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

THIRD SECTION

DECISION

Application no. 15783/16
Ricos EROTOCRITOU
against Cyprus

The European Court of Human Rights (Third Section), sitting on 25 May 2021 as a Committee composed of:
Georges Ravarani, *President,*
Darian Pavli,
Anja Seibert-Fohr*, judges,*
and Olga Chernishova, *Deputy Section Registrar*,
Having regard to the above application lodged on 18 March 2016,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Ricos Erotocritou, is a Cypriot national, who was born in 1956 and lives in Limassol. He was represented before the Court by Mr A. Demetriades, a lawyer practising in Nicosia.

A. The circumstances of the case

2. The facts of the case, as submitted by the applicant and as can be seen from the case file, may be summarised as follows.

1. Background information

3. The applicant is the former Deputy Attorney General of the Republic of Cyprus.

4. In the 2000s the Law Office of the Republic was dealing with a case of fraudulent acquisition of a multimillion company. Like his predecessor, the Attorney General at the time considered that a civil action, already underway, would suffice but the applicant ordered a criminal prosecution. The Attorney General terminated that prosecution.

5. On 12 March 2015 before the Parliamentary Committee on Institutions, Merit and the Commissioner for Administration (Ombudsman) certain allegations of corruption were made concerning the involvement of the applicant in the criminal case.

6. An inquiry into the applicant's insubordination conducted by an independent criminal investigator appointed by the Attorney General revealed that the applicant may have been bribed.

7. On 14 April 2015 the Attorney General held a press conference informing the public of the inquiry and the investigator's findings.

8. On the same day the applicant held a separate press conference and retaliated by accusing the Attorney General of bribery on national television.

9. The applicant has not provided the Court with a full transcript of the press conference and statements made subsequently. It appears from the domestic proceedings that his statements can be summarised as follows.

10. The applicant said, *inter alia*, that for no apparent reason and without providing any explanation the Attorney General had terminated the criminal prosecution by a personal decision, which "clearly suggested bribery", and that "unless explained, [that act] clearly suggest[ed] improper interference in the handling of the case". He concluded that the Attorney General himself should be investigated so as to see "who had offered the bribe, who had accepted [it], and whether some people had fulfilled their part of the deal by terminating the [...] prosecution with a phone call".

2. Proceedings for the applicant's removal from office (application 1/2015)

11. On 13 May 2015 the Attorney General requested the applicant's removal from office under the Constitution. The request was submitted to the Supreme Court's Council (*Συμβούλιο*) ("Council") tasked by the Constitution (Article 153 § 8) with dismissals of Supreme-Court judges and assimilated officials (see paragraph 31 below).

12. As the Council would be convened for the first time ever, its proceedings were yet to be regulated by procedural rules. Such regulations were created after the filing of the Attorney General's request (see paragraph 35 below). Hence, the application for removal was not made in the form later specified in the Council of the Supreme Court Procedural Regulations of 2015 (see paragraph 36 below).

13. The applicant raised procedural objections (*ενστάσεις*).

14. He argued that by exempting the Attorney General's request from the requirement to follow the template form, the Regulations legitimised that request post factum in breach of Articles 6 and 7 of the Convention.

15. The applicant further argued that it was discriminatory to remove lower-court and Supreme-Court judges (with whom he was assimilated) in different procedures. Unlike Supreme-Court judges, lower-court judges

were to be removed by the Supreme Council of Judicature (*Ανώτατο Δικαστικό Συμβούλιο*) under clearer regulations.

16. On 27 May 2015 the Council dismissed both objections. It held in sum that, first, the Regulations did not "criminalise" the applicant's acts because the option of removing him from office had always been in the Constitution (see paragraph 30 below). The Regulations simply regulated the proceedings.

17. Second, the Council held that no discrimination arose because lower-court judges and Supreme-Court judges were to be removed from office by different bodies with different functions under different Constitutional provisions.

18. Subsequently, the applicant made a third objection, namely that the Council had not had jurisdiction to deal with his dismissal.

19. On 15 June 2015 the Council dismissed the objection. It held that it had been the competent body to decide on any matter concerning the dismissal of the Deputy Attorney General, as per Articles 153 § 8 and 112 § 4 of the Constitution and in accordance to Article 153 § 8(4) its decision was binding on the President of the Republic (see paragraphs 28 and 31 below).

20. The applicant later raised a new objection. This time he claimed that, as the Attorney General's long-time friend, the Council President was "objectively partial". He acknowledged the President's honesty (see paragraph 21 below) but argued that as the Attorney General was personally offended by the applicant's comments, the President would in essence be called to judge his friend. While the applicant accepted that the President of the Council had also been friends with him, he argued that the degree of friendship between the Attorney General and the President had been greater. He added that as a result, the President's presence on the bench could raise doubts to the public as to the impartiality of the Council. What was therefore at steak was the public's confidence in the authority of the judiciary.

21. The President of the Council explained that he had no difficulty admitting that he was a long-term friend to the Attorney General for over forty years and had developed social and professional ties, but he stressed that he had also known the applicant and they had developed friendly and social relations for over thirty years. He further stressed, *inter alia,* that the Attorney General's action against the applicant was made in his professional, not personal, capacity. Given these circumstances, he was detached from the situation and felt that there was no impediment to continue exercising his constitutional duties as President of the Council.

22. On 23 June 2015 the Council unanimously decided to dismiss the applicant's objection. It noted that the Council, which is comprised of Supreme Court judges, is tasked with dismissals of fellow Supreme Court judges. Judges inevitably develop professional and friendly ties over the

term of their careers. If this was a reason for the recusal of the judges of the Council, the Council would be unable to fulfil its duties and the procedure would be extinguished. The Council reiterated that the Attorney General brought the application in his professional capacity and further noted that other than the President, the Council included eleven other judges.

3. The Council's decision for removing the applicant from office

23. On 24 September 2015 the Council accepted the Attorney General's request and unanimously decided to remove the applicant from office.

24. It dismissed the applicant's claims that his expression fell within the margins of freedom of expression. It held that soon after he had made the impugned comments about the Attorney General, the applicant left conciliatory voice messages to the Attorney General, which proved that his issue with the Attorney General was personal.

25. Moreover, the Council noted that the applicant had admitted having falsely accused the State's top law officer of a crime in retaliation of the latter's decision. He held the press conference to defend himself as he felt that he had been under attack by the Attorney General. The Council further noted that the applicant also admitted that with his statements he had "poured fuel on the fire" which was unethical, and he had therefore subsequently apologised to the Attorney General and his family.

26. The Council also held that the accusation had eroded public trust in the Law Office. The Council noted that due to his position, the applicant ought to have shown greater responsibility and restraint in his expression. Instead, he had been swept by emotions and made statements which went beyond what would normally be covered by his right to freedom of expression.

27. In view of the above, the Council concluded that the applicant's removal was justified; his conduct fell below that expected by an official of his status and in the eyes of an objective observer he was unfit to continue performing his duties adequately and in the public interest, as required by his office.

B. Relevant domestic law

1. The Constitution

28. Article 112 § 4 of the Constitution provides as follows:

> "The Attorney-General and the Deputy Attorney-General of the Republic shall be members of the permanent legal service of the Republic and shall hold office under the same terms and conditions as a judge of the High Court other than its President and shall not be removed from office except on the like grounds and in the like manner as such judge of the High Court."

29. In accordance with Article 113 of the Constitution, the Attorney General, assisted by the Deputy Attorney General of the Republic is the legal adviser of the Republic and has discretionary power exercised in the public interest to, *inter alia*, institute or discontinue criminal proceedings. Such power may, in accordance with Article 114 of the Constitution, be exercised by the Deputy Attorney General subject to the Attorney-General's directions.

30. Article 153 § 7 (4) provides that a judge of the High Court may be dismissed for misconduct.

31. Article 153 § 8 (1) – (4) provides the following:

> "8. 1. There shall be established a Council consisting of the President of the Supreme Constitutional Court as Chairman and the Greek and the Turkish judge of the Supreme Constitutional Court as members.
>
> 2. This Council shall have exclusive competence to determine all matters relating to:
>
> a. the retirement, dismissal or otherwise the termination of the appointment of the President of the High Court in accordance with the conditions of service laid down in the instrument of his appointment;
>
> b. the retirement or dismissal of any Greek judge or the Turkish judge of the High Court on any of the grounds provided in sub-paragraphs (3) and (4) of paragraph 7 of this Article.
>
> 3. The proceedings of the Council under sub-paragraph (2) of this paragraph shall be of a judicial nature and the judge concerned shall be entitled to be heard and present his case before the Council.
>
> 4. The decision of the Council taken by a majority shall be binding upon the President and the Vice-President of the Republic who shall jointly act accordingly."

32. By virtue of the Administration of Justice (Miscellaneous Provisions) Law ("Law no. 33/1964"), the Supreme Constitutional Court and the High Court were merged into one, the Supreme Court, to which the jurisdiction and powers of the two earlier courts were transferred (see *Kamenos v. Cyprus*, no. 147/07, §§ 34-37, 31 October 2017).

2. The Administration of Justice (Miscellaneous Provisions) Law ("Law no. 33/1964") – ("Ο περί Απονομής της Δικαιοσύνης (Ποικίλες Διατάξεις) Νόμος του 1964 (Ν. 33/1964)")

33. Section 9(a) of the Law provides that the jurisdiction and powers exercised by the Supreme Constitutional Court and the Hight Court are vested in the Supreme Court.

34. In accordance with Section 9(b) there shall be invested in the Supreme Court the competence and the powers vested in, and exercised by, the Council for determining all matters relating to the retirement, dismissal or otherwise of a Judge of the Supreme Constitutional Court or of the High Court for such period of time as would render it impracticable for him to continue in office or on the ground of misconduct.

3. The Council of the Supreme Court (Control and Procedure) Procedural Regulation of 2015 (3/2015) - ("Ο περί του Συμβουλίου του Ανωτάτου Δικαστηρίου (Έλεγχος και Διαδικασία) Διαδικαστικός Κανονισμός του 2015 (3/2015)")

35. On 22 May 2015 the Supreme Court issued for the first time Procedural Regulations to regulate the proceedings of the Council.

36. The Regulations introduced, *inter alia,* the template of the application for removal from office (Form A) and the template for objecting to such application (Form B).

37. The Regulations further stipulated that any existing procedures, requests or objections would not be considered invalid due to non-compliance with the relevant forms.

COMPLAINTS

38. Relying on Article 10 of the Convention the applicant complained that he was sanctioned for an expression of opinion.

39. Relying on Article 6 of the Convention the applicant complained that:

(i) the issuing of procedural regulations for the first time was unfair as the Regulations stopped him from contesting the request for his removal from office on the ground of non-respect of the template prescribed by the Regulations; the Regulations were discriminatory, targeted his person and were in breach of his reasonable expectation to a fair trial;

(ii) he had not been tried by a tribunal established by law;

(iii) the Council was not impartial.

40. Relying on Article 14 of the Convention in conjunction with Article 6, and under Article 1 of Protocol No. 12 the applicant complained that removing lower-court and Supreme-Court judges under different rules was discriminatory.

41. The applicant further complained under Article 7 of the Convention that the Regulations had retroactive effect and exposed him to an offence which could not be prosecuted on the date of the filing of the application because of the absence of procedural regulations.

42. Lastly, he complained under Article 1 of Protocol No. 1 that as a result of his removal he has been deprived of an end-of-service one-off payment he was entitled to as well as of the pension for his service as Deputy Attorney General.

THE LAW

A. Complaint under Article 10 of the Convention

43. The applicant complained that the statements he had made as a Deputy Attorney General in reply to the Attorney General's press conference concerned a matter of public interest, thus the disciplinary measure imposed on him interfered with his freedom of expression under Article 10 of the Convention, the relevant parts of which provide:

> "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. [...]
>
> 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."

44. The Court notes at the outset that given the applicant's admission that the statements he had made were untrue (see paragraph 25 above), the present case is differentiated from cases concerning whistleblowing by applicants regarding the alleged unlawful conduct of their employer requiring special protection under Article 10 (see for example, *Goryaynova v. Ukraine*, no. 41752/09, 8 October 2020).

45. The Court acknowledges that the decision to remove the applicant was predominantly prompted by the public statements he had made in his professional capacity, and as a result, his dismissal constituted an interference with the exercise of his right to freedom of expression.

46. Such an interference gives rise to a breach of Article 10 unless it can be shown that it was "prescribed by law", pursued one or more legitimate aim or aims as defined in paragraph 2 and was "necessary in a democratic society" to attain them.

47. In the present case, the interference was "prescribed by law", namely Article 153 § 7 (4) of the Constitution, in pursuit of the legitimate aim of protecting "the reputation or rights of others".

48. The question therefore that remains to be answered is whether the interference was "necessary in a democratic society".

49. The Court refers to the general principles concerning the necessity of an interference with freedom of expression, as stipulated in *Morice v. France* [GC], no. 29369/10, §§ 124-127, ECHR 2015.

50. The Court further reiterates that, while the Attorney General is an independent officer, and not part of the ordinary civil service, it is evident that under the Constitution his task it is to contribute to the proper

administration of justice (see paragraphs 28 and 29 above). The Court has previously held that public prosecutors form part of the judicial machinery in the broader sense of this term and it is in the general interest that they, like judicial officers, should enjoy public confidence. It may therefore be necessary for the State to protect them from accusations that are unfounded (see*, Lešník v. Slovakia*, no. 35640/97, § 54, ECHR 2003-IV).

51. The Court notes first that in his application with the Court the applicant did not dispute the contents of the speech as set out by the Council in its decision (see paragraphs 9 and 10 above). The Court will therefore proceed its examination with the applicant's statements as set out therein.

52. Turning to the facts of the present case, the Court notes that the applicant, Deputy Attorney General at the time, accused the Attorney General of abuse of office and bribery (see paragraph 10 above). The statements made did not merely constitute criticism of the Attorney General's decisions. Rather, as also noted by the Council (see paragraph 24 above), the accusations were a personal attack against the Attorney General concerning the latter's allegedly unlawful and abusive conduct.

53. Importantly, the Court notes that the applicant's accusations were not merely unsupported by evidence, but by his own admission had been false and made in retaliation, in order to protect himself as he felt under attack (see paragraph 25 above).

54. The Court further observes that the applicant's false statements were broadcast in public *via* a press conference that he had called a few hours after the Attorney General's press conference (see paragraphs 7 and 8 above). Sometime after, the applicant apologised to the Attorney General and his family for the accusations (see paragraph 25 above). The immediacy in which the applicant held the press conference and the applicant's own admission that he had "poured oil to the fire" led the Council to conclude that he had been swept by emotion and had failed to show the restraint and discretion expected of a person in his position (see paragraph 26 above). As a result, the Council concluded that he was unfit to continue performing his duties in the public interest. There is no information before the Court which would indicate that this finding was contrary to the facts of the case or otherwise arbitrary.

55. In connection to the above, the Court notes that the Deputy Attorney General holds one of the highest positions in the law offices of the Republic of Cyprus and is directly delegated powers for prevention and prosecution of offences and maintaining the rule of law by contributing to the proper administration of justice and in turn to public confidence (see, *Kayasu v. Turkey*, nos. 64119/00 and 76292/01, § 91, 13 November 2008, and *Lešník*, cited above, § 54).

56. The Court considers that the allegation that the Attorney General was bribed, coupled by the fact that such accusation was broadcast on national television, was certainly prejudicial to the Attorney General, was

capable of insulting him and of affecting him in the performance of his duties, which include, *inter alia*, the power to discontinue criminal proceedings in the public interest (see paragraph 29 above). In view of the above, the Court notes that contrary to the applicant's belief, instead of serving the public his statements undermined the public's trust in the State's top law officer.

57. The Court does not ignore the fact that the sanction imposed on the applicant – his removal from office for misconduct – is a heavy penalty. However, having regard to the particular circumstances of the present case, including the State's duty to protect the Attorney General from unfounded attacks (see paragraph 50 above), the Court considers that the applicant's removal for his false statements was not disproportionate to the legitimate aim pursued. The reasons advanced by the Council were enough and relevant to justify such interference.

58. The Court therefore considers the interference reasonably necessary in a democratic society for the protection of the reputation of others, within the meaning of Article 10 § 2 of the Convention.

59. It follows that the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

B. Complaints under Article 6 of the Convention

60. The applicant complained that he was not tried by a tribunal established by law, that the friendship between the Attorney General and the Council's President made the Council partial, and that that the Regulations stopped him from contesting the request for his removal from office on the ground of non-respect of the template prescribed therein. He relied on Article 6 of the Convention, the relevant parts of which provide:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law."

61. The Court will first examine the applicant's complaint about the alleged violation of his right to a "tribunal established by law". It reiterates the principles set out in its case law regarding the requirement of a "tribunal established by law" (see *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, §§ 211-13 and 216, 1 December 2020).

62. The Court notes that the applicant complained that the Council had not been established by law since under section 9 (b) of the Administration of Justice Law (see paragraph 34 above) it was the Supreme Court that had jurisdiction to deal with the dismissal of the Deputy Attorney General and not the Council. The Court observes first that it is not clear from the documents contained in the casefile whether this specific argument was raised domestically.

63. In any event, assuming that it was, the Court reiterates that it is, in the first place, for the national courts themselves to interpret the provisions of domestic law. The Court may not question their interpretation unless there has been a flagrant violation of domestic law (see, *Lavents v. Latvia*, no. 58442/00, § 114, 28 November 2002). In this connection, the Court notes that by a decision of 15 June 2015 the Council held that it derived its jurisdiction from Articles 153 § 8 and 112 § 4 of the Constitution (see paragraph 31 and 28 above). These provisions, read together, stipulate that the Council, which is comprised of Supreme Court judges as per the amendments brought about by Law no. 33/164 (see paragraphs 32 and 33 above) has exclusive competence to determine all matters relating to the retirement or dismissal of the Deputy Attorney General. The Court therefore considers that the Council's findings as to its jurisdiction are not arbitrary or manifestly unreasonable and thus do not give rise to a flagrant violation of domestic law.

64. Turning to the applicant's complaint about the alleged violation of his right to an "impartial" tribunal, the Court reiterates the general principles concerning the impartiality of judges (for a summary of relevant principles, *Denisov v. Ukraine* [GC], no. 76639/11, §§ 61-64, 25 September 2018, and for their recent application, *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, no. 16812/17, § 363, 18 July 2019).

65. In the present case, the fear of a lack of impartiality lay in the fact that the President of the Council had a long friendship with the Attorney General. The Court notes at the outset that the applicant acknowledged before the domestic courts that the President's subjective impartiality was not in doubt. He argued merely that regardless of the absence of personal bias, the presence of the President on the bench was sufficient to raise doubts to the public as regards the Council's impartiality (see paragraph 20 above).

66. The Court will therefore examine the case from the perspective of the objective impartiality test. It will therefore examine whether, in the specific circumstances of the present case, the applicant's doubts may be regarded as objectively justified.

67. The Court notes first, that the President was open and frank about his friendship with the Attorney General (see paragraph 21 above). Viewed as a whole, and in the context of the present case, the Court considers that the President of the Council had the necessary detachment demanded by the principle of judicial impartiality and was able to rise above his friendship with the Attorney General in his judicial role. In addition, nothing shows that the President had an own interest in the case, nor did the applicant raise such an issue.

68. The Court further observes that the President was only one member out of an enlarged bench of trained judges. Specifically, the Council consisted of eleven other members, all Supreme Court judges who

examined the dispute, which implies professionalism. In addition, the Court notes that the applicant had the opportunity to challenge the President's presence on the bench and made submissions on the issue of impartiality in that connection. The Council examined his request and gave a reasoned decision. The Court is therefore of the opinion that, from the standpoint of an objective observer, the whole of the enlarged bench cannot be said to have been tainted by the applicant's challenge to one judge, especially when the Council decided on the case by unanimous vote (see, *mutatis mutandis*, *Rustavi 2 Broadcasting Company Ltd and Others*, cited above, § 363)

69. Considering the foregoing, the Court finds that Council could not be said to have lacked impartiality when deciding his case within the meaning of Article 6 § 1 of the Convention. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention

70. The Court lastly turns to the applicant's complaint that he could not contest the request for his removal from office due to the Attorney General's failure to respect the template prescribed by the Regulations. In his application to the Court, the applicant compared his case with a domestic judgment in *Papasavvas v. Markides*, appeal no. 3451, 31 January 2003, whereby the Supreme Court had dismissed a case initiated by the Attorney General against a Deputy Attorney General for misconduct due to an error in the template that was used. First, the Court notes, that this case was not included in the applicant's written pleadings domestically as provided to the Court nor does it appear in the records of the proceedings provided by the applicant to the Court. Second, the Court notes that Article 6 does not guarantee to have procedures invalidated due to failure to respect a template. A question therefore arises as regards the applicability of Article 6 of the Convention.

71. However, even if Article 6 is applicable, the Court notes that it is normal for rules to apply prospectively given also the fact that the Constitution had always entitled the Attorney General to seek the removal of the Deputy. Moreover, the case referred to by the applicant, preceded the creation of the Regulations and is thus differentiated from the present case. Finally, the applicant was afforded the opportunity to present his case before the Council and he actually raised several objections which were heard and answered by the Council.

72. Having regard to the above, the Court considers that the applicant's submissions do not contain any allegations capable of giving rise to a finding of a violation of Article 6 § 1 of the Convention. It follows that this part of the application is also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Complaints under Article 14 in conjunction with Article 6 of the Convention and under Article 1 of Protocol No. 12 to the Convention

73. The applicant complained that it was discriminatory to remove lower-court and Supreme-Court judges (with whom he was assimilated) in different procedures and under different regulations.

74. Article 14 provides:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

75. Article 6 § 1, where relevant, provides:

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

76. Article 1 of Protocol No. 12 provides:

> "1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
>
> 2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1."

77. The Court reiterates that the same standards developed by the Court in its case-law concerning the protection afforded by Article 14 are applicable to cases brought under Article 1 of Protocol No. 12 to the Convention (see *Napotnik v. Romania*, no. 33139/13, §§ 69-72, 20 October 2020, for a recapitulation of the general principles).

78. The Court notes that neither domestically nor before this Court has the applicant demonstrated that he is in an analogous situation to lower-court judges. The Court has no reason to question the Council's reasoning that lower-court and Supreme Court judges are not placed similarly (see paragraph 17).

79. In addition, he has not specified any clear disadvantage caused by the different Regulations other than the one about the template. The applicant was afforded the opportunity to present his case before the Council and raised several objections which were heard and answered by the Council (see paragraphs 13-22 above); he has not therefore shown how under the rules applicable to lower court judges he would enjoy different treatment in court.

80. In view of the foregoing the applicant's complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

D. Complaint under Article 7 of the Convention

81. The applicant complained that the creation for the first time of Regulations with retroactive effect exposed him to an offence which could not be prosecuted on the date of the filing of the application because of the absence of procedural regulations. He relied to this regard on Article 7 of the Convention which provides:

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

82. The Court notes first that removal from judicial office for misconduct is not considered "criminal" for the purposes of the Convention (see, *Kamenos v. Cyprus*, no. 147/07, §§ 50-53 and 120-121, 31 October 2017). In this connection, the Court notes in brief that the offence of misconduct is a disciplinary offence which is linked to the exercise of the applicant's functions as Deputy Attorney General. The offence of misconduct bears the sanction of dismissal, as per 153 § 7 (4) of the Constitution (see paragraph 30 above). As such, it does not belong to the criminal sphere; rather it is of purely disciplinary nature.

83. In addition to the above, the Regulations introduced neither the offence of misconduct, nor the penalty of dismissal, both of which had been in the Constitution.

84. Article 7 of the Convention is not therefore applicable to the present case. It follows that the applicant's complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4.

E. Remaining complaints

85. As to the remainder of the applicant's complaints raised under Article 1 of Protocol No. 1 to the Convention, the Court finds that they are wholly unsubstantiated and should therefore be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 17 June 2021.

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Olga Chernishova
Deputy Registrar

Georges Ravarani
President