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

THIRD SECTION

DECISION

Application no. 30987/17
Karl Emil WERNERSSON
against Iceland

The European Court of Human Rights (Third Section), sitting on 27 May 2025 as a Committee composed of:

Lətif Hüseynov*, President*,
Oddný Mjöll Arnardóttir,
Canòlic Mingorance Cairat*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 30987/17) against the Republic of Iceland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 12 April 2017 by an Icelandic national, Mr Karl Emil Wernersson ("the applicant"), who was born in 1962, lives in Gardabaer and was represented by Mr Ó. Eiríksson, a lawyer practising in Reykjavík;

the decision to give notice of the complaint concerning the applicant's right to be heard by an impartial tribunal to the Icelandic Government ("the Government"), initially represented by their Agent, Mr E. K. Hallvarðsson, State Attorney General, and subsequently by Ms F. R. Þorsteinsdottir, his successor in that office;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER AND SCOPE OF THE CASE

1. The application concerns the alleged partiality of some of the Supreme Court Justices sitting on a panel in a criminal case in which the applicant was convicted for financial crimes.

2. The applicant was a shareholder in the company Milestone ehf. (hereinafter "Milestone") and served as the chairman of its board. He also served on the board of directors of the bank Glitnir banki hf. (hereinafter

"Glitnir") from 2004 to 2007. Glitnir collapsed following the financial crisis in the autumn of 2008 (see, for background, *Jóhannes Baldursson and Birkir Kristinsson v. Iceland*, nos. 14175/16 and 3 others, § 6, 21 January 2025). Milestone, who had been a large shareholder and debtor of Glitnir, was declared bankrupt on 18 September 2009.

3. The applicant was indicted on 5 July 2013 for fraud by abuse of position (*umboðssvik*) and major violations of the Accounting Act No. 145/1994 and the Act on Annual Accounts No. 3/2006 in relation to his actions as chairman of the board of Milestone. More specifically, he was accused along with two co-accused of having abused their positions in Milestone and having put the company at significant risk of financial loss when they had made Milestone finance the fulfilment of contracts unrelated to the company. Milestone had made the payments in complete uncertainty regarding whether, how, when or by whom the relevant sums would be repaid to it, and without any security for repayment. Secondly, he was accused along with the same co-accused of a major violation of the Accounting Act for not having kept Milestone's accounts in a sufficiently clear, secure and accessible manner, and for misrepresenting transactions and the use of funds in 2006 and 2007. Thirdly, the applicant and his co-accused were accused of major violations of the Act on Annual Accounts for having falsified balance sheets which were part of Milestone's annual accounts and the Milestone group's consolidated accounts for the years 2006 and 2007. The applicant's actions as a member of Glitnir's board of directors were not subject to these criminal proceedings.

4. On 17 December 2014 the Reykjavík District Court acquitted the applicant. The prosecutor appealed.

5. By a judgment of 28 April 2016, the Supreme Court overturned the applicant's acquittal and convicted him on all counts. He was sentenced to three years and six months' imprisonment and has since served his sentence.

6. The above-mentioned criminal proceedings were subject to two applications before the Court. In his first application, lodged with the Court on 19 October 2016, the applicant complained of various violations of Article 6 and Article 2 of Protocol No. 7 to the Convention, but not about the lack of impartiality of the Supreme Court Justices. Subsequently, after confidential financial information about the Supreme Court Justices came to light in the Icelandic media on 5 December 2016 (see *Sigríður Elín Sigfúsdóttir v. Iceland*, no. 41382/17, §§ 13-14, 25 February 2020), the applicant lodged his second application, which is under review in the present case. In that application, the applicant complained under Article 6 § 1 of the Convention that his right to be heard by an impartial tribunal had been violated due to the financial interests of four of the five Supreme Court Justices sitting on the panel in his case, namely Justices G.B., M.S., Ó.B.Þ. and V.M.M.

7. Following the Court's judgment in the case of *Styrmir Þór Bragason v. Iceland* (no. 36292/14, 16 July 2019), the Court received friendly

settlement declarations signed by the parties in the applicant's first case, wherein he agreed to waive any further claims against Iceland in respect of the facts giving rise to that application. Subsequently, the Court decided to strike that application out of its list of cases in accordance with Article 39 of the Convention (see *Karl Emil Wernersson v. Iceland* (dec.) [Committee], no. 61464/16, 2 February 2021).

8. By letters from the applicant and the Government of 30 January 2024 and 14 February 2024, respectively, the parties informed the Court that on 30 December 2021 the Icelandic Court of Reopening of Judicial Proceedings had accepted the applicant's request to reopen his criminal case. Subsequently, on 9 November 2022, the Supreme Court had dismissed the case. The Supreme Court's decision had the effect of reinstating the District Court's original acquittal of the applicant with final effect. The parties did not submit any observations on the admissibility of the applicant's second application in light of these developments.

THE COURT'S ASSESSMENT

9. The Court notes that the reopening of the applicant's case in 2021, which led to the reinstatement of his original acquittal after he had served his prison sentence, may raise an issue of his victim status or the loss thereof (see *Kerimoğlu v. Türkiye*, no. 58829/10, §§ 44-57, 6 December 2022, with further references), or the question of whether the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention (*ibid.*, § 58). Nevertheless, the Court considers it unnecessary to examine these issues further since it finds the application in any event inadmissible for the reasons set out below.

10. The Court observes that the applicant did not claim, and there is nothing to indicate, any personal bias on the part of the Supreme Court Justices in question.

11. As to whether the applicant's doubts regarding the Justices' lack of impartiality may be regarded as objectively justified, the applicant submitted that his criminal case had involved his actions as the chairman of the board of Milestone, which at the time of events had been a large shareholder and debtor of Glitnir. The applicant had also served on the board of Glitnir during part of the relevant period. Milestone was therefore closely connected to Glitnir and its actions could affect the Icelandic banks. At the relevant time, four of the five Justices in the case had owned shares in the Icelandic banks and one had additionally placed funds in asset management at Glitnir. The Justices had suffered losses related to the collapse of the banks, Milestone had been vilified in the media for causing such losses and the general sentiment in society towards the applicant had been negative. In addition, the Special Investigative Committee on the causes of the downfall of the Icelandic banks had concluded that one of its causes had been how the banks

had assumed too much risk against too few companies, including Milestone. The Supreme Court judgment had further specifically mentioned that the applicant's actions had caused Milestone's creditors great financial harm. This had included Glitnir as a large creditor and by extension its shareholders.

12. The Court has previously found that in order for a judge's impartiality to be called into question in a context such as the present one, the financial interests of the judge concerned must be directly related to the subject matter of the dispute at the domestic level (see *Sigríður Elín Sigfúsdóttir*, cited above, § 53; *Bjarki H. Diego v. Iceland*, no. 30965/17, § 30, 15 March 2022; and *Jóhannes Baldursson and Birkir Kristinsson*, cited above, § 69).

13. The Court notes that the criminal proceedings against the applicant concerned fraud by abuse of position in his capacity as chairman of the board of Milestone and related accounting offences.

14. According to the information provided by the parties, none of the Justices had owned shares in Milestone at any time nor were they in any other manner directly connected to that company. Thus, it cannot be found – at least not in the strict sense – that the subject matter of the criminal proceedings which the Supreme Court Justices were called upon to adjudicate bore a direct link to their financial interests.

15. The applicant has, however, pointed to various ties between himself, Milestone, Glitnir, other Icelandic banks and the Justices (see paragraph 11 above) to substantiate his complaint.

16. As regards Justices G.B. and V.M.M., the applicant submitted that they had held shares in Landsbanki Íslands ("Landsbanki"), while acknowledging that Milestone's interests were not as intertwined with that bank as with Glitnir. The Court notes that other than referring to media coverage and the general sentiment in society towards him, the applicant has not provided any substantive explanation of how his ties with Glitnir and the subject matter of the domestic proceedings against him could have affected the Justices' investments in Landsbanki. Justices' G.B.'s and V.M.M.'s financial losses resulting from the collapse of Landsbanki cannot therefore be considered to have given him an objectively justified fear of a lack of impartiality in the present case (see *Sigríður Elín Sigfúsdóttir*, § 53, and *Jóhannes Baldursson and Birkir Kristinsson*, § 73, both cited above).

17. As regards Justices M.S. and Ó.B.Þ., the Court observes that the applicant's actions under scrutiny before the domestic courts took place from December 2005 to February 2008. It also notes that Justices M.S. and Ó.B.Þ. held shares in Glitnir in 2007 and 2008 and that Justice M.S. placed assets in Glitnir's equity funds in 2007. Glitnir's shares lost their value as a result of the bank's collapse in the autumn of 2008, and Justice M.S.'s assets in the equity funds had decreased significantly in value by the end of that year. It is undisputed that Milestone owned 9,57% of Glitnir's shares in 2005 and that 7% had remained after the sale of shares in 2007. It is equally undisputed that Milestone was the third largest debtor of Glitnir in 2007 and 2008, and that

the applicant had served on Glitnir's board of directors for part of the relevant period.

18. With respect to Justice M.S., the Court observes that even if his shareholdings in Glitnir were to be considered sufficiently related to the subject matter of the applicant's case, their value at the time of Glitnir's collapse, and consequently the Justice's loss due to the collapse, amounted to ISK 343,034 (approximately EUR 2,500 at the material time). The Court has previously found that these shareholdings did not rise to a level capable of raising an objectively justified fear of a lack of impartiality and sees no reason to find otherwise in the present case (see *Jóhannes Baldursson and Birkir Kristinsson*, cited above, § 79). As regards Justice M.S.'s investments in Glitnir's equity funds, the Court notes that no arguments or evidence have been put forward to demonstrate that the acts which formed the subject matter of the domestic criminal proceedings had any direct bearing on the financial loss suffered in relation to these investments, which are different in nature to shareholdings in the bank. It cannot therefore be concluded that the financial interests related to the equity funds were directly related to the subject matter of the dispute at the domestic level (ibid., §§ 81-83). The foregoing considerations are sufficient to enable the Court to conclude that the applicant could not reasonably call into question Justice M.S.'s impartiality when deciding this case.

19. As regards Justice Ó.B.Þ., the Court notes that he came into possession of shares in Glitnir in July 2007, which he sold in December that year at a loss of around ISK 3,100,000 (approximately EUR 34,900 at the material time). The Court is, however, unable to conclude that Justice Ó.B.Þ.'s holdings in Glitnir – even if seen as part of the wider picture referred to by the applicant – would allow a direct link to be drawn between his financial interests and the subject matter of the case he was called on to decide (see paragraph 3 above).

20. Firstly, the Court notes that the applicant's actions as a member of Glitnir's board of directors were not under scrutiny in the relevant criminal proceedings and that the indictment concerned Milestone's accounting and dealings with companies and individuals unrelated to Glitnir.

21. Secondly, Justice Ó.B.Þ.'s loss did not derive from his shares becoming worthless as a result of Glitnir's collapse. It rather appears to have been the Justice's decision to sell his shares in Glitnir in December 2007, ten months prior to the bank's collapse (ibid., § 76).

22. Lastly, as to the applicant's submission that the Supreme Court had commented on Milestone's creditors' loss when determining the applicant's sentence, the Court observes that the Supreme Court indeed indicated, in a brief and general manner, that the defendants' actions involved large sums of money which Milestone's creditors had, in the end, forgone. However, the applicant has not convincingly argued whether or how the decrease in value of Glitnir's shares between July and December 2007 was related to

Milestone's creditors' losses following its bankruptcy. In that regard, the Court observes that Milestone was not declared bankrupt until 18 September 2009, some 11 months after Glitnir's collapse and 21 months after Justice Ó.B.Þ. had sold his shares in Glitnir. The Court further notes that while the report of the Special Investigative Committee on the causes of the downfall of the Icelandic banks does indeed discuss the banks' large exposures, including on account of Milestone's debts, it only concluded that these made the banking system more vulnerable to external factors in the period leading up to the financial crisis of 2008 and did not discuss the subject matter of the criminal case against the applicant in this context. There is, therefore, nothing in the case file that indicates that the applicant's actions had the effect of lowering the price of shares around the time Justice Ó.B.Þ. decided to sell his shares (compare *Jóhannes Baldursson and Birkir Kristinsson*, cited above, § 76).

23. For the above reasons, and noting in particular that the applicant has only referred in a general manner to his various roles, business links between Glitnir and Milestone, loosely coinciding timelines and to media coverage and public sentiment at the time, the Court considers that the implied (causal) links between the applicant's case and Justice Ó.B.Þ.'s financial interests are either not sufficiently substantiated or are too tenuous to raise an objectively justified fear that the Justice lacked the requisite impartiality.

24. In light of the above, the Court concludes that the applicant's complaint is manifestly ill-founded and must be declared inadmissible under Article 35 § 3 (a) of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 June 2025.

Olga Chernishova Deputy Registrar	Lətif Hüseynov President