

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

FIFTH SECTION

# CASE OF SHEVCHUK v. UKRAINE

*(Application no. 474/21)*

JUDGMENT

*This version was rectified on 25 June 2026 at 12 noon*
*under Rule 81 of the Rules of Court*

Art 6 § 1 (civil) • Impartial tribunal • Applicant's dismissal from his position as a judge and President of the Constitutional Court which acted as a disciplinary body in his case • Art 6 applicable • Constitutional Court constituted a "tribunal" which examined the applicant's case • First condition of the *Eskelinen* test not met • Lack of objective impartiality of two Constitutional Court judges who made the key accusations against the applicant, initiated the proceedings against him, actively pursued those accusations in the proceedings, and decided on the merits of his case • No indication that the Constitutional Court addressed the applicant's concerns about those judges' participation • Absence of rules on recusal of Constitutional Court judges in such proceedings at the time or requiring the applicant's challenge to be heard • No compelling reasons why the two judges needed to sit on and decide the case
Art 8 • Private life • Interpretation of relevant domestic rules in the decision to dismiss the applicant did not meet the requirements of clarity and foreseeability • Interference not "in accordance with the law"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

25 June 2026

**FINAL**

25/09/2026

*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 Shevchuk v. Ukraine,**

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

Kateřina Šimáčková*, President*,
María Elósegui,
Gilberto Felici,
Diana Sârcu,
Vahe Grigoryan,
Sébastien Biancheri,
Nicholas Emiliou*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 474/21) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Ukrainian national, Mr Stanislav Volodymyrovych Shevchuk ("the applicant"), on 28 December 2020;

the decision to give notice of the application to the Ukrainian Government ("the Government");

the withdrawal of Mr Mykola Gnatovskyy, the judge elected in respect of Ukraine, from sitting in the case (Rule 28 § 3 of the Rules of Court);

the decision of the President of the Section under Rule 29 § 2 (b) that less than three of the persons indicated in the list of ad hoc judges submitted in advance by the Government in accordance with Article 26 § 4 of the Convention and Rule 29 § 1 (a) satisfied the conditions set out in paragraph 1 (c) of this Rule;

the decision of the President of the Section to appoint Judge Gilberto Felici to sit as ad hoc judge (Article 26 § 4 of the Convention and Rule 29 § 2 (b)) in place of Mr Gnatovskyy;

Having deliberated in private on 2 June 2026,

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

# INTRODUCTION

1. The present case concerns, mainly under Articles 6 § 1 and 8 of the Convention, the dismissal of the applicant from his position as a judge of the Constitutional Court of Ukraine (hereafter also "CCU") and the refusal of the domestic administrative court to hear his claim for reinstatement.

# THE FACTS

2. The applicant was born in 1969 and lives in Kyiv. The applicant was represented by Mr A.V. Savchuk and Mr D.V. Kukhnyuk, lawyers practising in Kyiv.

3. The Government were represented by their Agent, Ms M. Sokorenko, from the Ministry of Justice.

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

## I. BACKGROUND EVENTS

5. On 13 March 2014 the applicant was elected as a judge of the CCU by the Parliament of Ukraine for a nine-year non-renewable term. In February 2018 he was elected as its President.

6. It appears from the parties' submissions that, at the time of the proceedings concerning the applicant, the CCU was fully constituted with all eighteen of its judges in office.

7. On 13 March 2019 Judges M., Sa. and Sl. circulated a 32-page memorandum addressed to all the other CCU judges. They accused the applicant of systematically exceeding his authority, attempting to unlawfully expand his powers over the CCU and its Secretariat, and engaging in numerous political and administrative actions (such as unreported meetings with the President of Ukraine) that were incompatible with judicial independence. They alleged that he had created unlawful freelance advisory positions, pressured Secretariat staff and ignored legal procedures, and that he had been unjustifiably absent from work and misrepresented his external activities as court business when they were in fact projects for his personal advancement. His conduct, they argued, had destabilised the functioning of the Constitutional Court. For the three authors of the memorandum, his activities as President of the Constitutional Court showed convincingly that his election to that position more than a year previously in 2018 had been a mistake and that steps should be taken immediately to prevent the applicant's presidency from leading the court into a state of collapse.

8. On 14 March 2019 an article was published in *Dzerkalo Tyzhnya*, a popular newspaper, based on the content of the above-mentioned memorandum.

## II. PROCEEDINGS IN THE CONSTITUTIONAL COURT

### A. Examination of the Case by the Constitutional Court's Standing Commission on Rules and Ethics

9. On 2 April 2019 a session of the Grand Chamber of the Constitutional Court took place. Only partial minutes of the meeting have been provided to the Court. A partial video recording of the initial part of the meeting is also available online.

10. Those materials show that the meeting opened with the applicant seeking approval for a meeting agenda consisting of questions unrelated to his situation. Judges M., Sa. and Sl. were unhappy that despite an agreement

reached at the CCU's previous sessions the applicant repeatedly refused to put the questions they had raised about his activities on the agenda for discussion. After discussion, it was proposed to put the question of "sending Judge Sl.'s suggestion to the commission"[1] on the agenda. Twelve judges out of the sixteen present voted in favour.

11. The Government stated that at that meeting the Constitutional Court had decided to send Judge Sl.'s suggestion to the Commission to obtain an opinion on whether the applicant's actions in appointing advisers and giving an interview about the swearing-in of the President of Ukraine (see paragraph 15 (ii) below) constituted grounds for his dismissal.

12. On 2 April 2019 six judges (including Judges Sa. and Sl.) wrote to the Commission. The judges proposed that the Commission examine the lawfulness of the regulation on freelance advisers approved by the President of the Constitutional Court and his subsequent appointment of such advisers and the allegations about the President's political activities which had been brought up by Judge Sl.

13. On 8 April 2019 the Commission met in the presence of the applicant. It was discussed whether disciplinary proceedings against the applicant had been properly commenced. The Commission decided to exchange opinions and hear the applicant's explanations about the freelance advisers. The applicant stated that he had already cancelled his decisions in that respect.

14. According to the Government, on 11 and 15 April 2019 the Commission held further sessions at which the applicant was present and had an opportunity to provide explanations.

15. On 17 April 2019 the Commission voted on its report. Relying on Article 149-1 § 2 of the Constitution, section 21 of Constitutional Court Act ("the Act") and paragraph 13 of the Rules of the Constitutional Court, which all govern the procedure for dismissing Constitutional Court judges (see paragraphs 41, 46 and 49 below respectively), the Commission concluded that there were grounds for dismissing the applicant from his position as judge of the Constitutional Court. Six out of the seven members of the Commission voted in favour of his dismissal, including judges Sa. and Sl. In its report, the Commission addressed four main issues.

i. *Freelance advisers*. The Commission noted that the applicant had appointed a number of individuals as his unpaid freelance advisers and in October 2018 had enacted a Regulation on Freelance Advisers (which he eventually revoked on 1 April 2019). The Commission considered that Ukrainian law did not provide for the creation of the position of freelance adviser within the Constitutional Court and that the applicant's introduction of this role and the making of a Regulation to cover it, and the subsequent making of appointments had no legal basis. It concluded that the applicant

[1] It is not clear what commission that referred to. It appears that the reference was to the Standing Commission on Rules and Ethics.

had exceeded his authority; unlawfully usurped certain functions of the Secretariat; allowed freelance advisers to participate in internal meetings, to prepare proposals and to draft decisions, and to access confidential information and give instructions to the Secretariat's staff, so interfering with the court's institutional structure and causing expenditure from State funds.

ii. *The applicant's interview*. On 25 March 2019 the applicant gave an interview to strana.ua, an internet publication. According to quotations from the interview in the Commission's report, the applicant had stated: "Under Article 104 of the Constitution of Ukraine, the President of the Constitutional Court swears in the President-elect if there are no obstacles. However, I want to underline that I would never swear in a President [of Ukraine] if the elections had been rigged".[2]

The interview was published against the background of the then-ongoing presidential election campaign.[3]

The Commission found that that statement in the interview misrepresented the meaning of Article 104 of the Constitution, which provided that "The President of the Constitutional Court will administer the oath to the President of Ukraine" and did not make the CCU President's role in administering the oath conditional on anything. The Commission observed that the CCU President had no authority to determine whether elections had been rigged based on personal or political criteria; by law that function lay with another body, the Central Election Commission. The Commission found the President's statement to have been a political comment and an unlawful interference in the political process. The Commission found that the applicant's remarks had undermined the constitution and discredited the office of CCU President, causing serious harm to the authority of the Constitutional Court.

iii. *Publication of the CCU's conclusions on the constitutionality of a Bill abolishing parliamentary immunity without judges' separate opinions*. The Commission reiterated that the Constitutional Court's conclusions on the draft law abolishing parliamentary immunity had been published on 16 June 2018, before the expiry of the time-limit for separate opinions and without those opinions, although three judges (M., Sa., Sl.) had prepared opinions within the time-limit. It stressed that the applicant, as President, had asked for the draft to be published and had then refused to answer the judges' complaints. He had ignored their statutory right to publish separate opinions and violated constitutional and statutory provisions governing the activity of the Court and the rights of its judges.

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[2] The interview is currently unavailable online and its complete text has not been provided to the Court.

[3] On 31 March 2019 the first round of elections for President of Ukraine took place. Two of the candidates, Volodymyr Zelenskyy and Petro Poroshenko, the incumbent President, went to a runoff on 21 April 2019. On that date Mr Zelenskyy was elected President. He was sworn in on 20 May 2019.

iv. *Removal of a case from the agenda and interference with the work of a judge-rapporteur*. The Commission found that the applicant had abused his official position by:

(i) excluding from the agenda the question of commencing constitutional proceedings regarding the constitutionality of a parliamentary resolution on sanctions against a TV channel;

(ii) attempting to have the case removed from the list while he was absent from work, when the Deputy President of the Constitutional Court was officially acting as the court President; and

(iii) issuing an unlawful instruction to the judge-rapporteur not to hear the case.

The Commission pointed out that the President's role was to organise the Court's work and to perform representative functions, not to interfere with or influence judges' judicial activities. It concluded that the applicant had violated, *inter alia*, the provisions of the Constitution that required State officials to act only within the limits of their powers and function, establishing the principles of the work of the CCU, ensuring the independence of CCU judges and prohibiting any influence from being brought to bear on them, as well as the similar provisions of the Act setting out the principles of the court's work and ensuring the independence of judges.

The Commission stressed that the position of President was an administrative position which could only be held by an active judge. The grounds for dismissal from judicial office were the same for all judges, regardless of whether they held administrative positions. The Commission concluded that the applicant's above-mentioned violations of the Constitution and the law constituted a significant disciplinary offence and gross and systematic neglect of his duties incompatible with the status of a Constitutional Court judge and showed him to be unsuited for the position he held.

16. On 25 April 2019 six judges asked the applicant to call a "special plenary session"[4] of the Constitutional Court for 14 May 2019 in order to consider the applicant's dismissal from the post of judge.

17. On 13 May 2019, the applicant sent a letter to the judges of the Constitutional Court and the Head of the Commission asking for the Commission's report to be quashed. He argued that the report was biased, and unlawful, and that it had been adopted in violation of the Constitution, the Constitutional Court Act, CCU's Rules, and the internal regulations of the Commission. In particular:

(i) no "special plenary session" of the Constitutional Court was held to decide whether to refer the matter to the Commission, as required by paragraph 13 of the CCU Rules;

[4] This term is used in the Constitutional Court Act for sessions at which, notably, disciplinary matters are examined.

(ii) his request for the recusal of two judges (Sa. and Sl.), who had both commenced and then adjudicated on the matter within the Commission, was ignored despite an obvious conflict of interest;

(iii) the Commission had exceeded its powers by considering issues outside its competence (such as the internal regulation of advisers and the alleged "politicisation").

18. Substantively, he argued that the accusations concerned his administrative activity as President of the Constitutional Court, not his conduct as a judge. He stressed that the law clearly distinguished between the grounds and procedures for dismissing a Judge and those for dismissing the President, and that the President could be removed only at his own written request - and he had never made such a request. The administrative work of the President was outside the Commission's purview.

19. The applicant further maintained that the allegations were vague, legally undefined, and did not distinguish between a "serious disciplinary offence" and "gross neglect" or "systematic neglect" of his judicial duties. They therefore violated the principles of legal certainty and the right to defend oneself under the Constitution and the Convention. The charge of "politicisation" was, in his view, unfounded: his statements about preventing large-scale electoral fraud and ensuring a legitimate presidential inauguration were part of his constitutional duties, not political advocacy.

### B. Events of 14 May 2019 and the Constitutional Court's decision to dismiss the applicant

20. On 14 May 2019 the applicant chaired a plenary session of the Constitutional Court which initially examined matters unrelated to the applicant's situation.

21. At some point the applicant declared the plenary session closed and left the room. Minutes of the meeting he has provided indicate that some other judges continued the discussion in his absence. During that discussion one judge said that the problem was that there was no procedure for dismissing the President of the Constitutional Court. The applicant claimed that later that day twelve judges gathered together, passed a vote of "no confidence" in the applicant as President of the CCU and asked for his resignation. In a subsequent interview in unrelated proceedings Judge L. stated that at that meeting the applicant had been asked to resign from the position of the President of the CCU to focus on his work as a judge.

22. Later on 14 May 2019 the Constitutional Court held a special plenary session convened by the Deputy CCU President. The court was composed of sixteen judges, including judges Sa. and Sl. By twelve votes in a secret ballot it adopted a resolution (*постанова*) dismissing the applicant from the post of judge of the Constitutional Court on the basis of the Commission's report (see paragraph 15 above). The court referred to:

(i) Articles 147 and 149-1 of the Constitution, which set out the principles on which the court functioned and the grounds on which a judge could be dismissed (see paragraph 41 below);

(ii) section 21 of the Constitutional Court Act, which restates the general grounds for dismissal of a judge as set out in the Constitution ("significant disciplinary offence, gross or systematic neglect of his or her duties that is incompatible with the status of a judge") and requires a decision to dismiss to be supported by at least twelve judges and also requires a Commission report to be available (see paragraph 46 below).

23. According to the Government, during the special plenary session of 14 May 2019 the Deputy CCU President twice instructed the court bailiff to inform the applicant of the session and to invite him to attend but the applicant refused to come.

## III. PROCEEDINGS IN THE DOMESTIC COURTS AND THE CONSTITUTIONAL COURT'S INTERPRETATIVE DECISION

### A. First-instance administrative court

24. The applicant challenged his dismissal in the administrative courts. He raised essentially the same arguments as before the Constitutional Court (see paragraphs 17 to 19 above).

25. A representative of the Constitutional Court filed a defence arguing that Articles 149-1 and 151-2 of the Constitution said there was no appeal against decisions of the Constitutional Court (including "resolutions"), and that the case therefore fell outside the scope of administrative proceedings and should be discontinued. The Constitutional Court's representative also argued that other judges had no obligation to withdraw from proceedings to dismiss a Constitutional Court judge and nor did the applicant have a right to challenge other judges in those proceedings.

26. On 11 October 2019 the Kyiv Circuit Administrative Court allowed the applicant's claim in full, declared the Constitutional Court's decision dismissing the applicant unlawful, declared that decision to have been cancelled, ordered the Constitutional Court to reinstate the applicant as a judge and as President of that court.

The court referred to the Constitution and the Code of Administrative Justice (see paragraphs 38, 39 and 43 below) and Article 13 of the Convention and held that administrative courts had jurisdiction to review decisions of the Constitutional Court concerning appointments and dismissals of judges.

The court held that the resolution dismissing the applicant breached the law in several respects, in particular: (i) the resolution to dismiss did not give sufficient reasons; (ii) the process had not been impartial, as the members of the Commission and the judges who had initiated the proceedings (Sa. and Sl.) did not withdraw from the case despite a clear conflict of interest; (iii) the

principle of proportionality had not been observed and the most severe disciplinary sanction was imposed, without explanation; (iv) the plaintiff was not informed in advance about the commencement of disciplinary proceedings against him; the case was heard at short notice and in the space of a single day.

27. The Constitutional Court appealed.

### B. Interpretative decision of the Constitutional Court of 2 December 2019

28. While the Constitutional Court's appeal against the decision of the first-instance administrative court was pending before Sixth Administrative Court of Appeal, on 2 December 2019 the Constitutional Court decided an application by certain Members of the Ukrainian Parliament. It took a decision ("interpretative decision") interpreting Article 151-2 of the Constitution of Ukraine, which states that "the decisions and conclusions of the Constitutional Court of Ukraine are binding, final, and shall not be appealed" (see paragraph 41 below). The Constitutional Court held that that provision of the Constitution must be understood to mean that there could be no appeal against any decision taken by the Constitutional Court in the exercise of its exclusive constitutional powers, regardless of their legal form. This applies to decisions in relation to both constitutional proceedings (questions of the constitutionality of laws and so on) and the organisation of the Court's activities and the implementation of constitutional and legal guarantees of independence and judicial immunity. It followed from the special constitutional status of the court and the exceptional importance of its functions and tasks, to ensure the supremacy of the Constitution.

### C. Proceedings in the Administrative Court of Appeal and the Supreme Court

29. Following the Interpretative Decision, the Constitutional Court's representative asked the Administrative Court of Appeal to terminate the administrative proceedings.

30. On 6 February 2020, the Administrative Court of Appeal granted the request, terminated the proceedings, and quashed the first-instance court's judgment. It held that the first-instance court had exceeded the scope of the administrative jurisdiction as defined by the Code of Administrative Procedure (see paragraph 43 below) by considering the merits of a claim against a Constitutional Court decision, contrary to Article 151-2 of the Constitution.

31. On 4 March 2020 the applicant lodged a cassation appeal with the Supreme Court. The appellant contended that in its Interpretative Decision

the Constitutional Court had unlawfully departed from its own settled case-law on access to a court and in breach of Articles 6 and 13 of the Convention.

32. On 14 August 2020 the Supreme Court dismissed the cassation appeal and upheld the decision of the Administrative Court of Appeal. The Supreme Court found that the power to dismiss a judge of the Constitutional Court was exclusive to the Constitutional Court. It adopted the same view as in the Interpretative Decision, emphasising that any decision of the Constitutional Court, regardless of its form was binding and could not be appealed against. The limitations on access to an ordinary court did not breach Article 6 of the Convention since the applicant had access to review within the Constitutional Court itself.

## IV. EVENTS AFTER THE LODGING OF THE APPLICATION WITH THE COURT

33. In his application to the Court, the applicant claimed that at a special plenary session on 18 December 2019 a majority of the Constitutional Court judges (nine out of sixteen in office at the time) had voted to reinstate him as judge, but the then President of the Constitutional Court, Judge T., had refused to implement the decision. The Government, in response, provided a letter from the Constitutional Court's Secretariat to the Government's Agent dated 9 February 2023, in which the Secretariat said that on 18 December 2019 the Constitutional Court had considered the applicant's application for a review of the decision of 14 May 2019 to dismiss him and had declined to reinstate him as a judge.

34. On 7 March 2023, exactly nine years after his appointment as Constitutional Court judge, the applicant asked the CCU to review and quash the dismissal decision of 14 May 2019 and, if the decision was quashed, to accept his retirement from his judicial position. On 16 March 2023 the CCU at a special plenary session decided to refer the matter to the Standing Commission on Rules and Ethics.

35. On 3 December 2025 the Commission held that the 2019 decision to dismiss the applicant had been unjustified. The Commission stated the following:

> "Legislative regulation of how disciplinary proceedings will be brought against a judge of the Constitutional Court of Ukraine must ensure that the judge knows and understands in advance exactly what actions may be grounds for bringing disciplinary proceedings against him or her, especially in cases involving dismissal from office. When disciplinary offenses are described in the laws of Ukraine, the Verkhovna Rada of Ukraine therefore has a constitutional obligation to ensure the regulations clearly specify what constitutes those actions, and a scheme of differentiated sanctions that would allow a judge of the Constitutional Court of Ukraine to be subjected to a fair sanction...
>
> On 14 May 2019, the legislative regulation of the procedure for bringing disciplinary proceedings against a judge of the Constitutional Court of Ukraine was not clear and

> foreseeable, in particular with regard to: setting out the types and specific elements of disciplinary offences (*corpus delicti*); setting out a list of the sanctions that could be applied a particular disciplinary offence was committed.
>
> In 2019, the regulations largely made it impossible, both procedurally and substantively, to bring disciplinary proceedings against a judge of the Constitutional Court of Ukraine in compliance with the requirements of the Constitution of Ukraine and the Constitutional Court Act, and, ultimately, to take into account the proportionality of any sanction to be imposed...

36. The Commission observed that the applicant had sufficient years of service to apply for retirement from the position of a Constitutional Court judge and recommended that the acting President of the Constitutional Court call a special plenary session of the court to consider the issue. The Court has not been informed about any further developments in that respect.

# RELEVANT LEGAL FRAMEWORK AND PRACTICE

## I. CONSTITUTION OF UKRAINE (1996)

37. Article 19 § 2 of the Constitution of Ukraine provides that public authorities and their officials are required to act only within the limits of authority, and in the manner envisaged by the Constitution and the laws.

38. Article 55 provides that human rights must be protected by the courts and guarantees to everyone the right to challenge in a court the decisions, actions, or inactivity of public authorities and officials.

39. Article 124 provides that "the jurisdiction of the courts shall extend to all legal disputes and all criminal charges. Where prescribed by law, the courts shall also consider other types of cases".

40. Article 125 requires administrative courts to protect the rights, freedoms and interests of a person in the field of public law relations.

41. The other relevant provisions of the Constitution concerning the Constitutional Court, as worded at the material time, read as follows:

**Article 147**

> "The Constitutional Court of Ukraine decides issues regarding the conformity of laws of Ukraine, and where provided for by this Constitution, other legislation and regulation, with the Constitution of Ukraine; it provides the official interpretation of the Constitution of Ukraine, and exercises other powers in accordance with this Constitution. The activity of the Constitutional Court of Ukraine is based on the principles of the rule of law, independence, collective decision-making, publicity, reasoned decision-making, and the binding force of its decisions."

**Article 148**

> "The Constitutional Court of Ukraine consists of eighteen judges ...

The President of the Constitutional Court of Ukraine shall be elected from among its judges at a special plenary meeting of the Court by secret ballot for only one three-year term."

**Article 149**

"The independence and immunity of the Judges of the Constitutional Court are guaranteed by the Constitution and the law of Ukraine. It is prohibited to influence a judge of the Constitutional Court of Ukraine in any way."

**Article 149-1**

"The grounds for dismissal of a judge of the Constitutional Court of Ukraine from office are: ...

3) the commission of a significant disciplinary offence, or gross or systematic neglect of duties, which is incompatible with the status of a judge of the Court or shows him or her to be unfit for the position; ...

A decision on the dismissal of a judge of the Constitutional Court of Ukraine from office shall be taken by the Court by at least two-thirds of its constitutional composition."

**Article 151-2**

"The decisions and conclusions (*рішення та висновки*) reached by the Constitutional Court of Ukraine are binding, final, and shall not be appealed."

## II. CODE OF ADMINISTRATIVE JUSTICE (2005)

42. Article 5 of the Code of Administrative Justice, as worded at the material time, provided that "everyone claiming that a decision... of a public authority violates his or her rights... has the right to apply to the administrative court in accordance with the procedure established by that Code".

43. Article 19 § 1 of the Code provided that administrative courts had jurisdiction to hear "disputes where individuals or legal entities challenge the decisions (regulatory or individual decisions), actions or omissions of a public authority, unless a different judicial forum is legally prescribed for such disputes". § 2 stated that administrative courts did not have jurisdiction over cases "falling within the jurisdiction of the Constitutional Court of Ukraine".

## III. CONSTITUTIONAL COURT ACT (2017)

44. Section 2 of the Act provides that the Constitutional Court's functioning is based on the principles of the rule of law, independence, collective decision-making, transparency, openness, the full and comprehensive consideration of cases, and the binding nature of its decisions and conclusions. Section 24 provides that judges of the court should exercise their powers in accordance with the Constitution and the Act and based on

the principle of the rule of law, and prohibits "any influence on a judge of the Constitutional Court".

45. Section 11 provides, *inter alia*, that "high moral character" is one of the eligibility conditions to become a Constitutional court judge. It also provides that a judge of the CCU shall comply in all of his or her activities with the established standards of professional ethics and shall comply with the criterion of political neutrality. In particular, a person may not be appointed to the position of a judge if he or she: (i) is a member of or holds a position in a political party or other political organisation; (ii) holds an elective office or representative powers; (iii) participates in managing or financing a political campaign or other political activities. A Constitutional Court judge cannot combine his or her office with any position in a government authority.

46. Section 21 provides that the decision to dismiss a judge of the Constitutional Court from office shall be taken by the Constitutional Court by at least two thirds of its constitutional composition. A judge can be dismissed in case of "the commission by the judge of a significant disciplinary offence, gross or systematic neglect of his or her duties that is incompatible with the status of a judge of the Constitutional Court or that he or she is unfit for the position". A judge can be dismissed also in case of his or her having violated the incompatibility requirements under section 11. The Constitutional Court can examine the question of dismissal only if a report of the Standing Commission of Rules and Ethics is available.

47. Section 33 provides that the President of the Constitutional Court heads the court and organises its activity, in particular exercises general supervision over the organisation of the work of the court and its Secretariat, convenes sessions and special plenary sessions of the court and presides over them. The President shall be elected from among the judges for a single three-year term. In the absence of the President of the Constitutional Court, his or her duties shall be performed by the Vice-President. If the President of the Court submits a statement of resignation, the court shall decide on early dismissal from office if a majority of the judges of the Constitutional Court from the constitutional composition of the court vote in favour of this.

48. Section 39 provides that a decision to dismiss a judge can only be made at special plenary session of the Constitutional Court which shall be quorate if at least 12 judges are present.

## IV. RULES OF THE CONSTITUTIONAL COURT OF UKRAINE ADOPTED ON 22 FEBRUARY 2018

49. The relevant provisions of the Rules, as worded at the material time, read as follows:

**"§ 13. [Dismissal of a Judge]**

1. Where the Court receives an allegation that a Judge has committed a significant disciplinary offence or gross or systematic neglect of duties incompatible with the status of a Judge or has shown that he or she is unfit for the position, the Court, at a special plenary session, shall take a resolution referring the allegation for examination by the Standing Commission on the Rules and Ethics. ...

2. The Judge in respect of whom the issue of dismissal from office has been raised shall provide the [Commission] with oral and written explanations concerning the [allegations against him or her].

3. Following examination of the submission, the [Commission] shall... prepare a report indicating whether there are grounds for dismissing the Judge from office, and shall submit it to the President of the Court, or in his or her absence to the Vice-President of the Court or to the Judge performing the duties of the President of the Court, for consideration at a special plenary session of the Court.

No later than the seventh working day from the date of receipt of the report, the President of the Court, or in his or her absence the Vice-President.. or the Judge performing the duties of the President... shall convene a special plenary session.

4. At the special plenary session..., the Chair of the [Commission] shall present the Commission's report. The Judge whose dismissal from office is being considered shall have the right to provide explanations to the Court regarding the information set out in the report.

**§ 19. [Dismissal of the President or Vice-President of the Constitutional Court]**

1. The President of the Court and the Vice-President of the Court shall be dismissed from office if they request it. ...

4. Dismissal of a Judge from office or termination of his or her powers or the expiry of the term for which a Judge has been elected President or Vice-President shall constitute the termination of his or her powers in the relevant administrative position.

**§ 27. [Sessions of the Constitutional Court related to organisational activity]**

3. Sessions of the Court shall be convened by the President of the Court, and in his absence – by the Deputy President of the Court or the Judge acting as President of the Court, at the request of a standing commission of the Court or at least three judges of the Constitutional Court no later than the seventh working day from the date of receipt of the call to convene it. ..."

# THE LAW

## I. THE GOVERNMENT'S GENERAL PRELIMINARY OBJECTIONS

### A. Alleged abuse of the right of application

50. The Government submitted that the application constituted an abuse of the right of application. They argued that the applicant had provided incomplete and misleading information on matters going to the heart of the case, notably concerning his alleged reinstatement vote of 18 December 2019 and his alleged inability to present his defence before the relevant bodies. The Government pointed out that the applicant had been heard by the Standing

Commission on several occasions and had twice been invited to attend the special plenary session, but had refused.

51. The applicant disputed the Government's allegations of abuse of the right of application.

52. The Court reiterates that the submission of incomplete and thus misleading information may amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information. However, if this is to lead to the rejection of the complaint, the applicant's intention to mislead the Court must always be established with sufficient certainty (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, with further references).

53. The matters raised did not concern the very core of the case and there is no indication that the applicant intended to mislead the Court. Accordingly, the Government's objection should be rejected.

### B. Alleged non-compliance with the time-limit for lodging an application

54. The Government observed that the applicant's dismissal had been effected by the resolution of the Constitutional Court of 14 May 2019, which was final and not subject to appeal. The six-month period for applying to the Court therefore began to run on that date. As the application had been lodged on 28 December 2020, it had been made one year and seven months out of time. The Government further emphasised that the applicant, a well-known Ukrainian lawyer, former judge and former President of the Constitutional Court, and former *ad hoc* judge of the Court, was or should have been fully aware that the decision of 14 May 2019 was final. Any initial doubts on his part should have been dispelled by the Constitutional Court's decision of 2 December 2019.

55. The applicant contested the Government's argument that the six-month period for applying to the Court had begun running on 14 May 2019. He submitted that, at the time of his dismissal, neither the Constitution nor domestic law had excluded access to the administrative courts for challenges to resolutions of the Constitutional Court concerning organisational matters. He relied on Articles 55, 124 and 125 of the Constitution, which guaranteed a right of access to a court (see paragraphs 38 to 41 above). He argued that Article 151-2, as it was interpreted at the relevant time, applied only to the Constitutional Court's decisions and opinions in constitutional proceedings, not to resolutions concerning a judge's career. That interpretation had been confirmed when the administrative court had accepted jurisdiction and heard his case.

56. The applicant maintained that the powers of the courts to hear such cases had only been restricted later. Relying on Article 19 of the Code of

Administrative Proceedings (see paragraph 43 above), he argued that the question of whether his dismissal had been lawful clearly fell within the jurisdiction of the administrative courts and that the Constitutional Court had subsequently sought an official interpretation of Article 151-2 in order to overturn the first-instance judgment in his favour. He argued that the period for application to the Court under Article 35 § 1 had begun to run only on 18 August 2020, when he had received the Supreme Court's decision of 14 August 2020.

57. The Court has previously established in its case-law that the period for application to the Court runs from the final decision in the process of exhaustion of domestic remedies (see *Paul and Audrey Edwards v. the United Kingdom* (dec.), 2001; *Lekić v. Slovenia* [GC], 2018, § 65).

58. In the present case, while at the relevant time it was clear that the jurisdiction of the ordinary courts did not extend to reviewing decisions of the Constitutional Court taken under its power to review the constitutionality of legislation, it was not formally established in domestic law or practice whether the same applied to all other decisions of that court, and in particular to decisions concerning judges' disciplinary liability. The applicant's situation was therefore unprecedented and he could not be guided, when attempting a legal challenge, by explicit legal provisions or an established domestic practice.

59. The first-instance court interpreted the provisions of the Code of Administrative Justice as giving it jurisdiction to hear the case (see paragraph 26 above). It was only following the Constitutional Court's interpretative decision of 2 December 2019 that the applicant's proceedings were discontinued. In view of the doubt surrounding whether or not the applicant could appeal against the Constitutional Court's decision, the Court finds that the applicant cannot be reproached for having lodged an appeal in cassation in the Supreme Court.

60. In this context the Court stresses that the existence of mere doubts as to the prospects of success of a remedy which is not obviously futile is not a valid reason for failing to exhaust that avenue of redress (see *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 142, 27 November 2023; *Missaoui and Akhandaf v. Belgium* (dec.), no. 54795/21, § 42, 3 September 2024).

61. A necessary corollary of this principle is that Article 35 § 1 cannot be interpreted in a manner which would require an applicant to apprise the Court of his complaint before his position has been finally settled at the domestic level; otherwise, the principle of subsidiarity would be breached. Where an applicant avails himself of an apparently existing remedy and only subsequently becomes aware of circumstances which render the remedy ineffective, it may be appropriate for the purposes of Article 35 § 1 to take the start of the period for application to the Court as being the date on which the applicant first became or ought to have become aware of those

circumstances (see *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, § 260, ECHR 2014 (extracts); *Svit Rozvag, TOV and Others v. Ukraine*, nos. 13290/11 and 2 others, § 109, 27 June 2019; *Polyakh and Others v. Ukraine*, nos. 58812/15 and 4 others, § 145, 17 October 2019).

62. In the particular circumstances of the present case, the Court finds that the applicant lodged his application within six months after exhausting domestic remedies which, at the relevant time, could not be regarded as manifestly ineffective. Consequently, the Court rejects the Government's objection in this regard.

## II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

63. The applicant complained that the Constitutional Court had not been impartial, had breached procedural rules, and had denied him the right to defend himself when it was considering his dismissal. The administrative courts had subsequently declined to review the dismissal decision, denying him access to court. He relied on Article 6 of the Convention, which in so far as relevant reads as follows:

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

### A. Admissibility

#### *1. The parties' submissions*

##### (a) The Government

64. The Government argued that Article 6 § 1 was not engaged. They relied on the two-limbed test established in *Vilho Eskelinen and Others v. Finland* ([GC], no. 63235/00, ECHR 2007-II). Firstly, the Government argued that domestic law expressly and unequivocally excluded judicial review of decisions regarding the dismissal of judges of the Constitutional Court. They relied on the constitutional and legislative framework and the Constitutional Court's decision of 2 December 2019. The national courts, including the Supreme Court, had confirmed this interpretation when they struck out the applicant's application for want of jurisdiction.

65. As to the second condition, the Government maintained that the exclusion of judicial review was in the State's interest. They emphasised the unique constitutional role of the Constitutional Court and the public duties of its judges, who exercised powers on behalf of the State and were subject to a special bond of trust and loyalty towards the State.

66. The Government also argued that the applicant's Article 6 complaints were manifestly ill-founded. Domestic law did not provide for judicial review of the applicant's dismissal. That limitation on access to a court pursued a

legitimate aim and struck a proportionate balance, given the constitutional status of the office concerned.

**(b) The applicant**

67. The applicant maintained that his complaint concerned a civil right, namely his right to remain in judicial office, and that Article 6 § 1 was therefore engaged. He argued that national law did not expressly exclude Constitutional Court judges from access to a court. On the contrary, the administrative courts had accepted that they had jurisdiction to hear his case, the Constitution guaranteed everyone the right to judicial protection, and there was no general statutory prohibition preventing Constitutional Court judges from bringing proceedings. In his view, the restriction on access to a court resulted solely from the Constitutional Court's interpretative decision of 2 December 2019. He considered the quashing of the judgment of the first-instance administrative court, which had been in his favour, and the preventing of his reinstatement, to have been a personal attack on him rather than the result of a neutral decision.

68. The applicant further submitted that his position as a Constitutional Court judge did not involve such a special exercise of discretionary State powers as to justify exclusion from the guarantees of Article 6.

## B. The Court's assessment

### *1. Admissibility*

**(a) Applicability of Article 6 of the Convention**

69. As regards officials employed in the civil service, according to the criteria established in *Vilho Eskelinen* (cited above) the respondent State cannot rely before the Court on an applicant's status as a civil servant to exclude the protection embodied in Article 6 unless two conditions are fulfilled. First, the State in its national law must have excluded access to a court for the post or category of staff in question. This condition is satisfied where domestic law contains either an explicit exclusion from access to a court or an implicit one, in particular where the latter stems from a systemic interpretation of the applicable legal framework or the whole body of legal regulation (see *Grzęda v. Poland* [GC], no. 43572/18, § 292, 15 March 2022). Secondly, the exclusion must be justified on objective grounds in the State's interest. In order for the exclusion to be justified, it is not enough for the respondent State to establish that the civil servant in question participated in the exercise of public power or that there existed a special bond of trust and loyalty between the civil servant and the State, as employer. It is also for the respondent State to show that the subject matter of the dispute in issue was related to the exercise of State power or that it had called into question the special bond. Thus, there can in principle be no justification for the exclusion

from the Article 6 guarantees of ordinary labour disputes, such as those relating to salaries, allowances or similar entitlements, on the basis of the special nature of the relationship between the particular civil servant and the State in question. There will, in practice, be a presumption that Article 6 applies. It will be for the respondent State to demonstrate, first, that a civil servant applicant did not have a right of access to a court under national law and, secondly, that the exclusion of the Article 6 rights was justified in the case of that civil servant (see *Grzęda*, cited above, § 261, with further references; see also §§ 291, 292, 296 and 299).

70. The Court has held that, provided that the disciplinary body qualified as a "court", the mere fact that a further judicial review of the relevant disciplinary body's decision was not possible, does not necessarily mean that an applicant did not have access to a court for the purposes of the *Eskelinen* test (see *Suren Antonyan v. Armenia*, no. 20140/23, § 84, 23 January 2025).

71. According to the Court's settled case-law, a "tribunal" is characterised in the substantive sense of the term by its judicial function, that is to say, determining matters within its competence on the basis of legal rules and after proceedings conducted in a prescribed manner (see *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 219, 1 December 2020).

72. Turning to the present case, the Court notes that the Constitutional Court, which acted as a disciplinary body in the applicant's case, is established by law, namely the Constitution of Ukraine. It has exclusive powers and full jurisdiction to determine matters pertaining to the disciplinary liability of its judges and acts as a "court" in such proceedings, according to established procedure. The Constitutional Court's decision in the applicant's case was final and binding on him. The Court is therefore satisfied that the Constitutional Court can be regarded as a "tribunal" within the meaning of Article 6 § 1 of the Convention.

73. The applicant's case was examined by that tribunal and, therefore, it cannot be said that domestic law excluded access to court. Accordingly, the first condition of the *Eskelinen* test is not fulfilled and, therefore, Article 6 of the Convention in its "civil" limb applies.

74. By contrast, the "criminal" limb of Article 6 does not apply (see, for example, *Oleksandr Volkov v. Ukraine*, no. 21722/11, §§ 92-95, ECHR 2013).

#### (b) Admissibility of the complaint about alleged lack of access to court

75. The Court has found above that the Constitutional Court was a "tribunal" within the meaning of Article 6 of the Convention. That tribunal examined the applicant's case and issued its decision on the merits. Therefore, it cannot be said that the applicant's right of access to court was restricted. In this context the Court would refer to the well-established principle that no right of appeal can be derived from Article 6 § 1 of the Convention (see *Suren Antonyan*, cited above, § 125) and that Article does

not compel the Contracting States to set up courts of appeal or of cassation (see *Grosam v. the Czech Republic* [GC], no. 19750/13, § 136, 1 June 2023). Accordingly, this complaint is manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and must be rejected as inadmissible, pursuant to Article 35 § 4.

**(c) Conclusion**

76. The Court declares inadmissible the applicant's complaint about alleged lack of access to court and further notes that the remainder of his complaints raised under Article 6 of the Convention is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

*2. Merits*

**(a) The parties' submissions**

*(i) The applicant*

77. As regards the requirement of an independent and impartial tribunal, the applicant submitted that neither the Standing Commission on Rules and Ethics nor the special plenary session of the CCU satisfied the requirements of Article 6 § 1 of the Convention. The allegation was brought against the applicant by two judges (Judges Sa. and Sl.) who were members of the Standing Commission, and they took part in the deliberations and vote on the Commission's report, disregarding the obvious conflict of interest. Another Standing Commission member – Judge G. – gave evidence on one of the charges (pressure allegedly having been put on him as a judge-rapporteur in one case), but also took part in the consideration of the entire case and voted for the report which called for the applicant's dismissal. All these judges (Judges Sa., Sl., G. and also Judge M.) took part in the special plenary meeting of the Constitutional Court and voted for the applicant's dismissal. Those conflicts of interest, which could have been avoided by substituting other judges, undermined the impartiality of the bodies concerned.

78. On the requirement of a "tribunal established by law", the applicant argued that the disciplinary proceedings had not been commenced in accordance with the CCU Act and its Rules. Under section 39 of that Act and § 13 of the Rules, a special plenary session had to adopt a formal resolution referring a "submission" to the Standing Commission. No such resolution had been adopted. Since the statutory starting step of the procedure was missing, the disciplinary body was not "established by law" for the purposes of Article 6 § 1.

79. Turning to equality of arms and the right to defence, the applicant submitted that he had not been properly informed that disciplinary proceedings had been commenced or of the precise charges or the evidence against him. The Standing Commission had not been authorised or entitled to

proceed as it did; its work stemmed from the initiative of several biased judges. The applicant was therefore not represented by a lawyer at those meetings and did not have his position reflected in the report. The applicant found out about the Commission's report, including the specific charges against him, on 17 April 2019.

80. He further argued that the special plenary session of 14 May 2019 was convened by the Deputy President of the Constitutional Court on the same day, without prior notice, without disclosure of the agenda or of the Commission's report, and in his absence. This deprived him of the time and facilities needed to prepare a defence and meant he had not been able to address the Court personally or through counsel.

*(ii) The Government*

81. The Government submitted that the disciplinary proceedings resulting in the applicant's dismissal fully satisfied the requirements of a fair hearing.

82. The bodies involved in considering whether the applicant had committed a disciplinary offence – the Standing Commission on Rules and Ethics and the Constitutional Court sitting in a special plenary session – met the requirements of independence and impartiality. They noted that the activity, composition and procedures of the Constitutional Court were fully regulated by the Constitution of Ukraine and by the Constitutional Court Act. The Standing Commission, established under the Rules of the Constitutional Court and composed exclusively of judges of that court, was elected internally through a procedure that ensured there was no influence from the executive branch or political bodies. The applicant himself, in his capacity as President of the Constitutional Court, had participated in the creation of the Standing Commission and the approval of its rules, and he had made no objection at the time about its composition or functions. As regards the Constitutional Court, it was composed of eighteen duly appointed judges. Combined with the statutory requirements of professional competence and high moral character, that composition provided further guarantees of independence.

83. Addressing the applicant's allegation that certain judges—namely Judges M., S. and Sl.—were biased because they had previously criticised his actions, the Government emphasised that there was a presumption of subjective impartiality which would have to be convincingly rebutted, and no evidence of personal prejudice, hostility or improper interference had been submitted. The letter relied on by the applicant had been published before the disciplinary proceedings had been commenced, and within a collegial judicial body some degree of internal criticism is inevitable and cannot in itself be sufficient to establish bias. Moreover, the report of the Standing Commission had been adopted by majority vote and did not bind the Constitutional Court. That court subsequently heard the case in a plenary composition and took the decision on dismissal by secret ballot and by a majority of at least two-thirds.

Even assuming that certain members of the Standing Commission had already stated their views about certain issues, the Government argued that this could not have affected the impartiality of the body as a whole or of the Constitutional Court. They further observed that neither the Constitution nor the relevant legislation provided for the recusal of judges in disciplinary proceedings of this nature, nor did it prohibit judges who had set a process in motion from voting on it.

84. The Government further submitted that both the Standing Commission and the Constitutional Court were tribunals established by law for the purposes of Article 6 § 1. The Standing Commission was created under the Constitutional Court Act, its Rules and its own Regulations, and had the power to assess and determine the facts of the applicant's alleged misconduct and to report on whether or not they found grounds for dismissal. It had held several sessions in which the applicant had participated, providing oral explanations, discussing the issues with the members of the Commission and having the opportunity to inspect the documents. Likewise, the Constitutional Court operated under a constitutional and legislative framework and had the exclusive authority to decide on the dismissal of one of its judges. At the special plenary session, the judges heard the Standing Commission's report, considered the applicant's objections, and only thereafter proceeded to pass a binding resolution to dismiss him. The process had constitutional safeguards requiring a secret ballot and a qualified majority. The applicant was duly notified of the session and the issues to be examined.

85. Lastly, the Government argued that the requirement of equality of arms and the overall fairness of the proceedings were fully respected. The applicant was repeatedly informed of the disciplinary proceedings against him, was provided with the relevant material, and was afforded ample opportunity to present his defence. He attended the sessions of the Standing Commission, provided oral explanations at each, elected not to provide written ones, and had access to the documentation under consideration. He was duly informed of the date of the special plenary session of the Constitutional Court and was twice invited by the court bailiff to attend, but expressly declined to appear. The Government contended that he had had sufficient time, access to information and opportunities to defend his interests.

#### (b) *Amicus Curiae* brief of the Venice Commission

86. The most relevant parts of the Venice Commission's *amicus curiae* brief read as follows (internal references omitted):

> "15. When addressing the issue of procedural guarantees in disciplinary proceedings against a constitutional court judge, the presumption should be that the ordinary guarantees apply, unless there can be identified grounds specific to the function of

Constitutional Courts that require derogation from, or adaptation of the procedural guarantees applicable for other judges...

16. As for the components of such procedural guarantees, the international reference documents on judicial independence are rather general, referring to a fair hearing by an independent and impartial body, similar to Article 6 ECHR ...

17. The comparative overview suggests that the most important procedural guarantee provided in the member States' legislation is the right for the judge to be heard, to dispute the allegations against him or her and to have access to the files used in proceedings against him/her. Some member States have established additional procedural requirements for decisions to dismiss a Constitutional Court judge. Their laws specify that disciplinary sanctions can only be adopted by the plenary of the Constitutional Court. In some member States, the decision to dismiss a Constitutional Court judge must be approved by a qualified majority of the Constitutional Court judges.

18. The above-mentioned trends are consistent with the Venice Commission's position. In its opinions on disciplinary proceedings against judges in general, the Venice Commission has emphasised the right of the judge to be heard and to contradict the accusations brought against him or her at the different stages of the proceedings, including the decision to terminate the office. Furthermore, the Venice Commission has previously recommended that "the decision on exclusion be taken by at least a two-thirds majority or even the unanimity of the other judges" as additional guarantees against external pressure.

19. The Venice Commission sees the small number of judges of the constitutional courts as the most sensitive aspect of the disciplinary proceedings from the point of view of the right to a fair trial. Disciplinary proceedings require the involvement of multiple judges, from those who initiate the dismissal of a judge, to those who decide on the initiative, to several of them who conduct the proceedings. Due to the multiple roles the judges play in disciplinary proceedings, it is possible, especially regarding the constitutional courts consisting of seven or nine judges, that the same judge may have the role of initiator of the proceedings and/or the role of the conductor of the proceedings and, in the end, the role of judge-voter. In other words, there is a risk of potentially sensitive situations that may call into question the impartiality requirement in Article 6, para. 1 ECHR. On the other hand, overly strict requirements for the recusal of the constitutional court judges who initiated/conducted the disciplinary proceedings against their pairs could easily lead to the impossibility of deciding on the disciplinary liability of the constitutional court judge (who must be obligatorily excluded of voting) in case the number of remaining judges drops below the quorum required.

20. The Venice Commission has dealt with the recusal, including self-recusal, and exclusion of a constitutional court judge from the "ordinary" cases only. The Commission pointed out that "it must be ensured that the Constitutional Court as guarantor of the Constitution remains functioning as a democratic institution. The possibility of excluding judges must not result in the inability of the Court to take a decision. ... in the context of the general jurisdiction ... there are always other judges available to step in for a judge who has withdrawn. This is not the case for the Constitutional Court. If rules for challenging of a judge were deemed necessary ... they would have to apply specifically to the Constitutional Court and exclude the possibility *non liquet* applying the fundamental principle of the Constitutional Court as a guarantor of the supremacy of the Constitution". In such situations, the Venice Commission has relied on the Bangalore Principles of Judicial Conduct 2002, which provide that "disqualification of a judge shall not be required if no other tribunal can be constituted

to deal with the case" (Doctrine of Necessity), concluding that "This is certainly the case when there is only one court with constitutional jurisdiction and/or there are limited number of judges and when disqualification may actually result in denial of justice.

...

26. The comparative overview shows a clear trend among the member States that disciplinary procedures against the judges of Constitutional Courts or equivalent bodies (i.e. the Supreme Courts with constitutional jurisdiction) are carried out within those courts. In most member States, these courts have an exclusive competence to terminate the office of their judges. In a few member States, termination of the office of judges is carried out by the Parliament or the President of the Republic after disciplinary procedures are conducted within the constitutional court or due to another judicial decision. In a minority of member States, the Parliament and/or the executive branch have the power to terminate the office of the Constitutional/Supreme Court judges. The Venice Commission has always been sceptical of the involvement of Parliament in the termination of the office of constitutional court judges or the initiation of disciplinary proceedings against constitutional court judges by the President of the Republic or a minister.

27. The analysis of the legislation of the Council of Europe member States, therefore, shows that there is no common requirement to provide access to judicial proceedings outside of the Constitutional Court in relation to the dismissal of the Constitutional Court's President or judges. The predominant view among the member States appears to be that the special role of constitutional courts, being particularly vulnerable to political pressure, justifies that disciplinary procedures leading to the dismissal of its judges/President should be carried out within the constitutional courts.

28. In its opinions, the Venice Commission has expressed a clear preference for constitutional courts having a decisive role in disciplinary matters either by the power to decide on disciplinary sanctions against their own judges or by the competence to lift their (functional) immunity. In its assessment of constitutional and legislative regulations of constitutional courts, the Venice Commission has so far not considered the position of the constitutional courts' Presidents as substantially different from that of the other judges.

29. On the other hand, the above-mentioned findings reflect the general dilemma that arises for disciplinary procedures in apex courts, because an appeal on the decisions of an apex court may undermine the authority of that apex court. Should apex courts be subject to decisions taken by other judicial bodies that normally would be subject to the decisions of the apex courts? This dilemma is addressed by the UN Basic Principles on the Independence of the Judiciary, which states that the principle of an independent review of decisions in disciplinary, suspension or removal proceedings "may not apply to the decisions of the highest court and those of the legislature in impeachment or similar proceedings."

**(c) The Court's assessment**

*(i) Requirement of impartiality*

(α) Relevant general principles

87. The concept of a "tribunal established by law", together with the concepts of "independence" and "impartiality" of a tribunal, forms part of the "institutional requirements" of Article 6 § 1. In the Court's case-law, there is

a very close interrelationship between these concepts (see *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 218, 1 December 2020).

88. The Court reiterates that impartiality normally denotes the absence of prejudice or bias and its existence or otherwise can be tested in various ways. According to the Court's settled case-law, the existence of impartiality for the purposes of Article 6 § 1 must be determined according to a subjective test where regard must be had to the personal conviction and behaviour of a particular judge, that is, whether the judge held any personal prejudice or bias in a given case; and also according to an objective test, that is to say by ascertaining whether the tribunal itself and, among other aspects, its composition, offered sufficient guarantees to exclude any legitimate doubt in respect of its impartiality (see, for example, *Kyprianou v. Cyprus* [GC], no. 73797/01, § 118, ECHR 2005-XIII; *Micallef v. Malta* [GC], no. 17056/06, § 93, ECHR 2009; *Morice v. France* [GC], no. 29369/10, § 73, ECHR 2015; and *Ilnseher v. Germany* [GC], nos. 10211/12 and 27505/14, § 287, 4 December 2018).

89. As to the subjective test, the principle that a tribunal must be presumed to be free of personal prejudice or partiality is long-established in the case-law of the Court (see *Kyprianou*, § 119; *Micallef*, § 94; and *Morice*, § 74, all cited above). The personal impartiality of a judge must be presumed until there is proof to the contrary (see *Hauschildt v. Denmark*, 24 May 1989, § 47, Series A no. 154). As regards the type of proof required, the Court has, for example, sought to ascertain whether a judge has displayed hostility or ill will for personal reasons (see *De Cubber v. Belgium*, 26 October 1984, § 25, Series A no. 86, and *Morice*, cited above, § 74).

90. In the vast majority of cases raising impartiality issues the Court has focused on the objective test (see *Micallef*, cited above, § 95). However, there is no watertight division between subjective and objective impartiality since the conduct of a judge may not only prompt objectively held misgivings as to impartiality from the point of view of the external observer (objective test) but may also go to the issue of his or her personal conviction (subjective test) (see *Kyprianou*, cited above, § 119). Thus, in some cases where it may be difficult to procure evidence with which to rebut the presumption of the judge's subjective impartiality, the requirement of objective impartiality provides a further important guarantee (see *Pullar v. the United Kingdom*, 10 June 1996, § 32, *Reports of Judgments and Decisions* 1996-III, and *Morice*, cited above, § 75).

91. As to the objective test, it must be determined whether, quite apart from the judge's conduct, there are ascertainable facts which may raise doubts as to his or her impartiality. This implies that, in deciding whether in a given case there is a legitimate reason to fear that a particular judge or a body sitting as a bench lacks impartiality, the standpoint of the person concerned is important but not decisive. What is decisive is whether this fear can be held to be objectively justified (see *Micallef*, cited above, § 96).

92. In this connection even appearances may be of a certain importance or, in other words, "justice must not only be done, it must also be seen to be done" (see *De Cubber*, cited above, § 26). What is at stake is the confidence which the courts in a democratic society must inspire in the public. Thus, any judge in respect of whom there is a legitimate reason to fear a lack of impartiality must withdraw (see *Castillo Algar v. Spain*, 28 October 1998, § 45, *Reports* 1998-VIII; *Micallef*, cited above, § 98; and *Morice*, cited above, § 78).

93. Moreover, in order that the courts may inspire in the public the confidence which is indispensable, account must also be taken of questions of internal organisation (see *Piersack v. Belgium*, 1 October 1982, § 30 (d), Series A no. 53). The existence of national procedures for ensuring impartiality, namely rules regulating the withdrawal of judges, is a relevant factor. Such rules manifest the national legislature's concern to remove all reasonable doubts as to the impartiality of the judge or court concerned and constitute an attempt to ensure impartiality by eliminating the causes of such concerns (see *Zahirović v. Croatia*, no. 58590/11, § 35, 25 April 2013). In addition to ensuring the absence of actual bias, they are directed at removing any appearance of partiality and so serve to promote the confidence which the courts in a democratic society must inspire in the public. The Court will take such rules into account when making its own assessment as to whether a tribunal was impartial and, in particular, whether the applicant's fears can be held to be objectively justified (see *Micallef*, cited above, § 99).

(β) Application of the above principles to the present case

94. Turning to the facts of the present case, the Court observes that Judges Sa. and Sl., who had made the key accusations against the applicant, and which they made public (see paragraphs 7–8 and 10-12 above), also sat on the Commission and voted on its report (see paragraph 15 above). The plenary Constitutional Court dismissed the applicant on the basis of the contents of the Commission's report. Judges Sa. and Sl. took part in that decision as well.

95. The Court finds that the double role played by Judges Sa. and Sl. in the removal of the applicant from his judicial office casts doubt, based on the objective test, on their impartiality since they formulated accusations against the applicant, initiating the proceedings against him, actively pursued those accusations in the proceedings, and then decided on the merits of the applicant's case (see *Oleksandr Volkov*, cited above, § 115; *Mitrinovski v. the former Yugoslav Republic of Macedonia*, no. 6899/12, § 45, 30 April 2015).

96. There is no indication that the Constitutional Court addressed the applicant's concerns about those judges' participation (see, *mutatis mutandis*, *Suren Antonyan v. Armenia*, no. 20140/23, § 138, 23 January 2025, and *Cosmos Maritime Trading and Shipping Agency v. Ukraine*, no. 53427/09, § 81, 27 June 2019).

97. Moreover, at the time there were apparently no rules in place requiring those judges to recuse themselves or requiring the Constitutional Court, in proceedings of this kind, to hear the applicant's challenge concerning those judges (see paragraph 25 above). The Court reiterates that a relevant factor in assessing whether in a given case the court met the impartiality requirement is whether or not there were domestic procedures for ensuring impartiality, namely rules regulating the recusal of judges (see *Micallef*, cited above, § 99).

98. In the absence of such procedures and where the various panels of the Constitutional Court did not comment on this matter, the Court must conclude that it has not been shown that there were compelling reasons why the judges in question needed to sit on and to decide this case (compare *Fazlı Aslaner v. Turkey*, no. 36073/04, § 40, 4 March 2014).

99. The fact that Judges Sa. and Sl. were only two members of the Constitutional Court does not, in the circumstances, lead to any other result (see *Morice*, cited above, § 89; *Mitrinovski*, cited above, § 46; *Catană v. the Republic of Moldova*, no. 43237/13, § 78, 21 February 2023).

100. The Court has expressed concern that claims that judges are biased should not be allowed to paralyse State legal systems, especially where courts of last resort and courts in small jurisdictions were concerned. Excessively strict standards for dealing with applications for recusal could unduly hamper the administration of justice (see *A.K. v. Liechtenstein*, no. 38191/12, § 82, 9 July 2015, and *Nicholas v. Cyprus*, no. 63246/10, § 63, 9 January 2018). The Venice Commission expressed the same concern (see points 19 and 20 of the Venice Commission's *amicus curiae* brief in paragraph 86 above).

101. The Court observes that at the time there were 18 judges of the Constitutional Court. It has not been shown that no panel could have been formed to deal with the case without Judges Sa. and Sl. (compare *Suren Antonyan*, cited above, § 141). The fact that it would have been difficult to reach the two-thirds majority required by domestic law to dismiss a Constitutional Court judge (see Article 149-1 of the Constitution, in paragraph 41 above) does not change that assessment.

102. There has, accordingly, been a violation of Article 6 § 1 of the Convention in respect of the requirement of impartiality.

*(ii) The remainder of the complaints under Article 6*

103. Having found that there has been a breach of the applicant's right to a fair hearing by an impartial tribunal under Article 6 § 1 of the Convention the Court considers that it is not necessary to examine the remainder of the admissible complaints under that provision (see, for example, *Mitrinovski*, § 48; *Oleksandr Volkov*, § 159, both cited above).

## III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

104. The applicant complained that his dismissal was in breach of 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

105. The Government submitted that the applicant's dismissal affected his private life and therefore fell within the scope of Article 8. Although the reasons for the applicant's dismissal related exclusively to the exercise of his judicial office and bore no connection to his personal or private affairs, the consequences of that dismissal were of such significance that the disputed measure affected his private life.

106. The applicant submitted that there had been an interference with his "private life" since the dismissal had affected a wide range of his relationships with others, including professional relationships and had had tangible consequences for the material well-being of himself and his family, and that the reasons for the dismissal affected the applicant's professional reputation.

107. The Court observes that there is no disagreement between the parties as to whether the applicant's private life was affected. However, the Court's has jurisdiction only where a complaint is admissible *ratione materiae* under the Convention (see *Denisov v. Ukraine* [GC] (no. 76639/11, § 93, 25 September 2018). The question of jurisdiction must be examined by the Court of its own motion (see *Vegotex International S.A. v. Belgium* [GC], no. 49812/09, § 59, 3 November 2022).

108. Employment-related disputes are not necessarily excluded from the scope of "private life" within the meaning of Article 8. There are two ways in which a private-life issue would usually arise in such a dispute: either because of the underlying reasons for the disputed measure (in that event the Court employs a reasoning-based approach) or because of the consequences for the applicant's private life (in that event the Court employs a consequence-based approach) (see *Denisov*, cited above, § 115). If the issue is the consequences of the measure, the threshold of severity with respect to all the above-mentioned aspects assumes crucial importance. It is for the applicant to show convincingly that the threshold was reached (ibid., § 116).

109. The reasons for the applicant's dismissal were strictly limited to the exercise of his official functions and had no connection to his private life.

110. Taking the consequences-based approach, the Court notes that the applicant was dismissed from his position as a judge, and not merely from the administrative position of the President of the Constitutional Court (contrast *Denisov*, cited above, §§ 122-29). The Court has already held, applying the consequence-based approach, that dismissal from the position of judge of the Constitutional Court of Ukraine for "breach of oath" interfered with a judge's "private life" (see *Ovcharenko and Kolos v. Ukraine*, nos. 27276/15 and 33692/15, § 86, 12 January 2023, *Golovin v. Ukraine*, no. 47052/18, § 22, 13 July 2023, see also, concerning the dismissal of a Supreme Court judge, *Oleksandr Volkov*, cited above, § 166).

111. The Court sees no reason to reach a different conclusion in the case of the applicant, who was dismissed from the position of judge for "a significant disciplinary offence and a systematic disregard of his duties which was incompatible with his judicial status and showed him to be unsuited to the position" (see paragraphs 15 and 22 above). His dismissal had clearly damaged his reputation and could potentially result in pecuniary losses (compare *Gyulumyan and Others v. Armenia* (dec.), no. 25240/20, 21 November 2023, where the applicants were entitled to a full pension, regardless of age, following termination of their office, and *Ivanovski v. the Former Yugoslav Republic of Macedonia*, no. 29908/11, § 177, 21 January 2016, where dismissal from the position of judge of the Constitutional Court was also accompanied by additional restrictions on employment in the public sector).

112. The Court finds that the impugned measure affected the applicant's private life to a significant degree and that therefore Article 8 is applicable.

113. The Court notes that this part of the application 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*

114. The applicant submitted that the interference was unlawful since the procedure against him had not followed legal requirements. The availability of a remedy before an independent and impartial body would be the most important counterbalance to a disciplinary body having discretion to take decisions of this type (see *Oleksandr Volkov*, cited above, § 184). The domestic law had no appropriate framework for review and the applicant had been denied access to a court. There was no definition in law as to what type of judicial misconduct would lead to such a severe disciplinary sanction as dismissal.

115. The Government, referring to *Oleksandr Volkov* (cited above), accepted that the applicant's removal from the position of judge of the Constitutional Court constituted an interference with his right to respect for

his private life. As to the requirement of legality, they maintained that the measure had a clear basis in domestic law, Article 149-1 of the Constitution and section 21 of the Constitutional Court Act. The statutory framework governing the disciplining of judges necessarily employs general clauses, a recognised feature of disciplinary law. The applicant, who had personally participated in the establishment of the Standing Commission on Rules and Ethics, was fully aware of the procedures and could reasonably have foreseen the consequences of conduct falling within the grounds for disciplinary proceedings. The Commission's report had set out in detail the acts and omissions constituting the applicant's misconduct. Consequently, the interference was "in accordance with the law".

116. The Government submitted that the availability of the disciplinary removal of a judge of the Constitutional Court, given that he or she would have been entrusted with safeguarding the constitutional order, undeniably served the protection of the rights and freedoms of others and the proper functioning of the constitutional judiciary. They referred in particular to the Standing Commission's findings that the applicant had issued unlawful orders, politicised the court's activities, interfered with the exercise of judicial functions by other judges, disregarded constitutional guarantees of judicial independence, and acted in a manner incompatible with the dignity and responsibilities of judicial office. In the Government's view, these actions threatened the institutional integrity of the court and undermined public trust in the administration of constitutional justice.

117. The interference had been necessary in a democratic society. Judges, particularly those holding high-ranking constitutional positions, exercise authority on behalf of the State and therefore may legitimately be held to heightened standards of professional conduct. The disciplinary measure imposed on the applicant was, in their submission, proportionate to the seriousness of the misconduct found by the Standing Commission and confirmed by the Constitutional Court in plenary session. The applicant's mandate as a judge of the Constitutional Court was limited to a nine-year term, with no possibility of reappointment, and that his dismissal did not impose any permanent bar on his practising in the legal profession or re-entering public service. The measure did not impose a disproportionate burden on the applicant. Given the nature and gravity of the misconduct, the constitutional importance of the office concerned, and the procedural safeguards, the interference responded to a pressing social need and was proportionate.

*2. The Court's assessment*

118. Given the finding above that Article 8 of the Convention is applicable, the decision to dismiss the applicant from the position of a Constitutional Court judge constituted an interference with his private life under Article 8 of the Convention.

119. Such an interference will be in breach of Article 8 of the Convention unless it can be justified under paragraph 2 of Article 8 as being "in accordance with the law", pursuing one or more of the legitimate aims in that paragraph, and being "necessary in a democratic society" in order to achieve the aim or aims concerned (see *Tuleya v. Poland*, nos. 21181/19 and 51751/20, § 429, 6 July 2023).

120. The Court reiterates its settled case-law, according to which the expression "in accordance with law" not only requires that the disputed measure should have some basis in domestic law but also refers to the quality of the law in question, requiring that it should be accessible to the persons concerned and foreseeable as to its effects. One of the requirements flowing from the expression "in accordance with law" is foreseeability. A rule cannot therefore be regarded as a proper "law" unless it is formulated with sufficient precision to enable citizens to regulate their conduct; they must be able – if necessary with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail. The level of precision required of domestic legislation – which cannot in any case provide for every eventuality – depends to a considerable degree on the content of the law in question, the field it is designed to cover and the number and status of those to whom it is addressed. It is, moreover, primarily for the national authorities to interpret and apply domestic law (see *De Tommaso v. Italy* [GC], no. 43395/09, §§ 106-108, 23 February 2017, with further references).

121. The Court observes that the decision to dismiss the applicant had a basis in domestic law. At the same time, the applicant was dismissed for committing acts described in the Commission report as "a significant disciplinary offence and gross and systematic neglect of his duties, incompatible with the status of a judge", which is a verbatim reproduction of how the Constitution describes the range of possible grounds for the dismissal of a Constitutional Court judge (see paragraphs 15 and 22 above).

122. There was no explanation of what criteria were met for the disciplinary offence or offences ascribed to the applicant to be considered "significant" or which of his actions constituted "gross" and which "systematic" neglect of his duties. This creates the impression that the constitutional provision describing the various possible grounds for a Constitutional Court judge's dismissal in general terms was simply quoted without an explanation as to what specific elements of it applied to what particular actions or inaction on the applicant's part.

123. Furthermore, the Constitutional Court , even apart from any issue as to its impartiality (see, *mutatis mutandis*, *Tuleya*, cited above, §§ 442-43), did not explain either what specific grounds for dismissal applied to the applicant's actions (see paragraphs 121 and 122 above) or, more importantly, why it was possible and necessary for the applicant to be dismissed from the position of a judge even though all the irregularities attributed to him

concerned his work in the post of the President of the Constitutional Court rather than in his role as a judge.

124. The material in the file suggests that one of the reasons for that decision may have been that the relevant rules apparently did not make it possible for the applicant's mandate as President of the Constitutional Court to be terminated early, unless he resigned of his own accord, which he did not (see paragraphs 18, 21 and § 19 of the CCU Rules in paragraph 49 above).

125. The material also suggests that it was the removal of the applicant from the position of the President of the Constitutional Court, not from judicial office, that was the initial aim of the proceedings against him (see, for example, the content of the judges' article and memorandum as set out in paragraphs 7 and 8 above).

126. The Constitutional Court did not explain its decision to use disciplinary proceedings intended to deal with disciplinary offenses of judges to address what it considered to be irregularities in the applicant's administrative work as the President of the Constitutional Court. If the Constitutional Court's decision was intended to assess the applicant's moral character as a Constitutional Court's judge, in light of those alleged irregularities in his administrative work as President, this is not adequately reflected in the reasoning of the decision.

127. The Court concludes that the interpretation of the relevant domestic rules in the applicant's case did not meet the Convention requirements of clarity and foreseeability. It follows that the disputed measure was not in accordance with the law.

128. There has accordingly been a violation of Article 8 of the Convention.

## IV. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

129. The applicant complained that his dismissal based on the statement he made in his interview was in breach of his right to freedom of expression, as set out in Article 10 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

## A. The parties' submissions

130. The Government submitted that there was no interference with the applicant's freedom of expression. They accepted that Article 10 applied in principle to judges and civil servants, but argued that, in the present case, the disputed disciplinary measure related essentially to the applicant's ability to hold the public post of judge and President of the Constitutional Court and to his overall conduct in office, rather than to the expression of any particular views. While his interview and his statement about refusing to swear in a President of Ukraine if the elections were rigged were part of the background to the case, the Standing Commission's report and the decision to dismiss the applicant were based on a broader set of serious disciplinary breaches. The Government stressed that the Constitutional Court found that the applicant had exceeded his authority, unlawfully taken on freelance advisers and interfered with judicial proceedings, and that his conduct as a whole demonstrated professional and moral unfitness for judicial office. The Government referred to the Court's case-law which distinguishes between penalties aimed at expressions of opinion and those related to professional misconduct in high public functions. They contended that the measure the applicant had complained about lay within the sphere of public office in the administration of justice, which was not protected by the Convention. Consequently, they asked the Court to find that Article 10 was not engaged and that the complaint was manifestly ill-founded.

131. The applicant submitted that he had expressed his views on the necessity of fair presidential elections and that his statement was politically neutral. The Standing Commission had referred to the applicant's statement in the interview in its report, which was *prima facie* evidence of a link between the statement and his dismissal. The burden of proof had therefore shifted to the Government to show the two were not linked but they had not discharged this burden. The Commission's conclusion that the statement discredited the office of the CCU President was unfounded and not supported by evidence. The interference had been unlawful since the criteria for considering what actions constituted disciplinary misconduct were unclear. That meant that the law relating to the disciplining of judges was vague and uncertain. No legal provision prohibited the CCU president from making public comments about his duties. The interference was not necessary in a democratic society but constituted retaliation for the applicant's neutral and non-political expression of his views about the need for fair elections, which it was not only his right but his duty as CCU President to make.

## B. The Court's assessment

132. The Court observes that, while the interview he had given was one of the issues raised in the proceedings against him, the applicant was

dismissed for his overall conduct as the President of the Constitutional Court which was the essential aspect of the case (compare *Harabin*, cited above, §§ 151-54; *Simic v. Bosnia and Herzegovina* (dec.), no. 75255/10, §§ 33-37, 15 November 2016; *Mnatsakanyan v. Armenia*, no. 2463/12, §§ 74-75, 6 December 2022).

133. The Court observes that the applicant failed to substantiate his complaint that his dismissal should be seen as an interference with his freedom of expression in breach of Article 10 of the Convention. In particular, he failed to provide this Court with the full text of the disputed interview and he did not identify any difficulty preventing him from doing so (compare, by way of illustration, *Golubenko v. Ukraine* [Committee] (dec.), no. 46928/07, § 41, 12 March 2019).

134. In view of these particular circumstances of the case, the Court concludes that the applicant has failed to make an arguable case that there has been a breach of Article 10 of the Convention.

135. It follows that this complaint is manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and must be rejected as inadmissible, pursuant to Article 35 § 4.

## V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

136. 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."

137. The applicant claimed 344,516 euros (EUR) in respect of pecuniary damage, representing his lost wages and other remuneration, and EUR 12,000 in respect of non-pecuniary damage. He did not claim costs.

138. The Government submitted that the claims were unfounded since the application was inadmissible. Also, there was no causal link between the alleged violations and the claim for pecuniary damage; the claims were unsubstantiated and excessive.

139. The applicant did not provide any detailed information or evidence concerning his own situation and income following his dismissal (see *Kulykov and Others v. Ukraine*, nos. 5114/09 and 17 others, § 155, 19 January 2017, and *Golovin*, cited above, § 53, and contrast *Sevdari v. Albania*, no. 40662/19, § 149, 13 December 2022, and *Simoncini v. San Marino*, no. 14396/24, §§ 182 and 186, 19 February 2026). The Court, therefore, rejects the claim in respect of pecuniary damage.

140. The Court, ruling on an equitable basis, awards the applicant EUR 2,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 6 of the Convention concerning the proceedings before the Constitutional Court and under Article 8 of the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of requirement of impartiality;

3. *Holds* that there has been a violation of Article 8 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 2,000 (two thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 25 June 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Martina Keller<br>Deputy Registrar | Kateřina Šimáčková<br>President |