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

SECOND SECTION

DECISION

Application no. 27524/06
Duško VIDAKOVIĆ
against Montenegro

The European Court of Human Rights (Second Section), sitting on 24 May 2016 as a Chamber composed of:

Işıl Karakaş, *President,*
Julia Laffranque,
Nebojša Vučinić,
Paul Lemmens,
Ksenija Turković,
Jon Fridrik Kjølbro,
Stéphanie Mourou-Vikström, *judges,*

and Stanley Naismith, *Section Registrar*,

Having regard to the above application lodged on 2 June 2006,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Duško Vidaković, is a Montenegrin national, who was born in 1964 and lives in Bar. He is represented before the Court by Mr M. Mirović, a lawyer practising in Bar.

A. The circumstances of the case

1. The criminal proceedings

2. On 8 September 1987 the applicant, a bus driver, was involved in a car accident in which two people died.

3. On 17 August 1988 he was charged with a serious traffic offence.

4. On 11 November 2002, after two remittals, the Court of First Instance (*Osnovni sud*) in Kotor found the applicant guilty in his absence and sentenced him to two years of imprisonment. On 23 September 2004 the High Court (*Viši sud*) in Podgorica upheld this judgment.

5. It transpires from the case-file that on various occasions the applicant had relied on his health and an alleged trip to Italy as reasons for not appearing at some hearings, had dismissed his representative, had challenged judges, and had registered a false address as his address of residence.

6. On an unspecified date between 23 September 2004 and 28 February 2005 the above judgments were transmitted to the Court of First Instance in Bar for enforcement against the applicant, which is when the applicant learned about them.

7. On 22 March 2005 the Court of First Instance in Kotor reopened the proceedings, following the applicant's request to that effect filed on 28 February 2005. The same decision ordered the applicant's detention due to the fear that he might abscond.

8. On 9 May 2005 the Court of First Instance found the applicant guilty of endangering traffic, sentenced him to two years of imprisonment and prohibited him from driving. The court noted that the applicant had attempted in various manners to prolong the proceedings, including health reasons, "being occupied by other affairs", dismissing his representative, challenging judges, registering a false address as the address of his residence, and an alleged trip to Italy. On 19 December 2006 the High Court quashed this judgment.

9. On 30 March 2007 the Court of First Instance in Kotor issued a detention order against the applicant so as to ensure his presence at the next hearing, given that neither the applicant nor his representative had appeared at the previous hearing scheduled for 29 March 2007, "thus obviously obstructing" the proceedings. The court noted in this regard that the applicant's father had appeared instead and had submitted that the applicant was in hospital, but that the medical certificate provided stated that the applicant had been both admitted to and released from hospital on 26 March 2007. In its decision the court further stated, *inter alia*, that the proceedings at issue had been pending for 20 years and that the criminal prosecution was to become time-barred on 8 September 2007.

10. Between 12 April and 17 September 2007 at least four other hearings were scheduled, notably for 12 April, 21 May, 6 June and 17 September 2007, at which the applicant failed to appear. Between 5 May and 23 July 2007 he was in hospital.

11. On 14 March 2008 the Court of First Instance found the applicant guilty and sentenced him to two years of imprisonment. The court noted, *inter alia*, that the applicant was "deliberately stalling the proceedings in

different ways" (*na razne načine svjesno odugovlačio postupak*). It made no reference to whether the trial had become time-barred.

12. On 5 May 2008 the applicant appealed. He submitted that the prosecution against him had become time-barred and relied on Article 125 of the Criminal Code (see paragraph 29 below).

13. On 12 February 2009 the High Court dismissed the applicant's appeal, and proceeded *ex officio* to uphold the judgment rendered by the Court of First Instance on 11 November 2002. The court also held that the application of statutory provisions relating to prescription was "out of the question as the reopened criminal proceedings were not a criminal prosecution (which was concluded by a judgment) but were conducted upon the applicant's request and for his benefit".

14. On 24 March 2009 the applicant lodged an appeal on points of law with the Supreme Court (*Vrhovni sud*) proposing, *inter alia*, that the proceedings be terminated as the prosecution had become time-barred.

15. On 4 June 2009 the Supreme Court upheld the High Court judgment, concluding that "the court decided as above given that the judgments of the lower courts are based on law, the law was not breached in the proceedings against [the applicant] nor were there any significant procedural violations of criminal proceedings". It did not address directly the question of whether the criminal prosecution had become time-barred or not.

2. Other relevant facts

16. Between October and December 2007 the applicant challenged all the judges of the Court of First Instance in Kotor, including the judge processing his case, on the ground that they had pursued the proceedings against him even though the criminal prosecution had become time-barred, and requested that the case be transferred to another court. These requests were rejected by the Supreme Court by 14 December 2007.

17. On 21 January 2008 the applicant filed a criminal complaint (*krivična prijava*) for abuse of office against the judge in charge of processing the case against him. In doing so the applicant maintained, in particular, that the court should have terminated the proceedings against him as the prosecution of the criminal offence that he was charged with had become time-barred.

18. On 26 January 2008 the State Prosecution (*Osnovno državno tužilaštvo*) rejected the applicant's criminal complaint, relying on the Conclusion of the Criminal Departments of the Federal Court, the Supreme Courts and the Supreme Military Courts issued in March 1985, which provided that once a judgment finding a defendant guilty in his absence became final the criminal prosecution could not become time-barred if the criminal proceedings were later reopened (see paragraph 30 below). The Conclusion was apparently explained by an opinion that if the prosecution could become time-barred that would favour those defendants who by

cunning managed to avoid being tried. The decision also noted that the applicant had failed to appear for hearings scheduled for 29 March, 12 April, 21 May, 6 June and 17 September 2007. No appeal was allowed against this decision.

19. On 13 February 2008 the applicant addressed the Supreme Court, complaining apparently that his prosecution had become time-barred. On 3 March 2008 the Supreme Court, by means of a letter, informed the applicant that the trial in his case had not become time-barred and referred to the Conclusion of 1985.

20. On an unspecified date in 2008 the applicant filed a compensation claim against the State for convicting him after the prosecution of a particular criminal offence had become time-barred.

21. On 9 March 2010 the Court of First Instance ruled against the applicant, which decision was upheld by the High Court and the Supreme Court on 6 July 2010 and 26 October 2010 respectively. The High Court relied on the Conclusion of 1985, and the Supreme Court considered that the provisions on prescription did not apply if the prescription period had ended in the course of the reopened proceedings. On 12 July 2011 the Constitutional Court dismissed the applicant's constitutional appeal as unfounded, relying on the Supreme Court's reasoning.

22. On 28 November 2011 the Court of First Instance in Bijelo Polje dismissed the applicant's request for amnesty. The court noted, *inter alia*, that on 8 April 2009 the applicant had been served with a writ issued by the court in Bar relating to the enforcement of his prison sentence. The next day the applicant's representative had submitted that the applicant was residing in Mojkovac and the writ should be forwarded to the court in Bijelo Polje. After the relevant authorities had attempted unsuccessfully to serve the writ on the applicant on two occasions in Mojkovac they had sought the assistance of the police. The police had informed them that the applicant actually had had residence in Bar at an unknown address, after which an arrest warrant (*potjernica*) had been issued against the applicant.

B. Relevant domestic law

1. *The Constitution of the Socialist Federal Republic of Yugoslavia (*Ustav Socijalističke Federativne Republike Jugoslavije*, published in the Official Gazette of the Socialist Federal Republic of Yugoslavia - OG SFRY - nos. 09/74, 11/74, 38/81 and 70/88)*

23. Article 371 provided that the Federal Court, the Supreme Courts of republics and provinces, and relevant military courts would deliver conclusions (*načelne stavove*) in respect of issues relevant for the implementation of federal regulations.

*2. The Federal Court Act (*Zakon o Saveznom sudu*; published in the OG SFRY nos. 21/74, 20/82, 20/90 and 35/92)*

24. Section 33 provided that the Federal Court, the Supreme Courts of republic and provinces, and the Supreme Military Court convened common sessions (*zajednička sednica*) and, through their delegates, delivered conclusions on issues relevant for the implementation of federal regulations. In particular, common sessions were to be convened when there was inconsistency in the case-law on issues relevant for the uniform implementation of federal regulations.

*3. The Criminal Act of the Socialist Republic of Montenegro (*Krivični zakon Socijalističke Republike Crne Gore*, published in the Official Gazette of the Socialist Republic of Montenegro nos. 22/77, 25/77, 9/78, 17/84, 28/87, 27/89, 03/90, 56/92 and 21/93)*

25. Section 185 (3) provided that a person who was involved in traffic and failed to comply with the traffic rules negligently (*iz nehata*), thus jeopardising human lives and causing light bodily injuries, would be punished with imprisonment of up to one year.

26. Section 190 (5) provided that if the criminal offence under section 185 (3) led to the death of one or more persons, the perpetrator would be punished with imprisonment of between one year and eight years.

*4. The Criminal Act of the Federal Republic of Yugoslavia (*Krivični zakon Savezne Republike Jugoslavije*, published in the Official Gazette of the Federal Republic of Yugoslavia nos. 44/76, 36/77, 34/84, 37/84, 74/87, 57/89, 3/90, 38/90, 45/90, 54/90, 35/92, 37/93, 24/94, 61/01)*

27. Section 95 (1) provided, *inter alia*, that a criminal prosecution could not be initiated (*ne može se preduzeti*) more than ten years after the commission of those criminal offences for which the courts could impose imprisonment of more than five years and less than ten years.

28. Pursuant to section 96 (6) the criminal prosecution of the crime defined in section 190 (5) of the Criminal Act of the Socialist Republic of Montenegro became time-barred in any event when more than twenty years had elapsed since the commission of the crime.

*5. The Criminal Code of Montenegro (*Krivični zakonik Crne Gore*, published in the Official Gazette of the Republic of Montenegro nos. 70/03, 13/04, and 47/06, and the Official Gazette of Montenegro nos. 40/08, 25/10, 73/10, 32/11, 64/11, 40/13, and 56/13)*

29. This Code entered into force on 1 April 2004 and thereby repealed all incompatible criminal law provisions thereto. Articles 124 § 1 and

125 § 7, however, correspond to sections 95 (1) and 96 (6), respectively, of the Criminal Act of the Federal Republic of Yugoslavia.

*6. The Conclusion of the Criminal Departments of the Federal Court, the Supreme Courts and the Supreme Military Courts of the Socialist Federal Republic of Yugoslavia of 27 and 28 May 1985 (*Načelni stav; Zajednička sjednica Saveznog suda, Vrhovnih sudova i Vrhovnog vojnog suda od 27. i 28. V 1985.*)*

30. The said Conclusion (*načelni stav*) provided that once a judgment finding a defendant guilty in his absence became final the criminal prosecution could not become time-barred if the criminal proceedings were reopened.

7. Case-law of the Supreme Court of Montenegro (published in the Bulletin of the Supreme Court 2014/2)[1]

31. By judgment of 24 January 2014 the High Court found X guilty in absence and sentenced him to one year's imprisonment. Following X's request the proceedings were reopened and by 2 July 2014 the High Court dismissed the indictment as the criminal prosecution had become time-barred in the meantime. On 1 December 2014 the Supreme Court accepted the Supreme State Prosecution's request for protection of legality and found that the High Court's decision of 2 July 2014 was in breach of the law. In its decision Kzz. Br. 11/14 the Supreme Court explicitly held that when criminal proceedings were reopened in respect of a person who had been tried in his absence, the statutory provisions on prescription were not applicable regardless of whether the statutory prescription time had expired in the meantime. According to the Supreme Court the reopened proceedings were not a new criminal prosecution, given that the criminal prosecution had already ended by means of a final judgment issued in the defendant's absence. The reopened proceedings were conducted exclusively upon the request of the defendant in whose favour the proceedings were re-opened and in order to examine the earlier final judgment.

COMPLAINTS

32. The applicant complains under Article 6 of the Convention about the length of the criminal proceedings conducted against him, and the

[1] The Bulletin is available on the Supreme Court's website http://sudovi.me/podaci/vrhs/dokumenta/2014.pdf; the relevant decision of the Supreme Court is on p. 68-71.

unlawfulness of his conviction, also in view of the courts' alleged lack of reasoning.

THE LAW

33. Being the "master of the characterisation" to be given in law to the facts of any case before it (see *Bouyid v. Belgium* [GC], no. 23380/09, § 55, ECHR 2015), the Court considers that the applicant's complaint relating to the alleged unlawfulness of his conviction falls to be examined under both Articles 6 and 7 of the Convention.

I. ARTICLE 6 § 1 OF THE CONVENTION

34. As noted above, the applicant complained about the length of the criminal proceedings conducted against him, and that his conviction was unlawful in view of the courts' lack of reasoning.

35. The relevant part of the said Article reads as follows:

> "In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law."

A. Length of criminal proceedings

36. The applicant argued that his was not a complex case as he was the only defendant and that before the ratification of the Convention by Montenegro the proceedings had lasted for more than 15 years which had also to be taken into account. He maintained in addition that he had appeared for all the hearings, except when he was not duly and in a timely manner summoned or was absent for health reasons. He submitted that on 29 March 2007 he had been in hospital, of which the court had been duly informed, as well as between 5 May and 23 July 2007. The applicant submitted a medical certificate confirming his hospitalisation between 5 May and 23 July 2007. He did not contest that he had been absent from other hearings in 2007 referred to by the Government or provide any explanation in this regard.

37. The Government submitted that only the period after the ratification of the Convention fell within the Court's competence *ratione temporis* and that during that time there were no periods of inactivity on the part of the domestic courts or any other relevant domestic body that could be attributed to the State. They also maintained that the applicant had contributed to the length of the proceedings as he had fled the country and subsequently had failed to appear at a number of hearings, notably on 29 March 2007, as well

as in April, September and November 2007. He had also abused his procedural rights by groundlessly lodging requests for recusal and criminal complaints against the judges acting in his case. The Government submitted finally that the applicant's case was complex, and in any event did not require urgent treatment.

38. The Court will assess the reasonableness of the length of the proceedings in the light of the particular circumstances of the case and having regard to the criteria laid down in its case law, in particular the complexity of the case, the conduct of the applicant and of the relevant authorities, as well as what was at stake for the applicant (see, among many other authorities, *Kudła v. Poland* [GC], no. 30210/96, § 124, ECHR 2000-XI).

39. Turning to the present case, the Court notes that the period to be taken into account began on 3 March 2004, which is when the Convention entered into force in respect of Montenegro (see *Bijelić v. Montenegro and Serbia*, no. 11890/05, § 69, 28 April 2009) and ended on 4 June 2009. The impugned proceedings were, therefore, within the Court's competence *ratione temporis* for five years and three months. As the proceedings were not pending before any court between 23 September 2004 and 22 March 2005, these six months must be deducted from the said period, thus leaving the overall period of four years and nine months.

40. The Court does not consider the case of any particular complexity.

41. In order to determine the reasonableness of the length of proceedings, regard must also be had to the state of the case on 3 March 2004 (see, among other authorities, *Styranowski v. Poland*, 30 October 1998, § 46, *Reports of Judgments and Decisions* 1998-VIII; *Mikulić v. Croatia*, no. 53176/99, § 37, ECHR 2002-I). In this connection it is noted that at that time the proceedings were pending before the second-instance court (see paragraph 4 above). After the Convention had entered into force the domestic courts issued a second-instance judgment in less than seven months, and thereby concluded the proceedings. After the proceedings were reopened on 22 March 2005, in four years two months and 14 days the domestic courts issued five decisions at three instances and brought the proceedings to their conclusion.

42. Furthermore, the applicant failed to submit evidence either before this Court or the domestic courts that on 29 March 2007 he had indeed been in hospital, or to provide any justification for not having appeared at the hearings scheduled in April, September and November 2007. The same year, however, he was in hospital between 5 May and 23 July, that is for nearly three months (see paragraphs 9-10 and 36 above). While the applicant's hospitalization is certainly a justified reason for his absence, the prolongation of the proceedings on that account cannot be attributed to the State but to the applicant only.

43. It is observed, in addition, that apart from failing to appear at a number of hearings, as noted above, the applicant also challenged the judges, lodged a criminal complaint against them, dismissed his representative, travelled abroad and registered a false address as the address of his residence (see paragraphs 5, 8-9, 11, 18 *in fine*, and 22 above), thus further prolonging the proceedings.

44. Having regard to the above the Court considers that the applicant's complaint in this regard is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Fairness of criminal proceedings in view of the courts' reasoning

1. The parties' submissions

45. The applicant complained that his conviction was unlawful as his criminal prosecution had allegedly become time-barred before he was convicted. He also contested the reasoning provided by the domestic courts in upholding the judgment of 2002 and finding him guilty after his prosecution had allegedly become time-barred. He maintained that the Government's reliance on the Conclusion of 1985 was unacceptable as it originated from a State which had long since ceased to exist.

46. The Government contested the applicant's claims. They submitted that the judgment finding the applicant guilty was lawful and clear, and "in accordance with the requirement of legal certainty". In particular, they maintained that once the proceedings were reopened after one had been tried *in absentia*, the case could not become time-barred. They relied on the Conclusion of 1985 (see paragraph 30 above).

2. The Court's conclusion

47. The Court reiterates that Article 6 § 1 obliges the courts to give reasons for their judgments, but cannot be understood as requiring a detailed answer to every argument (see *Van de Hurk v. the Netherlands*, 19 April 1994, § 61, Series A no. 288; *Perez v. France* [GC], no. 47287/99, § 81, ECHR 2004-I). The extent to which this duty to give reasons applies may vary according to the nature of the decision. It is moreover necessary to take into account, *inter alia*, the diversity of the submissions that a litigant may bring before the courts and the differences existing in the Contracting States with regard to statutory provisions, customary rules, legal opinion and the presentation and drafting of judgments. Accordingly the question whether a court has failed to fulfil the obligation to state reasons, deriving from Article 6, can only be determined in the light of the circumstances of the case. If a submission would, if accepted, be decisive for the outcome of the case, it may require a specific and express reply by the court in its judgment

(see *Ruiz Torija v. Spain*, 9 December 1994, §§ 29-30, Series A no. 303-A; *Hiro Balani v. Spain*, 9 December 1994, §§ 27-28, Series A no. 303-B).

48. Turning to the present case, the Court notes that pursuant to the relevant legislation in force at the time, the prosecution of the criminal offence that the applicant was charged with was to become time-barred after twenty years (see paragraph 28 above), which would have been in 2007 in the applicant's case. This position was apparently also initially accepted by the Court of First Instance in Kotor given that its detention order against the applicant stated that the prosecution in his case would become time-barred in 2007 (see paragraph 9 *in fine* above). In view of this the Court accepts that the applicant's submission would, if accepted, be decisive for the outcome of the case, and as such did require a specific and express reply by the court.

49. It is observed in this regard that in the criminal proceedings against the applicant the High Court explicitly held that the statutory provisions on prescription were not applicable in his case (see paragraph 13 above). While the Supreme Court did not refer to this question directly it did uphold the High Court's decision and concluded that the judgments of the lower courts were based on law and that there were no violations thereof (see paragraph 15 above), thus implicitly endorsing the reasoning of the High Court.

50. In addition to this, the applicant had also been informed twice before the criminal proceedings ended, that the trial against him had not become time-barred. It was first on 26 January 2008 that the State Prosecution rejected the applicants' criminal complaint against the judge in charge of his case, relying on the Conclusion reached by the Federal Court, the Supreme Courts and the Supreme Military Courts in March 1985. The State Prosecution's decision also contained the rationale behind the Conclusion, which was that if the criminal prosecution in situations such as the applicant's could become time-barred, that would favour the defendants who managed to avoid the trials (see paragraph 18 above). Shortly afterwards, on 3 March 2008, the Supreme Court also examined the issue and informed the applicant that the trial in his case had not become time-barred, also relying on the said Conclusion (see paragraph 19 above).

51. In view of the above, the Court considers that the domestic courts not only provided a specific and express reply to the applicant's submission, but have done so consistently and on several occasions. The applicant's complaint in this regard is therefore manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

II. ARTICLE 7 OF THE CONVENTION

52. The applicant complained that his conviction was unlawful as his prosecution had allegedly become time-barred. He contested the Government's reliance on the Conclusion of 1985.

53. The Government submitted that the judgment finding the applicant guilty was lawful and, relying on the said Conclusion, stated that once the proceedings were reopened after one had been tried *in absentia*, the case could not become time-barred (see paragraph 46 above).

54. As already noted the complaint falls to be examined under Article 7 of the Convention, which reads as follows:

> "1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
>
> 2. This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations."

55. The Court recalls that the guarantee enshrined in Article 7 should be construed and applied in such a way as to provide effective safeguards against arbitrary prosecution, conviction and punishment (see *S.W. v. the United Kingdom*, 22 November 1995, § 35, Series A no. 335-B, and *C.R. v. the United Kingdom*, 22 November 1995, § 33, Series A no. 335-C). Accordingly, it embodies, in general terms, the principle that only the law can define a crime and prescribe a penalty (see *Kokkinakis v. Greece*, 25 May 1993, § 52, Series A no. 260-A). The term "law" implies qualitative requirements, including those of accessibility and foreseeability. An individual must know from the wording of the relevant provision and, if need be, with the assistance of the courts' interpretation of it, what acts and omissions will make him criminally liable and what penalty will be imposed for the act committed (see *Kafkaris v. Cyprus* [GC], no. 21906/04, §§ 139-140, ECHR 2008, with further references).

56. The Court has acknowledged in its case-law that however clearly drafted a legal provision may be, in any system of law, including criminal law, there is an inevitable element of judicial interpretation. There will always be a need for elucidation of doubtful points and for adaptation to changing circumstances. Again, whilst certainty is highly desirable, it may bring in its train excessive rigidity and the law must be able to keep pace with changing circumstances. Accordingly, many laws are inevitably couched in terms which, to a greater or lesser extent, are vague and whose interpretation and application are questions of practice (see, *mutatis mutandis*, *Kokkinakis v. Greece*, cited above, § 40). The role of adjudication vested in the courts is precisely to dissipate such interpretational doubts as remain (see, *mutatis mutandis*, *Cantoni v. France*, 15 November 1996, § 32,

Reports of Judgments and Decisions 1996-V). Article 7 of the Convention cannot be read as outlawing the gradual clarification of the rules of criminal liability through judicial interpretation from case to case, "provided that the resultant development is consistent with the essence of the offence and could reasonably be foreseen" (see *Del Río Prada v. Spain* [GC], no. 42750/09, §§ 92-93, ECHR 2013; *Vasiliauskas v. Lithuania* [GC], no. 35343/05, § 155, ECHR 2015; *S.W. v. the United Kingdom*, cited above, § 36; and *Streletz, Kessler and Krenz v. Germany* [GC], nos. 34044/96, 35532/97 and 44801/98, § 50, ECHR 2001-II).

57. Turning to the present case, the Court notes that the relevant statutory provision provided that the criminal prosecution in a case such as the applicant's would become time-barred in twenty years as of the day when the criminal offence had been committed. This provision had been introduced by the relevant criminal legislation in 1976, and remained in the following statute enacted in 2003 (see paragraphs 28 and 29 above).

58. The Court notes that it does not transpire from the wording of the statutory provision whether it was also applicable in case of reopening of a criminal procedure concluded by a final judgment, be it before or after the expiry of the twenty year time-limit. Therefore, in the application of the provision to reopened criminal proceedings, there was inevitably an element of judicial interpretation. The legislation in force at the time envisaged that the Federal Court and the Supreme Courts of then Yugoslavia, of which Montenegro was part, would issue conclusions in order to remove inconsistencies in the case-law and ensure the uniform implementation of the regulations (see paragraphs 23 and 24 above). Pursuant to this provision a conclusion was reached on the statutory provision relating to criminal prosecution and prescription as early as 1985. The conclusion clarified that once a judgment finding a defendant guilty in his absence became final the criminal prosecution could not become time-barred if the criminal proceedings were reopened (see paragraph 30 above). Therefore, the judicial interpretation of the particular statutory provision thus removed any possible doubts as to whether the criminal prosecution became time-barred if the defendant was found guilty in his absence and the relevant criminal proceedings were later re-opened.

59. The domestic courts, when ruling in the applicant's case, took the same approach, the Court of First Instance tacitly and the High Court and the Supreme Court explicitly. The Court also notes that the Conclusion is consistently applied in the Montenegrin case-law, as it was applied not only in the applicant's case but also in a recent case where the same issue arose (see paragraph 31 above).

60. In addition, the State Prosecutor relied thereon when he dismissed the applicant's allegation that the criminal prosecution had become time-barred, and so did the civil courts when ruling on the applicant's compensation claim (see paragraphs 18 and 20-21 above).

61. In view of the above the Court considers that the applicant's complaint in this regard is also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 16 June 2016.

Stanley Naismith	Işıl Karakaş
Registrar	President