



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

THIRD SECTION

CASE OF MARKO TEŠIĆ v. SERBIA

(Application no. 61891/19)

JUDGMENT

Art 10 • Freedom of expression • Imposition of a fine on a defence lawyer for contempt of court on account of remarks made in non-public written submissions relating to alleged irregularities in the recording of his objections in the written record during criminal proceedings • Applicant's submissions, even if caustic in tone, constituted genuine procedural grievances with a view to adversarial argument • Remarks did not relate to the judge's personal integrity • Amount of fine excessive • Lack of "relevant and sufficient" reasons • Fair balance between competing interests not struck • Interference not "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

4 November 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Marko Tešić v. Serbia,

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

Ioannis Ktistakis, *President*,

Peeter Roosma,

Darian Pavli,

Úna Ní Raifeartaigh,

Mateja Đurović,

Canòlic Mingorance Cairat,

Vasilka Sancin, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 61891/19) against the Republic of Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Serbian national, Mr Marko Tešić (“the applicant”), on 21 November 2019;

the decision to give notice to the Serbian Government (“the Government”) of the complaint concerning the applicant’s right to freedom of expression;

the parties’ observations;

Having deliberated in private on 30 September 2025,

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

INTRODUCTION

1. The case concerns the imposition of a fine on the applicant, a lawyer, for contempt of court. The applicant complained of a violation of his right to freedom of expression guaranteed by Article 10 of the Convention.

THE FACTS

2. The applicant was born in 1981 and lives in Belgrade. He was represented by Mr S. Radovanović, a lawyer practising in Novi Beograd.

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

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

THE CIRCUMSTANCES OF THE CASE

A. Background information

5. The applicant acted as a defence lawyer for Lj.V., who was charged with attempted murder, in criminal proceedings in the Belgrade High Court.

6. It is apparent from the record of the main hearing on 7 April 2015 that the applicant stated that he had not been allowed to comment on the testimony

of witness A.V. in accordance with Article 396 of the Code of Criminal Procedure after the witness had been heard.

7. At the hearing on 23 December 2016, during the examination of a neuropsychiatric expert witness, the applicant raised several objections alleging irregularities in the conduct of the proceedings with regard, in particular, to the contents of the record of the hearing and the manner in which it had been drawn up.

8. According to the record, the presiding judge A. issued a warning to the applicant for “disturbing order in the courtroom”, reminded him of his obligation to comply with the judge’s instructions, and stated that, in accordance with the Code of Criminal Procedure, she was authorised to record “the essential content of the proceedings and the course of the main hearing, including the defence lawyer’s remarks regarding the testimony of the witness”.

9. The applicant then objected to the presiding judge’s conduct and requested that the matter be decided by a panel. The judge once again asked him not to interrupt while she dictated the written record and the applicant was cautioned that any further misconduct would result in a fine. The applicant persisted in requesting that his objections be entered verbatim in the record. A five-minute break was then granted at his request. After the break he restated his objections to the presiding judge’s conduct, which the panel subsequently dismissed as ill-founded. It was also noted in the written record that the applicant had maintained that the judge’s persistent failure to record his objections – whether by mistake or intentionally – had obstructed his client’s right to an effective defence.

B. Contempt-of-court proceedings

10. On 22 February 2017 the applicant submitted written “Objections to the Adduced Evidence”. He also complained about the presiding judge’s conduct as follows:

“... [I]nstead of recording the defence’s objections to the injured party’s testimony in their original form, the presiding judge failed to include even the essential content of those objections in the record. For example, the record merely states that counsel for the defence pointed out that the injured party’s testimony had been inconsistent with his earlier statements given during the investigation and with the testimony of other witnesses, but only ‘in terms of details’. However, in reality, counsel for the defence clearly stated to the court that the inconsistencies concerned certain material circumstances, not mere details.

When counsel for the defence, in a respectful and collegial manner, attempted to assist the presiding judge by clarifying that the issue did not relate to minor details, but significant factual discrepancies (otherwise the defence would not have raised an objection), the presiding judge, instead of accepting this well-intentioned and professional clarification – which is common and necessary given that errors often occur during the dictation of the written record – responded in a rude and inappropriate manner (*na grub i neprimeren način*), and issued him with a warning for allegedly

disturbing order in the courtroom and insisted that he must comply with the judge's instructions.

So, truly outrageous!!! (*Dakle, zaista nečuveno!!!*)

Following that, the right of the defence to raise issues it considers important after the presentation of evidence was further obstructed in an even more inappropriate manner (*neprimerenijoj meri*). As a result, counsel for the defence was compelled to lodge a formal objection to the manner in which the presiding judge was conducting the main hearing and requested a five-minute break in order for the presiding judge, who had been swept up in 'the heat of passion', to 'cool down' (*Kako bi se uzavrele strasti predsednika veća ohladile*).

Unfortunately, even after the five-minute break, the explanation put forward by counsel for his objections was not accurately entered in the record. Moreover, his earlier request that the content of the objections be entered verbatim in the record was rejected with a dismissive justification along the lines of: 'I will include whatever I want in the record'.

The procedural malice in the conduct of the main hearing reached such an extent that, after a decision to adjourn the hearing had been taken, the presiding judge, when fixing the next hearing date with the public prosecutor and counsel for the defence, recorded only the reasons why counsel could not attend on the dates proposed by the court. The judge failed to record the proposed date that was acceptable to both the court and the defence, but not to the prosecution. By way of example, 27 January 2017 was a date that suited both the court and the defence (although not the prosecution), yet the presiding judge failed to include that fact in the record. The purpose of such selective recording is entirely unclear and deeply concerning.

After receipt of a copy of the record, which, moreover, was not provided to the defence at the conclusion of the hearing despite repeated requests, it was discovered that the contents of the record of the main hearing had subsequently been altered. Specifically, in the section concerning the objections raised with regard to the injured party's testimony, the presiding judge had originally recorded that the discrepancies related to 'details'. However, after the hearing, this had been amended unlawfully (in breach of the Code of Criminal Procedure) to reflect counsel's actual statement, namely that the discrepancies had concerned certain material circumstances.

All of the above can be confirmed by the public present at the hearing.

Given that counsel for the defence was (wholly unnecessarily and unjustifiably) obstructed in exercising his right to present objections following the presentation of evidence, and that, as a result, he was unable to express his objections in full, counsel hereby submits authentic and credible objections to the evidence obtained through the examination of the injured party and other witnesses, namely S.M., A.V. and M.U. ..."

11. On 20 March 2017 the presiding judge A. found that the applicant's written objections had belittled and insulted the panel, both in terms of the individual statements made and in their overall tenor. She imposed a fine of 80,000 Serbian dinars (RSD) on the applicant, finding that although he had pointed out procedural irregularities, he had breached professional standards and ethical guidelines by (i) referring to the judge being swept up in the "heat of passion,"; (ii) describing her conduct as "outrageous"; (iii) accusing her – without evidence – of "malice"; (iv) accusing her of "unlawfully altering the record"; and (v) accusing her of failing to record his objections either in their

original form or in essence, relying solely on the vague assertion that “the public present [at the hearing] could confirm such conduct”. The presiding judge noted that nearly all of the applicant’s assertions had already been included in the official record of the hearing in question, making the insulting value judgments both unnecessary and unjustified.

12. On 10 April 2017 the applicant appealed.

13. On 9 May 2017 the High Court, sitting as a panel of three judges, dismissed the applicant’s appeal, upholding the finding that his manner of expression had breached professional standards, ethical guidelines, and the Code of Criminal Procedure.

14. On 13 July 2017 the applicant lodged a constitutional appeal, arguing that the fine imposed on him had infringed his right to freedom of expression and his right to put forward an effective defence under Articles 10 and 6 of the Convention and the corresponding provisions of the Serbian Constitution.

15. On 21 May 2019 the Constitutional Court dismissed the applicant’s complaint, finding in particular that his allegations did not disclose a violation of the Constitution.

RELEVANT DOMESTIC LAW

CODE OF CRIMINAL PROCEDURE (*ZAKONIK O KRIVIČNOM POSTUPKU*; PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF SERBIA – OG RS – Nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 AND 55/2014)

16. Article 231 §§ 1-3 of the Code of Criminal Procedure reads as follows:

“(1) The authority conducting the proceedings shall protect its own reputation and the reputations of the parties and other participants in the proceedings from insults, threats or any other forms of assault.

(2) The court shall impose a fine of up to [RSD 100,000] on any defendant, defence counsel, proxy, legal representative, aggrieved party, private prosecutor or subsidiary prosecutor who, in submissions or oral remarks, insults the authority [of the judiciary] or any participant in the proceedings. The competent bar association shall be notified of any such penalty imposed on a lawyer and shall inform the court of any disciplinary measures taken.

(3) The court shall give a decision on the fine referred to in paragraph 2. A panel shall hear any appeals against that decision. An appeal shall not suspend the enforcement of the fine.”

17. Article 239 § 4 reads as follows:

“The presiding judge may, at the request of a party or of his or her own motion, order that any statement deemed to be particularly important be recorded verbatim.”

18. Article 396 § 4 reads as follows:

“Following the submission of each item of evidence, the president of the panel shall ask the parties, defence counsel and the aggrieved party whether they have any remarks in connection with the evidence adduced.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

19. The applicant complained that the decision of the High Court to fine him for contempt of court had violated his right to freedom of expression under 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. Admissibility

20. The Court notes that the complaint is not manifestly ill-founded, nor is it inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

21. The applicant disputed that his submissions in issue had been insulting. He argued that he had been interrupted while making objections to the statements given by the injured party and two witnesses, and that he had been unjustifiably reprimanded for allegedly disturbing the hearing. He maintained that his subsequent remarks had served to highlight the fact that his objections had not been accurately entered in the record of the hearing and, in that regard, to criticise the “improper conduct” of the proceedings by the presiding judge.

22. He pointed out that objections were ordinarily made orally for the record, which was why he had felt compelled to clarify, in his written submission, both the procedural irregularities that had occurred and the reasons for submitting them in writing. He emphasised that his intention had

merely been to lodge objections, not to show any disrespect towards the presiding judge or to insult her.

23. He submitted that the expressions used in his five-page submission, such as “responded in a rude and inappropriate manner”, “truly outrageous”, “I will include whatever I want in the record”, and “procedural malice” had been directed not at the judge’s personal character but at the conduct of the hearing itself, and had appeared only on the first two pages. He asserted that the remainder of the document consisted of substantive objections crucial to the defence of the accused, which the presiding judge had failed to record. Accordingly, the criticism of the judge’s conduct had been intended solely to support those written objections.

24. He also argued that his request for a five-minute break in order for the presiding judge to “cool down” after being “swept up in the heat of passion” had not been a comment relating to the presiding judge’s health or gender – as the Government’s representative alleged – but a reference to the unnecessary tension, excessive conflict and heightened emotions during the hearing. He referred to newspaper articles in which high-ranking public figures, including the Patriarch of the Serbian Orthodox Church, the Prime Minister and the President of Serbia, had used similar expressions as a call for unity, compromise and constructive dialogue.

25. He further contended that the financial penalty imposed on him had been disproportionate in that it was more than twice the amount of his monthly earnings. He submitted a Tax Administration decision in respect of 2017, from which it could be seen that his monthly lump-sum income amounted to RSD 31,976.10.

(b) The Government

26. The Government maintained that the interference in issue had been in accordance with the law, had pursued a legitimate aim, had been proportionate to that aim, and had been necessary in a democratic society.

27. They submitted that at the hearing of 23 December 2016 the applicant had behaved in an inappropriate manner towards the presiding judge, interrupting her and disturbing order in the courtroom, for which he had been reprimanded twice. In the impugned submissions, he had addressed numerous personal insults and disparaging remarks to her that did not contribute to his client’s defence. Moreover, the objections he had raised had merely reiterated those already entered in the record.

28. They further maintained that the applicant’s remarks had targeted the judge personally rather than her conduct, as reflected, for example, in his characterisation of her reference to the Code of Criminal Procedure as “I include whatever I want in the record”. Viewed in their context – an interaction between a male lawyer and a female judge – those remarks revealed a gendered and disrespectful attitude.

29. The Government further contended that the applicant's use of the phrase "heat of passion" could be construed as a euphemism for health symptoms typically associated with menopausal women, thus amounting to a sexist comment. While "heat of passion" might in some contexts be indicative of unnecessary tension, excessive conflict or an emotional overreaction – with a hint of personal animosity – the Government maintained that, in the circumstances of the present case, such language had exceeded the limits of permissible criticism of the judiciary.

30. They noted that the applicant had failed to submit any evidence of his income. As a practising lawyer, he was likely to earn above the average income. The average salary at the material time amounted to RSD 84,016 in Belgrade and RSD 65,695 across Serbia in general. The Government also pointed out that the applicant had provided no substantiated evidence of his actual earnings, particularly given that his tax status was based on a lump-sum income assessment.

2. *The Court's assessment*

(a) **Whether there was an interference**

31. It was not disputed by the Government that the fine imposed on the applicant for contempt of court amounted to an interference with his right to freedom of expression. Having regard to its case-law on the subject (see, for example, *Radobuljac v. Croatia*, no. 51000/11, §§ 51-52, 28 June 2016, and the cases cited therein), the Court sees no reason to hold otherwise.

(b) **Lawfulness and legitimate aim**

32. Freedom of expression is subject to the exceptions set out in Article 10 § 2 of the Convention. The Court observes that, in the present case, the interference with the applicant's freedom of expression was based on Article 231 of the Code of Criminal Procedure, which provides that a fine may be imposed on counsel for the defence if he or she insults the court or any participants in the proceedings (see paragraph 16 above). The interference was thus "prescribed by law". Moreover, it is undisputed that the interference pursued the legitimate aim of maintaining the authority of the judiciary within the meaning of Article 10 § 2 of the Convention.

33. It therefore remains to be examined whether the interference was "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention.

(c) **Necessity of the interference in a democratic society and the nature and severity of the penalties**

(i) *Relevant principles*

34. The general principles for assessing the necessity of an interference with the exercise of freedom of expression in contempt-of-court cases were

restated in *Pisanski v. Croatia* (no. 28794/18, § 69, 4 June 2024) and *Radobuljac* (cited above, §§ 56-61).

35. The Court further reiterates that the nature and severity of the penalties imposed are factors to be taken into account when assessing the proportionality of the interference. Interference with freedom of expression may have a chilling effect on the exercise of that freedom. The relatively moderate nature of the fines does not suffice to negate the risk of a chilling effect on the exercise of freedom of expression, this being all the more unacceptable in the case of a lawyer who is required to ensure the effective defence of his clients (see *Mor v. France*, no. 28198/09, § 61, 15 December 2011, and *Morice v. France* [GC], no. 29369/10, § 127, ECHR 2015).

(ii) *Application of the above principles to the present case*

36. The Court notes at the outset that the applicant made the disputed remarks in the context of criminal proceedings for attempted murder, acting in his capacity as a defence lawyer (see also *Nikula v. Finland*, no. 31611/96, § 45, ECHR 2002-II; *Morice*, cited above, § 132; *Radobuljac*, cited above, § 62; and *Čeferin v. Slovenia*, no. 40975/08, § 54, 16 January 2018).

37. Those remarks were directly related to the conduct of the hearing and to the applicant's duty to defend his client's interests zealously. They were contained in a written submission made by the applicant entitled "Objections to the Adduced Evidence", in which he complained that, despite his repeated requests, his objections had not been entered verbatim in the written record. The submission included two pages of detailed procedural objections (out of more than four pages in total) which were addressed internally to the court. They were not published or disseminated to the public. The non-public nature of the submission distinguishes it from media criticism (see, *mutatis mutandis*, *Schöpfer v. Switzerland*, 20 May 1998, §§ 29-34, *Reports of Judgments and Decisions* 1998-III, and *Zakharov v. Russia*, no. 14881/03, § 23, 5 October 2006).

38. While the applicant's submission was strongly worded and sarcastic, the remarks related to alleged irregularities in the recording of his objections rather than the judge's personal integrity. There is no evidence that their sole purpose was to insult or undermine the court's authority (see *Katrami v. Greece*, no. 19331/05, § 41, 6 December 2007, *Radobuljac*, § 66, and, *a fortiori*, *Čeferin*, § 59, both cited above; and contrast *Žugić v. Croatia*, no. 3699/08, § 47, 31 May 2011, and *Backović v. Serbia (no. 2)*, no. 47600/17, § 42, 8 April 2025).

39. The Court also observes that the prior warnings given to the applicant in the course of the hearing concerned only the maintenance of order in the courtroom and the formalities of entering objections in the court's record. It was the domestic courts that subsequently inferred a certain level of disruption from the contents of the applicant's procedural complaints;

no contemporaneous finding of abusive or offensive conduct on the applicant's part was made (see paragraphs 8-9 above).

40. In accordance with the Code of Criminal Procedure, counsel for the defence is entitled to raise objections to the evidence and to request the verbatim entry of those objections in the record (see paragraph 17 above). In the present case, there is no significant indication of any abusive conduct by the applicant that would justify the denial of his request.

41. Unlike in cases where remarks made by counsel were considered to be purely insulting or sarcastic (see *Mahler v. Germany*, no. 29045/95, Commission decision of 14 January 1998, unreported, where counsel had asserted that the prosecutor had drafted the bill of indictment “in a state of complete intoxication”; *Kovač v. Croatia* (dec.), no. 49910/06, 23 August 2011, where counsel had stated, *inter alia*, that the judge concerned had been “giving vent to her instincts” and harassing her witnesses; and *Lasha Zurabiani v. Georgia* (dec.), no. 22266/22, 25 February 2025, where counsel, in addition to interrupting and speaking in a loud voice, had addressed the judge with the words “would you swear at me now?!”), the applicant's submissions in the present case constituted genuine procedural grievances with a view to adversarial argument (contrast *Backović*, cited above, § 42).

42. Even if unorthodox in tone, the use of “caustic tone” in criticising the judiciary within procedural submissions has repeatedly been found to be compatible with Article 10 of the Convention (see *Čeferin*, cited above, § 61).

43. Lastly, the Court notes that the applicant was fined RSD 80,000. The fine was at the higher end of the applicable scale set out in Article 231 of the Code of Criminal Procedure (see paragraph 16 above). Although it had no consequences for the applicant's right to practise his profession (see *Kincses v. Hungary*, no. 66232/10, § 42, 27 January 2015), it cannot be overlooked that the amount of the penalty exceeds the applicant's declared income for a period of two months (see paragraph 25 above), which is all the more unacceptable in the case of a lawyer called upon to ensure the effective defence of his clients. Although the Government disputed that the income declared by the applicant amounted to his entire salary, they failed to submit any evidence in that regard (see paragraph 30 above).

44. In the light of the above, the Court finds that the domestic courts did not provide “relevant and sufficient” reasons, nor did they strike a fair balance between the need to maintain the authority of the judiciary and the applicant's right to freedom of expression. The interference was therefore not “necessary in a democratic society” within the meaning of Article 10 § 2.

45. There has accordingly been a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

46. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

47. The applicant claimed an award in respect of pecuniary damage in the amount of 80,000 Serbian dinars (RSD), corresponding to the fine imposed.

48. The Government submitted that the application was manifestly ill-founded, and that the applicant was not entitled to the amount sought in respect of pecuniary damage.

49. The Court has found that the imposition of the fine on the applicant for contempt of court was in breach of Article 10 of the Convention. There is therefore a sufficient causal link between the applicant's claim and the violation found. The Court thus accepts the applicant's claim in respect of pecuniary damage in the amount of the fine. Accordingly, it awards him 680 euros (EUR) under this head – equivalent to the sum sought by the applicant – plus any tax that may be chargeable on that amount.

B. Costs and expenses

50. The applicant also claimed EUR 1,300 for the costs and expenses incurred before the Court. Save for translation costs of EUR 150, the amount sought consisted of lawyer's fees calculated on the basis of the Scales of Lawyers' Fees and Reimbursement of their Costs.

51. The Government contested that claim, arguing, *inter alia*, that the applicant had not provided any evidence in this connection.

52. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. That is, the applicant must have paid them, or be bound to pay them, pursuant to a legal or contractual obligation, and they must have been unavoidable in order to prevent the violation found or to obtain redress (see, for example, *Stevan Petrović v. Serbia*, nos. 6097/16 and 28999/19, §§ 186 and 187, 20 April 2021). In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to reject the applicant's claim as regards translation costs and to award him EUR 1,150 in respect of the proceedings before it.

FOR THESE REASONS, THE COURT,

1. *Declares*, unanimously, the application admissible;
2. *Holds*, by six votes to one, that there has been a violation of Article 10 of the Convention;
3. *Holds*, by six votes to one,
 - (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, the following amounts, to be converted into the currency of the respondent State, at the rate applicable at the date of settlement:
 - (i) EUR 680 (six hundred and eighty euros), plus any tax that may be chargeable, in respect of pecuniary damage;
 - (ii) EUR 1,150 (one thousand one hundred and fifty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses*, unanimously, the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 4 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Ioannis Ktistakis
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Sancin is annexed to this judgment.

DISSENTING OPINION OF JUDGE SANCIN

1. I am generally in agreement with the majority’s finding that in this case the written submission made by the applicant – the lawyer “zealously” defending his client in criminal proceedings – was not purely insulting or sarcastic (contrast *Mahler v. Germany*, no. 29045/95, Commission decision of 14 January 1998), and *Kovač v. Croatia* (dec.), no. 49910/06, 23 August 2011), but I respectfully dissented from the conclusion that the penalty imposed on the applicant constituted an unnecessary interference in a democratic society within the meaning of Article 10 § 2 of the Convention. In my view, the fine imposed on the applicant for his insulting and unnecessary remarks directed against the judge was within the domestic authorities’ margin of appreciation when it comes to maintaining the authority of the judiciary.

2. First, courts must enjoy public confidence in order to be able to fulfil their role. Consequently, the concept of contempt of court is based on the premise that the courts cannot and will not permit interference with the proper administration of justice. While they may be subjected to well-founded criticism, they must be protected from insults that undermine their credibility. The wide latitude afforded to lawyers to express themselves in court when representing the interests of their clients is consequently subject to respect for the authority of the judiciary, which requires lawyers to act in good faith. In this context, it is important to note that the insulting language was used (1) in the applicant’s written submission and (2) submitted two months after the hearing. Although the Court has in some cases (see *Radobuljac v. Croatia*, § 62, and *Pisanski v. Croatia*, § 70 *in fine*, both cited in the judgment; see also *Lutgen v. Luxembourg*, no. 36681/23, § 70, 16 May 2024) interpreted in the applicants’ favour the fact that the impugned statements were made in written submissions, since the reach of such statements was limited, in other cases concerning written statements by applicants (see, for example, *A. v. Finland* (dec.), no. 44998/98, 8 January 2004, where the applicant had been issued with a warning for his statements of a disparaging nature submitted in a written appeal concerning the presiding judge; *Žugić v. Croatia*, no. 3699/08, 31 May 2011, where the applicant’s notice of appeal had used language implying that the judge as a person was arrogant and not competent to hold the office of judge; and *Kincses v. Hungary*, no. 66232/10, § 33, 27 January 2015, where the applicant, in his notice of appeal, had called into question the professional competence of the sitting judge), and more recently in a case against the same Contracting State (see *Backović v. Serbia* (no. 2), no. 47600/17, 8 April 2025), the Court has found no violation of Article 10. Moreover, I wish to note that in other contexts, where statements were made during live broadcasts/discussions, the Court has emphasised this fact, finding that the applicants had little or no possibility of reformulating, refining or retracting their comments (see *Gündüz v. Turkey*, no. 35071/97,

§ 49, ECHR 2003-XI; *Otegi Mondragon v. Spain*, no. 2034/07, § 54, ECHR 2011; *Reznik v. Russia*, no. 4977/05, § 44, 4 April 2013; *Ghiulfer Predescu v. Romania*, no. 29751/09, § 52, 27 June 2017; and *Thomaidis v. Greece*, no. 28345/16, § 32, 7 May 2024). Although these cases did not concern contempt of court proceedings, it seems reasonable to expect that lawyers, acting in good faith, should be more careful in their written submissions, in which they should refrain from personal insults to judges that do not in any way benefit their clients, given that all the appropriate means and remedies are available to them by which to challenge any contested judicial acts. Furthermore, and merely as a side observation, once the application has been brought to the Court, the insulting language, even where previously limited to the courtroom, enters the “public domain”, since the Court’s judgments become available to everyone online. I am therefore not convinced that the applicant’s written “Objections to the Adduced Evidence”, which were initially neither published nor disseminated to the public by him, still retain their non-public nature (as opposed to criticism made in the media).

3. Second, it is important to stress that the general principles concerning the question whether a given interference is “necessary in a democratic society” are well established in the Court’s case-law (see, among many other authorities, *Perinçek v. Switzerland* [GC], no. 27510/08, §§ 196-97, ECHR 2015 (extracts); *Delfi AS v. Estonia* [GC], no. 64569/09, § 131, ECHR 2015; *Čeferin v. Slovenia*, no. 40975/08, § 47, 16 January 2018; *NIT S.R.L. v. the Republic of Moldova* [GC], no. 28470/12, § 177, 5 April 2022; and *Backović v. Serbia (no. 2)*, no. 47600/17, § 36, 8 April 2025). Among these, it is important to recall that the Contracting States have a certain margin of appreciation in assessing whether there was a “pressing social need” for interference. The criticism of the judge in the present case (and not simply of judicial acts) – wherein, among other things, the applicant accused her of “procedural malice” – was expressed by a male lawyer against a female judge, targeting the presiding judge directly (rather than the members of the panel as a whole, who were sitting in criminal proceedings in the Belgrade High Court). This context is important when considering the applicant’s claim that he had requested a five-minute break in order for the presiding judge, who in his words had been swept up in “the heat of passion”, to “cool down” (“*Kako bi se uzavrele strasti predsednika veća ohladile*”). With this choice of words, the applicant specifically targeted and belittled the female judge, since he could have, but did not, even two months after the hearing, mentioned his request for a break as having been necessary in order for “the heat of passion” to “cool down” *without* referring directly to the presiding female judge. This is an important aspect of the case that the majority did not address when it concluded that the applicant’s written submission did not relate to the judge’s personal integrity (see paragraph 38 of the judgment). There is a pressing social need for adequate responses to gendered personal attacks on judges.

4. Third, turning to the principle that the Court’s task, in exercising its supervisory jurisdiction, is not to take the place of the competent national authorities but rather to review under Article 10 the decisions they delivered pursuant to their power of appreciation, the record showed that the applicant was issued with two warnings by the presiding judge for “disturbing order in the courtroom” and was cautioned, the second time, that any further misconduct would result in a fine. The applicant’s request for a five-minute break was granted. He was given the opportunity to submit in writing substantive objections crucial to the defence of the accused, which, according to the applicant, the presiding judge had failed to record. Therefore, in the context of the applicant’s written “Objections to the Adduced Evidence”, any legitimate criticism must be distinguished from the unnecessary and gratuitous personal attack on the presiding judge. To allege that the presiding judge had been swept up in “the heat of passion” and needed to “cool down” was, in that context, to use significantly gendered language and any comparison with calls by religious and political leaders for unity, compromise and constructive dialogue is inappropriate. Judges have a mandate to judge, not to search for compromises. There is nothing to suggest that the applicant could not have raised the substance of his criticism without using the impugned language. The majority’s conclusions effectively overrule the assessment of the sitting panel of three domestic judges, who dismissed the applicant’s appeal and upheld the finding that his manner of expression had breached professional standards, ethical guidelines and the Code of Criminal Procedure (see paragraph 13 of the judgment). The finding that “the domestic courts subsequently inferred a certain level of disruption from the contents of the applicant’s procedural complaints” and that “no contemporaneous finding of abusive or offensive conduct on the applicant’s part was made” (see paragraph 39 of the judgment) is interesting in light of the fact that the insulting language directed personally at the presiding judge was contained in those very procedural complaints as reiterated in writing. I cannot see how the majority’s aforementioned findings support its conclusion that the domestic courts neither provided “relevant and sufficient” reasons nor struck a fair balance between the need to maintain the authority of the judiciary and the applicant’s right to freedom of expression (see paragraph 44 of the judgment). Excessive restrictions on the use of sanctions for contempt of court such that they apply only to extremely serious and overwhelming personal attacks on judges might have a chilling effect on judges, especially female ones, when deciding to use adequate legal measures to maintain public confidence and ensure the proper administration of justice.

5. Lastly, the majority notes that the applicant was fined RSD 80,000 and that the fine was at the higher end of the applicable scale set out in Article 231 of the Code of Criminal Procedure (see paragraph 16 of the judgment). They recognise that the fine had no consequences for the applicant’s right to practise his profession (see *Kincses v. Hungary*, cited above, § 42) and note

that the amount of the penalty exceeded the applicant's declared income for a period of two months (see paragraph 25 of the judgment), a fact disputed by the Government. Although the nature and severity of the penalties imposed are factors to be taken into account when assessing the proportionality of the interference, since an interference with freedom of expression may have a chilling effect on the exercise of that freedom, I note that these issues were effectively judicially reviewed (contrast *Saygılı and Seyman v. Turkey*, no. 51041/99, §§ 24-25, 27 June 2006). The present case can thus be distinguished from *Nikula v. Finland* (no. 31611/96, ECHR 2002-II) and *Skalka v. Poland* (no. 43425/98, 27 May 2003), in which criminal sanctions, a lenient one and a heavy prison sentence, respectively, were imposed on the applicants (see, *mutatis mutandis*, *Kincses*, cited above, § 42), and from *Pais Pires de Lima v. Portugal* (no. 70465/12, § 67, 12 February 2019), in which the applicant was ordered to pay the judge in question EUR 50,000 in compensation. I therefore do not consider the fine in question excessive (see *Kincses*, cited above, §§ 9 and 42).

6. In the light of the above, I am of the opinion that the domestic authorities, who are better placed than the Court to understand and appreciate the applicant's choice of words in the domestic context and have a certain margin of appreciation in such matters, provided "relevant and sufficient" reasons and struck a fair balance between the need to maintain the authority of the judiciary and the applicant's right to freedom of expression, and therefore that the interference fell within the scope of what, in the context of this case, can be considered "necessary in a democratic society" within the meaning of Article 10 § 2.