

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

THIRD SECTION

CASE OF ANIČIĆ v. SERBIA

(Application no. 36639/22)

JUDGMENT

Art 6 § 1 (criminal) • Fair hearing • Fairness of minor-offence proceedings • Complaints of a fourth-instance nature • Domestic decisions not arbitrary or manifestly unreasonable • Applicant afforded ample opportunity to present his case and challenge evidence • Domestic courts' refusal to admit an expert report commissioned by the applicant not in breach of the equality of arms principle

Prepared by the Registry. Does not bind the Court.

STRASBOURG

9 June 2026

FINAL

02/11/2026

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



In the case of Aničić v. Serbia,

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

Ioannis Ktistakis*, President*,
Peeter Roosma,
Darian Pavli,
Diana Kovatcheva,
Úna Ní Raifeartaigh,
Mateja Đurović,
Vasilka Sancin*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 36639/22) against the Republic of Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Serbian national, Mr Aleksandar Aničić ("the applicant"), on 13 July 2022;

the decision to give notice to the Serbian Government ("the Government") of the complaints concerning the alleged unfairness of the proceedings and the alleged lack of reasoned decisions in his case and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 9 December 2025, 3 February 2026 and 12 May 2026,

Delivers the following judgment, which was adopted on the last-mentioned date:

INTRODUCTION

1. The application concerns the alleged unfairness of minor-offence proceedings in connection with a road traffic accident and the courts' failure to admit an expert report commissioned by the applicant into evidence.

THE FACTS

2. The applicant was born in 1990 and lives in Nepričava. He was represented by Ms M. Sunajko, a lawyer practising in Novi Sad.

3. The Government were represented by their Agent, Ms Z. Jadrijević Mladar.

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

I. ROAD TRAFFIC ACCIDENT

5. At approximately 6.20 p.m. on 16 January 2018 the applicant's lorry (a Mercedes Actros) collided with a light motor vehicle (a Toyota Yaris) driven by M. A police officer, N., inspected the scene of the accident, took photographs, questioned the drivers of the two vehicles, and prepared the relevant report and an accident reconstruction diagram. He established that M. had been in a severely inebriated state (his blood alcohol content was 1.96 mg/ml) and had earlier forfeited his driving licence.

II. MINOR-OFFENCE PROCEEDINGS AGAINST M.

6. It appears that M. was not charged with causing or contributing to the road traffic accident of 16 January 2018 and that his case was decided by way of accelerated proceedings. On an unspecified date he was found guilty of having driven under the influence of alcohol and without a driving licence. The relevant decision became final.

III. MINOR-OFFENCE PROCEEDINGS AGAINST THE APPLICANT

A. First set of proceedings

7. On 15 February 2018 the police instituted minor-offence proceedings against the applicant, the legal entity which owned the car driven by M. and its representative. The indictment report was prepared by Officer N. The police asked the court to find the applicant guilty of a violation of the road safety rules. According to the police's findings, in order to get around a vehicle parked on the right-hand side of the road, the applicant had driven his lorry to the left over the central markings, entered the lane on the other side of the road and collided with the car driven by M., which had been travelling in the opposite direction.

8. On 10 June 2019 the Valjevo Minor Offences Court found, *inter alia*, the applicant guilty of having caused the accident. The applicant was ordered to pay a fine in the amount of 33,000 Serbian dinars (RSD) (approximately 280 euros) and court fees in the amount of RSD 3,000 (approximately 26 euros). The court also suspended the applicant's driving licence for five months. Lastly, nine penalty points were added to his driving licence.

9. The applicant appealed against the judgment of 10 June 2019. He alleged that the court's findings had not been supported by the evidence submitted and that his defence rights had been violated. In particular, he claimed that the court (i) had failed to correctly establish the facts of the case, (ii) had refused to admit into evidence an expert report commissioned by him, and (iii) had heard M. as a witness in the absence of the applicant's lawyer.

10. On 4 July 2019 the Minor Offences Court of Appeal quashed the judgment of 10 June 2019 and remitted the case for fresh consideration,

referring to the lower court's failure (i) to notify the applicant and his lawyer of the date and time of M.'s questioning as a witness, (ii) to respond to the applicant's request to admit the expert report into evidence, and (iii) to support its findings as to the cause of the accident.

B. Second set of proceedings

11. On 28 October 2019 the Valjevo Minor Offences Court found, *inter alia*, the applicant guilty of having caused the accident. The applicant was ordered to pay a fine in the amount of RSD 33,000 and court fees in the amount of RSD 3,000. The court also suspended the applicant's driving licence for five months. Lastly, nine penalty points were added to his driving licence.

12. The applicant maintained his innocence. He stated that it had been M.'s car that had crossed over the central markings, entering the lane where he had been driving his lorry. Because of another lorry parked on the right-hand side of the road, it had been impossible for the applicant to move to the right to avoid the collision. The applicant had started to brake, while the other car had returned to its own lane. The lorry had come to a stop in the opposite lane as a result of his having to brake suddenly and unavoidably after the collision with M.'s car. The applicant also alleged that the central markings had not been visible. He claimed that his version of events had been supported by the findings of a licenced expert, V., whom he had privately retained, and he sought to admit the latter's report dated 15 September 2019 into evidence. The expert had reviewed the materials collected by the police (see paragraph 5 above), photographs of the scene of the accident available on the internet and the materials in the court case-file (the judgment of 10 June 2019 and the witnesses' statements), concluding that it had been M. who had caused the road traffic accident.

13. The court dismissed the applicant's allegations as unsubstantiated. It agreed with the police's findings and found that the applicant had caused the accident. The court relied on the accident reconstruction diagram, noting that, after braking, the lorry had come to rest in a position which demonstrated that it had been travelling in the opposite lane and had collided with the Toyota Yaris while attempting to return to its proper lane. The court dismissed the applicant's allegation that M.'s car had crossed over the central markings as unsupported by any evidence. Having examined the photographs of the scene, the court dismissed the applicant's allegation that the central markings had not been visible. As regards the expert's report of 15 September 2019, the court considered that the evidence contained in the case file was sufficient for the examination of the case and refused to admit it into evidence. Nor did it agree to commission a forensic expert examination in respect of the accident. In the court's opinion, the evidence submitted and examined clearly indicated

that the accident had been caused by the applicant, rendering the opinion of an additional expert unnecessary for the establishment of the facts of the case.

14. In establishing the applicant's guilt, the court referred to the statements made by M**.** (who had denied having crossed the central markings) and Officer N. (both witnesses were heard in the presence of the applicant's lawyer), the report on the inspection of the scene of the accident, the photographs and the diagram of the accident produced by N., the applicant's statement and his route sheet. The court further held that M.'s statement had been consistent with the police's findings regarding the cause of the accident. Lastly, the court noted that the applicant had been advised of his right to provide a written statement after studying the case file, but he had chosen not to do so.

15. On 10 December 2019 the Minor Offences Court of Appeal upheld the lower court's findings. It accepted, in particular, that the lower court had fully complied with the instructions indicated in its judgment of 4 July 2019. The appellate court dismissed, as unsubstantiated, the applicant's argument that an expert examination had been necessary to establish the facts of the case, endorsing the lower court's reasoning in that regard.

16. On 15 March 2022 the Constitutional Court rejected an appeal by the applicant. It noted that the applicant's allegations about the breach of his right to a fair trial concerned in substance the outcome of the minor-offence proceedings and that it was not for the Constitutional Court to review the applicant's case as a court of higher instance. It discerned no violation as regards the applicant's right to a fair hearing and to defend himself in the minor-offence proceedings.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

17. Minor-offence proceedings are governed by the Law on Minor Offences (*Zakon o prekršajima*) and are neither civil nor fully criminal. The term "administrative" is not used in Serbian law. They are initiated by the State, lead to penalties (such as fines and short-term detention), and offer procedural guarantees similar to criminal proceedings.

18. Article 35 of the Law on Road Traffic Safety (*Zakon o bezbednosti saobraćaja na putevima*) reads, in so far as relevant, as follows:

> "A vehicle shall move on the right side of the roadway in the direction of travel. The driver is required to keep the moving vehicle as close as possible to the right edge of the roadway and at such a distance from it that, considering the vehicle's speed, traffic conditions, and the state and characteristics of the road, he or she does not endanger other road users and does not expose himself or herself to danger. On a road within a settlement that has at least two traffic lanes for the same direction, the driver may use a traffic lane that is not adjacent to the right edge of the roadway, provided that this does not obstruct vehicles traveling behind his or her vehicle."

19. In accordance with Article 331 of the Law on Minor Offences, the violation of Article 35 of the Law on Road Traffic Safety may be punished by a fine in the amount of RSD 20,000 to 40,000 or by a prison sentence of up to 30 days.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

20. The applicant complained under Article 6 of the Convention that the minor-offence proceedings against him had been unfair. In particular, he referred to the courts' refusal to admit expert evidence. In his observations of 26 May 2025, the applicant further complained about the domestic courts' failure to commission a forensic expert report. Lastly, the applicant alleged that the Court of Appeal and the Constitutional Court had failed to provide reasons to justify their decisions to dismiss his complaints. Article 6 of the Convention, in so far as relevant, provides as follows:

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

A. Admissibility

21. The Court accepts, and the parties did not argue otherwise, that Article 6 of the Convention applies in the present case under its criminal limb. In this connection, the Court takes into account the fact that the penalty imposed on the applicant – in particular, the fine and the suspension of his driving licence – was punitive and deterrent in nature (compare *Mikhaylova v. Russia*, no. 46998/08, § 64, 19 November 2015, and *Matijašić v. Croatia* (dec.), no. 38771/15, § 31, 8 June 2021).

22. The Court further notes that the applicant raised his complaint that the trial court had failed to commission a forensic expert examination in his case for the first time in his observations of 26 May 2025. However, it should have been introduced within four months of the final decision on the matter, which had been taken by the Constitutional Court on 15 March 2022. Accordingly, the complaint was lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

23. The Court notes that the remainder of the applicant's grievances are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

24. The applicant maintained his complaints. He criticised the quality of the evidence on which the domestic courts had based their findings and the reasons underlying those findings. In particular, according to the applicant, M., who had been in a severely inebriated state at the time of the accident and had testified as a witness, had not been in a position to provide any credible information as to the circumstances of the accident. Officer N. had not witnessed the accident; he had merely examined the scene and prepared the relevant documents. The position of the vehicles as indicated in the diagram drawn up by him had not corresponded to the photographs taken of the scene of the accident. The expert evidence proposed by the applicant had been indispensable and decisive for a proper assessment of the facts of the case. The superior courts had failed to provide clear reasoning as to how they had reached their conclusions.

25. The Government denied the applicant's allegations. They asserted that the minor-offence proceedings in the applicant's case had complied with the requirements of fairness set out in Article 6 of the Convention. In particular, the applicant had been given the opportunity to present his case before the domestic courts and to challenge the evidence against him. It had not been incumbent on the national judicial authorities to admit the expert report commissioned by the applicant into evidence. The refusal to grant the applicant's request did not appear to have been arbitrary or to have lacked substantiation. The reasons underlying the courts' decisions had been explained clearly and in detail.

2. The Court's assessment

26. The Court reiterates that it is not its function to deal with errors of fact or law allegedly made by a national court, unless and in so far as they may have infringed rights and freedoms protected by the Convention. Normally, issues such as the weight attached by the national courts to given items of evidence or to findings or assessments in issue before them for consideration are not for the Court to review. The Court should not act as a fourth-instance body and will not therefore question under Article 6 § 1 the judgment of the national courts, unless their findings can be regarded as arbitrary or manifestly unreasonable (see, for example, *Lupeni Greek Catholic Parish and Others v. Romania* [GC], no. 76943/11, § 90, 29 November 2016, with further references).

27. The Court further reiterates that the requirement of a fair trial does not impose on a trial court an obligation to order an expert opinion or any other investigative measure merely because a party has requested it. Where the defence insists on the court hearing a witness or taking other evidence (such

as an expert report, for instance), it is for the domestic courts to decide whether it is necessary or advisable to accept that evidence for examination at the trial. The domestic court is free, subject to compliance with the terms of the Convention, to refuse to call witnesses proposed by the defence, for instance on the grounds that the court considers their evidence unlikely to assist in ascertaining the truth (see, among other authorities, *Poletan and Azirovik v. the former Yugoslav Republic of Macedonia*, nos. 26711/07 and 2 others, § 95, 12 May 2016). As regards expert evidence, the rules on its admissibility must not deprive the defence of the opportunity to challenge it effectively – in particular by obtaining and filing alternative opinions and reports. In certain circumstances, the refusal to allow an alternative expert examination of material evidence may be regarded as a breach of Article 6 § 1 (see *Stoimenov v. the former Yugoslav Republic of Macedonia*, no. 17995/02, §§ 38 et seq., 5 April 2007, and *Matytsina v. Russia*, no. 58428/10, § 169, 27 March 2014).

28. At the outset, the Court would stress that although the criminal-law aspect of Article 6 of the Convention is applicable in the present case, the minor road-traffic offence for which the applicant was convicted does not as such belong to the traditional categories of criminal law to which the criminal-head guarantees of Article 6 apply with their full stringency (see, among other authorities, *Kammerer v. Austria*, no. 32435/06, §§ 27-28, 12 May 2010, and *Marčan v. Croatia*, no. 40820/12, § 37, 10 July 2014).

29. Having examined the material submitted to it, the Court is unable to subscribe to the applicant's opinion that the proceedings in his case were incompatible with the requirements set out in Article 6 of the Convention. On the contrary, it finds no indication that the applicant's defence rights have been breached. The applicant was provided with ample opportunity to present his case and, in particular, to challenge the accuracy of the documents prepared by the police and the credibility of the witnesses. The fact that he was not successful in persuading the courts is not in itself sufficient to raise an issue under Article 6 of the Convention.

30. As regards the domestic courts' refusal to admit the expert report commissioned by the applicant into evidence, the Court reiterates that legal matters are normally within the judge's competence and experience (*jura novit curia*), and it is for the judge to decide whether or not he or she needs assistance in a particular field of law (see *Khodorkovskiy and Lebedev v. Russia (no. 2)*, nos. 51111/07 and 42757/07, § 491, 14 January 2020). Accordingly, in the Court's opinion, the domestic courts' decision to rely in their findings on, inter alia, the evidence collected by the police and to consider the expert report presented by the applicant to be redundant for the purposes of establishing the facts of the case remained within their discretion (contrast *Khodorkovskiy and Lebedev*, cited above, §§ 494-99). The Court discerns nothing in the applicant's submissions to cast doubt upon the competence of the police officer who examined the scene of the accident and

prepared the report of its cause or to conclude that further expert knowledge was required. The domestic courts concluded that the evidence examined by them (the police report, the accident reconstruction diagram, the photographs of the scene of the accident and the witnesses' statements) provided a sufficient basis for their findings. The materials submitted by the applicant do not allow the Court to come to a different conclusion.

31. Having regard to the explanation provided by the Valjevo Minor Offences Court as to why it rejected the applicant's request to admit into evidence the expert report privately obtained by him in September 2019 (see paragraphs 13-14 above), the Court cannot find that rejection to be manifestly unreasonable or arbitrary or that it in itself deprived the applicant of a fair hearing (compare, *mutatis mutandis*, *Jager v. the Netherlands* (dec.), no. 39195/98, 14 March 2000; *Ziberi v. the former Yugoslav Republic of Macedonia*, no. 27866/02, §§ 30-32, 5 July 2007, in the context of determination of the applicant's civil rights; and, for illustrative purposes, *P.W. v. Austria* [Committee], no. 10425/19, § 74, 21 June 2022).

32. The Court also takes into account the fact that, notwithstanding that rejection, the applicant and his lawyer could have undoubtedly used the expert's findings to acquire the necessary information and prepare the applicant's defence. They were not prevented from relying on that information in order to raise any possible doubts the applicant might have had as regards the evidence collected by the police (compare *C.B. v. Austria*, no. 30465/06, §§ 43-44, 4 April 2013). In this connection, the Court notes that the applicant had the opportunity to submit a written statement explaining his position but that he chose not to make use of it (see paragraph 14 above).

33. Lastly, the Court notes that, contrary to the applicant's assertion, the decisions taken by the superior courts' cannot be characterised as lacking reasons to substantiate their findings or having been based on a manifest factual or legal error (see paragraphs 15-16 above).

34. Having regard to the above considerations and the minor character of the offence in question, the Court finds that the applicant has not substantiated his allegations that the minor-offence proceedings against him were unfair. As noted above, the courts' refusal to admit the expert report commissioned by the applicant did not put him in an unfavourable position *vis-à-vis* the prosecution, and therefore did not violate the principle of equality of arms. The decisions delivered by the national judicial authorities cannot be said to be arbitrary or manifestly unreasonable. In the Court's view, the nature of the applicant's complaints before it boils down to a disagreement with the domestic courts' findings. They are directed at the evaluation of evidence and are of a fourth-instance nature.

35. There has therefore been no violation of Article 6 of the Convention.

FOR THESE REASONS, THE COURT,

1. *Declares*, unanimously, the complaints concerning the courts' refusal to admit expert evidence and the alleged lack of reasoned decisions admissible and the remainder of the application inadmissible;

2. *Holds*, by four votes to three, that there has been no violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 9 June 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško	Ioannis Ktistakis
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judges Roosma, Pavli and Ní Raifeartaigh is annexed to this judgment.

JOINT DISSENTING OPINION OF JUDGES ROOSMA, PAVLI AND NÍ RAIFEARTAIGH

1. We disagree with the majority's conclusion that there was no violation of Article 6. We do so for the following reasons.

2. First, we note that even though the offence with which the applicant was charged was a minor offence, it was one which carried a possible prison sentence of up to 30 days (see paragraph 19 of the judgment). The Court has previously indicated that, in assessing the fairness of proceedings, the question whether the legislation in question provides for a possible sentence of imprisonment is relevant, even in minor-offence proceedings (see *Marčan v. Croatia*, no. 40820/12, § 37-38, 10 July 2014).

3. Secondly, we note that the applicant was a lorry driver; he was therefore someone for whom a driving-related conviction and sentence would be particularly consequential. In fact, while he was not ultimately sentenced to imprisonment, he did incur a significant penalty, consisting of a five-month licence suspension, nine penalty points, a fine and the costs of the court proceedings.

4. Thirdly, we note that the applicant had already privately commissioned an expert report (see paragraph 12 of the judgment) and that it would not have been onerous for the trial court to have admitted it into evidence and read it, even if that court had ultimately decided to reject its findings. The applicant was not seeking an adjournment but merely asking the court to accept the expert report and read it. Furthermore, this was in a context where the court had chosen not to commission an independent expert report itself and there was therefore no expert evidence before it at all. It was also in a context where the case had been remitted to the trial court by the appellate court precisely because the lower court had failed to respond to the applicant's request for the expert report to be admitted into evidence at the first trial without giving any reasons for that decision (see paragraph 10 of the judgment).

5. Fourthly, we note that the trial court relied upon two pieces of evidence: (i) the evidence of a police officer who had arrived on the scene after the accident and had prepared a sketch of it as he had seen it at that point in time, which was, of course, after the vehicles had come to a halt following their collision; and (ii) the evidence of the other driver who, it must be emphasised, had been intoxicated at the time of the accident and was, in fact, later convicted of driving under the influence of alcohol (see paragraph 6 of the judgment). Experienced though the police officer may have been (and no one is casting doubt upon his competence), he was presumably not an expert in the physics of road traffic collisions, and this kind of expertise is precisely what an expert – and no lay person – can inject into the proceedings. Of course, and we emphasise this fact again, the court would have been free to reject the expert's findings if it did not find the reasoning or conclusions persuasive. However, it is difficult to understand the trial court's view that

the evidence contained in the case file was "sufficient" for the examination of the case (see paragraph 13 of the judgment). The whole point of defence evidence is that it may cast doubt upon prosecution evidence or introduce new information which is not already in the file. Moreover, there is a qualitative difference between the evidence of a properly qualified and suitably experienced expert, on the one hand, and the bare denial of the (non-expert) accused, on the other.

6. We accept, of course, the principles set out *Murtazaliyeva v. Russia* ([GC], no. 36658/05, 18 December 2018) concerning the Court's power to review domestic courts' decisions on the admission of evidence. Ensuring the overall fairness of the proceedings does not require that every defence request for evidence to be admitted must be acceded to. The entitlement to adduce evidence for the defence in criminal proceedings (whether of a minor or non-minor nature) is not unlimited and trial judges are perfectly entitled to refuse applications to admit evidence where appropriate, for example where the purpose is merely to frustrate or delay proceedings, or where such evidence would not serve any useful purpose. Moreover, in some cases, it may be obvious to the trial judge, even without seeing or hearing the proposed evidence, that it would have no relevance to the issues to be decided by the trial court (see, for example, *Kammerer v. Austria*, no. 32435/06, 12 May 2010). However, it is perhaps important to note that the Court's case-law does not require an applicant to show that the evidence in question would necessarily have made a difference to the outcome. Rather, the test is whether the request was sufficiently reasoned and the proposed evidence relevant to the subject matter of the accusation; whether the domestic courts provided sufficient reason to refuse the request; and whether the decision to refuse undermined the overall fairness of the proceedings.

7. We also accept that the Court's case-law establishes that minor-offence proceedings are not required to conform to the rigorous procedural standards which attend to criminal trials in respect of more serious criminal offences. Minor-offence proceedings must be conducted efficiently, and the Court's power of review should not impose unworkable or impractical demands on busy domestic courts. Nonetheless, efficiency and speed must not come at the expense of the overall fairness of the proceedings, which depends on the circumstances of each case.

8. The key issue which fell for determination in these criminal proceedings was whether the applicant, a professional driver, had caused the road traffic collision in question. The only evidence before the court consisted of the testimony of the other driver, who had been drunk at the time of the accident, and a police officer's sketch of the position of the vehicles after the accident. In those circumstances, expert evidence as to the causation of the accident was not obviously irrelevant or manifestly incapable of shedding light on the key issue in question; nor could the applicant's request to admit it into evidence be described as vexatious. Moreover, the report already

existed and its admission into evidence would not have caused any delay. The trial judge was free to reject its contents once they had been considered, but the decision to reject the report *in limine*, without even reading it, is very difficult to understand. Indeed, the reason given by the trial judge for refusing to admit the expert report – namely, that the evidence contained in the case file was sufficient (see paragraph 13 of the judgment) – is not convincing and seems almost arbitrary in the context of the present case, where the pieces of incriminating evidence were few in number and the question was whether to admit a single item of exculpatory evidence which the applicant sought to adduce (apart from his own statements). The refusal to admit this evidence put the applicant at a disadvantage in relation to the prosecution.

9. In the light of all the above circumstances, we conclude that the applicant was not afforded the benefit of a fair hearing and that there was a violation of Article 6.