Scan of communicated cases (28 April 2025 – 9 May 2025)

(Last case included: Alcu Team 2000 KFT. And Others)

Darko KRUŠLIN v. CROATIA (no. 13651/23)
Article 6 – right to fair trial- impartiality of disciplinary tribunal and Constitutional Court judges in the applicant's case Disciplinary proceedings against former judge accused of corruption-related behavior, including receiving a bribe and undermining judicial impartiality

lodged on 23 March 2023
communicated on 10 April 2025

SUBJECT MATTER OF THE CASE

The case concerns disciplinary proceedings against the applicant, a former judge of the Osijek County Court, who was dismissed from office.

A. Background to the case

The applicant acted as president of the trial panel in the criminal proceedings against Zoran and Zdravko Mamić – brothers who occupied key management positions in Dinamo Zagreb Football Club, and two other persons, including D.V. (see *Mamić and Others v. Croatia* (dec.), nos. 21714/22 et al., § 11, 9 July 2024). On 6 June 2018 the defendants were sentenced to imprisonment. One day before the trial court's judgment was pronounced, Zdravko Mamić left Croatia and thereafter remained unavailable for the Croatian authorities.

After the appellate court's judgment in the proceedings was given, the applicant and two other judges were arrested following accusations by Zdravko Mamić that he had given them bribes in exchange for delivering a favourable decision in the trial. On 7 June 2023 the applicant was indicted for receiving a bribe. Specifically, he was charged for socialising with Zdravko Mamić in the stadium lounge while the indictment against the latter had been pending before the indictment panel, and for accepting an expensive watch from him while being aware that he would likely be appointed as the president of the trial panel in the case.

Meanwhile, one of the defendants in the trial presided by the applicant, D.V., complained to the Constitutional Court that he had not been tried by an impartial tribunal. On 29 March 2022 the Constitutional Court, sitting in a thirteen-judge formation (plenary), found that there had been a breach of D.V.'s right to an impartial tribunal. The Constitutional Court noted that, even though the applicant had denied having any corruption agreement with Zdravko Mamić, he had not denied that, while the proceedings against latter had been pending before the indictment panel, he had visited the Dinamo Zagreb stadium lounge, knowing that Zdravko Mamić would be there, and had received an expensive watch from him. The Constitutional Court deemed that those circumstances alone, which the applicant had admitted, objectively called into question the impartiality of the applicant as the president of the trial panel in the case against D.V.

B. Disciplinary proceedings at issue

On 7 July 2022 the National Judicial Council established that the applicant had committed a disciplinary offence (*produljeno stegovno djelo*) in that, while the criminal proceedings had been pending against Zdravko Mamić, the applicant had on two occasions socialised with him (and on one of those occasions had accepted a watch from him), and in that, after Zdravko Mamić had fled Croatia and the trial court's judgment had been pending on appeal, the applicant had attended matches of the Dinamo Zagreb Football Club - the injured party in the criminal proceedings against Zdravko Mamić, which was furthermore under total control by Zdravko Mamić at the time, and in the stadium lounge had consumed food and drinks at the expense of the Club and had socialised with the members of its executive board, which behaviour had been photographed and published in the media on 16 and 18 March 2021, whereby the applicant's behaviour had become available to the general public, thereby damaging the reputation of the judiciary and the judicial duty. The applicant was removed from judicial duty.

On 25 November 2022 the Constitutional Court, sitting in a formation of six judges, all of whom had previously sat in the thirteen-judge panel of that court which had found that D.V. had not been tried by an impartial tribunal, dismissed the applicant's subsequent appeal as unfounded.

C. Complaints before the Court

The applicant complains that the members of the National Judicial Council were biased against him, in breach of the requirement of impartiality under Article 6 § 1 of the Convention. He submits that their lack of impartiality was demonstrated by the fact that, in the reasoning of the disciplinary judgment, they implied in several places that he had had a corruption agreement with Zdravko Mamić, remarks which were entirely unnecessary for assessing the applicant's disciplinary liability. The applicant *inter alia* refers to the National Judicial Council's remark made at the very end of the judgment, by which it was allegedly implied that the applicant had allowed Zdravko Mamić to flee Croatia by warning him in advance that the trial court would convict him.

The applicant further complains under Article 6 § 1 of the Convention about the lack of impartiality of the Constitutional Court, which decided his case in a panel of six judges, all of whom had previously sat in the thirteenjudge panel of the Constitutional Court which had found that D.V. had not been tried by an impartial tribunal. The applicant argues that in that previous decision the Constitutional Court judges had already expressed their opinion that the applicant's behaviour of socialising with and accepting a watch from Zdravko Mamić had been inappropriate.

QUESTIONS TO THE PARTIES

Was the applicant's disciplinary case considered by an impartial tribunal as required by Article 6 § 1 of the Convention?

1. In particular, were the members of the National Judicial Council impartial as required by Article 6 § 1 of the Convention, having specifically regard to several remarks they made in the disciplinary judgment's reasoning, allegedly implying that the applicant had had a corruption agreement with Zdravko Mamić? Reference is most notably made to the remark at

the very end of the judgment, by which it was allegedly implied that the applicant had allowed Zdravko Mamić to flee Croatia by warning him in advance that the trial court would convict him.

2. Were the judges of the Constitutional Court who decided on the applicant's appeal against the National Judicial Council's judgment impartial as required by Article 6 § 1 of the Convention, having regard to the fact that they had previously sat in a panel of the Constitutional Court which had found that D.V. had not been tried by an impartial tribunal owing to circumstances attributable to the applicant (see *Indra v. Slovakia*, no. 46845/99, §§ 48-55, 1 February 2005)?

Giorgi KHAKHISHVILI v. GEORGIA (no. 234/25)
Article 11 – criminal conviction for organising village protest against allegedly environmentally harmful mining – blockade of company facilities

lodged on 29 November 2024
communicated on 8 April 2025

SUBJECT MATTER OF THE CASE

The application concerns, under Article 11 of the Convention, the applicant's criminal conviction for organising a protest with fellow villagers in Shukruti (a village in western Georgia) against allegedly environmentally harmful mining activities conducted by a private company ("the company"). Following a criminal complaint by the company, the applicant faced proceedings that led to his conviction by the Kutaisi Court of Appeals on 14 December 2023 under Article 226 of the Criminal Code (organised blockade) for picketing the company's mining facilities and obstructing its other properties. He was fined 1,000 Georgian Lari (approximately 330 euros). The conviction was upheld by the Supreme Court in a final decision on 22 July 2024, served to the applicant on 30 July 2024.

QUESTION TO THE PARTIES

Does the applicant's conviction under Article 226 of the Criminal Code (organised blockade) constitute, in the circumstances, a violation of his right to freedom of peaceful assembly under Article 11 of the Convention (compare *Kotov and Others v. Russia*, nos. 6142/18 and 12 others, §§ 137-151, 11 October 2022, and *Chernega and Others v. Ukraine*, no. 74768/10, §§ 2018-282, 18 June 2019)?

ALCU TEAM 2000 KFT. AND OTHERS v. HUNGARY (no. 39991/23)
Articles 1 of Protocol No. 1 and 6 § 1 – loss of licences due to change in legal framework; exclusion from new concession regime; lack of adversarial proceedings before Constitutional Court

lodged on 27 October 2023
communicated on 17 April 2025

SUBJECT MATTER OF THE CASE

The application concerns the enactment of new legislation concerning waste management and an alleged violation of the applicants' property and fair trial rights in that context.

The applicants are companies which had licences to carry out waste management activities for a number of years.

On 22 February 2021 new legislation was adopted modifying Act No. CLXXXV of 2012 on waste management, which introduced a new integrated (concession-based) model of waste management.

Consequently, on 1 July 2023 the State granted a concession to a single concessionaire for 35 years. The applicants submit that they could not apply for such a concession because apparently they did not fulfil the statutory requirements set out in the new legislation.

Some of the applicants lodged a constitutional complaint which was dismissed by the Constitutional Court on 21 June 2023 (decision served on the applicants on 27 June 2023), largely on the basis of an *amicus curiae* brief submitted by the Ministry of Innovation and Technology, which was allegedly never forwarded to the applicants.

Relying on Article 1 of Protocol No. 1 to the Convention, the applicants complain that they lost their licences for waste management activities and could not apply for a new concession, making it impossible for them to carry on their business, and this without adequate compensation. They also complain that, as of 1 July 2023, they had to transfer their existing waste stocks to the new concessionaire, that they lost their clientele and that the sale of their equipment and facilities was conditioned on the competent Minister's prior authorisation against which there was no possibility of judicial review.

The applicants further complain, under Article 6 § 1 of the Convention, that the failure to forward to them the *amicus curiae* brief submitted by the Ministry of Innovation and Technology violated the principles of adversarial proceedings and equality of arms.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants' peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1 to the Convention?

If so, did that interference comply with the requirements of Article 1 of Protocol No. 1? In particular:

(a) Was that interference lawful and necessary to control the use of property in accordance with the general interest?

(b) Was an excessive individual burden imposed on the applicants (compare *Pannon Plakát Kft. and Others v. Hungary*, no. 39859/14, §§ 50-59, 6 December 2022; *Könyv-Tár Kft. and Others v. Hungary,* no. 21623/13, §§ 48-59, 16 October 2018 ; *Vékony v. Hungary*, no. 65681/13, §§ 32-37, 13 January 2015)?

(c) Was there an adequate compensatory scheme available to the applicants (see *Könyv-Tár Kft. and Others v. Hungary,* no. 21623/13, §§ 56-57, 16 October 2018)?

2. Did the applicants have a fair hearing in the determination of their civil rights and obligations, in accordance with Article 6 § 1 of the Convention? In particular, was the principle of adversarial proceedings respected in the proceedings before the Constitutional Court (see *Janáček v. the Czech Republic*, no. 9634/17, §§ 46-56, 2 February 2023)?

APPENDIX

Application no. 39991/23

No	Applicant's Name	Year of	Place of
1.	ALCU TEAM 2000 KFT.	2000	Gödöllő
2.	BÉKE-METÁL KFT.	2008	Szolnok
3.	DOBRAI KFT.	2000	Budapest
4.	ECOMETALEX	2002	Csömör
5.	EGRI FÉM KFT.	2005	Miskolc
6.	Judit HÖRCSÖGNÉ	1967	Izsák
7.	HWD RECYCLING KFT.	2007	Seregélyes
8.	INTER-METAL	1997	Budapest
9.	JÁSZMETÁLL KFT.	2013	Jászapáti
10.	KAPOCS-FÉM KFT.	2011	Hort
11.	KOLLER METÁL KFT.	2010	Baja
12.	KÖRNYEZET-2001 KFT.	2001	Szolnok
13.	M. KONTÉNER KFT.	2006	Budapest
14.	MAPE-KER KFT.	2004	Budapest
15.	METÁLKER HUNGÁRIA	1997	Csömör
16.	M-FERRO KFT.	2005	Budapest
17.	MI-FÉM 2005 KFT.	2005	Szirmabesen
18.	MIKLÓS FÉM KFT.	2011	Törökszentmi
19.	MIXTRADE TRANS KFT.	2013	Alsózsolca
20.	NATUR ASSET KFT.	2010	Budapest
21.	POVAS KFT.	2005	Miskolc
22.	TISZA-BÉRC KFT.	2008	Miskolc
23.	TÖRÖK METALS KFT.	2010	Algyő
24.	VAFIPKER KFT.	1989	Tiszakécske
25.	VERES-METAL KFT.	2010	Veresegyház
26.	V-INDUSTRIA METAL	2007	Kisbér
27.	VITA GLASS KFT.	2010	Miskolc
28.	ZSOLBERT KFT.	2001	Törökbálint

Ilaria ESPOSITO v. ITALY (no. 62582/19)
(Art. 2) Right to life (Art. 3) Prohibition of torture - fatal police shooting of mentally ill person – lack of non-lethal alternatives – failure to investigate ill-treatment and death effectively

lodged on 25 November 2019

communicated on 7 April 2025

SUBJECT MATTER OF THE CASE

The application concerns an incident which occurred on 10 June 2016 when the applicant's brother, M.E., who suffered from a psychiatric disorder and was reportedly in a severely altered state of mind, was fatally shot by the police.

When the police officers who had been called to intervene surrounded the street where M.E. was walking, M.E. did not respond to the officers' attempts to calm him down and approached them with a knife. At that point the police officers shot him twice in the legs. M.E. was heavily wounded and was taken to the hospital, where he died two days later. When he was lying on the ground after having been shot, M.E. was kicked by a police officer.

An investigation was initiated *ex officio*. The criminal proceedings which ensued ended with a discontinuance decision. The preliminary investigations judge considered it plausible that the police officers had used their firearms in legitimate self-defence and concluded that the requirement of necessity had been met.

On 15 June 2018 the applicant filed a criminal complaint alleging that the authorities had been aware of M.E.'s mental illness and that no strategies had been pursued other than the use of lethal force. The applicant also complained that M.E. was kicked when he was on the ground. These proceedings also ended with a discontinuance decision.

The applicant complains under Article 2 of the Convention that the lethal force used by the police against her brother had not been absolutely necessary. She further alleges that the operation had not been carried out so as to minimise, to the greatest extent possible, any risk to life. She also complains about the absence of an adequate legislative and regulatory framework, in particular in that it did not ensure proper protection of the life of persons with psychiatric disorders. Lastly, the applicant complains of the lack of an effective and independent investigation into M.E.'s death.

Under the procedural and substantive limbs of Article 3 of the Convention the applicant complains that the kick her brother received amounted to treatment contrary to that provision and that the investigation into such treatment had not been effective.

QUESTIONS TO THE PARTIES

1. Was the right to life of applicant's brother, ensured by Article 2 of the Convention, violated in the present case? In particular:

- Did the death of the applicant's brother result from a use of force which was "no more than absolutely necessary" for the purposes of paragraph 2 of this Article?

- Did the domestic authorities comply with their positive obligation to protect the life of M.E.? Taking into account the particular circumstances of the case, can it be said that the authorities had taken appropriate steps to ensure that any risk to life was minimised? In their reply, the Government are invited to address, amongst other things, the applicant's statement that the officers had not been equipped with non-lethal weapons.

- Can it be stated, in the circumstances of the present case, that the respondent State was equipped with the necessary legislative, administrative and regulatory measures defining the limited circumstances in which law-enforcement officials may use force (see *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 209, ECHR 2011 (extracts), and *Makaratzis v. Greece* [GC], no. 50385/99, §§ 57-59, ECHR 2004-XI)? In their replies, the Government are invited to address the applicant's submissions to the effect that (i) legal framework regulating the use of force by the police, in particular Articles 52 and 53 of the Italian Criminal Code, is very generic, thus generating uncertainty and (ii) there were no specific provisions regulating the use of force by the police when dealing with mentally disturbed individuals.

- Did the domestic authorities comply with their positive obligation to train their law-enforcement officials in such a manner as to ensure their high level of competence in their professional conduct so that no one is subjected to treatment that runs counter to the Convention (see *Tekın and Arslan v. Belgium*, no. 37795/13, § 95, 5 September 2017 and *T.V. v. Croatia*, no. 47909/19, § 50, 11 June 2024)?

2. Does the applicant have *locus standi*, for the purposes of Article 34 of the Convention, to lodge the present application in so far as it concerns an alleged violation of Article 3 of the Convention (see *Karpylenko*, cited above, § 106, 11 February 2016 and *Boacă and Others v. Romania*, no. 40355/11, § 46, 12 January 2016)?

In the affirmative, was M.E. subjected to degrading treatment in breach of Article 3 of the Convention on account of the kick he received?

3. Has the State complied with its procedural obligations under Articles 2 and 3 of the Convention to carry out an effective investigation concerning the events leading to the death of the applicant's brother and his alleged ill-treatment? In particular, could the investigation be considered to have met the requirement of independence (see, *Alikaj and Others v. Italy*, no. 47357/08, § 96, 29 March 2011), in particular in view of the fact that it had been carried out by officers belonging to the same police station of those involved in M.E.'s death? Did the authorities take all the reasonable measures available to them to secure evidence concerning the impugned events?

INFORMATION SOUGHT

The Government are invited to specify whether there existed at the time of the impugned events, an established policy, protocol or practice by reference to which the police officers had to operate when dealing with individuals suffering from mental illness or in an evident state of mental distress, and in particular with regard to the use of force and/or firearms. The Government are further invited to specify whether the police officers had been provided with

non-lethal weapons or other self-defence equipment (such as the polycarbonate shield mentioned by the applicant).

The Government are also invited to provide information concerning the initial and continuous training of law enforcement officers in dealing with individuals suffering from mental illness or in an evident state of mental distress, and in particular with regard to the use of force and/or firearms, at the time of the impugned events. In this latter connection, they are invited to specify whether or not the law enforcement officers involved in the impugned events had received such training.

Chedomir VELINOV v. NORTH MACEDONIA (no. 1441/21)
Article 1 of Protocol No. 1 – deprivation of property due to land registry digitalisation and plot reorganisation

lodged on 18 December 2020
communicated on 11 April 2025

SUBJECT MATTER OF THE CASE

The application concerns civil proceedings for title to 26 square meters (sq. m.) of land, which the applicant allegedly lost with the digitalisation of the land registry.

The applicant argued before the domestic courts that in the process of digitalisation the State authorities had unlawfully reduced his original plot by 9 sq. m. and had taken away other parts of it, while providing him, in exchange, with 17 sq. m. of land from a neighbouring plot to which he had not previously held title. The domestic courts at two levels dismissed his claim, finding that the 9 sq. m. (out of 233 in total) fell within the 5% maximum deviation in the process of digitalisation, permitted under the relevant statutory provisions. They further found that granting the applicant title to the claimed 26 sq. m. would unjustly expand his plot, that he had title to parts of other land (despite his arguments that his neighbour used *de facto* that land) and that a street had been built on parts of the claimed land.

The applicant complains that he was unlawfully deprived of his property, in violation of Article 1 of Protocol No. 1 to the Convention. He also complains that the original shape of his plot was changed and that it was left without an access to the nearby street.

QUESTIONS TO THE PARTIES

1. Did the applicant suffer any significant disadvantage, within the meaning of Article 35 § 3 (b) of the Convention (see *Borg and Vella v. Malta* (dec.), no.14501/12, §§ 39-43, 3 February 2015; and *Strezovski and Others v. North Macedonia*, nos. 14460/16 and 7 others, §§ 46-49, 27 February 2020; *X and others v. Ireland*, nos. 23851/20 and 24360/20, § 63, 22 June 2023)?

2. If so, has there been an interference with the applicant's peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1, by the reorganisation of his plot of land following the digitalisation of the land registry? In the affirmative, was that interference in accordance with the law and proportionate (see *Former King of Greece and Others v. Greece* [GC], no. 25701/94, §§ 79 et seq., ECHR 2000-XII; *Vistiņš and*

Perepjolkins v. Latvia [GC], no. 71243/01, §§ 95-98, 25 October 2012; *Vijatović v. Croatia*, no. 50200/13, §§ 46-58, 16 February 2016; *Arsovski v. the former Yugoslav Republic of Macedonia*, no. 30206/06, §§ 46-62, 15 January 2013; and *Aygün v. Turkey*, no. 35658/06, §§ 39 et seq., 14 June 2011)?

Silvana MITRESKA v. NORTH MACEDONIA (no. 19343/24)
Articles 3 and 8 – failure to protect against and investigate domestic violence

lodged on 1 July 2024

communicated on 17 April 2025

SUBJECT MATTER OF THE CASE

The case concerns the alleged incidents in which the applicant suffered physical and psychological violence from her cohabiting partner, with whom she has a child.

On 21 April 2019 the applicant's partner allegedly grabber her by the neck, insulted, punched and kicked her. Following a remittal, on 15 February 2024 the second-instance court discontinued the criminal proceedings against him in relation to the charge of domestic violence finding that the applicant's criminal complaint had been lodged more than three months after the incident, contrary to domestic law.

In a second set of criminal proceedings concerning an incident which took place in the night between 7 and 8 September 2020 during which her partner allegedly insulted, kicked and punched her, the proceedings against her partner were discontinued by a court's decision dated 23 April 2024 due to the prosecutor's withdrawal from prosecution. The prosecutor found that the said incident was the same one for which the proceedings against her partner had been discontinued by the court on 15 February 2024.

The applicant complains, under Articles 3 and 8 of the Convention, about the failure of the domestic authorities to fulfil their positive obligations in relation to the acts of domestic violence perpetrated against her and their failure to conduct an effective investigation into her allegations of domestic violence.

QUESTIONS TO THE PAR²TIES

1. Have the State authorities complied with their positive obligations under Articles 3 and 8 of the Convention (see *A.E. v. Bulgaria*, no. 53891/20, §§ 84-89, 23 May 2023, *Buturugă v. Romania*, no. 56867/15, §§ 60-62, 11 February 2020, *Volodina v. Russia*, no. 41261/17, §§ 76-77, 9 July 2019 and *Valiulienė v. Lithuania*, no. 33234/07, §§ 65-66, 73-75, 26 March 2013)? In particular, have they provided an adequate legal framework for the applicant's protection against the alleged acts of domestic violence?

2. Have the State authorities complied with their procedural obligation to investigate the alleged acts of domestic violence against the applicant (see *Tunikova and Others v. Russia*, nos. 55974/16 and 3 others, § 114, 14 December 2021)?

B.G. v. NORTH MACEDONIA (no. 7870/25)

Article 6 §§ 1 and 3(d) – conviction based on untested pre-trial testimony of a child-victim; limits on the defence's ability to examine witnesses

lodged on 3 March 2025

communicated on 11 April 2025

SUBJECT MATTER OF THE CASE

The application concerns criminal proceedings against the applicant in which he was convicted for sexual abuse of a minor.

The applicant, who is 76 years old and suffers from psycho-organic syndrome (a permanent condition that reduced his cognitive capabilities), lived together with his daughter and granddaughter.

On 25 October 2021 the applicant was indicted for sexual abuse of a child below the age of 14. It was alleged that on 1 August 2021, in a state of significantly reduced mental capacity on account of his health condition, the applicant had asked E. (a friend of his granddaughter who was 10 years old at the time) whether she had kissed anyone. He then kissed her cheeks and caressed her legs, and asked whether she had a mobile phone so that they could stay in touch and be "secret friends". The indictment listed as evidence a CD with a recording of E.'s questioning which took place on 3 August 2021, in the presence of the prosecutor, a representative from the relevant Social Work Centre, an expert, the child's father and a lawyer appointed for the child.

The applicant had been initially convicted on the charges, however, on 30 November 2022 the Supreme Court quashed the conviction and remitted the case to the trial court, finding a violation of the defence rights because the recording of E.'s testimony, that carried decisive weight, had not been properly adduced as evidence since its content had not been descriptively entered into the trial record.

In the resumed proceedings, and after the recording of E.'s questioning had been played at the trial, the court refused the defence's request to question E. (directly or indirectly) on grounds of her young age and the late procedural stage in which the request had been advanced. The subsequent request to exclude E.'s statement from the evidence was also refused.

On 29 June 2023 the Bitola Court of First Instance convicted the applicant for sexual abuse of a person below the age of 15 (following requalification of the charges due to amendments to the Criminal Code) and sentenced him to five years' imprisonment. It was established that at the time of the events the applicant had significantly reduced capacity due to his health condition. The court also imposed compulsory hospitalisation and treatment of the applicant as a security measure. It mainly relied on the recording of E.'s testimony, that had been supported by other evidence, including statements of other witnesses examined during the proceedings, such as E.'s father (to whom she had recounted the event) and the psychiatric expert that assessed the truthfulness of E.'s testimony. In her written report, the expert did not recommend E.'s further inclusion in the criminal proceedings.

On 28 May 2024 the Bitola Court of Appeal dismissed the applicant's appeal, finding that the defence had received a recording of E.'s pre-trial testimony and thus could request questions to be put in writing to the witness, but failed to do so. It relied on sections 54 and

232 of the Criminal Proceedings Act and sections 145-150 of the Child Justice Act, that provided for special procedural measures for vulnerable witnesses, which were necessary to protect the child and avoid secondary victimisation.

On 16 October 2024 the Supreme Court dismissed the applicant's request for extraordinary review of a final judgment and upheld the conviction, endorsing the reasoning of the second-instance court. This judgment was served to the applicant on 11 November 2024.

The applicant complains, under Article 6 of the Convention, about a violation of the principle of equality of arms and a violation of his defence rights, in that his conviction had been mainly based on the untested evidence given by the child-victim during pre-trial proceedings in the absence of the applicant and his lawyer.

QUESTIONS TO THE PARTIES

1. Has the applicant's right to a fair trial, including a right to examine or to have examined witnesses against him, under Article 6 §§ 1 and 3(d) of the Convention, been breached in that neither the applicant, nor his lawyer had been given an opportunity, at any stage of the proceedings, to examine E., the victim of the offence of which the applicant was convicted?

2. In particular, having regard to the principles established by the Court in its judgment in the case of *Schatschaschwili v. Germany* [GC], no. 9154/10, ECHR 2015:

(a) Was there a good reason for admitting as evidence the pre-trial statement made by the child-victim, a recording of which had been played at the trial?

(b) Was the applicant's conviction based solely or to a decisive or significant extent on the evidence provided by E.?

(c) Have there been sufficient counterbalancing factors to compensate the difficulties caused to the defence as a result of the fact that it had been unable to question E.? In particular, what counterbalancing measures were taken by the domestic prosecution authorities and by the domestic courts to safeguard the applicant's defence rights?

GENERALI ČESKÁ POJIŠŤOVNA A.S. v. SLOVAKIA (no. 4607/24)
Article 6 § 1 – unfairness of constitutional proceedings and lack of participation in proceedings

lodged on 2 February 2024
communicated on 11 April 2025

SUBJECT MATTER OF THE CASE

The application concerns the alleged unfairness of the constitutional proceedings initiated by a private party who had previously lost a civil dispute against the applicant company

before the ordinary courts (file no. III. ÚS 184/2023). The civil litigation concerned a road-traffic accident where the applicant company was the insurer of one of its participants.

Invoking Article 6 § 1 of the Convention, the applicant company complains that it was not served the constitutional complaint and was unable to participate in the constitutional proceedings, eventually leading to the quashing of a final judgment in its favour, which had a direct impact on its civil rights and obligations. In addition, it complains that in those proceedings, the Constitutional Court took into account evidence that the applicant company had no opportunity to comment on before the ordinary courts (an expert report originating from criminal proceedings concerning the accident).

QUESTIONS TO THE PARTIES

Did the applicant company have a fair hearing in the determination of its civil rights and obligations, in accordance with Article 6 § 1 of the Convention? In particular, did it have an opportunity to participate effectively, in line with the principles of equality of arms, adversarial proceedings and legal certainty, in the proceedings before the Constitutional Court (see, *mutatis mutandis*, *López Guió v. Slovakia*, no. 10280/12, §§ 101- 13, 3 June 2014; *Frisancho Perea v. Slovakia*, no. 383/13, §§ 7178, 21 July 2015; *Hudáková and Others v. Slovakia*, no. 23083/05, §§ 25-27, 27 April 2010; and *Čičmanec v. Slovakia*, no. 65302/11, §§ 56-65, 28 June 2016)?