided for by law (*ibid.*, see sections 30 and 30-a of the 2018 SJC Act). Both the Constitution and the 2018 SJC Act contained provisions guaranteeing the independence and impartiality of the SJC, including against outside pressure (see, in particular, Amendment XXVIII to the Constitution, cited in *Ilievska and Zdraveva*, cited above, § 35, and sections 2 and 3 of the 2018 SJC Act, cited in paragraph 34 above).

66. The Minister of Justice was also an *ex officio* member of the SJC, but did not have the right to vote on any issues decided by the SJC (see

sections 6(1) and (2) of the 2018 SJC Act, cited in paragraph 34 above). In the absence of a specific complaint by the applicant on this point, the Court is not called upon to assess the issue of the Minister of Justice's *ex officio* membership of the SJC (see, in this regard, the analysis in *Ilievska and Zdraveva*, cited above, §§ 90 and 91, and *Ribarev*, cited above, §§ 86 and 87).

67. In view of the above considerations, the Court concludes that the SJC which found professional misconduct on the part of the applicant was a “tribunal” within the meaning of Article 6 § 1 of the Convention.

3. *Whether the SJC was “established by law”*

(a) *The parties’ submissions*

68. The applicant complained that the members of the Commission which had prepared the report for the SJC (see paragraph 17 above) had voted at the SJC’s session during which her case had been decided. She further submitted that during the proceedings against her, V.B. had been replaced with another member of the SJC who had not participated in the previous proceedings. Lastly, according to the applicant, the SJC had no jurisdiction to rule in professional misconduct cases against former judges, it could only stay the proceedings or dismiss a judge, as had also been held by the Appeal Panel. Section 31(1)(7) of the 2018 SJC Act (cited in paragraph 34 above) was inapplicable to her case, given that it had not existed at the time when the professional misconduct had been committed.

69. The Government submitted that the SJC had adopted the final decision in the applicant’s case with a unanimous vote of nine members (see paragraph 22 above), that is, an absolute majority of all the SJC members with the right to vote. The SJC had fourteen members at the material time, and the Minister of Justice and the President of the Supreme Court were not present at the SJC’s session at which it decided the applicant’s case with final effect. It was immaterial that the four members of the Commission had voted, because even if they had not, the decision in the applicant’s case would have been adopted with the requisite two-thirds majority of members of the SJC with the right to vote, pursuant to section 60 of the 2018 SJC Act (paragraph 34 above). Namely, the Minister of Justice had no right to vote, and the complainant and two other members of the SJC, who had been recused, could not participate in the vote. There were therefore six members of the SJC with the right to vote (including the President of the Supreme Court), and of those present, all five had voted in favour of the proposal concerning the applicant. V.B. had participated in the work of the Commission which had prepared the report to the SJC. Her term of office as a member of the SJC had expired after the Commission’s report had been submitted to the SJC but before the SJC had decided on it and the Commission’s composition had not been revised given that the Commission

had completed its mandate. Lastly, the SJC had had jurisdiction to decide in cases concerning former judges.

(b) The Court's assessment

(i) General principles

70. The general principles concerning the requirement that a tribunal be “established by law” were set out in *Guðmundur Andri Ástráðsson* (cited above, §§ 211-16, 233-34 and 242). The Court reiterates, in particular, that the phrase “established by law” covers not only the legal basis for the very existence of a “tribunal” but also the compliance by the court or tribunal with the particular rules that govern it and the composition of the bench in each case (*ibid.*, § 213, with further references).

71. The Court also reiterates that, in principle, a violation by a tribunal of domestic legal provisions relating to the establishment and competence of judicial bodies gives rise to a violation of Article 6 § 1. The Court may therefore examine whether the domestic law has been complied with in this regard. However, having regard to the general principle that it is, in the first place, for the national courts themselves to interpret the provisions of domestic law, the Court may not question their interpretation unless there has been a flagrant violation of domestic law (see *Guðmundur Andri Ástráðsson*, cited above, § 216, and *X and Others v. Slovenia*, no. 27746/22, § 127, 19 December 2024).

(ii) Application of those principles to the present case

(a) Composition of the SJC which adopted the final decision in the applicant's case

72. The Court observes that the 2018 SJC Act, which was found to be applicable to the applicant's case, provided that a three-member commission was established from the members of the SJC to obtain information and evidence relevant for the proceedings, conduct those proceedings and submit a report to the SJC (see sections 56(2), 56 a-e and 56-g of the 2018 SJC Act, cited in paragraph 34 above). Section 60(3) of the same Act provided that the president and the members of that commission participated in the SJC's deliberations, but expressly stated that they were recused from voting for the SJC's decision (*ibid.*).

73. In the applicant's case, on 25 April 2018, that is, before the entry into force of the 2018 amendments to the SJC Act on 16 May 2018 (see paragraph 33 above), the SJC established a five-member commission from among its members, including V.B. (see paragraph 11 above). Following the SJC's first decision and the remittal by the Appeal Panel, on 22 October 2019 four members of the initially established Commission were replaced with other members of the SJC (see paragraph 16 above). On 25 December 2019 the thus-established five-member Commission submitted a report and a

proposal to the SJC concerning the applicant's case (see paragraph 17 above), despite the fact that the 2018 SJC Act, under which the Commission was to be composed of three members (see paragraph 72 above), had already entered into force. Subsequently, V.B.'s term of office in the SJC expired (see paragraph 18 above) and, as admitted by the Government (see paragraph 69 above), no other member of the SJC was appointed as member of the Commission to replace her. At that moment, the Commission was thus composed of four members.

74. Having deliberated on the Commission's proposal, the SJC adopted its final decision in the applicant's case with a unanimous vote of nine of its members (see paragraphs 20 and 22 above). The Government did not dispute that the nine members included the four members of the Commission. The Court notes that those members took part in the SJC's decision, despite the clear and unambiguous domestic law provision (section 60(3) of the 2018 SJC Act, cited in paragraph 34 above) preventing them from doing so. In the Court's view, this constituted a flagrant violation of domestic law (compare *Zeynalov v. Azerbaijan*, no. 31848/07, § 31, 30 May 2013; see also, *mutatis mutandis*, *Momčilović*, cited above, § 32, and *Jenița Mocanu v. Romania*, no. 11770/08, §§ 41 and 42, 17 December 2013).

75. In this connection, the Court considers that it is immaterial that the two members of the SJC (K.Z. and Z.T.) who had previously been recused (see paragraphs 12 and 19 above), as well as the complainant in the applicant's case, did not vote (see paragraph 22 above). Similarly, it is irrelevant whether the requisite majority for adopting the SJC's decision would have been attained even without the four votes of the Commission members (see the Government's argument in this respect summarised in paragraph 69 above). What matters for the Court's assessment is that the final decision in the applicant's case was adopted in contravention of the relevant procedural rules provided in the 2018 SJC Act. At this juncture, the Court reiterates that, in view of its central position in the structure of the judicial system in the respondent State, the SJC was to play a fundamental role as a guarantor of the autonomy and the independence of the judiciary in the country. Its strict compliance with the rules governing its operation and decision-making was therefore of paramount importance for upholding rule-of-law standards and ensuring public trust in the work of the SJC and, more generally, in the functioning of the judiciary.

76. In view of the above-mentioned considerations, the Court concludes that the SJC which found professional misconduct on the part of the applicant was in breach of the relevant domestic rules, and was, therefore, not a "tribunal established by law". There has accordingly been a violation of Article 6 § 1 of the Convention.

(β) Other complaints concerning a “tribunal established by law”

77. The applicant further complained that V.B. had been replaced in the final stage of the proceedings with a member of the SJC who had not participated in the previous stage of the proceedings. She further complained that the SJC did not have the competence to rule in professional misconduct proceedings against former judges (see paragraph 41 above). As to this latter complaint, the Court notes that, following the initial decision of the SJC establishing professional misconduct on her part, the Appeal Panel remitted the case to the SJC for reconsideration, finding, *inter alia*, that the relevant domestic legislation allowed for the SJC to either stay the proceedings or dismiss a judge. The Appeal Panel also instructed the SJC to determine the procedural law applicable to the case (see paragraph 15 above). In the remitted proceedings, the SJC held that the 2018 SJC Act was applicable to the applicant’s case and that, under section 31(1)(7) of that Act, it had the jurisdiction to establish professional misconduct on the part of former judges (see paragraph 20 above). As the applicant’s subsequent appeal was declared inadmissible, the Appeal Panel did not reassess these findings of the SJC.

78. Having regard to the facts of the case, the parties’ submissions, and its findings in respect of the applicant’s complaint about a “tribunal established by law” and access to a court (see paragraphs 76 above and 86 below), the Court decides that it is not necessary to examine on the merits the remaining complaints under this head (see *Tsaava and Others v. Georgia* [GC], nos. 13186/20 and 4 others, §§ 225-9, 11 December 2025; see also, *mutatis mutandis*, *Besnik Cani v. Albania*, no. 37474/20, §§ 117 and 129, 4 October 2022).

4. *Whether the applicant’s right of access to the Appeal Panel was effective*

(a) *The parties’ submissions*

79. The applicant submitted that she could not appeal against the decision of the SJC adopted after the Appeal Panel had remitted her case, and that in the remitted proceedings, the SJC had not provided sufficient reasoning for not complying with the instructions of the Appeal Panel.

80. 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. 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 her second appeal (see paragraph 23 above) 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

81. The Court refers to the general principles summarised in *Ilievska and Zdraveva* (cited above, §§ 97-98) and *Ribarev* (cited above, §§ 93-94). In those cases, the Court examined whether the inability, under the 2019 SCJ Act, to appeal against SJC's decisions for the applicants' dismissal from their judicial functions, rendered after a remittal, restricted their right to access to a court to an extent incompatible with Article 6 of the Convention. In both cases, the Court found violations of Article 6, taking into account the strong public interest in upholding the independence of the judiciary and the rule of law and considering that the absence of a mechanism to verify whether in the remitted proceedings the SJC had complied with the Appeal Panel's earlier instructions practically deprived of any substance the applicants' right of access to the Appeal Panel, even in the proceedings before the remittal (see *Ilievska and Zdraveva*, §§ 99-106, and *Ribarev*, §§ 95-103, both cited above).

82. The present case differs from *Ilievska and Zdraveva* and *Ribarev* in two aspects.

83. Firstly, *Ilievska and Zdraveva* and *Ribarev* concerned the dismissal of judges from their judicial functions, whereas the present case concerns the SJC's declaratory finding that the applicant (a former judge) committed professional misconduct in the performance of her judicial functions. The Court considers that this difference is immaterial for the outcome of the present case, given that the impugned proceedings were of great importance for the public confidence in the functioning of the SJC (see, to this effect, the analysis in paragraph 75 above), irrespective of the fact that they concerned a retired judge.

84. Secondly, section 72(5) of the 2019 SJC Act, applicable in the applicants' cases in *Ilievska and Zdraveva* and *Ribarev*, provided that in the remitted proceedings the SJC would "strictly comply" with the instructions of the Appeal Panel (see *Ilievska and Zdraveva*, cited above, § 39, 100 and 102, and *Ribarev*, cited above, §§ 34, 96 and 98). In the present case, under section 96(4) of the 2018 SJC Act (cited in paragraph 34 above), applicable to the applicant's case, after a remittal by the Appeal Panel the SJC adopted a final decision, "assessing" the instructions of the Appeal Panel when it had remitted the case. The Court considers that this difference in the relevant domestic provisions cannot lead to a different outcome in the present case. 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 truly assessed the instructions given by the Appeal Panel in its decision of 8 October 2019 (see paragraph 15 above). In this connection, the Court recalls the importance of

procedural safeguards in proceedings concerning the performance of the judicial function (compare, *mutatis mutandis*, *Bilgen*, cited above, § 96), a consideration which correspondingly applies to the present case.

85. In view of the above considerations, and for the reasons set out in *Ilievska and Zdraveva* (cited above, §§ 102-5) and *Ribarev* (cited above, §§ 98-102), the Court considers that the Appeal Panel's inability to ascertain whether the SJC had complied with its earlier instructions in the remitted proceedings, deprived of any substance the applicant's right of access to the Appeal Panel, even in the proceedings before remittal. Her right of access to a court was therefore restricted to such an extent that the very essence of that right was impaired.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

87. Article 41 of the Convention provides:

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

A. Damage

88. The applicant claimed 6,000 euros (EUR) in respect of non-pecuniary damage.

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

90. The Court considers that the events leading to the violation found in the present case caused the applicant non-pecuniary damage that cannot be remedied by the mere finding of a violation. The Court, making its assessment on an equitable basis, awards the applicant EUR 4,700 in respect of non-pecuniary damage, plus any tax that may be chargeable.

91. At this junction, the Court would reiterate that in the event of a violation of Article 6 of the Convention, the most appropriate form of redress in cases such as the present one would be the reopening of the proceedings, if requested (see *Gerovska Popčevska*, cited above, § 68).

B. Costs and expenses

92. The applicant also claimed EUR 1,000 for the costs and expenses incurred in the proceedings before the Court. She submitted an invoice issued by her representative, as well as bills concerning postal and other expenses.

93. The Government contested the claims as excessive and unsubstantiated.

94. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (see, among many authorities, *Vlaisavljevikj v. North Macedonia*, no. 23215/21, § 54, 25 June 2024). A representative's fees are actually incurred if the applicant has paid them or is liable to pay them (see *Bogdan v. Ukraine*, no. 3016/16, § 87, 8 February 2024). In the present case, there is no indication that the expenses indicated in the documents submitted by the applicant were related to the proceedings before the Court. Accordingly, the Court makes no award under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the composition of the SJC which established professional misconduct on the part of the applicant;
3. *Holds* that there is no need to examine the complaints under Article 6 § 1 of the Convention concerning the replacement of V.B. with another member who had not participated in the previous stage of the proceedings and concerning the alleged lack of jurisdiction of the SJC to establish professional misconduct on the part of the applicant;
4. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the applicant's inability to appeal against a decision of the SJC taken following the remittal of her case;
5. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 4,700 (four thousand seven hundred euros) plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

GEROVSKA-POPCHEVSKA v. NORTH MACEDONIA (No. 2) JUDGMENT

Done in English, and notified in writing on 5 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti
Registrar

Arnfinn Bårdsen
President