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

FOURTH SECTION

CASE OF KAJGANIĆ v. SERBIA

(Application no. 27958/16)

JUDGMENT

Art 8 • Private life • Unsuccessful defamation proceedings by a lawyer in connection with an article published alleging she had arranged, in criminal proceedings relating to the Prime Minister's assassination, for her client to be granted the status of cooperating witness in exchange for giving false testimony • Importance of defence lawyers' role in ensuring right to defence of persons charged with a criminal offence and of their freedom of exercise of the profession of a lawyer • Disputed information in the present case of serious public interest and concern • Article focused only on the applicant's professional activity • Domestic courts balanced interests in protecting the applicant's reputation with the journalist's right to freedom of expression, including his interest in keeping his sources anonymous • Relevant and sufficient reasons given for finding that legitimate interest of the public in being informed about criminal proceedings outweighed need to protect the applicant's honour and reputation
Art 6 § 1 (civil) • Reasonable time • Excessive length of proceedings before the first two levels of jurisdiction

Prepared by the Registry. Does not bind the Court.

STRASBOURG

8 October 2024

FINAL

08/01/2025

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Kajganić v. Serbia,

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

Gabriele Kucsko-Stadlmayer*, President*,
Tim Eicke,
Branko Lubarda,
Armen Harutyunyan,
Ana Maria Guerra Martins,
Anne Louise Bormann,
Sebastian Răduleţu*, judges*,
and Andrea Tamietti, *Section Registrar,*

Having regard to:

the application (no. 27958/16) 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, Ms Biljana Kajganić ("the applicant"), on 6 May 2016;

the decision to give notice to the Serbian Government ("the Government") of the complaints concerning the applicant's right to respect for her private life, the length of the proceedings in that regard, and the alleged lack of an effective domestic remedy in respect of those two complaints, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 3 September 2024,

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

INTRODUCTION

1. The case primarily concerns the applicant's right to respect for her private life under Article 8 of the Convention. The applicant complained, in particular, that the domestic authorities had failed to protect her right to reputation against defamatory statements made by a journalist. The case also concerns the length of the same proceedings and the alleged lack of effective domestic remedies, under Articles 6 and 13 of the Convention respectively.

THE FACTS

2. The applicant was born in 1951 and lives in Belgrade. She was represented by Mr A. Cvejić, a lawyer practising in Belgrade.

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

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

I. THE DISPUTED ARTICLE AND ENSUING PROCEEDINGS

5. The applicant is a lawyer practising in Belgrade. At the relevant time she was representing a certain X in criminal proceedings relating to the assassination of the Serbian Prime Minister on 12 March 2003.

6. On 9 September 2004 the weekly magazine *Vreme* published an article written by Y entitled "Associates, lawyers and old buddies". The article referred, *inter alia*, to the existence of a transcript of a telephone conversation, alleged to have taken place between the applicant and X in May 2004, in which the applicant had said that she had secured for X the status of a cooperating witness (*svedok saradnik*) through "her old buddies", who were "the two most powerful men in the country", in exchange for his false testimony in the proceedings. Those two men were also named in the article as the Minister of the Interior and the Director of the Security Intelligence Agency at the time (*Bezbednosno-informativna agencija*). The article further specified that the conversation had been recorded and a transcript had been made. The transcript had then been registered by the Directorate for the Fight against Organised Crime (*Uprava za borbu protiv organizovanog kriminala*) and sent to the then Prime Minister, the Minister of the Interior, the Minister of Justice, and the Chief of Public Security (*načelnik javne bezbednosti*). A photograph of the applicant was published next to the article.

7. On 17 September 2004 another media outlet published a statement by Y saying that he did not have a copy of the transcript, but that, in the event of court proceedings, he would have a legal right to obtain a copy, should he need it.

8. On the same day, 17 September 2004, the Head of the Directorate for the Fight against Organised Crime within the Ministry of the Interior wrote an internal report (*informacija*) stating that the tapping of X's telephone had been ordered by investigating judges, and that in parts of the article in question Y had published untrue information and statements that were conjecture (*pravio i određene konstrukcije*). On the same day, another internal report was prepared by a former Head of the Directorate for the Fight Against Organised Crime, who denied that he had sent any official note to the Prime Minister, the Ministers of the Interior and Justice or the Chief of Public Security (see paragraph 6 *in fine* above).

9. On 28 October 2004 the applicant instituted civil proceedings against Y, seeking compensation in the amount of 750,000 Serbian dinars (RSD) for the damage to her honour and reputation caused by the allegations in the article. During the proceedings she did not deny that she had talked to her client, but she denied that she had talked to him in May 2004.

10. On 5 November 2004 the applicant wrote a letter to the editor of *Vreme*, denying the allegations set out in the article. Her denial was published on a subsequent unspecified date.

11. In the course of the proceedings, following a remittal, the former Head of the Directorate for the Fight against Organised Crime repeated his earlier statement (see paragraph 8 *in fine* above). It would appear that the internal report of the Head of the Directorate for the Fight against Organised Crime was not presented before the courts (see paragraph 8 above).

12. Between 19 January and 24 July 2007 the Belgrade Third Municipal Court requested a copy of the transcript in question from the relevant State bodies (the Belgrade District Court, the District Public Prosecutor, and the Special Prosecutor's Office) on six occasions, but to no avail. Between 14 May and 3 August 2007 those requests were refused by the investigating judge on the grounds that the Code of Criminal Procedure in force at the time provided that material collected by means of "surveillance and recording of telephone conversations" could only be used in the proceedings in which the surveillance measure had been ordered and in relation to the person and the criminal offence covered by the measure, and also on the grounds that the proceedings in relation to which the material in question had been obtained had not been concluded with final effect (paragraph 5 above). The Special Prosecutor initially refused to disclose the requested transcripts on the basis that they were not in his possession, and later on the basis that the material in question was being examined in the course of another set of criminal proceedings.

13. On 14 February 2008 the Belgrade Third Municipal Court ruled partly in favour of the applicant and ordered Y to pay her RSD 350,000 on account of non-pecuniary damage. The judgment was served on the applicant on 13 July 2010. She did not lodge an appeal against it.

14. On 20 July 2010 Y lodged an appeal. In the course of the proceedings before the Court of Appeal he submitted that, being a private individual, he was unable to obtain the recordings and transcripts and submit them as evidence to the court.

15. On 19 June 2012 the Court of Appeal overturned the first-instance judgment, ruling against the applicant and ordering her to pay RSD 166,750 to Y for the costs of the proceedings. After re-establishing the facts, the court found that Y had obtained the information in question at the end of August 2004 by email from a source he trusted. Relying on Y's statement, the court also held that he had checked the information with the Security Intelligence Agency, the Prosecutor's Office for Organised Crime and the Ministry of the Interior, with individuals whose identities he could not reveal. The court also established that the disputed information had been published with the consent of the editor of the magazine, and that Y had not contacted the applicant before publishing the information in question as he had wanted to avoid possible adverse consequences preventing him from publishing the article. The court further found that Y had published information which he had believed to be true and which related to events and people about which the public had an interest in being informed, and which could be freely published

regardless of the way in which it had been obtained. Furthermore, that information had not constituted information the publishing of which was prohibited. The publishing of the information in question had not been aimed at harming the applicant's honour and reputation or causing her mental anguish but had been a matter of public interest. As her letter of denial had been published in the same magazine, she was not entitled to compensation. The court relied, *inter alia*, on Article 3 § 1, Article 4 §§ 1 and 2 and Articles 79 and 81 of the Public Information Act (see paragraphs 33-34 and 37-38 below).

16. The court also found that it had been for the applicant to prove Y's fault within the meaning of Article 81 of the Public Information Act (see paragraph 38 below) and to show that he had neglected his duty as a journalist (*novinarska pažnja*), which she had not done. The court held that Y had not neglected his duty, given that he had checked the information in question. The fact that he had not contacted the applicant was not a reason to come to a different conclusion as the applicant had written a denial, which had been duly published.

17. The court found that the legitimate interest of the public in being informed about facts and events in connection with the criminal proceedings relating to the assassination of the Prime Minister outweighed (*preovlađuje*) the need to protect the honour and reputation of a defence lawyer acting in those criminal proceedings. The published information had not focused on her personal life or professional activity, but on events that could affect the course of the criminal proceedings, which was in accordance with Article 10 of the Convention.

18. On 6 October 2012 the applicant lodged a constitutional appeal. She maintained that the right to freedom of expression provided for in Article 10 of the Convention was not absolute; it was limited in the interests of the protection of the reputation of others. She also submitted that it had taken more than two years for the first-instance court to serve the judgment on her, that the proceedings before the Court of Appeal had also taken two years, and that the overall length of the proceedings, namely eight years, had not been reasonable within the meaning of the Constitution and the Convention. She referred, *inter alia*, to Article 32 of the Constitution (see paragraph 30 below), emphasising the phrase "within a reasonable time", and requested, *inter alia*, that the court award her compensation for non-pecuniary damage resulting from the violation of her right to a trial within a reasonable time.

19. On 9 November 2015 the Constitutional Court dismissed the applicant's constitutional appeal in respect of her complaint about the lack of a fair trial and rejected the remainder of her complaints. The court referred to Articles 3, 4 and 81 of the Public Information Act (see paragraphs 33-34 and 38 below) and Article 10 of the Convention. It found that the freedom of expression was subject to certain limitations, one of them being the protection of the rights and reputation of others. It held that for the balance between the

freedom of expression and the right to respect for the honour and reputation of others, it was important to consider whether the content of the article in question related to events about which and individuals about whom the public had an interest in being informed. The court found that the article in question related to criminal proceedings relating to the assassination of the Prime Minister and had mentioned the applicant's conversation with her client about him obtaining the status of a cooperating witness. Therefore, it was indisputable that the article in question had contained information of public interest, that is, the public had had a legitimate interest in being informed about it.

20. The court further found that the applicant was not a public figure, but that as the defence lawyer of one of the accused in those criminal proceedings, which had attracted a lot of media attention, she had become known to the public. It certainly could not be said that the applicant was an ordinary private individual. When she had become a defence lawyer in those criminal proceedings she should have known (*morala da računa*) that there would be articles written about her in that capacity, which could possibly contain harmful content, and which came within the scope of the protection of the right to freedom of expression, as they contained information of public interest. Therefore, she had to have a greater degree of tolerance.

21. The Constitutional Court also held that the Court of Appeal's reasoning had been acceptable in finding that the article in question had not amounted to a gratuitous personal attack on the applicant's professional honour and reputation but rather had dealt with matters of public interest.

22. The Constitutional Court further acknowledged that freedom of journalistic expression involved certain duties and responsibilities. It found in that connection that the Court of Appeal's reasoning had been acceptable as it had found that the applicant had not shown that Y had neglected his duty as a journalist (*novinarsku pažnju*) or that he had not "taken reasonable measures of investigation before publishing the article in question". It noted that the Court of Appeal had found that Y had checked the origin, veracity and completeness of the published information, and that the applicant had not shown that Y was at fault, which was a necessary requirement to establish civil liability on the part of a journalist. The applicant's submission that Y had obtained the information in question from an unknown person and had checked it with other unknown persons related to the issue of the protection of journalistic sources. The court found that the protection of journalistic sources was one of the basic conditions of the freedom of the press. Referring to *Goodwin v. the United Kingdom* (27 March 1996, § 39, *Reports of Judgments and Decisions* 1996-II), the court noted that having regard to the importance of the protection of journalistic sources for press freedom in a democratic society and the potentially chilling effect an order of source disclosure had on the exercise of that freedom, such a measure could not be compatible with Article 10 of the Convention unless it was justified by an

overriding requirement in the public interest, which the court held was not the case in the present case. It also found that it was clear from the content of the entire article that there had been no intention to belittle the applicant. In addition, the applicant's denial had been published in the same magazine.

23. The court also found that the applicant had referred to a violation of her right to a trial within a reasonable time only incidentally (*usputno*) and without substantiating her complaint, which it therefore found unnecessary to examine on the merits.

II. OTHER RELEVANT FACTS

24. It appears from the case file that on an unspecified date before initiating civil proceedings against Y, the applicant had also initiated criminal proceedings against him for defamation (*kleveta*) in relation to the same article, following which Y had been acquitted.

25. The applicant submitted that both she and her client X had received threats, which she had reported on 22 July and 11 August 2004, and that on 11 September 2004 W (a cooperating witness) had threatened X's wife.

26. On 7 September 2004 the applicant made a public statement that X would not be a cooperating witness and would have the status of an accused.

27. On 22 October 2004 the Directorate for the Fight against Organised Crime took a statement from Z, another journalist who reported on the proceedings concerning the assassination of the Prime Minister. The statement was taken in relation to her complaint that there had been an attempt to break into her apartment. She submitted, *inter alia*, that she had met W, who had made a series of jokes at the applicant's expense and some comments, which had made Z feel uncomfortable.

28. In the course of the impugned proceedings one of the hearings was adjourned at the request of the applicant.

29. Between 19 April 2011 and 14 February 2012 the applicant requested the domestic courts to accelerate the proceedings on three occasions.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW AND PRACTICE

A. Constitution of the Republic of Serbia 2006 (*Ustav Republike Srbije*; published in the Official Gazette of the Republic of Serbia – "OG RS" – nos. 98/2006 and 115/2021)

30. Article 32 of the Constitution guarantees the right to a trial within a reasonable time.

B. Constitutional Court Act (*Zakon o Ustavnom sudu*; published in OG RS nos. 109/2007 and 99/2011)

31. Article 82 of this Act, as in force at the time, provided that a constitutional appeal could be lodged against an individual decision or against actions of a State body or an organisation entrusted with public powers after legal remedies had been exhausted. Paragraph 2 of that Article provided that a constitutional appeal could be lodged even if the legal remedies had not been exhausted in the case of a violation of the right to a trial within a reasonable time.

32. Article 85 provides that a constitutional appeal must indicate, *inter alia*, the human right guaranteed by the Constitution alleged to have been violated, the provision of the Constitution guaranteeing that right, the grounds for the appeal and the precise nature of the violation, as well as the specific request on which the Constitutional Court should decide.

C. Public Information Act (*Zakon o javnom informisanju*; published in OG RS nos. 43/2003, 61/2005, 71/2009, 89/2010 and 41/2011)

33. Article 3 of this Act, as in force at the time and in so far as relevant, provided that, prior to the publication of information about "an event, an occurrence or a certain person", the journalist and the editor-in-chief had to "check its origin, accuracy and completeness" with due diligence (*sa pažnjom primerenom okolnostima*). The journalist and the editor-in-chief had to convey information, ideas and opinions provided by other people credibly and completely.

34. Article 4 provided that media outlets could freely publish ideas, information and opinions about "occurrences, events and persons" where the public had a justifiable interest in knowing about them, unless legislation provided otherwise. That applied regardless of the manner in which the information had been obtained.

35. Article 46 provided that in the case of a violation of the right to respect for private life, the person concerned could bring an action against the editor-in-chief and request, *inter alia*, the removal of the disputed information from the publication, compensation for pecuniary and non-pecuniary damage and publication of the judgment.

36. Article 47 provided that a person whose rights or interests might be violated by the publication of information could ask the editor-in-chief to publish a denial, without payment. If the editor-in-chief failed to do so, the person in question could bring an action against the editor-in-chief seeking the publication of a response or a rectification.

37. Article 79 provided, in so far as relevant, that any person who had suffered harm as a consequence of incorrect or incomplete information being published by a media outlet was entitled to adequate compensation for

pecuniary and/or non-pecuniary damage in accordance with general regulations and the provisions of the Act, in addition to any other available redress.

38. Article 81 provided that a journalist would be liable for damage caused by the publication of untrue, incomplete or other information the publication of which was forbidden, if it was proved that the damage had been caused through the fault of that journalist.

D. Domestic practice

39. Between 9 February and 13 June 2012 the Constitutional Court delivered at least ten judgments in which it found a violation of the right to a trial within a reasonable time in various domestic proceedings and awarded the claimants compensation for non-pecuniary damage. At least seven of those proceedings were still ongoing at the time the constitutional appeals were lodged by the claimants.

40. Between 9 October and 22 November 2012 the Constitutional Court set aside (*poništavaju se*) 274 decisions of the High Judicial Council (*Visoki savet sudstva*) and ordered the claimants' reinstatement as judges.

41. Between 26 November 2015 and 8 February 2018 the Constitutional Court delivered at least five judgments in which it found a violation of the freedom of expression, quashed the relevant decisions of the lower courts and ordered a retrial.

42. Between 15 June 2016 and 2 October 2020 first-instance courts delivered at least twelve judgments awarding compensation for damage to honour and reputation caused by the publication of untrue information. All those judgments were upheld on appeal between 1 December 2016 and 11 March 2021.

43. Between 15 January 2018 and 23 December 2020 the Belgrade High Court delivered at least seven judgments ordering various media outlets to publish specific replies, and one judgment ordering a media outlet to correct information it had published.

44. Between 28 May 2018 and 18 June 2020 the Belgrade High Court delivered at least three judgments in which it found that the publication of certain information had violated the prohibition against hate speech and/or damaged the claimant's reputation and honour, and ordered that those judgments be published. In one of those cases the court also awarded compensation.

II. INTERNATIONAL MATERIALS

45. Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information was adopted by the Committee of

Ministers of the Council of Europe on 8 March 2000 and states, in so far as relevant:

"[The Committee of Ministers] recommends to the governments of member States:

1. to implement in their domestic law and practice the principles appended to this recommendation,

...

Appendix to Recommendation No. R (2000) 7

Principles concerning the right of journalists not to disclose their sources of information

...

Principle 1 (Right of non-disclosure of journalists)

Domestic law and practice in member States should provide for explicit and clear protection of the right of journalists not to disclose information identifying a source in accordance with Article 10 of the Convention ... and the principles established herein, which are to be considered as minimum standards for the respect of this right.

Principle 2 (Right of non-disclosure of other persons)

Other persons who, by their professional relations with journalists, acquire knowledge of information identifying a source through the collection, editorial processing or dissemination of this information, should equally be protected under the principles established herein.

Principle 3 (Limits to the right of non-disclosure)

a. The right of journalists not to disclose information identifying a source must not be subject to other restrictions than those mentioned in Article 10, paragraph 2 of the Convention. In determining whether a legitimate interest in a disclosure falling within the scope of Article 10, paragraph 2 of the Convention outweighs the public interest in not disclosing information identifying a source, competent authorities of member States shall pay particular regard to the importance of the right of non-disclosure and the pre-eminence given to it in the case-law of the European Court of Human Rights, and may only order a disclosure if, subject to paragraph *b*, there exists an overriding requirement in the public interest and if circumstances are of a sufficiently vital and serious nature.

b. The disclosure of information identifying a source should not be deemed necessary unless it can be convincingly established that:

i. reasonable alternative measures to the disclosure do not exist or have been exhausted by the persons or public authorities that seek the disclosure, and

ii. the legitimate interest in the disclosure clearly outweighs the public interest in the non-disclosure, bearing in mind that:

- an overriding requirement of the need for disclosure is proved,

- the circumstances are of a sufficiently vital and serious nature,

- the necessity of the disclosure is identified as responding to a pressing social need, and

- member States enjoy a certain margin of appreciation in assessing this need, but this margin goes hand in hand with the supervision by the European Court of Human Rights.

c. The above requirements should be applied at all stages of any proceedings where the right of non-disclosure might be invoked.

Principle 4 (Alternative evidence to journalists' sources)

In legal proceedings against a journalist on grounds of an alleged infringement of the honour or reputation of a person, authorities should consider, for the purpose of establishing the truth or otherwise of the allegation, all evidence which is available to them under national procedural law and may not require for that purpose the disclosure of information identifying a source by the journalist."

46. For the precise application of the Recommendation, the explanatory memorandum specified the meaning of certain terms as follows:

"*c. Source*

17. Any person who provides information to a journalist shall be considered as his or her 'source'. The protection of the relationship between a journalist and a source is the goal of this Recommendation, because of the 'potentially chilling effect' an order of source disclosure has on the exercise of freedom of the media (see, Eu. Court H.R., *Goodwin v. the United Kingdom*, 27 March 1996, para. 39). Journalists may receive their information from all kinds of sources. Therefore, a wide interpretation of this term is necessary. The actual provision of information to journalists can constitute an action on the side of the source, for example when a source calls or writes to a journalist or sends to him or her recorded information or pictures. Information shall also be regarded as being 'provided' when a source remains passive and consents to the journalist taking the information, such as the filming or recording of information with the consent of the source.

D. *Information identifying a source*

18. In order to protect the identity of a source adequately, it is necessary to protect all kinds of information which are likely to lead to the identification of a source. The potential to identify a source therefore determines the type of protected information and the range of such protection. As far as its disclosure may lead to an identification of a source, the following information shall be protected by this Recommendation:

i. the name of a source and his or her address, telephone and telefax number, employer's name and other personal data as well as the voice of the source and pictures showing a source;

ii. 'the factual circumstances of acquiring this information', for example the time and place of a meeting with a source, the means of correspondence used or the particularities agreed between a source and a journalist;

iii. 'the unpublished content of the information provided by a source to a journalist', for example other facts, data, sounds or pictures which may indicate a source's identity and which have not yet been published by the journalist;

iv. 'personal data of journalists and their employers related to their professional work', i.e. personal data produced by the work of journalists, which could be found, for example, in address lists, lists of telephone calls, registrations of computer-based communications, travel arrangements or bank statements.

19. This list is not necessarily exhaustive. Paragraph *c* has to be read and interpreted in a manner which allows an adequate protection of a source in a given case. The decisive factor is whether any additional information is likely to lead to the identification of a source."

47. On 25 January 2011 the Parliamentary Assembly of the Council of Europe adopted Recommendation 1950 (2011) on the protection of journalists' sources, which, *inter alia*, states as follows:

> "2. Recalling Committee of Ministers Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information, the Assembly reaffirms that the protection of journalists' sources of information is a basic condition for both the full exercise of journalistic work and the right of the public to be informed on matters of public concern, as expressed by the European Court of Human Rights in its case law under Article 10 of the Convention.
>
> ...
>
> 5. Public authorities must not demand the disclosure of information identifying a source unless the requirements of Article 10, paragraph 2, of the Convention are met and unless it can be convincingly established that reasonable alternative measures to disclosure do not exist or have been exhausted, the legitimate interest in the disclosure clearly outweighs the public interest in the non-disclosure, and an overriding requirement of the need for disclosure is proved.
>
> 6. The disclosure of information identifying a source should therefore be limited to exceptional circumstances where vital public or individual interests are at stake and can be convincingly established. ...
>
> 7. Recalling Recommendation Rec(2003)13 of the Committee of Ministers on the provision of information through the media in relation to criminal proceedings, the Assembly reaffirms that the public must be able to receive information through the media about the activities of police services and judicial authorities, including court proceedings of public interest, as far as this does not prejudice ... the right to privacy under Article 8 of the Convention or the secrecy of investigations and police inquiries.
>
> 8. The right of journalists not to disclose their sources applies also to sources from within the police or judicial authorities. Where such provision of information to journalists was illegal, police and judicial authorities must pursue internal investigations instead of asking journalists to disclose their sources."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

48. The applicant complained that the State had failed to protect her right to a reputation under Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

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

B. Merits

1. The parties' submissions

(a) The applicant

50. The applicant reiterated her complaint and submitted that Y had not merely subjected her to criticism in his article but, instead, had portrayed her as someone who had induced a defendant to falsely report a third party (one of the leaders of organised crime in Serbia) for a serious crime, and as someone who had abused her alleged links with political figures and high-ranking officials, thereby obstructing the course of justice; as a result, she had been practically dragged into the sphere of organised crime. The journalist in question had thereby exposed her and her family to danger. He had done that without any evidence, hiding behind the anonymity of the alleged source of information. The information in question had been subsequently denied by two State officials (see paragraph 8 above), as well as by X. Y had also insulted and slandered her, which released the Government from the obligation to refrain from imposing restrictions on the freedom of expression. The applicant also argued that the people with whom Y had allegedly checked the veracity of the information in question had not been covered by the protection of journalistic sources, as they had not been the source of that information themselves.

51. The applicant stated that two days prior to the publication of the article in question, she had made a public statement to the effect that X would not be a cooperating witness (see paragraph 26 above). This served as proof that the information published by Y had been untrue, and it should have been reason enough for Y to have contacted her for comment before publishing his article, which he had failed to do.

52. The applicant also referred to the Government's observations that the information in question had not portrayed her as an incompetent lawyer or as one who did not represent the interests of her clients (see paragraph 55 below). She argued that the inevitable conclusion from that submission was that inducing someone to give a false statement, obstructing the course of justice and abusing political and criminal connections in fact amounted to desirable and high-quality representation by a lawyer and did her credit.

(b) The Government

53. The Government argued that there had been no violation of Article 8. They submitted, in particular, that the domestic courts had adequately balanced the rights under Articles 8 and 10, taking into account the considerable public interest which had existed and the applicant's status as a public figure while respecting the importance of the confidentiality of journalistic sources and considering the absence of more serious consequences for the applicant. They referred to the findings of the Constitutional Court and submitted that that court had given detailed reasoning in its judgment and had applied the Court's case-law.

54. In particular, the Government maintained that Y's article had been part of a very long and intense public debate surrounding the criminal proceedings relating to the assassination of the Prime Minister. They submitted that it was hard to imagine a topic of greater public interest or one which would require a more cautious approach by the national courts when imposing sanctions, in whatever form, on journalists investigating the topic and informing the public about it. The Government submitted that the applicant had not disputed the findings of the Constitutional Court that she could not be considered a private individual and maintained, in addition, that she had not shown that she had suffered any damage as a result of the publication of the article.

55. The disputed article had not contained any information about the applicant's private or family life, nor had it been specifically directed against her. Rather, it had dealt with the general social problem of collusion (*bliskosti*) between certain State authorities, organised crime networks and members of the judiciary, including lawyers. Even though it had not portrayed the applicant in a particularly favourable light, it certainly had not portrayed her as an incompetent lawyer or as one who did not represent the interests of her clients; quite the contrary. The Government also submitted that informing the subject of the information in question before publishing it was not always necessary.

56. They argued that the right of journalists not to reveal their sources was not a privilege but an integral part of the right to information which needed particular protection, and emphasised Y's multiple attempts to verify the information in question. They submitted that the applicant's automatic assumption that Y's secret source had been fictional was irreconcilable (*nespojiv*) with the freedom of the media, and had been unsubstantiated, as had been her submission that other individuals with whom Y had checked the information in question had not been covered by the protection of confidentiality of sources (see paragraph 45 above). They also argued that Y – who had died in the meantime – had been respected in his profession, which also supported the conclusion that his sources had been legitimate. Finally, the Government were unaware of any statement made by X to which the applicant had referred (see paragraph 50 above). Furthermore, the statement

of a police employee was irrelevant for the proceedings before the Court (see paragraph 8 above).

2. The Court's assessment

(a) The general principles

57. In cases which require the right to respect for private life to be balanced against the right to freedom of expression, the outcome of such cases should not, in theory, vary according to whether the application has been lodged with the Court under Article 8 of the Convention by the person who was the subject of the news report, or under Article 10 by the publisher of the report. Indeed, as a matter of principle those rights deserve equal respect (see *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, § 91, ECHR 2015 (extracts); *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, § 77, 27 June 2017; and, *mutatis mutandis*, *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], no. 931/13, § 123, 27 June 2017). Accordingly, the margin of appreciation should in theory be the same in both cases (see *Couderc and Hachette Filipacchi Associés*, cited above, § 91 *in fine*).

58. The relevant general principles in respect of balancing these two rights are set out in, for example, *Von Hannover v. Germany (no. 2)* ([GC], nos. 40660/08 and 60641/08, §§ 95-113, ECHR 2012), *Axel Springer AG v. Germany* ([GC], no. 39954/08, §§ 78-95, 7 February 2012) and *Perinçek v. Switzerland* ([GC], no. 27510/08, §§ 198-99, ECHR 2015 (extracts)). The criteria relevant for the balancing exercise include: the contribution to a debate of public interest, how well known the person affected is, the subject of the news report, the prior conduct of the person concerned, the content, form and consequences of the publication, and the circumstances in which the information was obtained (see *Von Hannover*, §§ 109-13; *Axel Springer AG*, § 93; *Couderc and Hachette Filipacchi Associés*, § 93; and *Satakunnan Markkinapörssi Oy and Satamedia Oy*, § 165, all cited above). Of course, some of them may have more or less relevance given the particular circumstances of a given case (see *Satakunnan Markkinapörssi Oy and Satamedia Oy*, cited above, § 166) and are not exhaustive and could be adapted in the light of the particular circumstances of the case (see *Axel Springer SE and RTL Television GmbH v. Germany*, no. 51405/12, § 42, 21 September 2017).

59. Where the balancing exercise between the rights under Articles 8 and 10 has been undertaken by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its own view for that of the domestic courts (see *Palomo Sánchez and Others v. Spain* [GC], nos. 28955/06 and 3 others, § 57, ECHR 2011; *Haldimann and Others v. Switzerland*, no. 21830/09, § 55,

ECHR 2015; and *Delfi AS v. Estonia* [GC], no. 64569/09, § 139, ECHR 2015).

(b) Application of these principles to the present case

60. In order for Article 8 to come into play in defamation cases, an attack on a person's reputation must attain a certain level of seriousness and be made in a manner causing prejudice to the personal enjoyment of the right to respect for private life (see *Axel Springer AG*, cited above, § 83; *Bédat v. Switzerland* [GC], no. 56925/08, § 72 *in fine*, 29 March 2016; and *Medžlis Islamske Zajednice Brčko and Others*, cited above, § 76). The level of seriousness of the interference required for Article 8 of the Convention to be applicable in terms of the protection of reputation has been described as such a serious interference with private life as to undermine the personal integrity (see *Karakó v. Hungary*, no. 39311/05, § 23, 28 April 2009).

61. The article in question written by Y alleged that the applicant, who is a lawyer, had arranged for her client X to be granted the status of a cooperating witness in criminal proceedings relating to the assassination of the Prime Minister, in exchange for giving false testimony (see paragraph 6 above).

62. The Court considers that such an assertion was capable of tarnishing the applicant's reputation and of causing her harm in both her professional and her social environment. Accordingly, the allegations attained the requisite level of seriousness to be able to harm the applicant's rights under Article 8 of the Convention (see *Stancu and Others v. Romania*, no. 22953/16, §§ 120-121, 18 October 2022). The Court will therefore examine whether the domestic authorities struck a fair balance between, on the one hand, the applicant's right to respect for her reputation under Article 8 and, on the other, Y's right to freedom of expression, as protected by Article 10 (see *Matalas v. Greece*, no. 1864/18, § 45, 25 March 2021).

(i) Contribution to a debate of general interest

63. The Court reiterates that a high level of protection of freedom of expression, with the national authorities thus having a particularly narrow margin of appreciation, will normally be accorded where the remarks in question concern a matter of public interest (see *Nilsen and Johnsen v. Norway* [GC], no. 23118/93, § 46 *in fine*, ECHR 1999-VIII; *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 46, ECHR 2007-IV; and *Morice v. France* [GC], no. 29369/10, § 125, ECHR 2015). The Court has recognised the existence of such an interest, for example, where the publication in question concerned information about criminal proceedings in general (see *Dupuis and Others v. France*, no. 1914/02, § 42, 7 June 2007, and *July and SARL Libération v. France*, no. 20893/03, § 66, ECHR 2008 (extracts)), information regarding a specific

criminal case (see *White v. Sweden*, no. 42435/02, § 29, 19 September 2006, and *Egeland and Hanseid v. Norway*, no. 34438/04, § 58, 16 April 2009) or questions concerning the functioning of the justice system (see *July and SARL Libération*, § 66, and *Morice*, § 128, both cited above).

64. The Court observes that in the present case the domestic courts found that the information in question related to a matter of public interest (see paragraphs 15, and 19-21 above), thus explicitly accepting that the published information contributed to a public debate. The Court also notes that the disputed information in the present case related to the criminal proceedings conducted in connection with the assassination of the Serbian Prime Minister (see paragraphs 5 and 6 above) and was therefore of serious public interest and concern (see *White*, cited above, § 29). In particular, it concerned alleged irregularities related to testifying and to obtaining the status of a cooperating witness, which clearly concerned an issue of public interest and, as such, the publication of that information formed an integral part of the task of the media in a democratic society (see, *mutatis mutandis*, *Kasabova v. Bulgaria*, no. 22385/03, § 56, 19 April 2011).

(ii) How well known the person concerned is and what the subject of the report is

65. The Court reiterates that a distinction has to be made between private individuals and persons acting in a public context as political or public figures. Accordingly, whilst a private individual unknown to the public may claim particular protection of his or her right to private life, the same is not true of public figures, in respect of whom the limits of critical comment are wider, as they inevitably and knowingly expose themselves to public scrutiny and must therefore display a particularly high degree of tolerance (see *Milosavljević v. Serbia*, no. 57574/14, § 59, 25 May 2021, and the authorities cited therein). While the Court has found that politicians inevitably and knowingly lay themselves open to close scrutiny of their every word and deed by both journalists and the public at large (see, *inter alia*, *Lingens v. Austria*, 8 July 1986, § 42, Series A no. 103), this principle applies not only to politicians, but to every person who could be regarded as a public figure, namely persons who, through their acts or even their position, have entered the public arena (see *Kapsis and Danikas v. Greece*, no. 52137/12, § 35, 19 January 2017, and, *mutatis mutandis*, *Verlagsgruppe News GmbH v. Austria (no. 2)*, no. 10520/02, § 36, 14 December 2006). A fundamental distinction also needs to be made between reporting facts capable of contributing to a debate in a democratic society, relating to politicians in the exercise of their official functions for example, and reporting details of the private life of an individual who does not exercise such functions (see *Von Hannover*, cited above, § 110, and the authorities cited therein).

66. The Court notes that the domestic courts found that the applicant was not a public figure, but that as the legal representative of one of the accused in high-profile criminal proceedings she had become known to the public and

that therefore it could not be said that she was an ordinary private individual either. As such, she could have expected that there would be articles relating to her in her professional capacity (see paragraph 20 above). The courts also noted that the article in question had not amounted to a gratuitous personal attack on her but had rather dealt with a matter of public interest (see paragraphs 15 and 21 above).

67. The Court notes the domestic courts' findings that by acting as a defence lawyer in such high-profile criminal proceedings, the applicant entered the public arena and could have expected media coverage in that regard. However, it would emphasise, in this context, that everyone charged with a criminal offence has the right to defend himself or herself, including through legal assistance (see *Pakelli v. Germany*, 25 April 1983, § 31, Series A no. 64) and would underline the importance of the role defence lawyers play in this regard and of their freedom of exercise of the profession of lawyer (see Recommendation Rec(2000)21 of the Council of Europe's Committee of Ministers to member States on the freedom of exercise of the profession of lawyer (adopted on 25 October 2000) and The Basic Principles on the Role of Lawyers (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba, from 27 August to 7 September 1990), cited in *Morice*, cited above, §§ 56-57). That said, the Court also notes that two days before Y's article had been published, the applicant had already made a public statement about the status of her client in the proceedings (see paragraph 26 above). The Court further observes that the article in question was indeed limited to the alleged irregularities in how she performed her role as a defence lawyer, that is, it focused only on her professional activity, and not on any other aspect of her private or family life.

(iii) Conduct of the person concerned prior to the publication of the article

68. The Court considers this criterion to be of no relevance in the circumstances of the present case (see *Radio Broadcasting Company B92 AD v. Serbia*, no. 67369/16, § 80, 5 September 2023; see also paragraph 58 *in fine* above).

(iv) Content, form and consequences of the publication

69. The Court reiterates that States are permitted, or even obliged by their positive obligations under Article 8 of the Convention to regulate the exercise of freedom of expression so as to ensure adequate protection by the law of an individual's reputation; but they must not do so in a manner that unduly deters the media from fulfilling their "public watchdog" role (see *Atamanchuk v. Russia*, no. 4493/11, § 66, 11 February 2020). The Court would also emphasise that if the national courts apply an overly rigorous approach to the assessment of journalists' professional conduct, journalists could be unduly

deterred from discharging their function of keeping the public informed. The courts must therefore take into account the likely impact of their rulings not only on the individual cases before them but also on the media in general (see *Yordanova and Toshev v. Bulgaria*, no. 5126/05, § 55, 2 October 2012, and the authorities cited therein). Their margin of appreciation is thus circumscribed by the interest of a democratic society in enabling the press to play its vital role in imparting information of serious public concern (see *Kasabova*, cited above, § 55).

70. The Court reiterates that the right of journalists to protect their sources is part of the freedom to "receive and impart information and ideas without interference by public authorities" protected by Article 10 of the Convention and serves as one of its important safeguards. The protection of journalistic sources is one of the cornerstones of freedom of the press. Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result the vital "public watchdog" role of the press may be undermined and the ability of the press to provide accurate and reliable information may be adversely affected (see *Sanoma Uitgevers B.V. v. the Netherlands* [GC], no. 38224/03, § 50, 14 September 2010; see also *Tillack v. Belgium*, no. 20477/05, § 53, 27 November 2007, and *Ressiot and Others v. France*, nos. 15054/07 and 15066/07, § 99, 28 June 2012). The Court reiterates that the right of journalists not to disclose their sources cannot be considered a mere privilege to be granted or taken away depending on the lawfulness or unlawfulness of their sources, but is part and parcel of the right to information, to be treated with the utmost caution (see *Nagla v. Latvia*, no. 73469/10, § 97, 16 July 2013, and *Tillack*, cited above, § 65). In view of the importance of the protection of journalistic sources for press freedom in a democratic society, and the potentially chilling effect an order of source disclosure has on the exercise of that freedom, a requirement for a journalist to disclose the identity of his or her source cannot be compatible with Article 10 of the Convention unless it is justified by an overriding requirement in the public interest (see ibid., § 53; and *Sanoma Uitgevers B.V.*, cited above, § 90), for which it should be ascertained that it was necessary in the specific circumstances (see *Jecker v. Switzerland*, no. 35449/14, § 41, 6 October 2020).

71. Turning to the present case, the Court notes that the applicant did not complain about the lawfulness of the surveillance measures, that is, about the interception and recording of her telephone communications, or the leak of the information obtained thereby, nor did she allege a breach of the confidentiality of lawyer-client communication, which enjoys strengthened protection under Article 8 (see *Saber v. Norway*, no. 459/18, § 51, 17 December 2020). Instead, she contested, in substance, the content of the article written by Y, that is, she contested the veracity of the information contained therein and complained that the respondent State had failed to protect her in that regard (see paragraphs 50 and 48 above, in that order).

72. The Court notes in that regard that the domestic courts found that Y had published information, obtained from a confidential source, which he had believed to be accurate (see paragraph 15 above). They also found that he had complied with his duty of diligence by verifying the information in question (see paragraphs 15 and 22 above). The Court further observes that the domestic courts acknowledged the importance of the protection of confidential sources and in this regard they found that ordering a disclosure of source was not justified in the present case (see paragraph 22 above). They also attempted, on more than one occasion, to obtain a copy of the transcript in question of their own motion from the relevant State bodies, but to no avail (see paragraph 12 above). They further considered the fact that Y had not contacted the applicant before publishing the article. However, they were satisfied that the applicant had denied the allegations in question and that her denial had been duly published by the same media outlet (see paragraphs 10, 15-16, and 22 *in fine* above). The Court reiterates in this connection that Article 8 does not require a legally binding pre-notification requirement in such circumstances (see *Mosley v. the United Kingdom*, no. 48009/08, § 132, 10 May 2011), and that the primary objective of the right of reply is precisely to allow individuals to challenge false information published about them in the press (see *Axel Springer SE v. Germany*, no. 8964/18, § 34, 17 January 2023). Lastly, the Court of Appeal also found that the information in question did not divulge any private details (see, *mutatis mutandis*, *Fuchsmann v. Germany*, no. 71233/13, § 51, 19 October 2017), but focused on events that could affect the course of criminal proceedings and dealt with matters of public interest (see paragraphs 17 and 21 above).

(c) Conclusion

73. Having regard to all the above considerations, the Court is satisfied that the domestic courts balanced the interests in protecting the applicant's reputation with Y's right to freedom of expression, including his interest in keeping his sources anonymous, and gave relevant and sufficient reasons for finding that the legitimate interest of the public in being informed about the criminal proceedings relating to the assassination of the Prime Minister outweighed the need to protect the honour and reputation of a defence lawyer in those criminal proceedings.

74. Accordingly, there has been no violation of Article 8 of the Convention.

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

75. The applicant complained under Article 6 of the Convention about the length of the proceedings. The relevant parts of Article 6 § 1 read as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

A. Admissibility

76. The Government submitted that the applicant had failed to properly make use of a constitutional appeal in respect of this complaint (see paragraph 32 above). In particular, she had only incidentally referred to a violation of the right to a trial within a reasonable time without giving any reasons or explaining why the length of the trial had been contrary to the Constitution of Serbia or the Convention, and without having made a formal request for a violation of her right to a trial within a reasonable time to be found. If she had been dissatisfied with the length of the proceedings she could have lodged a constitutional appeal on that account at any point in the course of the proceedings in accordance with Article 82 § 2 of the Constitutional Court Act (see paragraphs 31 and 39 above).

77. The applicant contested the Government's submissions.

78. The relevant principles as regards the exhaustion of domestic remedies are set out in *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-45, 27 November 2023). In particular, Article 35 § 1 requires that the complaints intended to be made subsequently in Strasbourg should have been made to the appropriate domestic body, at least in substance (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 72 *in limine*, 25 March 2014, and the authorities cited therein).

79. Turning to the present case, the Court notes that the applicant explicitly raised her complaint in her constitutional appeal, referred to Article 32 of the Constitution, and explicitly requested the Constitutional Court to find a violation of the right to a trial within a reasonable time (see paragraphs 18 and 30 above). It also notes that Article 82 § 2, referred to by the Government, provided only for the possibility – as opposed to an obligation – of lodging a constitutional appeal in exceptional circumstances before the relevant remedies had been exhausted, if the alleged violation in question concerned the right to a trial within a reasonable time (see paragraph 31 above), thus leaving it to claimants to choose whether to pursue such an appeal during the proceedings in question or afterwards. The Court is therefore satisfied that the applicant sufficiently raised her complaint before the Constitutional Court and did so in due time. The Government's objection in this regard must therefore be dismissed.

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

B. Merits

1. The parties' submissions

81. The applicant reiterated her complaint and contested the Government's submissions (see paragraph 82 below). She argued, in particular, that the judicial reform referred to by the Government (ibid.) had begun in 2010, whereas the proceedings in issue had been initiated in 2004, and, as such, the majority of the proceedings had been conducted before the judicial reform had even begun. She also complained that it had taken more than three years for the Constitutional Court to decide on her constitutional appeal.

82. The Government maintained that the case had been legally and factually complex, and part of the proceedings had coincided with the reforms of the judiciary. The scope of the reforms had affected the regular functioning of the courts and their results had been disputable for some time (see paragraph 40 above). The applicant had also contributed to the length of the proceedings by requesting that hearings be adjourned and filing additional submissions. The subject matter of the proceedings had not been of an urgent nature, and no vital interest of the applicant had depended on its outcome. Finally, the proceedings had lasted for slightly more than seven years and seven months, during which time the case had been examined twice at two levels of jurisdiction, which could not be considered unreasonably long.

2. The Court's assessment

83. The relevant principles in this regard are set out in, for example, *Comingersoll S.A. v. Portugal* ([GC], no. 35382/97, § 19, ECHR 2000-IV).

84. Turning to the present case, the Court considers that it was not particularly complex. It consisted, in substance, in balancing the applicant's right to protection of her reputation against Y's right to freedom of expression. Nor, in the Court's view, did the conduct of the applicant contribute to the length of the proceedings, keeping in mind that she only once requested that a hearing be adjourned (see paragraph 28 above). As regards the conduct of the judicial authorities, the Court notes that there was an unjustified delay of two years in serving a first-instance judgment on the applicant (see paragraph 13 above). Quite apart from the fact that the judicial reform referred to by the Government had started six years after the proceedings had already been initiated, a fact which has not been contested by the Government, the Court reiterates that it is for the Contracting States to organise their judicial system in such a way that their courts are able to guarantee everyone the right to obtain a final decision in disputes concerning civil rights and obligations within a reasonable time (see *Comingersoll S.A.*, cited above, § 24).

85. Having regard to its case-law on the subject, the Court considers that the length of the proceedings before the civil courts of two levels of jurisdiction, namely more than seven years and seven months, was excessive and failed to meet the "reasonable time" requirement.

86. The Court considers that the length of the proceedings before the Constitutional Court, namely three years and two months, although somewhat lengthy, cannot be regarded excessive, especially given their non-urgent nature (see, *a contrario*, *Milovanović v. Serbia*, no. 56065/10, §§ 87-90, 8 October 2019, where the Court found a violation of the reasonable-time requirement in Article 6 § 1 of the Convention in an urgent case relating to child custody, and in which the proceedings before the Constitutional Court lasted nearly three years and five months).

87. In view of its conclusion in respect of the length of the civil proceedings (see paragraph 85 above) the Court finds that there has been a violation of Article 6 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

88. Lastly, the applicant complained under Article 13 of a lack of an effective domestic remedy for her complaints under Articles 6 and 8 of the Convention.

89. Article 13 reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. The parties' submissions

90. The Government submitted that the applicant had had effective domestic remedies for her complaints. In particular, for her complaint under Article 6 she could have made use of a constitutional appeal, which she had failed to do properly. In respect of her complaint under Article 8, quite apart from criminal proceedings for defamation or libel (see paragraph 24 above), she could have made use of a number of civil-law remedies, such as the procedure for publishing her denial, proceedings to publish a rectification, or civil proceedings to seek compensation for a violation of her honour and reputation (see paragraphs 36-38 above). They also referred to the relevant domestic case-law (see paragraphs 42-44 above). The Government maintained that the applicant had had her denial published, she had initiated civil proceedings and, lastly, she had made use of a constitutional appeal, which was an effective domestic remedy for all her grievances.

91. The applicant reiterated her complaint. In particular, she argued that while a claim for compensation for damage to honour and reputation was

formally part of the domestic law, she had nevertheless been deprived of that right in view of the domestic courts' conclusions.

B. The Court's conclusion

92. The relevant principles in this regard are set out in, for example, *Kudła v. Poland* ([GC], no. 30210/96, § 157, ECHR 2000-XI). In particular, the "effectiveness" of a "remedy" within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant (ibid.).

93. Turning to the present case, the Court notes that the applicant had at her disposal various remedies for her complaints (see paragraphs 32, and 35-38 above). In particular, she opted for civil proceedings for her grievances under Article 8 of the Convention, after which she made use of a constitutional appeal, in which she raised both her complaints under Articles 6 and 8 (see paragraphs 9 and 18 above). Her complaints were examined by the civil courts and the Constitutional Court (see paragraphs 13-23 above). She also sent a letter to the editor-in chief, denying the allegations set out in the article, and her denial was published (see paragraph 10 above). The fact that the applicant disagreed with the courts' conclusions does not make the remedies in question ineffective (see also paragraphs 39-44 above concerning the general effectiveness of the remedies in question). Accordingly, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

94. 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

95. The applicant claimed 166,750 Serbian dinars (RSD) in respect of pecuniary damage (see paragraph 15 above), and RSD 750,000 in respect of non-pecuniary damage, which, according to her, corresponded to an amount awarded in the domestic proceedings in respect of non-pecuniary damage.

96. The Government contested the applicant's claims as unfounded and excessive. In particular, contrary to her allegations, none of the domestic courts had awarded the amount claimed in respect of non-pecuniary damage.

97. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant 2,100 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

98. The applicant also claimed, in total, RSD 549,000 (approximately EUR 4,677) in respect of costs and expenses: RSD 249,000 for costs and expenses incurred before the domestic courts and RSD 300,000 for those incurred before the Court. She submitted a list of the expenses allegedly borne and referred to the Bar Association tariff in force at the time of the submission of her claim for just satisfaction.

99. The Government submitted that the tariff in accordance with which the applicant had calculated the costs was higher than the one which had been in force at the time. In any event, she had failed to submit any evidence to show that she had actually paid the amounts claimed, which was contrary to Rule 60 of the Rules of Court.

100. 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 *Mirković and Others v. Serbia*, nos. 27471/15 and 12 others, § 172, 26 June 2018). In the present case, regard being had to the documents in its possession and the above criteria, the Court rejects the applicant's claim as unsubstantiated.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning the applicant's right to respect for her private life and the length of the proceedings admissible and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 8 of the Convention;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

4. *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 2,100 (two thousand one hundred euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (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;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 October 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti Registrar	Gabriele Kucsko-Stadlmayer President