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La CEDU sulla violazione del divieto generale di discriminazione
(CEDU, sez. IV, sent. 3 febbraio 2026, ric. n. 5067/23)

Nel caso di specie, i giudici di Strasburgo sono chiamati a pronunciarsi sulla presunta violazione dell'articolo 1 del Protocollo n. 12 alla Convenzione, in relazione all'esclusione del ricorrente dalla possibilità di candidarsi alle cariche di Presidente e Vicepresidente della Camera dei Rappresentanti dell'Assemblea parlamentare della Bosnia ed Erzegovina, quale conseguenza della distinzione operata dalla Costituzione dello Stato tra i "popoli costituenti" (bosniaci, croati e serbi) e gli "altri cittadini della Bosnia ed Erzegovina". Tale distinzione introduceva, a livello legislativo, requisiti di natura etnica per l'accesso alle cariche di presidenza e vicepresidenza della Camera dei Rappresentanti, a scapito di coloro che non dichiaravano appartenenza ai popoli costituenti – come nel caso del ricorrente – e che risultavano, perciò, non eleggibili.
Al riguardo, la Corte ha ricordato che, ai sensi dell'articolo 1 del Protocollo n. 12, il godimento di ogni diritto previsto dalla legge deve essere garantito senza alcuna discriminazione per motivi di sesso, razza, colore, lingua, religione, opinione politica o altra opinione, origine nazionale o sociale, associazione ad una minoranza nazionale, proprietà, nascita o ogni altra condizione. Ne consegue che una differenza di trattamento tra persone che si trovano in situazioni analoghe può essere ritenuta compatibile con la Convenzione solo qualora sia sorretta da una giustificazione oggettiva e ragionevole. Tuttavia, nel caso di specie, il fatto che solo i bosniaci, i croati e i serbi, in quanto popoli costituenti, fossero eleggibili alle cariche di Presidente e Vicepresidente della Camera dei Rappresentanti integrava una differenza di trattamento priva di qualsiasi giustificazione.
Alla luce di tali considerazioni, la Corte ha dichiarato la violazione dell'articolo 1 del Protocollo n. 12 alla Convenzione.

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

FOURTH SECTION

CASE OF XXX v. BOSNIA AND HERZEGOVINA

(Application no. 5067/23)

JUDGMENT
STRASBOURG
3 February 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 XXX v. Bosnia and Herzegovina,

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

Lado Chanturia, *President*,
Jolien Schukking,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Ana Maria Guerra Martins,
Anne Louise Bormann, ad hoc *judge*,
Sebastian Răduleţu, *judges*,
and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 5067/23) against Bosnia and Herzegovina lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a citizen of Bosnia and Herzegovina, Mr XXX ("the applicant"), on 20 January 2023;

the decision to give notice to the Government of Bosnia and Herzegovina ("the Government") of the complaints under Articles 14 and 17 of the Convention and Article 3 of Protocol No. 1 and Article 1 of Protocol No. 12 to the Convention, and to declare the remainder of the application inadmissible;

the parties' observations;

Considering that Mr Faris Vehabović, the judge elected in respect of Bosnia and Herzegovina, was unable to sit in the case (Rule 28 of the Rules of Court) and that the President of the Chamber decided to appoint Ms Anne Louise Bormann to sit as an *ad hoc* judge (Rule 29),

Having deliberated in private on 27 January 2026,

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

INTRODUCTION

1. The applicant complained under Articles 14 and 17 of the Convention and Article 3 of Protocol No. 1 and Article 1 of Protocol No. 12 to the Convention about his ineligibility to stand for election

to the position of Chair/Deputy Chair of the House of Representatives of the Parliamentary Assembly (the first chamber of the State Parliament; hereinafter "the House of Representatives").

THE FACTS

2. The applicant was born in "Omissis" and lives in "Omissis". The applicant was represented by "Omissis", a lawyer practising in Tuzla.

3. The Government were represented by Ms H. Bačvić, their acting Agent.

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

5. The Constitution of Bosnia and Herzegovina ("the Constitution") is an annex to the 1995 General Framework Agreement for Peace in Bosnia and Herzegovina ("the Dayton Agreement"), initialled at Dayton on 21 November 1995 and signed in Paris on 14 December 1995. In accordance with the Constitution, Bosnia and Herzegovina consists of two Entities – the Federation of Bosnia and Herzegovina and the Republika Srpska (see Article I § 3 of the Constitution) – and the Brčko District in the joint ownership (condominium) of the two Entities (see Article VI § 4 of the Constitution, as amended in 2009).

6. The Constitution makes a distinction between "constituent peoples" (Bosniacs, Croats and Serbs) and "Others and citizens of Bosnia and Herzegovina" (for more information about those categories, see *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, § 11, ECHR 2009). At the State level, a number of power-sharing arrangements were introduced, such as a vital interest veto, an Entity veto, a bicameral system (with a House of Peoples of the Parliamentary Assembly – the second chamber of the State Parliament – composed of five Bosniacs, five Croats and five Serbs) and a collective Head of State[1] – the Presidency – with three members: one Bosniac, one Croat and one Serb (see Articles IV and V of the Constitution). Furthermore, although no ethnic requirements apply in elections to the House of Representatives, those who do not declare affiliation with the "constituent peoples", such as the applicant, are not eligible to serve as Chair or Deputy Chair of that chamber of the State Parliament (for the full text, see paragraph 12 below). Those arrangements make it impossible to adopt decisions against the will of the representatives of any "constituent people" (for more information, see paragraph 22 below).

7. The constitutional provisions pertaining to the ethnic privileges for the "constituent peoples" were not included in the Agreed Basic Principles which constituted the basic outline for what the future Dayton Agreement would contain (see paragraphs 6.1 and 6.2 of the Further Agreed Basic Principles of 26 September 1995). Reportedly, the international mediators reluctantly accepted those arrangements at a later stage because of strong demands to that effect from some of the parties to the conflict (see Nystuen[2], *Achieving Peace or Protecting Human Rights? Conflicts between Norms Regarding Ethnic Discrimination in the Dayton Peace Agreement*, Martinus Nijhoff Publishers, 2005, pp. 192 and 240-41, and O'Brien[3], *The Dayton Agreement in Bosnia: Durable Cease-Fire, Permanent Negotiation*, in Zartman and Kremenyuk (eds), *Peace versus Justice: Negotiating Forward- and Backward-Looking Outcomes*, Rowman & Littlefield Publishers, 2005, p. 105). Fully aware that those arrangements were most probably conflicting with human rights, the international mediators considered it to be especially important to make the Constitution a dynamic instrument and provide

for their possible phasing out. Article II § 2 of the Constitution, providing that the rights and freedoms set forth in the Convention and its Protocols had "priority over all other law", was therefore inserted (see Nystuen, cited above, p. 100). Nevertheless, the provisions in issue have neither been amended nor declared unconstitutional (for the Constitutional Court's case-law in this regard, see paragraphs 15-18 below).

8. The applicant is a high-ranking official of the Democratic Front and a member of the House of Representatives. He does not declare affiliation with any "constituent people" and thus belongs to the constitutional category of "Others" (see paragraph 6 above).

9. On 1 December 2022 two members of the House of Representatives nominated the applicant for the position of Chair/Deputy Chair of the House of Representatives. It transpires from the minutes of the meeting of the House of Representatives of 1 December 2022, submitted by the applicant, that his nomination was not put to a vote because it did not comply with the Rules of Procedure of the House of Representatives (see paragraph 19 below).

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW AND PRACTICE

A. Constitution

10. Article II § 2 of the Constitution provides:

"The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law."

11. In accordance with Article II § 4 of the Constitution, the enjoyment of the rights provided for in the international agreements listed in Annex I to the Constitution (including the right to take part in the conduct of public affairs under Article 25 of the International Covenant on Civil and Political Rights) is secured to all persons in Bosnia and Herzegovina without discrimination on any ground.

12. Article IV § 3 (b) of the Constitution reads as follows:

"Each chamber shall by majority vote adopt its internal rules and select from its members one Serb, one Bosniac, and one Croat to serve as its Chair and Deputy Chairs, with the position of Chair rotating among the three persons selected."

13. Article IV § 3 (d) of the Constitution provides:

"All decisions in both chambers shall be by majority of those present and voting. The Delegates [to the House of Peoples] and Members [of the House of Representatives] shall make their best efforts to see that the majority includes at least one-third of the votes of Delegates or Members from the territory of each Entity. If a majority vote does not include one-third of the votes of Delegates or Members from the territory of each Entity, the Chair and Deputy Chairs shall meet as a commission and attempt to obtain approval within three days of the vote. If those efforts fail, decisions shall be

taken by a majority of those present and voting, provided that the dissenting votes do not include two-thirds or more of the Delegates or Members elected from either Entity."

14. Article IX § 3 of the Constitution reads:

"Officials appointed to positions in the institutions of Bosnia and Herzegovina shall be generally representative of the peoples of Bosnia and Herzegovina."

B. Constitutional Court's case-law

15. In decisions nos. U 5/04 of 31 March 2006 and U 13/05 of 26 May 2006 the Constitutional Court held that the Convention did not have priority over the Constitution and that it lacked jurisdiction to rule whether the Constitution was in conformity with the Convention, although a request to that effect had been submitted by a person authorised to seek an abstract review of constitutionality (a member of the Presidency). The relevant parts of decision no. U 5/04 read as follows:

"The request lodged by Mr Sulejman Tihić, the Chair of Presidency of Bosnia and Herzegovina at the time of filing the request, for a review of conformity of Article IV § 1, Article IV § 1 (a), Article IV § 3 (b) and Article V § 1 of the Constitution of Bosnia and Herzegovina with Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms as well as with Article 3 of Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms is rejected as inadmissible because the Constitutional Court of Bosnia and Herzegovina is not competent to take a decision.

...

In view of the applicant's allegations, it appears that he requests examination of conformity of certain provisions of the Constitution of Bosnia and Herzegovina with the European Convention and its Protocols. Therefore, the Constitutional Court must establish whether it is competent to examine constitutional provisions to establish their compatibility with the European Convention. Admissibility of the present request depends primarily upon the relation between the Constitution of Bosnia and Herzegovina and the European Convention. The status of the European Convention stems from Article II § 2 of the Constitution of Bosnia and Herzegovina which clearly states that the rights and obligations provided for by the European Convention are directly applicable in Bosnia and Herzegovina. This provision points to the general phenomenon of the internalisation of the domestic legal system in Bosnia and Herzegovina. It follows from the case-law of the European Court of Human Rights that the domestic law must meet the requirements stipulated by the European Convention. According to Article VI § 3 of the Constitution of Bosnia and Herzegovina, the Constitutional Court 'shall uphold this Constitution'. In order for the Constitutional Court to uphold the Constitution of Bosnia and Herzegovina, it may refer to the text of that Constitution and to the European Convention which derives also from Article VI § 3 (c) of the Constitution of Bosnia and Herzegovina.

In order to establish jurisdiction of the Constitutional Court under Article VI § 3 (a) of the Constitution of Bosnia and Herzegovina, it is necessary to establish that there is 'a dispute' within the meaning of this constitutional provision. The present case does not involve 'any dispute that

arises under this Constitution between the Entities or between Bosnia and Herzegovina and an Entity or Entities, or between institutions of Bosnia and Herzegovina' but a possible conflict between international and domestic law. In addition, whereas in the present case an examination of conformity of certain provisions of the Constitution of Bosnia and Herzegovina with the European Convention is requested, the Constitutional Court notes that the rights under the European Convention cannot have a superior status to the Constitution of Bosnia and Herzegovina. The European Convention, as an international document, entered into force by virtue of the Constitution of Bosnia and Herzegovina, and therefore the constitutional authority derives from the Constitution of Bosnia and Herzegovina and not from the European Convention itself.

Although the Constitution of Bosnia and Herzegovina does not expressly provide for the Constitutional Court's jurisdiction as to the interpretation of the Constitution, it is clear that the Constitutional Court cannot exercise its jurisdiction unless it has first interpreted the relevant constitutional provisions and the provisions of the law subject to abstract review by the Constitutional Court on a request lodged with the Constitutional Court, as well as the provisions relating to its own jurisdiction. The Constitutional Court must always adhere to the text of the Constitution of Bosnia and Herzegovina, which in the present case does not allow for wider interpretation of its jurisdiction, in view of the obligation of the Constitutional Court to 'uphold this Constitution'.

In light of the aforesaid, the Constitutional Court concludes that it falls out of the scope of its competence to decide in the present case on the conformity of certain provisions of the Constitution of Bosnia and Herzegovina with the European Convention and its Protocols."

The relevant part of decision no. U 13/05 reads as follows:

"Consequently, although the subject matter of the case at hand is not a review of conformity of the provisions of the Constitution of Bosnia and Herzegovina but of the Election Act, it cannot be ignored that the challenged provision of the Election Act, *de facto*, derives fully from the provisions of Article V of the Constitution of Bosnia and Herzegovina, which remove any doubts as to its unconstitutionality. For these reasons, the Constitutional Court has no competence to decide because this would otherwise imply a review of conformity of the constitutional provision with the provisions of the international documents relating to the human rights, and it has already taken the position that these, i.e. the European Convention, could not have a superior status in relation to the Constitution of Bosnia and Herzegovina (decision in case no. U 5/04 of 27 January 2006)."

16. Later that year the Constitutional Court came to a different conclusion in decision no. AP 2678/06 of 29 September 2006, in which it examined a discrimination complaint concerning the appellant's ineligibility to stand for election to the Presidency of Bosnia and Herzegovina on the grounds of his ethnic origin (a Bosniac from the Republika Srpska) and rejected it on the merits.

17. Following the judgments of this Court in *Sejdić and Finci* (cited above), *Zornić v. Bosnia and Herzegovina* (no. 3681/06, 15 July 2014) and *Pilav v. Bosnia and Herzegovina* (no. 41939/07, 9 June 2016), the Constitutional Court has started declaring complaints about the ethnic composition of the House

of Peoples and the Presidency of Bosnia and Herzegovina inadmissible because the matter has already been examined. The relevant part of decision no. AP 3464/18 of 17 July 2018 reads as follows:

"[T]he Constitutional Court notes that the appellant is a Serb who lives on the territory of the Federation of Bosnia and Herzegovina, and it is for this reason that his request to be a candidate for the elections to the Presidency of Bosnia and Herzegovina was rejected. Thus, this is essentially the same situation as the one in the case of *Pilav*, in which, after the decision of the Constitutional Court, the European Court gave a final and binding judgment. The Constitutional Court considers that in such a situation, when the European Court has in three judgments in relation to Bosnia and Herzegovina – of which the judgment in *Pilav* relates to the same situation as that of the appellant – unambiguously ruled that it is necessary to amend the Constitution of Bosnia and Herzegovina, there is no basis to decide again on the same issue.

In this regard, the Constitutional Court notes that the decisions being challenged and the appellant's inability as a Serb residing in the Federation of Bosnia and Herzegovina to be a candidate for the elections to the Presidency of Bosnia and Herzegovina are also a result of the omission by the competent authorities to take the necessary measures for the purpose of enforcement of the judgments in the cases of *Pilav*, *Sejdić and Finci* and *Zornić*, which would end the incompatibility of the Constitution and the Election Act with the requirements of Article 1 of Protocol No. 12, as determined by those judgments. Thus, Bosnia and Herzegovina, namely its competent authorities, has the obligation to harmonise the Constitution of Bosnia and Herzegovina and the Election Act pursuant to three judgments of the European Court, and the Constitutional Court, in line with its conclusion in Decision no. U-14/12, still cannot foresee the scope of those changes. The Constitutional Court particularly emphasises that it does not have either constitution-making or legislative competence, and thus cannot act in place of other institutions, most notably the Parliamentary Assembly of Bosnia and Herzegovina, which has the competence, by means of a prescribed procedure, to amend the Constitution of Bosnia and Herzegovina, or to take the place of those institutions that have the obligation to take the relevant measures for the purpose of the enforcement of the judgments of the European Court in the cited cases.

Thus, for the courts and other competent bodies to apply the European Convention directly to this matter, as the appellant requests, it is necessary to end the current incompatibility of the Constitution of Bosnia and Herzegovina with the European Convention as found by the European Court in the judgments of *Sejdić and Finci*, *Zornić* and *Pilav*. As already noted, that can only be done by the competent institutions and the prescribed procedure, which is the basic requirement of the rule of law as set out in Article I § 2 of the Constitution of Bosnia and Herzegovina, but also the principle on which the European Convention itself is based. Otherwise, the Constitutional Court, but also the Court of Bosnia and Herzegovina and the Central Election Commission of Bosnia and Herzegovina, would be acting outside their prescribed competences, namely they would assume the role of constitution-makers and legislators despite the fact that this is within the exclusive competence of other institutions of government."

18. In decision no. U 31/22 of 21 March 2024, concerning provisions of the Rules of Procedure of the House of Representatives based on Article IV § 3 (b) of the Constitution (see paragraph 12 above),

the Constitutional Court again held that the Convention did not have priority over the Constitution and that it lacked jurisdiction to rule whether the Constitution was in conformity with the Convention.

C. Rules of Procedure of the House of Representatives

19. The relevant part of Article 4 of the Rules of Procedure of the House of Representatives (Official Gazette of Bosnia and Herzegovina nos. 79/14, 81/15, 97/15, 78/19, 26/20, 53/22, 59/23, 87/23, 50/24, 73/24 and 56/25) reads as follows:

"1. Following the swearing-in ceremony, the House shall select from among its members a representative from each constituent people who shall serve as Chair, First Deputy Chair and Second Deputy Chair of the House. The Chair may not be selected from the same constituent people as the Chair of the Presidency of Bosnia and Herzegovina or the Chair of the Council of Ministers of Bosnia and Herzegovina.

2. Every Representative shall have the right to propose candidates for those duties ..."

20. The relevant part of Article 86 of the Rules provides as follows:

"1. If the majority vote does not contain one-third of votes from the territory of each Entity, the Collegium [the Chair and the Deputy Chairs of the House] shall, working as a commission, make efforts to reach an agreement within three days.

2. If the Chair and Deputy Chairs reach an agreement ... the relevant decision of the House shall be considered adopted, and the House shall be duly informed thereof. Notwithstanding the provisions of Article 21 of these Rules, the agreement shall be reached by consensus of the Chair and Deputy Chairs.

3. If the Collegium fails to reach an agreement ... the decision shall be passed by a majority of the total number of Representatives present and voting, provided that dissenting votes do not include two-thirds or more of the Representatives elected from either Entity."

II. International Law and practice

21. The relevant international law and practice have recently been set out in *Kovačević v. Bosnia and Herzegovina* ([GC], no. 43651/22, §§ 55-73, 25 June 2025).

22. In addition, the Opinion of the European Commission for Democracy through Law ("the Venice Commission") on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative (CDL-AD(2005)004, 11 March 2005) reads, in so far as relevant, as follows (footnotes omitted):

"1. On 23 June 2004 the Parliamentary Assembly of the Council of Europe adopted Resolution 1384 on 'Strengthening of democratic institutions in Bosnia and Herzegovina'. Paragraph 13 of the Resolution asks the Venice Commission to examine several constitutional issues in Bosnia and Herzegovina.

...

b) The functioning of the institutions

29. Bosnia and Herzegovina is a country in transition facing severe economic problems and desiring to take part in European integration. The country will only be able to cope with the numerous challenges resulting from this situation if there is a strong and effective government. The constitutional rules on the functioning of the State organs are however not designed to produce strong government but to prevent the majority from taking decisions adversely affecting other groups. It is understandable that in a post-conflict situation there was (and is) insufficient trust between ethnic groups to allow government on the basis of the majoritarian principle alone. In such a situation specific safeguards have to be found which ensure that all major groups, in Bosnia and Herzegovina the constituent peoples, can accept the constitutional rules and feel protected by them. As a consequence, the Bosnia and Herzegovina Constitution ensures the protection of the interests of the constituent peoples not only through territorial arrangements reflecting their interests but also through the composition of the State organs and the rules on their functioning. In such a situation, a balance has indeed to be struck between the need to protect the interests of all constituent peoples on the one hand and the need for effective government on the other. However, in the Bosnia and Herzegovina Constitution, there are many provisions ensuring the protection of the interests of the constituent peoples, *inter alia*: the vital interest veto in the Parliamentary Assembly, the two-chamber system and the collective Presidency on an ethnic basis. The combined effect of these provisions makes effective government extremely difficult, if not impossible. Hitherto the system has more or less functioned due to the paramount role of the High Representative. This role is however not sustainable.

The vital interest veto

30. The most important mechanism ensuring that no decisions are taken against the interest of any constituent people is the vital interest veto. If the majority of the Bosniac, Croat or Serb delegates in the House of Peoples declare that a proposed decision of the Parliamentary Assembly is destructive to a vital interest of their people, the majority of Bosniac, Serb and Croat delegates have to vote for the decision for it to be adopted. The majority of delegates from another people may object to the invocation of the clause. In this case a conciliation procedure is foreseen and ultimately a decision is taken by the Constitutional Court as to the procedural regularity of the invocation. It is noteworthy that the Constitution does not define the notion of vital interest veto, contrary to the Entity Constitutions which provide a (excessively broad) definition.

31. It is obvious, and was confirmed by many interlocutors, that this procedure entails a serious risk of blocking decision-making. Others argued that this risk should not be overestimated since the procedure has rarely been used and the Constitutional Court in a decision of 25 June 2004 started to interpret the notion [see decision U-8/04 on the vital interest veto against the Framework Law on Higher Education]. The decision indeed indicates that the Court does not consider that the vital interest is a purely subjective notion within the discretion of each member of parliament and which would not be subject to review by the Court. On the contrary, the Court examined the arguments put forward to justify the use of the vital interest veto, upheld one argument and rejected another.

32. The Commission is nevertheless of the opinion that a precise and strict definition of vital interest in the Constitution is necessary. The main problem with veto powers is not their use but their preventive effect. Since all politicians involved are fully conscious of the existence of the possibility of a veto, an issue with respect to which a veto can be expected will not even be put to the vote. Due to the existence of the veto, a delegation taking a particularly intransigent position and refusing to compromise is in a strong position. It is true that further case-law from the Constitutional Court may provide a definition of the vital interest and reduce the risks inherent in the mechanism. This may however take a long time and it also seems inappropriate to leave such a task with major political implications to the Court alone without providing it with guidance in the text of the Constitution.

33. Under present conditions within Bosnia and Herzegovina, it seems unrealistic to ask for a complete abolition of the vital interest veto. The Commission nevertheless considers that it would be important and urgent to provide a clear definition of the vital interest in the text of the Constitution. This definition will have to be agreed by the representatives of the three constituent peoples but should not correspond to the present definition in the Entity Constitutions which allows practically anything being defined as vital interest. It should not be excessively broad but focus on rights of particular importance to the respective peoples, mainly in areas such as language, education and culture.

Entity veto

34. In addition to the vital interest veto, Article IV § 3 (d) of the Constitution provides for a veto by two-thirds of the delegation from either Entity. This veto, which in practice seems potentially relevant only for the Republika Srpska, appears redundant having regard to the existence of the vital interest veto.

Bicameral system

35. Article IV of the Constitution provides for a bicameral system with a House of Representatives and a House of Peoples both having the same powers. Bicameral systems are typical for federal States and it is therefore not surprising that the Bosnia and Herzegovina Constitution opts for two chambers. However, the usual purpose of the second chamber in federal States is to ensure a stronger representation of the smaller entities. One chamber is composed on the basis of population figures while in the other either all entities have the same number of seats (Switzerland, USA) or at least smaller entities are overrepresented (Germany). In Bosnia and Herzegovina this is quite different: in both chambers two-thirds of the members come from the Federation of Bosnia and Herzegovina, the difference being that in the House of Peoples only the Bosniacs and Croats from the Federation and the Serbs from the Republika Srpska are represented. The House of Peoples is therefore not a reflection of the federal character of the State but an additional mechanism favouring the interests of the constituent peoples. The main function of the House of Peoples under the Constitution is indeed as the chamber where the vital interest veto is exercised.

36. The drawback of this arrangement is that the House of Representatives becomes the chamber where legislative work is done and necessary compromises are made in order to achieve a majority. The role of the House of Peoples is only negative as a veto chamber, where members see as their

task to exclusively defend the interests of their people without having a stake in the success of the legislative process. It would therefore seem preferable to move the exercise of the vital interest veto to the House of Representatives and abolish the House of Peoples. This would streamline procedures and facilitate the adoption of legislation without endangering the legitimate interests of any people. It would also solve the problem of the discriminatory composition of the House of Peoples.

The collective Presidency

37. Article V of the Constitution provides for a collective Presidency with one Bosniac, one Serb and one Croat member and a rotating chair. The Presidency endeavours to take its decisions by consensus (Article V § 2 (c)). In case of a decision by a majority, a vital interest veto can be exercised by the member in the minority.

38. A collective Presidency is a highly unusual arrangement. As regards the representational functions of Head of State, these are more easily carried out by one person. At the top of the executive there is already one collegiate body, the Council of Ministers, and adding a second collegiate body does not seem conducive to effective decision-making. This creates a risk of duplication of decision-making processes and it becomes difficult to distinguish the powers of the Council of Ministers and of the Presidency. Moreover, the Presidency will either not have the required technical knowledge available within ministries or need substantial staff, creating an additional layer of bureaucracy.

39. A collective Presidency therefore does not appear functional or efficient. Within the context of Bosnia and Herzegovina, its existence seems again motivated by the need to ensure participation by representatives from all constituent peoples in all important decisions. A single President with important powers seems indeed difficult to envisage for Bosnia and Herzegovina.

40. The best solution therefore would be to concentrate executive power within the Council of Ministers as a collegiate body in which all constituent peoples are represented. Then a single President as Head of State should be acceptable. Having regard to the multi-ethnic character of the country, an indirect election of the President by the Parliamentary Assembly with a majority ensuring that the President enjoys wide confidence within all peoples would seem preferable to direct elections. Rules on rotation providing that a newly elected President may not belong to the same constituent people as his predecessor may be added.

...

c) Citizens or peoples as the basis of the State

43. The Constitution of Bosnia and Herzegovina incorporates a large number of international human rights instruments, grants priority to the European Convention on Human Rights over all other law, underlines the democratic character of the state and puts strong emphasis on the prohibition of discrimination. On the other hand, the state institutions are structured not to represent citizens directly but to ensure representation of the constituent peoples. Some legal problems resulting from this approach will be examined below in Part V of this Opinion. However, beyond specific legal problems this approach raises more general concerns. First of all, the interests of persons not belonging to the three constituent peoples risk being neglected or people are forced to

artificially identify with one of the three peoples although they may for example be of mixed origin or belong to a different category. Moreover, there is a strong risk that all issues will be regarded in the light of whether a proposal favours the specific interests of the respective peoples and not of whether it contributes to the common weal. Finally, elections cannot fully play their role of allowing political alternance between majority and opposition. Each individual is free to change his political party affiliation. By contrast, ethnic identity is far more permanent and individuals will not be willing to vote for parties perceived as representing the interest of a different ethnic group even if these parties provide better and more efficient government. A system favouring and enshrining a party system based on ethnicity therefore seems flawed.

44. It would certainly not be realistic to expect that Bosnia and Herzegovina move quickly from a system based on ethnic representation to a system based on representation of citizens. This will certainly be a long-term process. Nevertheless, the Commission wishes to encourage people and politicians in Bosnia and Herzegovina to start examining the extent to which the mechanisms of ethnic representation are really required and to replace them progressively by representation based on the civic principle."

THE LAW

I. PRELIMINARY ISSUE

23. The applicant challenged the authority of the acting Agents of the respondent Government, including Ms H. Bačvić (see paragraph 3 above), to represent the latter before the Court. On the basis of information obtained from the Official Gazette of Bosnia and Herzegovina, he stated that all acting Agents had been appointed by the Council of Ministers of Bosnia and Herzegovina on 29 December 2020, for a period of three months. Following the expiry of that period, on 20 May 2021 the Council of Ministers had appointed the same individuals for another period of three months, effective as of 30 March 2021. The applicant argued that under the relevant domestic law, the mandate of an "acting" official was limited in duration to three months, with the possibility of one extension only. He asserted on that basis that as of 30 June 2021, those acting Agents had no legal authority to represent the respondent Government before the Court. The Government contested the applicant's claims.

24. The Court has recently addressed and dismissed the objection to the authority of the acting Agents in *Kovačević* (cited above). The relevant part of that judgment (§ 101) reads as follows:

"Matters such as the methods for the appointment of Agents or acting Agents before the Court, their terms of office, and the length and scope of their mandate are left to the Contracting Parties to regulate in accordance with their domestic rules and procedures. In accordance with the Court's well-established practice, it is the responsibility of the Contracting Parties to inform the Court of the appointment of the Agents or acting Agents representing them, and also of the termination of their mandates (see, for instance, *Panioglu v. Romania*, no. 33794/14, § 62, 8 December 2020, and *Beg S.p.a. v. Italy*, no. 5312/11, §§ 52-53, 20 May 2021). Accordingly, in the conduct of the proceedings before it, the Court proceeds on the basis of the assumption that the Agents or acting Agents of whose appointment it has been notified will continue to perform their duties unless and until the

Government inform the Court otherwise (see *Beg S.p.a.*, cited above, § 55); the Court is not called upon to assess the lawfulness of the designation or the continuation of the mandate of the Agent or acting Agent where it has been duly informed thereof by a Contracting Party. Nor is there a provision in the Convention or the Rules of Court that lays down a specific procedure for the determination of the lawful representatives of a Contracting Party in proceedings pending before the Court."

Given that Ms H. Bačvić formally maintained her status as Government representative for the purposes of Rule 35 of the Rules of Court at the time of the lodging of the Government's observations in the present case, the Court dismisses the applicant's objection in this regard. Any actual procedural irregularity pertaining to the status of the acting Agents under domestic law remains an internal matter that falls to be resolved within the domestic legal system (see *Kovačević*, cited above, § 107).

II. ALLEGED VIOLATION OF Article 1 of Protocol No. 12 TO THE CONVENTION

25. The applicant alleged that his ineligibility to stand for election to the position of Chair/Deputy Chair of the House of Representatives was contrary to Article 1 of Protocol No. 12 to the Convention, which reads as follows:

"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."

A. Admissibility

1. *The parties' submissions*

26. The Government maintained that this complaint was incompatible *ratione personae* with the provisions of the Convention on the grounds that the applicant, as a member of parliament, did not have the right to apply to the Court under Article 34 of the Convention. They noted that under that Article, only natural persons, non-governmental organisations and groups of individuals could make applications. The Government further submitted that the applicant could not claim to be a victim. Notably, being a member of parliament, he could have initiated legislative changes aimed at eliminating discrimination against those who, like himself, belonged to the category of "Others". The Government also asserted, without going into any details, that the complaint was incompatible *ratione materiae* with the provisions of the Convention. They further maintained that the applicant had failed to exhaust all domestic remedies, as required by Article 35 § 1 of the Convention. In the Government's view, before applying to the Court, he should have lodged a constitutional appeal. The Government then argued that the applicant had not suffered a significant disadvantage. In that regard, they asserted that the Chair and the Deputy Chairs of the House of Representatives had limited powers. Lastly, they stated that the applicant had abused the right of application by making personal attacks against the acting Agent of the Government during a

television programme on 21 September 2023. In particular, the applicant had publicly accused her of unlawful conduct and usurpation of power. The Government also noted that the applicant had lodged no fewer than three applications before the Court regarding various aspects of the electoral system and that his political party (the Democratic Front), as well as a political adviser to the leader of his party (see *Kovačević*, cited above), had also lodged applications concerning similar matters. In that connection, the Government asserted that the applicant and his political party were pursuing political aims through the Court.

27. The applicant replied that he had lodged his application in his private capacity and not on behalf of any public authority. He further argued that he had indeed initiated legislative changes aimed at eliminating discrimination, but his efforts had been unsuccessful. The applicant contested the objections of the Government that his complaint was incompatible *ratione materiae* with the provisions of the Convention and that he had not suffered a significant disadvantage. Referring to, among other relevant provisions of domestic law, Article IV § 3 (d) of the Constitution (see paragraph 13 above) and Article 86 of the Rules of Procedure of the House of Representatives (see paragraph 20 above), he maintained that the Chair and the Deputy Chairs of the House of Representatives had wide powers. He further argued that the constitutional appeal was not an effective remedy in the present case. In that connection, he referred to the Constitutional Court's case-law (see paragraphs 15-18 above). Lastly, as regards the Government's objection that he had abused the right of application, the applicant repeated that the acting Agent of the Government did not have the power to represent the Government and that it was his duty to point out any unlawful conduct. In his opinion, the fact that he had lodged three applications before the Court concerning various aspects of the domestic electoral system and that his political party and an adviser to the leader of his political party had also lodged applications before the Court were irrelevant.

2. The Court's assessment

(a)Locus standi

28. There is no doubt that government bodies cannot lodge applications through the individuals who make them up or represent them (see *Demirbaş and Others v. Turkey* (dec.), nos. 1093/08 and 18 others, 9 November 2010). That being said, the Court considers that the rights and freedoms relied upon by the present applicant concern him individually and are not attributable to the Parliamentary Assembly of Bosnia and Herzegovina as an institution (see *Forcadell i Lluis and Others v. Spain* (dec.), no. 75147/17, § 19, 7 May 2019). The applicant, accordingly, had standing to lodge this complaint.

29. It follows that this complaint is compatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention. The Court dismisses the objection raised by the Government in this regard.

(b)Victim status

30. In accordance with the Court's well-established case-law, in order to claim to be a "victim" of a violation of the rights set forth in the Convention or the Protocols thereto, a person must be "directly affected" by the disputed measure. The Convention does not, therefore, provide for the bringing of

an *actio popularis* for the interpretation of the rights set out therein or permit applicants to complain about a provision of national law simply because they consider, without having been directly affected by it, that it may contravene the Convention. It is, however, open to applicants to contend that a law violates their rights, in the absence of an individual measure of implementation, if they belong to a class of people who risk being directly affected by the legislation or if they are required either to modify their conduct or risk being prosecuted. That being said, in order for an applicant to be able to claim to be a victim in such circumstances, he or she must produce reasonable and convincing evidence of the likelihood that a violation affecting him or her personally will occur; mere suspicion or conjecture is insufficient in this respect (see *Kovačević*, cited above, §§ 166-71, with further references).

31. Turning to the present case, there is no dispute that those who do not declare affiliation with the "constituent peoples", like the applicant, cannot take part in the election for the Chair and the Deputy Chairs of the House of Representatives. The domestic law is clear in this regard (see paragraphs 12 and 19 above). Indeed, despite the fact that two members of the House of Representatives nominated the applicant for that position, his nomination was not even put to a vote (see paragraph 9 above).

32. As to the Government's argument that the applicant, as a member of parliament, could have initiated any legislative changes he considered to be necessary, it suffices to note that the applicant would clearly not be able to adopt any such amendments on his own (contrast *Paşa and Erkan Erol v. Turkey*, no. 51358/99, §§ 19-22, 12 December 2006, in which the Court held that the applicant could not claim to be a victim because he was partly responsible for the alleged violation).

33. The Court concludes that the applicant may claim to be a victim of the alleged violation within the meaning of Article 34 of the Convention. It therefore dismisses the objection raised by the Government in this regard.

(c)Applicability of Article 1 of Protocol No. 12

34. The Court notes that whereas Article 14 of the Convention prohibits discrimination in the enjoyment of "the rights and freedoms set forth in [the] Convention", Article 1 of Protocol No. 12 extends the scope of protection to "any right set forth by law". It thus introduces a general prohibition of discrimination (see *Sejdić and Finci*, cited above, § 53).

35. Article II § 4 of the Constitution secures to all persons in Bosnia and Herzegovina, without discrimination on any ground, the right to take part in the conduct of public affairs (see paragraph 11 above). This complaint thus concerns a "right set forth by law" which makes Article 1 of Protocol No. 12 applicable. The Court therefore dismisses the Government's objection in this regard.

(d)Exhaustion of domestic remedies

36. The general principles concerning the rule of exhaustion of domestic remedies were summarised in *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-46, 27 November 2023).

37. Turning to the present case, the Court notes that the applicant indeed failed to lodge a constitutional appeal before lodging his application with this Court. However, in view of the Constitutional Court's case-law concerning similar complaints (see paragraphs 15-18 above), the Court agrees with the applicant that the constitutional appeal was not an effective remedy in respect of this complaint which he had to exhaust (see *Zornić*, cited above, § 21).

38. Accordingly, this objection of the Government cannot be upheld.

(e)Significant disadvantage

39. As regards the Government's objection that the applicant has not suffered a significant disadvantage, the Court has held that this admissibility criterion, inspired by the general principle of *de minimis non curat praetor*, hinges on the idea that a violation of a right, however real from a purely legal point of view, should attain a minimum level of severity to warrant consideration by an international court. Violations which are purely technical and are insignificant save from a formalistic point of view do not merit European supervision. The assessment of this minimum level is relative and depends on all the circumstances of the case. The severity of a violation should be assessed by taking into account both the applicant's subjective perceptions and what is objectively at stake in a particular case. A violation of the Convention may concern important questions of principle and thus cause a significant disadvantage regardless of pecuniary interest (see *Sieć Obywatelska Watchdog Polska v. Poland*, no. 10103/20, § 24, 21 March 2024, with further references).

40. Turning to the circumstances of the present case, the Court has held that discrimination on account of a person's ethnic origin is a particularly egregious kind of discrimination and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 145, ECHR 2005-VII, and *Sejdić and Finci*, cited above, § 43). Allegations of ethnic discrimination thus raise important questions of principle that are not insignificant (see by analogy, *Zelčs v. Latvia*, no. 65367/16, § 44, 20 February 2020, concerning the right to liberty; *Makuchyan and Minasyan v. Azerbaijan and Hungary*, no. 17247/13, § 72, 26 May 2020, concerning the right to life; *Stavropoulos and Others v. Greece*, no. 52484/18, §§ 29-30, 25 June 2020, concerning freedom of religion; and *Šeks v. Croatia*, no. 39325/20, § 48, 3 February 2022, concerning freedom of expression).

41. The Court therefore dismisses the objection raised by the Government in this regard.

(f)Abuse of the right of individual application

42. Article 35 § 3 (a) of the Convention allows the Court to declare inadmissible any individual application that it considers to constitute "an abuse of the right of individual application", but the implementation of this provision amounts to an "exceptional procedural measure" (see *Zambrano v. France* (dec.), no. 41994/21, § 33, 21 September 2021). The Court has held that for such "abuse" to be established on the part of an applicant, the conduct in question must not only be manifestly contrary to the purpose of the right of application but also impede the proper functioning of the Court or the proper conduct of the proceedings before it (ibid., § 34).

43. Turning to the Government's specific assertions, the Court has already considered that an application motivated by publicity or political propaganda does not, by that very fact alone, constitute an abuse of the right of application (see *Lawless v. Ireland*, no. 332/57, Commission's report of 19 December 1959, Series B, 1960-61, p. 50, and *Miroļubovs and Others v. Latvia*, no. 798/05, § 65, 15 September 2009; see also *Kovačević*, cited above, § 111, where the Court emphasised that it had never refused to decide a case brought before it merely because it had political implications). More importantly, nothing indicates that the applicant has had an irresponsible and frivolous attitude towards the proceedings that are pending before the Court (see *Georgian Labour Party v. Georgia* (dec.), no. 9103/04, 22 May 2007), or that he has been deliberately seeking to undermine the machinery of the Convention and the functioning of the Court (contrast *Zambrano*, cited above, § 38).

44. As regards the applicant's remarks that the acting Agent did not have the formal power to represent the Government, the Court reiterates that an application may indeed be rejected as an abuse of the right of petition within the meaning of Article 35 § 3 (a) of the Convention if the applicant has used particularly vexatious, contemptuous, threatening or provocative language – whether this be against the respondent Government, their Agent, the authorities of the respondent State, the Court itself, its judges, its Registry or members thereof. However, it does not suffice that the applicant's language was sharp, polemical or sarcastic; to be considered an abuse, it must exceed the limits of normal, civic and legitimate criticism (see *Zhdanov and Others v. Russia*, nos. 12200/08 and 2 others, § 80, 16 July 2019). The Court considers that the applicant's remarks did not overstep acceptable limits to an extent that would justify rejecting the application on that ground. As in *Kovačević* (cited above, § 136), the Court does not see a problem as such with the applicant's challenges to the legal status of the acting Agents, given that the authority of the acting Agents has been the subject of litigation before the domestic courts and has been contested by various high-level public officials or bodies. The Government also referred, in this connection, to remarks made by other persons (notably, the applicant in *Kovačević*, cited above). However, the applicant himself cannot be held responsible for them. The Court reiterates that an applicant's direct responsibility must always be established with sufficient certainty, a mere suspicion not being sufficient to reject an application as an abuse of the right of individual application under Article 35 § 3 of the Convention (see *Zambrano*, cited above, § 33).

45. Lastly, the three applications lodged with the Court by the applicant are not vexatious and have clearly not created gratuitous work for the Court, incompatible with its real functions under the Convention (contrast *Petrović v. Serbia* (dec.), no. 56551/11, 18 October 2011).

46. In view of the above, this objection raised by the Government must also be dismissed.

(g)Conclusion

47. 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*

48. The applicant maintained that his ineligibility to stand for election to the position of Chair/Deputy Chair of the House of Representatives constituted discrimination on the grounds of his ethnic/national origin.

49. The Government referred to the case of *Ždanoka v. Latvia* ([GC], no. 58278/00, ECHR 2006-IV), in which the Court had reaffirmed that the Contracting Parties enjoyed considerable latitude in establishing rules within their constitutional order to govern parliamentary elections and the composition of the parliament, and that the relevant criteria could vary according to the historical and political factors peculiar to each State. The current constitutional structure in Bosnia and Herzegovina had been established by a peace agreement following one of the most destructive conflicts in recent European history. Its ultimate goal was the establishment of peace and dialogue between the three main ethnic groups – the "constituent peoples". The Government maintained that the contested provisions should be assessed against that background. They argued that the time was still not ripe for a political system which would be a simple reflection of majority rule.

2. The Court's assessment

(a)General principles

50. The Court reiterates that the meaning of "discrimination" in Article 1 of Protocol No. 12 was intended to be identical to that in Article 14 of the Convention (see *Sejdić and Finci*, cited above, § 55). That being the case, it sees no reason to depart from the interpretation of "discrimination", as developed in the case-law concerning Article 14 of the Convention, in applying the same term under Article 1 of Protocol No. 12.

51. For an issue to arise under Article 14 of the Convention, there must be a difference in the treatment of persons in analogous or relevantly similar situations (see, among many other authorities, *Molla Sali v. Greece* [GC], no. 20452/14, § 133, 19 December 2018). A difference in the treatment of persons in analogous or relevantly similar situations will be deemed discriminatory only if it has no objective and reasonable justification – in other words, if it does not pursue a "legitimate aim" or if there is not a "reasonable relationship of proportionality between the means employed and the aim sought to be realised" (ibid., § 135). The scope of a Contracting Party's margin of appreciation in this sphere will vary according to the circumstances, the subject matter and the background (ibid., § 136).

52. Notably, where a difference in treatment is based on race or ethnicity, the notion of objective and reasonable justification must be interpreted as strictly as possible. The Court has also held that no difference in treatment which is based exclusively or to a decisive extent on a person's ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures (see *Sejdić and Finci*, cited above, § 44, with further references).

(b)Application of the above principles in the present case

53. The Court notes that only Bosniacs, Croats and Serbs (the "constituent peoples") are eligible to stand for election to the position of Chair and Deputy Chairs of the House of Representatives (see

Article IV § 3 (b) of the Constitution, cited in paragraph 12 above). The applicant, who does not declare affiliation with any "constituent people" (see paragraph 8 above) is hence excluded, by virtue of law, on the grounds of his ethnicity. The implementation in practice of the law in question was demonstrated in the applicant's case by the fact that his nomination for these positions was not put to a vote (see paragraph 9 above). The Court considers that this constitutes a difference in the treatment of persons in analogous situations.

54. The Court reiterates that similar constitutional provisions, concerning applicants' ineligibility to stand for election to the House of Peoples and the Presidency, have already been found to be discriminatory (see, notably, *Sejdić and Finci*, cited above, §§ 50 and 56, and *Zornić*, cited above, §§ 32 and 36). The Court does not see any reason to depart from that case-law in the present case. The Government asserted that the present case should be distinguished because the powers of Chair and Deputy Chairs of the House of Representatives were less significant than those of the House of Peoples and the Presidency examined in *Sejdić and Finci* and *Zornić* (both cited above).

55. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 1 of Protocol No. 12 to the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

56. The applicant also relied on Articles 14 and 17 of the Convention and Article 3 of Protocol No. 1 to the Convention. Article 14 of the Convention reads as follows:

"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."

Article 17 of the Convention reads as follows:

"Nothing in [the] Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

Article 3 of Protocol No. 1 to the Convention provides as follows:

"The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

57. Having regard to its conclusions under Article 1 of Protocol No. 12 to the Convention (see paragraph 55 above), the Court does not consider it necessary to examine separately either the admissibility or the merits of the applicant's remaining complaints.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. Article 41 of the Convention provides as follows:

"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

59. The applicant claimed 4,691 euros (EUR) in respect of pecuniary damage for loss of earnings (the difference between the salary of a member of the House of Representatives and the salary of the Chair and Deputy Chairs of the House of Representatives). He further claimed EUR 30,000 in respect of non-pecuniary damage.

60. The Government maintained that the claims were unjustified.

61. The Court does not discern a causal link between the violation found and the pecuniary damage alleged. There is no guarantee that the applicant would indeed have been selected, had he been eligible to stand for election. The Court therefore rejects this claim. Furthermore, the Court considers that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant (see *Sejdić and Finci*, cited above, § 63).

B. Costs and expenses

62. The applicant also claimed EUR 14,400 for the costs and expenses incurred before the Court (180 hours worked by his counsel at EUR 80 per hour in preparing the observations and just satisfaction claim).

63. The Government maintained that the claim was excessive.

64. 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 were actually and necessarily incurred and are reasonable as to quantum (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI). Pursuant to an invoice submitted by the applicant, he has paid or is bound to pay EUR 14,400 to his counsel. Regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 10,000 for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 1 of Protocol No. 12 to the Convention admissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 12 to the Convention;
3. *Holds* that there is no need to examine separately either the admissibility or the merits of the remaining complaints;
4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;
5. *Holds*

(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, EUR 10,000 (ten thousand euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

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

Simeon Petrovski Lado Chanturia
Deputy Registrar President