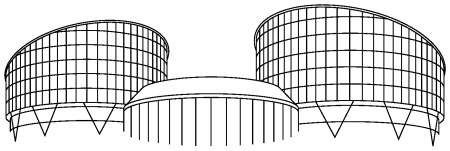

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF RAMLJAK v. CROATIA

(Application no. 5856/13)

JUDGMENT

STRASBOURG

27 June 2017

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 Ramljak v. Croatia,

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

Işıl Karakaş, *President,*
Julia Laffranque,
Nebojša Vučinić,
Valeriu Griţco,
Ksenija Turković,
Jon Fridrik Kjølbro,
Stéphanie Mourou-Vikström, *judges,*
and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 30 May 2017,

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

PROCEDURE

1. The case originated in an application (no. 5856/13) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Croatian national, Ms Milica Ramljak ("the applicant"), on 14 December 2012.

2. The applicant was represented by Mr T. Vukičević, a lawyer practising in Split. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

3. The applicant alleged, in particular, that her right to an impartial tribunal guaranteed under Article 6 § 1 of the Convention had been violated.

4. On 16 April 2015 the above complaint was communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1962 and lives in Sinj.

6. On 29 December 2005 M.R. brought a civil action against the applicant before the Sinj Municipal Court (*Općinski sud u Sinju*), seeking that a will be declared null and void. M.R. was represented by lawyers, V.Lj. and Ž.V.

7. On 8 December 2006 the Sinj Municipal Court adopted a judgment in the applicant's favour.

8. The plaintiff lodged an appeal with the Split County Court (*Županijski sud u Splitu*). The Civil Division of that Court has over forty judges. On 27 August 2009 a panel of three judges presided over by Judge D.P., sitting in a closed meeting, reversed the first-instance judgment and upheld the appeal. It held that the first-instance court had correctly established the facts but had wrongly applied the relevant law.

9. The applicant lodged an appeal on points of law with the Supreme Court (*Vrhovni sud Republike Hrvatske*) alleging, *inter alia*, that she had not had a fair hearing before an independent and impartial tribunal because Judge D.P. was the father of a trainee lawyer working at the law office of V.Lj. and Ž.V., who had both represented the plaintiff in the proceedings.

10. On 14 September 2011 the Supreme Court dismissed the applicant's appeal on points of law as unfounded and upheld the second-instance judgment. It held in particular:

> "The case file shows that N.P., Judge D.P.'s son, did not participate in any manner in the proceedings at issue. This court therefore considers that there are no circumstances which put the impartiality of Judge D.P. in such doubt as to exclude his participation in the adoption of the appeal judgment."

11. In a constitutional complaint of 29 June 2012 the applicant argued that even though N.P. had not participated at the hearings held in the proceedings at issue, there were no indications that he had not been otherwise involved in the case. He had been in a relationship of subordination (employer-employee) to the opposing party's legal representative and the law office concerned had employed only a very small number of people. The applicant noted that the first-instance judgment in her favour had also later been reversed on appeal. The constitutional complaint was declared inadmissible on 3 October 2012 by the Constitutional Court.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Constitution

12. Article 29 § 1 of the Constitution (*Ustav Republike Hrvatske*, Official Gazette of the Republic of Croatia no. 41/2001 of 7 May 2001) reads as follows:

> "In the determination of his rights and obligations or of any criminal charge against him, everyone is entitled to a fair hearing within a reasonable time by an independent and impartial court established by law."

B. Civil Procedure Act

13. The relevant provisions of the Civil Procedure Act (*Zakon o parničnom postupku*, Official Gazette nos. 53/1991, 91/1992and 112/1999) read as follows:

Section 71

"A judge shall be disqualified from exercising his functions:

1. if he or she is a party, a legal guardian or representative of a party ... ;

...

3. where a judge is in lineal consanguinity within any degree with a party, his or her legal guardian or representative, or in collateral consanguinity with one of those persons within the fourth degree, or where a judge is a spouse, common-law spouse or an in-law within the second degree of one of those persons;

...

7. where other circumstances are present which cast doubt on his or her impartiality."

14. Under section 72 of the Civil Procedure Act, the grounds set out in section 71(1)-(6) are considered absolute grounds for a judge to be automatically disqualified from a case. Subsection 7 concerns situations in which a judge is obliged to inform the president of the court of any circumstances which he or she considers might cast doubt on his or her impartiality. The president of the court must then make a decision regarding possible disqualification, taking account of the circumstances of the case.

15. Section 72(1) provides that as soon as a judge becomes aware of an absolute ground of disqualification, he or she must take no further part in the case in question. The judge must bring the circumstances which disqualify him or her from sitting to the attention of the president of the court, who then designates another judge.

16. Section 73(6) provides that parties have to apply for the withdrawal of a judge as soon as they learn of a reason for such a withdrawal. Such an application must be made at the latest before the conclusion of the trial before the first-instance court, or, if there was no trial, before the delivery of a decision.

17. Section 73(7) provides that the withdrawal of a judge from a case before a higher court may be requested by parties in a legal remedy or in reply to a legal remedy.

18. Section 75 reads as follows:

Section 75

"When a single judge, the president of a panel, a member of a panel or the president of the court learns that his or her withdrawal has been requested, he shall immediately stop all work on the case, and, if the withdrawal was requested on the grounds

provided in section 71(1), subparagraph 7 of this Act, he or she may undertake only those actions which prevent the risk of delay until the request has been decided."

C. Practice of the Supreme Court

19. The relevant part of decision no. Revr 736/07-2 of 27 September 2005 reads:

"... the Osijek County Court informed the Supreme Court that Z.Z., the son of D.Z. (who was the president of a panel in adopting the impugned judgment), worked at the time the impugned judgment was issued with the plaintiff's representative (a lawyer called L.M.) as a legal trainee.

Section 71, subsections 1-6, of the Civil Procedure Act sets out the grounds for disqualifying a judge.

...

Subsection 7 of the same section states that a judge shall also be disqualified where other circumstances are present which cast doubt on his or her impartiality.

This court considers that the fact that Z.Z. is employed as a legal trainee with the plaintiff's representative – the lawyer L.M. – is a circumstance of the kind which casts doubt on the impartiality of his father, D.Z., as a participant in the adoption of the second-instance judgment as the president of a panel in a case in which L.M. represents the plaintiff as lawyer."

20. The relevant part of decision Rec 1643/11-2 of 26 March 2013 reads:

"... the appeal on points of law alleges that the first-instance judgment was adopted by a judge whose spouse is employed as a legal trainee in the law office of the plaintiff's representative ...

...

The participation of the judge in the adoption of the first-instance judgment, even though the judge should have been disqualified for the reasons stated, led to a violation of procedural rules ..."

21. The relevant part of decision Revr 307/09-2 of 11 June 2009 reads:

"... the appeal on points of law alleges that at some of the recent hearings the plaintiff was represented by N.P., employed in the law office of the plaintiff's representative Ž.V., and that N.P. is the son of D.P., the president of the second-instance court's panel ...

...

The fact that the son of the president of the second-instance panel is employed as a legal trainee with the plaintiff's representative amounts to a circumstance which casts doubt on the impartiality of the panel's president, which is a ground for disqualification [of a judge] under section 71(7) of the Civil Procedure Act."

THE LAW

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

22. The applicant complained that the Split County Court had not been impartial because of the participation of Judge D.P. in the civil proceedings at issue. She relied on Article 6 § 1 of the Convention, which reads as follows:

> "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."

A. Admissibility

23. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The arguments of the parties

24. The applicant contended that the issue of whether or not N.P. had been formally authorised to represent her opponents in the proceedings at issue was not important since trainees at law offices were always empowered to replace their principals. In the applicant's view, Judge D.P. should have withdrawn from the case because of his close family ties to an employee of the law office which had represented the applicant's opponent, which had raised doubts about the judge's impartiality. The law office at issue included only two principal lawyers and N.P. was in a position of subordination (employer-employee) with both lawyers.

25. The Government maintained that there had been no indication of any doubts about the subjective impartiality of Judge D.P. As regards the objective test, the Government contended that the fact that Judge D.P. was the father of a trainee at the law office which had represented the applicant's opponent could not in itself be seen as influencing that judge's impartiality. They submitted that N.P. had not obtained a power of attorney from the applicant's opponent to represent him and that N.P. had not participated in the proceedings at issue in any manner. He had also had no influence on the outcome of the proceedings or secured any gain for himself from that outcome. N.P. had obtained all the necessary qualifications to become an independent lawyer only four days after the appeal judgment had been adopted.

2. The Court's assessment

(a) General principles

26. The Court observes that the relevant Convention principles were summarised in *Morice* (*Morice v. France* [GC], no. 29369/10, §§ 73-78, 23 April 2015, with further references), as follows:

> "73. The Court reiterates that impartiality normally denotes the absence of prejudice or bias, and its existence or otherwise can be tested in various ways. According to the Court's settled case-law, the existence of impartiality for the purposes of Article 6 § 1 must be determined according to a subjective test where regard must be had to the personal conviction and behaviour of a particular judge, that is, whether the judge held any personal prejudice or bias in a given case; and also according to an objective test, that is to say by ascertaining whether the tribunal itself and, among other aspects, its composition, offered sufficient guarantees to exclude any legitimate doubt in respect of its impartiality ...
>
> 74. As to the subjective test, the principle that a tribunal must be presumed to be free of personal prejudice or partiality is long-established in the case-law of the Court ... The personal impartiality of a judge must be presumed until there is proof to the contrary ... As regards the type of proof required, the Court has, for example, sought to ascertain whether a judge has displayed hostility or ill will for personal reasons...
>
> 75. In the vast majority of cases raising impartiality issues the Court has focused on the objective test ... However, there is no watertight division between subjective and objective impartiality since the conduct of a judge may not only prompt objectively held misgivings as to impartiality from the point of view of the external observer (objective test) but may also go to the issue of his or her personal conviction (subjective test)... Thus, in some cases where it may be difficult to procure evidence with which to rebut the presumption of the judge's subjective impartiality, the requirement of objective impartiality provides a further important guarantee ...
>
> 76. As to the objective test, it must be determined whether, quite apart from the judge's conduct, there are ascertainable facts which may raise doubts as to his or her impartiality. This implies that, in deciding whether in a given case there is a legitimate reason to fear that a particular judge or a body sitting as a bench lacks impartiality, the standpoint of the person concerned is important but not decisive. What is decisive is whether this fear can be held to be objectively justified...
>
> 77. The objective test mostly concerns hierarchical or other links between the judge and other protagonists in the proceedings ... It must therefore be decided in each individual case whether the relationship in question is of such a nature and degree as to indicate a lack of impartiality on the part of the tribunal ...
>
> 78. In this connection even appearances may be of a certain importance or, in other words, "justice must not only be done, it must also be seen to be done"... What is at stake is the confidence which the courts in a democratic society must inspire in the public. Thus, any judge in respect of whom there is a legitimate reason to fear a lack of impartiality must withdraw..."

(b) Application of those principles to the present case

27. The Court reiterates that under the subjective test the personal impartiality of a judge must be presumed until there is proof to the contrary

(see paragraph 16 above). In the present case, the Court considers that no evidence has been produced as regards personal bias on the part of the president of the appeal panel which adjudicated the applicant's case.

28. The case must therefore be examined from the perspective of objective impartiality. More specifically, the Court must address the question of whether the applicant's doubts, stemming from the specific circumstances, may be regarded as objectively justified.

29. With regard to the question of the impartiality of Judge D.P., the Court notes that it is understandable that doubts arose in the applicant's mind as to impartiality given that his son, N.P., was employed in the office of the two lawyers representing the applicant's opponent in the civil proceedings at issue. However, the Court is mindful that an automatic disqualification of all judges at national level who have blood ties with the employees of legal offices representing the parties in given proceedings is not always called for (compare to *Dorozhko and Pozhaskiy v. Estonia*, nos. 14659/04 and 16855/04, § 53, 24 April 2008).

30. In proceedings originating in an individual application the Court has to confine itself, as far as possible, to an examination of the concrete case before it (see *Wettstein v. Switzerland*, no. 33958/96, § 41, ECHR 2000-XII). Moreover, the Court reiterates that the Contracting States are under an obligation to organise their legal systems so as to ensure compliance with the requirements of Article 6 § 1, impartiality being unquestionably one of the foremost of those requirements. The Court's task is to determine whether the Contracting States have achieved the result called for by the Convention, not to indicate the particular means to be utilised (see *De Cubber v. Belgium*, 26 October 1984, § 35, Series A no. 86; and compare to *Dorozhko and Pozhaskiy*, cited above, § 53).

31. In the present case, the fear of a lack of impartiality on the part of Judge D.P., who was the president of the three-judge panel of Split County Court which acted as an appeal court in the applicant's case, lay in the fact that N.P., Judge D.P.'s son, was at the time of the impugned proceedings a trainee at the legal firm representing the applicant's opponent. In the Court's view, the nature of those personal links is of importance when determining whether the applicant's fears were objectively justified (see *Micallef v. Malta* [GC], no. 17056/06, § 102, ECHR 2009, and *Mitrov v. the former Yugoslav Republic of Macedonia*, no. 45959/09, § 54, 2 June 2016). The Court has made clear that where there is a legitimate reason to fear that a judge lacks impartiality then that judge must withdraw.

32. The Court considers the following factors to be of importance in assessing the question of whether there was a lack of objective impartiality on the part of Judge D.P.

33. Although the applicant was not in a position to seek the withdrawal of Judge D.P. prior to the delivery of the appeal court's judgment as that court had sat in a closed meeting and the applicant was not aware of the

composition of the appeal court's panel, she was, nevertheless, able to question Judge D.P.'s impartiality in her appeal to the Supreme Court and did so (contrast *Morice v. France*, cited above, § 90).

34. As to the link between Judge D.P. and N.P., the Court notes that they are father and son, that is they are lineal consanguine relatives of the first degree. There is nothing in the file indicating that the judge was not aware of the fact that his son was employed at a law office representing a party in the proceedings at issue (compare to *Dorozhko and Pozhaski*, cited above, § 56). However, nothing in the case file shows that he informed the president of the court of those circumstances (see section 72 of the Civil Procedure Act as cited in paragraph 14 above). Had he done so all the issues concerning his participation in the case would have been addressed before it was examined by the appeal court.

35. As to the involvement of N.P. in the proceedings at issue, the Court accepts that he did not personally represent the applicant's opponent at any stage of the hearings. However, his employment at the law firm which represented the applicant's opponent overlapped with those proceedings.

36. The practice of the Supreme Court, both before and after the applicant's case, shows that it was inclined to quash judgments delivered by judges whose close relatives worked in the law offices of parties' representatives, whether or not they had been directly involved in the case at issue (see paragraphs 19 and 20 above for a situation where a relative was not directly involved in the case and paragraph 21 for a situation when he or she was).

37. As an employee of that law office N.P. must have had close working ties with its only two principal lawyers, both of whom represented the applicant's opponent. Being a legal trainee in that law office, N.P. was able to replace either of his two principals in that type of case since a power of attorney given by the plaintiff to the law office at issue automatically included N.P. as well and there was no need for any further or special authorisation for him to be able to work on that case. Also, N.P. was in a position of subordination to them and received a salary. Moreover, his employment was only temporary and subject to possible extension, in which respect he also depended on his two superiors (compare *Steck-Risch and Others v. Liechtenstein*, no. 63151/00, §§ 47 and 49, 19 May 2005).

38. The Court considers that the fact that such a close relative as the son of a judge adjudicating a civil case at the appeal stage had such close working ties with lawyers representing the applicant's opponent as one of the parties in those civil proceedings and that he was in a position of subordination to them compromised the Split County Court's impartiality and made it open to doubt.

39. Given the importance of appearances, the Court also notes that it is not possible to ascertain the exact influence of Judge D.P. on the outcome of the appeal lodged by the applicant's opponent since the Split County Court

decided in a closed meeting. However, it can be observed that Judge D.P. presided over the appeal court's three-judge panel and that therefore the applicant had grounds to believe that he had an important role in delivering the judgment against her and that the impartiality of the Split County Court could have been open to genuine doubt (compare *Morice v. France*, cited above, § 89). The Court also notes that the Split County Court is one of the largest county courts in Croatia, with more than forty judges in its Civil Division, and that therefore there is no indication of any practical difficulties in finding a substitute for Judge D.P. among the other judges (compare to *Golubović v. Croatia*, no. 43947/10, § 58, 27 November 2012; see also *Steck-Risch*, cited above, § 39).

40. Finally, the Court notes that the Supreme Court and the Constitutional Court did not remedy the defect in question. The possibility certainly exists that a higher or the highest court might, in some circumstances, make reparation for defects in the proceedings before lower courts (see *De Cubber*, cited above, § 33; and *Alenka Pečnik v. Slovenia*, no. 44901/05, § 43, 27 September 2012). In the present case, although the higher courts had the power to quash the decision on the ground that it appeared that the president of the appeal panel had not been impartial, they declined to do so and upheld the impugned judgment. As a consequence, they did not cure the failing in question (see *Kyprianou v. Cyprus* [GC], no. 73797/01, § 134, ECHR 2005-XIII).

41. The foregoing considerations are sufficient to enable the Court to conclude that the composition of the court was not such as to guarantee its impartiality and that it failed to meet the Convention standard under the objective test.

42. There has therefore been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

43. Article 41 of the Convention provides:

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

A. Damage

44. The applicant claimed 3,500 euros (EUR) in respect of non-pecuniary damage.

45. The Government disputed that claim.

46. The Court awards the applicant the sum claimed, that is EUR 3,500, in respect of non-pecuniary damage plus any tax that may be chargeable on that amount.

B. Costs and expenses

47. The applicant also claimed EUR 3,491 for the costs and expenses incurred before the domestic courts. She also sought the costs of her legal representation before the Court, but did not specify them.

48. The Government disputed that claim as well.

49. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 850 for the costs and expenses incurred before the Constitutional Court. As regards the claim for the costs of the applicant's legal representation before the Court, it is unable to establish an amount for those expenses since the applicant did not provide any details or documents in that respect. It therefore rejects her claim in that respect.

C. Default interest

50. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT

1. *Declares*, unanimously, the application admissible;

2. *Holds*, by six votes to one, that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*, by six votes to one,
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 3,500 (three thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 850 (eight hundred and fifty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses*, unanimously, the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 27 June 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith	Işıl Karakaş
Registrar	President

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

A.I.K.
S.H.N.

DISSENTING OPINION OF JUDGE KJØLBRO

1. In the view of the majority, there are objective reasons to call into question the impartiality of a judge deciding a civil dispute if the judge has close family ties with a trainee lawyer working in the law firm of the lawyer representing one party to the proceedings, even though the trainee lawyer has neither represented the party nor worked on the case.

2. It is the first time that the Court has found a violation in such a situation, and the judgment is a significant further development of the Court's case-law increasing the standards required of an impartial tribunal. Personally, I am not convinced of the necessity of adopting such a position or by the arguments for doing so.

3. Even though the reasoning in the judgment is based on the specific circumstances of the present case, I am of the view that the finding of the Court will apply in general. Thus, in practice, the Court's judgment will rule out the possibility of a judge deciding a civil dispute if a close relative of the judge is employed as a trainee lawyer in a law firm representing one party to the proceedings, even though the trainee lawyer has neither represented the party nor worked on the case.

4. In assessing whether there are objective reasons to call into question the impartiality of Judge D.P., one has to look at the nature of the link between Judge D.P. and the applicant's opponent in the civil proceedings, and also at the nature of the dispute to be decided in the civil proceedings.

5. In my view, the link between Judge D.P. and the applicant's opponent in the civil proceedings is rather remote and weak. Judge D.P. did not have any family ties with the applicant's opponent in the civil proceedings. Nor had he at any point during the proceedings represented the applicant's opponent as a lawyer (see, *a contrario*, *Wettstein v. Switzerland*, no. 33958/96, § 47, ECHR 2000-XII, and *Mežnarić v. Croatia*, no. 71615/01, § 34-37, 15 July 2005). Furthermore, he did not have any family ties with the lawyers representing the applicant's opponent (see *Micallef v. Malta* [GC], no. 17056/06, §§ 100-05, ECHR 2009). Neither did he have any family ties with persons involved in or working on the case (see, for example, *Steck-Risch and Others v. Liechtenstein*, no. 63151/00, § 48, 19 May 2005, and *Huseyn and Others v. Azerbaijan*, nos. 35485/05 and 3 others, § 168, 26 July 2011). Judge D.P. was the father of N.P., who was a trainee lawyer in the law firm of the lawyers V.Lj. and Z.V. who represented M.R. in the civil proceedings, but N.P. had not been involved in the case in any manner. Thus, N.P. had not at any point during the proceedings represented M.R., nor had he in any way worked on the case.

6. Having regard to the nature of the dispute between the applicant and M.R., which was a dispute over a will, there is nothing to suggest that Judge D.P. had a direct or indirect interest in the outcome of the proceedings

(see, *a contrario*, *Pétur Thór Sigurðsson v. Iceland*, no. 39731/98, § 45, ECHR 2003-IV; *Pescador Valero v. Spain*, no. 62435/00, § 27, ECHR 2003-VII; *Sacilor-Lormines v. France*, no. 65411/01, §§ 64-70, ECHR 2006-XIII; *Tocono and Profesorii Prometeişti v. Moldova*, no. 32263/03, § 31, 26 June 2007; *UTE Saur Vallnet v. Andorra*, no. 16047/10, §§ 52-58, 29 May 2012; and *Mitrov v. the former Yugoslav Republic of Macedonia*, no. 45959/09, § 55, 2 June 2016). It seems rather theoretical and far-fetched to say that Judge D.P., in the processing or adjudication of the civil dispute, would have been influenced by the fact that his son was a trainee lawyer in the firm of lawyers representing the applicant's opponent in the civil proceedings, and I find it difficult to say that the applicant's fears in this regard are objectively justified.

7. Therefore, having regard to the remoteness of the impugned link between Judge D.P. and the applicant's opponent in the civil proceedings, the fact that N.P. had not been involved in the case in any manner, the fact that Judge D.P. was one of three judges deciding the case, and the fact that D.P. did not have any direct or indirect interest in the outcome of the civil proceedings, I do not find that Judge D.P. lacked objective impartiality.

8. I also attach importance to the fact that the Court's finding of a violation of Article 6 of the Convention in the present case may have implications, and cause practical difficulties, for smaller jurisdictions in particular (see *Biagioli v. San Marino* (dec.), no. 8162/13, § 80, 8 July 2014, and *A.K. v. Liechtenstein*, no. 38191/12, § 82-83, 9 July 2015).

9. That being said, I recognise that a situation such as the one in the present case (a judge having family ties with a trainee lawyer who was not involved in the case but who works in a law firm representing a party to the proceedings) would in practice often be avoided and solved without any difficulties, as the judge would be replaced by a colleague without such family ties. However, that is not in itself sufficient basis for holding that there are objective reasons to call into question the impartiality of the judge. In other words, an issue that would often be solved in practice has now been amended into a legal obligation flowing from Article 6 of the Convention.

10. According to my assessment of the case, the information about domestic practice (see paragraphs 19-21 of the judgment) was not decisive. When the Supreme Court decided the applicant's case on 14 September 2011 (see paragraph 10 of the judgment), it emphasised the fact that the trainee lawyer "did not participate in any manner in the proceedings at issue". Thus, the fact that the judge's son was a trainee lawyer in the law firm representing the applicant's opponent in the civil proceedings was not in itself sufficient to call into question the impartiality of the judge. A few years earlier, on 27 September 2005, the Supreme Court had adopted a decision (see paragraph 19 of the judgment) that may be read as being in contradiction with the Supreme Court's decision in the applicant's case. However, only a few months before the decision in the applicant's case,

on 11 June 2009, the Supreme Court had adopted a decision in which it emphasised the fact that the trainee lawyer had represented the other party to the proceedings, or in other words, that the trainee lawyer had participated in the proceedings (see paragraph 21 of the judgment). Therefore, the practice of the Supreme Court, to the extent that there may be any inconsistency, does not amount to a situation where a failure to comply with domestic requirements is sufficient to call into question the impartiality of a judge (see, for example, *Pfeifer and Plankl v. Austria*, 25 February 1992, § 36, Series A no. 227; *Oberschlick v. Austria (no. 1)*, 23 May 1991, § 50, Series A no. 204; and *Mežnarić*, cited above, § 27).