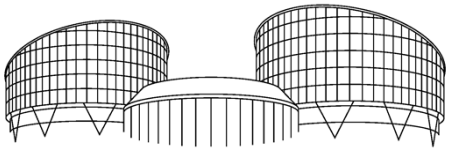

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF PEŠIĆ v. SERBIA

(Application no. 4545/21)

JUDGMENT

Art 10 • Freedom of expression • Damages awarded against the applicant, a former politician and long-time political activist, in civil proceedings for having published an article personally insulting a public official on the website of a citizens' association • Fair balance between competing interests not struck • Absence of relevant and sufficient reasons • Failure to apply standards in conformity with the principles embodied in Art 10 and to base decisions on an acceptable assessment of the relevant facts • Interference not "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

13 January 2026

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 Pešić v. Serbia,

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

Ioannis Ktistakis*, President*,
Lətif Hüseynov,
Darian Pavli,
Úna Ní Raifeartaigh,
Mateja Đurović,
Canòlic Mingorance Cairat,
Vasilka Sancin*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 4545/21) against 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, Ms Vesna Pešić ("the applicant"), on 15 December 2020;

the decision to give notice to the Serbian Government ("the Government") of the complaints concerning the applicant's freedom of expression, her access to a court and the fairness of civil proceedings under Article 6 § 1 and Article 10 of the Convention;

the parties' observations;

Having deliberated in private on 25 November 2025,

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

INTRODUCTION

1. The application concerns the applicant's freedom of expression under Article 10 and her right of access to a court under Article 6 of the Convention. She alleged that the damages awarded against her in civil proceedings initiated by a public official constituted an unjustified interference with her Article 10 rights. Furthermore, she submitted that the civil proceedings had been unfair, as she had not been permitted to put certain questions to the plaintiff, and that the subsequent judgment of the Constitutional Court was "inadequately reasoned". Lastly, the applicant claimed that the Serbian Supreme Court of Cassation's refusal to consider her appeal on points of law (*revizija*) had been in breach of her Article 6 right of access to a court.

THE FACTS

2. The applicant was born in 1940 and lives in Belgrade. She was represented by Ms K. Kostić, a lawyer practising in the same city.

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

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

I. THE RELEVANT CONTEXT

5. In the early hours of 25 April 2016, as part of a construction project, numerous structures in central Belgrade were demolished using heavy machinery. During the operation, unidentified perpetrators unlawfully detained several individuals present in the area, releasing them only after the demolition was complete. These individuals subsequently contacted the police, who failed to respond or attend the scene. The investigation into these events appears to be ongoing.

6. On 12 May 2016 the then Minister of the Interior in the Serbian Government, N.S., made a public statement addressing the events in question. Among other remarks, he stated as follows:

> "However, when it comes to endangering the lives of police officers – for instance, when electrical cables have been cut – the police will not intervene or enter the area until the threat to their safety has been neutralised."

II. THE ARTICLE PUBLISHED BY THE APPLICANT

7. On 13 May 2016 the applicant, a former politician and long-time political activist, published an article headed "Adding Salt (*Dosoljavanje*)" on the website of the citizens' association "Peščanik" to which she was a regular contributor. The relevant part of the article reads as follows:

> "... Alright, everything has been exposed. The only thing that remains unsurpassed and unpredictable is the stupidity of the Minister of the Interior, [N.S.]. So far, we haven't figured out why exactly he was given the role of playing the fool (*da ispadne najgluplji*). Perhaps it's because he always shows up after Vučić to "plug" the remaining holes. And what gems did he come up with this time? He declared that the fact that the main news item in Serbia is the demolition of three illegal buildings in Savamala is just 'spin'. Just three buildings? Yet we saw the pile of rubble that bulldozers were clearing away for days and the demolition lasted all night. The Minister wisely added that demolitions like this should not happen in such a manner, but even when they do, they certainly shouldn't be the biggest news story in Serbia. Perhaps they should be sidelined, or maybe not even reported on at all, despite the fact that masked men illegally demolished the city centre at night, committing a slew of criminal acts. That was quite a stupid statement (*mnogo glupo*), but what followed was the most stupid (*najgluplje*). When asked by a journalist why the police hadn't responded when the desperate guards and property owners in Savamala had informed them of what was happening, he said that the police couldn't act because it wasn't permitted to endanger the lives of officers! The Minister explained that they could have been electrocuted by live wires from the demolished buildings. And so, we've ended up with a situation where the police exist to protect themselves! As for the citizens, well, whatever fate has in store for them. Let them be electrocuted. In fact, they probably deserve it. The Minister explained that these were citizens whose buildings served for 'acquiring wealth', that they were 'structures created through collusion between politics and tycoons'.
>
> ...

> And finally, the Minister's promise that everything will be investigated. We'll investigate this too. The investigation will reveal everything. As long as the electricity is turned off. And if we stop spinning this story about how the demolition is such an important issue. But it has turned out to be very important, because this thuggish disregard for the law, citizens' rights and the destruction of the city has become intolerable."

III. THE CIVIL PROCEEDINGS

8. On 27 July 2016 the Minister of the Interior, N.S., brought a civil suit against the applicant, the association "Peščanik" and its editors-in-chief, S.L. and S.V., before the Belgrade High Court (*Viši sud u Beogradu* – "the High Court"), seeking 200,000 Serbian dinars (RSD) in compensation for non-pecuniary damage. The claim was based on the alleged mental distress caused by an attack on his honour and reputation.

9. On 27 April 2018 the High Court held a hearing where both N.S., as plaintiff, and the applicant, as defendant, gave testimony. During the proceedings, the applicant addressed issues relating to the Minister's political accountability, statements made by the then Prime Minister regarding opposition parties and one of the ruling parties, of which N.S. was a member. Twice, the judge directed the applicant to confine her statements to matters pertinent to the case and to avoid making political speeches during the hearing. The High Court also disallowed certain questions posed to N.S. as irrelevant.

10. On 10 July 2018 the High Court delivered a judgment in favour of N.S., granting his claim. In its reasoning, it found that the applicant's remarks regarding N.S.'s "stupidity" exceeded the permissible bounds of acceptable criticism of N.S.'s statements and actions, amounting to a personal insult. It determined that the applicant had maliciously and inaccurately represented N.S.'s statement. The High Court held that the text in question neither contributed to public discourse about the event nor sought to address the issue at hand. Instead, it was aimed at denigrating N.S., subjectively categorising him and attacking his dignity, reputation, and honour, thereby causing him mental distress. While the applicant argued that the expressions used were her value judgments based on the factual context of the violent demolitions in the Savamala neighbourhood in Belgrade, the High Court dismissed these claims as baseless and an attempt to evade accountability. Accordingly, on the basis of Article 200 of the Obligations Act (see paragraph 23 below), the court ordered the defendants, jointly, to pay N.S. RSD 200,000 (approximately 1,710 euros (EUR) at that time) in compensation for non-pecuniary damage and RSD 95,100 (approximately EUR 810) for costs and expenses, plus interest.

11. The applicant appealed against the judgment relying, in particular, on Article 10 of the Convention and the Court's case-law. Separately, the association "Peščanik", together with S.L. and S.V., lodged their own appeal.

12. On 17 October 2018 the Belgrade Court of Appeal (*Apelacioni sud* – "the Court of Appeal") rejected both appeals and varied the judgment of the High Court, reducing the damages awarded to N.S. to RSD 150,000 (approximately EUR 1,280) and his compensation for costs and expenses to RSD 93,100 (approximately EUR 800). In its reasoning, the Court of Appeal emphasised that "not all manners of conveying ideas and opinions fall within the scope of freedom of expression, as freedom of expression cannot contradict its own purpose". It further noted that the applicant's article had not contributed to public debate on the matter in question or sought to address a particular issue; rather, its intent appeared to have been solely to offend N.S. Ultimately, the Court of Appeal concluded that while value judgments were generally permitted, value judgments that were defamatory in nature and were not in the public interest were impermissible.

13. On 5 December 2018 the applicant lodged an appeal on points of law with the Supreme Court of Cassation (*Vrhovni kasacioni sud*). Separately, the association "Peščanik", along with S.L. and S.V., lodged their own appeal on points of law.

14. On 20 December 2018 the applicant lodged an appeal with the Constitutional Court (*Ustavni sud*) against the judgment delivered by the Court of Appeal on 17 October 2018 (see paragraph 12 above). Separately, the association "Peščanik", together with S.L. and S.V., also lodged their own constitutional appeal against the same judgment.

15. On 21 March 2019 the Supreme Court of Cassation dismissed both appeals on points of law (see paragraph 13 above). In its reasoning the Supreme Court of Cassation underscored that the applicant, the association "Peščanik", S.L. and S.V. lacked standing to lodge an appeal on points of law, as such an appeal was only permissible on the part of the party whose rights had been "diminished or withheld" by a second-instance judgment. Since the Court of Appeal had reduced the damages awarded to N.S., only N.S. himself could have lodged an appeal on points of law against it (see paragraph 12 above).

16. On 8 August 2019 the applicant lodged an additional appeal with the Constitutional Court claiming, in particular, that the Supreme Court of Cassation's dismissal of her appeal on points of law had infringed her right of access to a court. The applicant requested that this constitutional appeal be joined with her earlier appeal of 20 December 2018 (see paragraph 14 above).

17. On 9 August 2019, the association "Peščanik", S.L. and S.V. lodged their own constitutional appeal against the Supreme Court of Cassation's ruling of 21 March 2019.

18. On 4 June 2020 the Constitutional Court rejected the appeals lodged by the applicant on 20 December 2018 and 8 August 2019 (see paragraphs 14 and 16 above). With regard specifically to the complaint concerning freedom of expression, it found that the complaint did not present valid constitutional arguments but rather sought a reassessment of the legality of the judgments

appealed against, which was beyond its jurisdiction as a constitutional body. The Constitutional Court also agreed with the Supreme Court of Cassation's finding that the applicant did not have standing to lodge an appeal on points of law. The Constitutional Court's decision was served on the applicant's representative on 16 June 2020.

IV. DEVELOPMENTS FOLLOWING THE COMMUNICATION OF THE APPLICATION TO THE GOVERNMENT

19. On 19 March 2024, after the application in the present case had been communicated to the Government, the applicant informed the Court that the Constitutional Court had delivered a decision (Už-8174/2019) on 11 March 2024, dealing with the constitutional appeal lodged by the association "Peščanik", S.L., and S.V. on 9 August 2019 (see paragraph 17 above). In the decision, the Constitutional Court found that the Supreme Court of Cassation (having since been renamed as the Supreme Court on 11 May 2023) had infringed the appellants' right to a fair trial in dismissing their appeal on points of law (see paragraph 15 above). The Constitutional Court thus quashed the Supreme Court of Cassation's decision of 21 March 2019 and instructed the Supreme Court to re-examine the appeal on points of law in question. Moreover, the Constitutional Court clarified that its decision applied equally to the applicant personally, since she was "in the same legal situation as the appellants". To date, the Court has not been notified by the parties about the outcome of the new proceedings before the Supreme Court (25 November 2005).

RELEVANT LEGAL FRAMEWORK

I. THE PUBLIC INFORMATION AND MEDIA ACT (*ZAKON O JAVNOM INFORMISANJU I MEDIJIMA*, PUBLISHED IN *OG RS* NOS. 83/2014, 58/2015 AND 12/2016 – AUTHENTIC INTERPRETATION)

20. At the material time, Article 8 of the Public Information and Media Act provided, *inter alia*, that elected, appointed, or designated public or political officeholders had to tolerate the expression of views critical of their actions in the discharge of their office or the policies they implemented in their role, regardless of any personal offence they might take at such views.

II. THE OBLIGATIONS ACT (*ZAKON O OBLIGACIONIM ODNOSIMA*; PUBLISHED IN THE OFFICIAL GAZETTE OF THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA NOS. 29/1978, 39/1985, 45/1989 AND 57/1989, THE OFFICIAL GAZETTE OF THE FEDERAL REPUBLIC OF YUGOSLAVIA NO. 31/1993 AND *OG RS* NO. 18/2020)

21. Article 154 of this Act sets out the various grounds on which compensation may be claimed.

22. Article 199 provides that, in the event of an infringement of personal rights, the courts may order that their judgments be published or that a publication be rectified, or order the person who caused the damage to retract the statements which caused the infringement.

23. Article 200 provides, in particular, that anyone who has suffered fear, physical pain or mental anguish as a consequence of a breach of his or her right to reputation, personal integrity, liberty or other personal rights (*prava ličnosti*) is entitled to seek financial compensation in the civil courts and, in addition, to request such other forms of redress "as may be capable" of affording adequate non-pecuniary satisfaction.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

24. The applicant complained under Articles 6 and 10 of the Convention that the civil proceedings which had been brought against her and the resulting damages she had been ordered to pay had been in breach of her right to freedom of expression. The applicant further complained that the impugned civil proceedings had been unfair owing to: (a) the restrictions which had been imposed on her while giving her testimony in court and (b) the lack of proper reasoning in the Constitutional Court's decision of 4 June 2020.

25. Being the master of the characterisation to be given in law to the facts of any case before it (see, for example, *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), the Court considers that the above complaints all fall to be examined under Article 10 of the Convention alone (see, *mutatis mutandis*, *Hrachya Harutyunyan v. Armenia*, no. 15028/16, § 31-32, 27 August 2024).

26. Article 10 of the Convention 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 ...
>
> 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 ... for the protection of the reputation or rights of others...”

A. Admissibility

1. Whether the applicant has victim status

27. The Government submitted that the applicant had lost her victim status on the ground that the Constitutional Court, in its decision of 11 March 2024, had explicitly acknowledged that the Supreme Court of Cassation had infringed the applicant’s right to a fair trial by dismissing her appeal on points of law (see paragraph 19 above).

28. The applicant contested the Government’s submissions, arguing that she still had victim status, notwithstanding the Constitutional Court’s decision.

29. The Court reiterates that it falls first to the national authorities to redress any violation of the Convention and that in assessing whether an applicant can claim to be a genuine victim of an alleged violation, account should be taken not only of the formal position at the time when the application was lodged with the Court but of all the circumstances of the case in question, including any developments prior to the date of the examination of the case by the Court (see *Tănase v. Moldova* [GC], no. 7/08, § 105, ECHR 2010).

30. A decision or measure favourable to the applicant is not, in principle, sufficient to deprive him of his status as a “victim” for the purposes of Article 34 of the Convention unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for the breach of the Convention (see, among many other authorities, *Kurić and Others v. Slovenia* [GC], no. 26828/06, § 259, ECHR 2012 (extracts)).

31. Having regard to the above, and in particular to the question of “acknowledgment”, the Court notes that the Constitutional Court did not, even in substance, find a violation of the rights guaranteed by Article 10 of the Convention in the applicant’s case. It therefore considers that the applicant’s victim status in relation to her complaints under that provision cannot be called into question and rejects the objection raised by the Government in this connection.

2. Whether the applicant has suffered a significant disadvantage

32. The Government further submitted that the applicant had not suffered a significant disadvantage, within the meaning of Article 35 § 3 (b) of the Convention. They noted that, pursuant to the High Court’s judgment of 10 July 2018, the applicant was ordered to pay, jointly with S.L., S.V. and the association “Peščanik”, a total sum of RSD 243,000, equivalent to approximately EUR 2,000 (EUR) at the material time. The Government

added that the applicant's individual share of the awarded damages, amounting to roughly EUR 500, should be regarded as insignificant.

33. The applicant acknowledged that she had not suffered a significant financial disadvantage. However, she argued that respect for human rights necessitated an examination of the complaint on the merits. In her view, it was essential to send a clear message to judicial and administrative authorities in Serbia that freedom of expression encompasses the right to use strong language when criticising high-ranking state officials. She emphasised that the protection of such officials' honour should not take precedence over freedom of expression, particularly in the context of political discourse in the media.

34. The criterion of no significant disadvantage hinges on the idea that a breach of a Convention right, however real from a purely legal point of view, should attain a minimum level of severity to warrant consideration by the Court. The assessment of this minimum is relative and depends on all the circumstances of the case, and the severity of a breach should be gauged taking account of both the applicant's subjective perceptions and what was objectively at stake. However, even if it is found that the applicant has not suffered a significant disadvantage as a result of the matter complained of, the complaint may nonetheless not be declared inadmissible on this ground if respect for human rights, as defined in the Convention and the Protocols thereto, requires an examination on the merits (see, as a recent authority, *X and others v. Ireland*, nos. 23851/20 and 24360/20, § 63, 22 June 2023).

35. The Court has also held that, in cases concerning freedom of expression, the application of the admissibility criterion contained in Article 35 § 3 (b) of the Convention should take due account of the importance of this freedom (see *Gachechiladze v. Georgia*, no. 2591/19, § 40, 22 July 2021) and be subject to the Court's own careful scrutiny. This scrutiny should encompass, among other things, such elements as contribution to a debate of general interest and whether the case involves the press or other news media (see, for example, *Sylka v. Poland* (dec.), no. 19219/07, § 28, 3 June 2014, with further references).

36. Applying these principles to the present case, the Court notes that the issue at hand was clearly of significant subjective importance to the applicant, who viewed the alleged violation as raising a question of principle. Specifically, the civil proceedings, in her view, were closely linked to her fundamental right to criticise the actions of high-ranking public officials through the media. As to what was objectively at stake, the applicant's role as a regular opinion writer for the association "Peščanik" website underscores the broader context of the alleged violation. The interference must therefore be assessed in the light of the essential role a free press plays in ensuring the proper functioning of a democratic society (see *Falzon v. Malta*, no. 45791/13, § 57, 20 March 2018, concerning factual circumstances very similar to those in the present case as regards the status of the applicant as an

opinion writer in particular). Accordingly, the alleged breach of Article 10 of the Convention in the present case indeed raises an "important question of principle". The Court is thus satisfied that it cannot be said that the applicant suffered no significant disadvantage as a result of the civil proceedings, regardless of the relatively insubstantial pecuniary consequences for her referred to by the Government. Hence, the Court does not deem it necessary to consider whether respect for human rights would compel it to examine the case or whether it was duly considered by a domestic tribunal (see, *mutatis mutandis*, *M.N. and Others v. San Marino*, no. 28005/12, § 39, 7 July 2015).

37. Accordingly, the Government's objection in this context must be rejected.

3. Conclusion

38. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

39. The applicant contended that the order to pay damages, issued by the High Court on account of the publication of her allegedly insulting article, constituted a clear interference with her freedom of expression as guaranteed under Article 10 of the Convention. She argued that the High Court should have based its decision on the protections afforded to journalists under the Public Information and Media Act rather than applying the liability provisions of the Obligations Act (see paragraphs 20-23 above). While acknowledging that the judgment had pursued the legitimate aim of safeguarding the rights of others, the applicant submitted that the damages imposed had nevertheless been disproportionate. In particular, she argued that the domestic courts had also failed to strike the proper balance between her right to freely express an opinion and N.S.'s right to protect his dignity as a public official who, by virtue of his position, should have been expected to tolerate criticism of his professional conduct, even if he perceived it as personally insulting.

40. The applicant further submitted that her criticism of N.S.'s actions had been motivated by the information available at the time, which had led her to believe that his explanation – that the police had failed to act owing to the presence of high-voltage cables – was merely a fabricated justification. Lastly, the applicant submitted that she had found N.S.'s explanation of why the police had failed to do their duty so unconvincing that it had given her the

impression that he had in fact simultaneously underestimated the intelligence of the Serbian public and, in so doing, displayed his own lack of judgment.

(b) The Government

41. The Government did not contest that the judgment in question had constituted an interference with the applicant's right to freedom of expression. This interference was, however, lawful under the Obligations Act and pursued the legitimate aim of protecting N.S.'s reputation. They further submitted that the interference had been proportionate to that aim, emphasising that the damages awarded against the applicant had been the result of civil proceedings, not criminal prosecution, and that the amount awarded had not been excessive.

42. The Government added that the applicant's article had not made a substantive contribution to the public debate on the issue in question and that there had to be reasonable limits to N.S.'s own tolerance for criticism, which the applicant had exceeded in this instance. They argued that the applicant was herself a well-known public figure, which distinguished her position from that of a private individual or journalist, and that she did not merit the same level of protection. The online publication of the article had amplified its reach and had therefore had more serious consequences for N.S.'s private life. Finally, the applicant's choice of language – terms such as "stupid", "most stupid", and "unsurpassed and unpredictable ... stupidity" – amounted to *ad hominem* insults rather than legitimate criticism.

2. The Court's assessment

(a) Existence of an interference

43. It is not disputed between the parties that the judgment by which the applicant was ordered to pay damages in civil proceedings amounted to an "interference by [a] public authority" with her right to freedom of expression. Such interference will infringe the Convention unless it satisfies the requirements of paragraph 2 of Article 10. It must therefore be determined whether the interference was "prescribed by law", pursued one or more of the legitimate aims set out in that paragraph and was "necessary in a democratic society" to achieve the relevant aim or aims.

(b) Whether the interference was prescribed by law

44. The Court notes that, in ordering the applicant to pay damages to N.S., the domestic courts relied on the general provisions on liability contained in the Obligations Act (see paragraphs 10, 12 and 21-23 above). It concludes, therefore, that the interference at issue was "prescribed by law" within the meaning of Article 10 § 2 of the Convention.

(c) Whether the interference pursued a legitimate aim

45. The Court notes that it is not disputed between the parties that the interference pursued one of the aims listed in Article 10 § 2 of the Convention, namely the "protection of the reputation or rights of others" and sees no reason for it to hold otherwise.

(d) Whether the interference was "necessary in a democratic society"

(i) General principles

46. The general principles for assessing the necessity of an interference with the exercise of freedom of expression are set out in, among other authorities, *Morice*, cited above, § 124, ECHR 2015); *Bédat v. Switzerland* ([GC], no. 56925/08, §§ 48-54, 29 March 2016); *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* ([GC], no. 17224/11, § 75, 27 June 2017); and *SIC - Sociedade Independente de Comunicação v. Portugal* (no. 29856/13, §§ 54-62, 27 July 2021).

47. In order to fulfil its positive obligation to safeguard one person's rights under Article 8, the State may have to restrict to some extent the rights secured under Article 10 for another person. When examining the necessity of that restriction in a democratic society in the interests of the "protection of the reputation or rights of others", the Court may be required to verify whether the domestic authorities struck a fair balance when protecting two values guaranteed by the Convention which may come into conflict with each other in certain cases, namely, on the one hand, freedom of expression as protected by Article 10 and, on the other, the right to respect for private life as enshrined in Article 8 (see *Bédat*, § 74, and *Medžlis Islamske Zajednice Brčko and Others*, § 77, both cited above, with further references).

48. The Court has held that the Contracting States have a certain margin of appreciation in assessing the necessity and scope of any interference with the freedom of expression protected by Article 10 of the Convention. A high level of protection of freedom of expression, with the national authorities thus having a particularly narrow margin of appreciation, will normally be accorded where the impugned remarks concern a matter of public interest (see *Morice*, cited above, § 125). Where the right to freedom of expression is being balanced against the right to respect for private life, the Court has laid down a number of relevant criteria in its case-law, including whether the impugned statements contributed to a debate of public interest; the degree of notoriety of the person affected and the subject of the publication; the context within which the impugned statements were made; the content, form and consequences of the publication; the prior conduct of the person concerned; the way in which the information was obtained and its veracity; and the nature and severity of the penalty imposed (see, among many other authorities, *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 89-95, 7 February 2012).

49. A distinction must be made between private individuals and individuals acting in a public context. Accordingly, whilst a private individual unknown to the public may claim particular protection of his or her right to private life, the same is not true of public figures in respect of whom limits of critical comment are wider, as they are inevitably and knowingly exposed to public scrutiny and must therefore display a greater degree of tolerance (see, among many other authorities, *Milisavljević v. Serbia*, no. 50123/06, § 34, 4 April 2017).

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

50. In the present case, the applicant was held liable for publishing an article that criticised the actions of a public official in connection with his public statements on a matter of significant public interest. The margin of appreciation to be accorded to the State in the present context is therefore a narrow one (see *Morice v. France* [GC], no. 29369/10, § 125, ECHR 2015).

51. The applicant's criticism was directed against N.S., the then Minister of the Interior and a professional politician in respect of whom the limits of acceptable criticism were wider than if he had been merely a private individual (see *Milisavljević,* cited above, § 34). By entering the political arena and holding public office, he inevitably and knowingly laid himself open to close scrutiny – scrutiny of his every word and deed by both journalists and the public at large. Furthermore, the Court observes that Serbian law similarly mandates that political officeholders tolerate views critical of their actions or policies, even when such views may be personally offensive to them (see paragraph 20 above).

52. The Court must furthermore ascertain whether the domestic authorities struck a fair balance between the two values guaranteed by the Convention – the applicant's freedom of expression, as protected by Article 10, on the one hand, and N.S.'s rights and interests under Article 8 on the other; whether the domestic authorities applied the criteria established in the Court's case-law on freedom of expression; and whether the reasons given by the domestic authorities to justify the interference with freedom of expression were sufficient and relevant.

53. In this connection, the Court observes that the expressions "stupid", "most stupid" and "unsurpassed and unpredictable ... stupidity", as cited by the domestic courts (see paragraphs 10 and 7 above, in that order), were drawn from various parts of the impugned article to infer the applicant's intent to insult N.S. The domestic courts classified these expressions as insults, deeming them likely to cause N.S. emotional distress and to harm his reputation.

54. The Court further notes that, in its first-instance judgment, the Belgrade High Court rejected the applicant's argument that the expressions in question constituted value judgments made in the context of a factual situation of particular importance to Serbian society (see paragraph 10 *in fine*

above). Similarly, while the Court of Appeal acknowledged that value judgments were, in principle, protected, it held that, in the applicant's case, they did not relate to a matter of public interest (see paragraph 12 *in fine* above). However, in view of the domestic courts' reasoning, the Court is not persuaded by their approach and does not share their conclusions. Considering the full content of the article and the applicant's explanations before the domestic courts, the Court notes that journalistic freedom allows for some exaggeration, provocation, or immoderate statements. The Court considers the expressions in question to be opinions. These opinions were voiced provocatively and caustically, using language that could be seen as insulting. However, they reflected the applicant's subjective assessment of N.S.'s actions and statements, as described in the article. In this context, the Court agrees with the applicant that the disputed expressions were value judgments rather than statements of fact.

55. Moreover, the personal reference to N.S. was not arbitrary or gratuitous, given his position as Minister of the Interior and his responsibility for the conduct of the police. The article in question was a direct response to N.S.'s own public statements regarding the events in question. When viewed in the context of the article, the impugned expressions were intended as a harsh critique of his response to alleged violent demolitions that had taken place in the centre of Belgrade, including the "unidentified perpetrators unlawfully detaining several individuals present in the area, releasing them only after the demolition was complete" and "these individuals subsequently contacting the police, who failed to respond or attend the scene" (see paragraph 5 above) – an issue of significant public interest in the Serbian context. Moreover, at the time, an intense public debate was underway concerning both accountability for these acts and the inadequacy of the response by law enforcement authorities. The applicant's statements were therefore a part of this broader discourse on matters of public concern, where few restrictions are acceptable under Article 10 § 2 of the Convention (see, among many other authorities, *Sürek v. Turkey (no. 1)* [GC], no. 26682/95, § 61, ECHR 1999-IV). They were not intended to "wantonly denigrate", that is to simply insult N.S. In fact, the applicant was careful enough to put the impugned expressions into context and explain them: she took reasonable care to articulate clearly why, in her view, the way the police had handled the crime in question and the way in which N.S. had explained the apparent lack of police reaction deserved such a strong reaction from her side in the public debate (see paragraph 7 above; contrast *Skałka v. Poland*, no. 43425/98, §§ 36-37, 27 May 2003).

56. The Court notes that, in the present case, the applicant was ordered to pay approximately EUR 2,100 jointly with three other defendants as compensation for non-pecuniary damage and costs. However, the fact that the proceedings were civil rather than criminal in nature and that the amount the applicant was ordered to pay in compensation was relatively small does not

diminish the importance of the domestic courts' failure to base their decisions "on an acceptable assessment of the relevant facts" and to adduce "relevant and sufficient" reasons (see, to similar effect, *Anatoliy Yeremenko v. Ukraine*, no. 22287/08, §§ 106-7, 15 September 2022).

57. Having regard to the above considerations as a whole, the Court considers that the domestic courts failed to strike a fair balance between the applicant's freedom of expression and N.S.'s rights and interests, to apply standards which were in conformity with the principles embodied in Article 10, to rely on an acceptable assessment of the relevant facts and to base their decisions on relevant and sufficient reasons. The national authorities' reaction to the applicant's article was therefore not necessary in a democratic society, within the meaning of Article 10 § 2 of the Convention.

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

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

59. The applicant complained that by dismissing her appeal on points of law the Supreme Court of Cassation had denied her access to a court, in breach of her rights under Article 6 § 1 of the Convention, which, in so far as relevant, reads as follows:

> "1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal...."

60. The Government argued that in view of the Constitutional Court's decision of 11 March 2024 the applicant has lost her victim status (see paragraph 19 above).

61. The applicant disagreed and urged the Court to pursue the examination of her complaint, citing its duty to proceed under Article 37 § 1 of the Convention if respect for human rights as defined in the Convention and its Protocols so requires.

62. The Court reiterates the principles concerning the loss of an applicant's victim status within the meaning of the Convention, summarised in paragraphs 28-29 above.

63. As to whether the applicant has in fact lost her victim status following the Constitutional Court's decision rendered in her favour, the Court notes as follows. The first requirement, namely the acknowledgment, by the Constitutional Court, of a violation of the applicant's right of access to a court has been fulfilled. As to the second requirement, having regard to the Court's practice in similar cases, the Constitutional Court's instruction to the Supreme Court to re-hear the applicant's case amounts to sufficient redress, such that the applicant can no longer claim to be a victim of the alleged violation (see, among other authorities, *Lozhkin v. Russia* (dec.) no. 16384/08, 22 October 2013). This is particularly so, given that the applicant did not claim any damages for this alleged violation before the

Court (see paragraph 66 below). Lastly, with regard to the applicant's request that the Court pursue its examination out of respect for human rights, the Court rejects this request, noting that this requirement pertains only to the question whether the applicant has suffered a significant disadvantage, not to the determination of victim status (see the relevant principles set out in paragraph 34 above).

64. It follows that the applicant's complaint regarding her access to a court under Article 6 of the Convention is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

65. 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."

66. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award her any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning Article 10 of the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 10 of the Convention.

Done in English, and notified in writing on 13 January 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Ioannis Ktistakis President