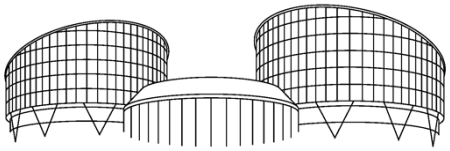

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF MELGAREJO MARTINEZ DE ABELLANOSA v. SPAIN

(Application no. 11200/19)

JUDGMENT

Art 6 (criminal) • Fair hearing • No breach of legal certainty in case-law concerning surcharge for late tax payment and default interest, where main debt was declared null and void • Failure of domestic court to give reasoned judgment

STRASBOURG

14 December 2021

FINAL

14/03/2022

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Melgarejo Martinez de Abellanosa v. Spain,

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

Georges Ravarani, *President,*
Georgios A. Serghides,
María Elósegui,
Darian Pavli,
Anja Seibert-Fohr,
Peeter Roosma,
Andreas Zünd, *judges,*
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 11200/19) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Spanish national, Mr Francisco Javier Melgarejo Martinez de Abellanosa ("the applicant"), on 15 February 2019;

the decision to give notice to the Spanish Government ("the Government") of the complaint concerning Article 6 § 1 of the Convention and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 16 and on 23 November 2021,

Delivers the following judgment, which was adopted on the last-mentioned date:

INTRODUCTION

1. The present case concerns the applicant's right to a fair trial in the framework of administrative law proceedings where, after his application concerning the undue payment of taxes in respect of the main debt had been allowed, his submission concerning the ancillary nature of the surcharge for late payment and default interest did not receive an express reply from the *Audiencia Nacional*.

THE FACTS

2. The applicant was born in 1965 and lives in Seville. The applicant was represented by Mr E. Mora Figueroa Rivero, a lawyer practising in Seville.

3. The Government were represented by their Agent, Mr A. Brezmes Martínez de Villarreal, State Attorney.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. Following an inspection of the applicant's personal income tax returns for the years 1991, 1992 and 1993, the Spanish Tax Management Agency

("the tax authorities") claimed 180,021.94 euros (EUR) from the applicant in respect of taxes for 1991, EUR 0 for 1992 and EUR 228.90 for 1993.

6. The applicant appealed before the Economic Administrative Court of Andalusia ("the TEARA") and, by a decision of 27 May 1999, the court allowed the appeal, declaring all tax claims null and void.

7. The tax authorities appealed against the TEARA's decision before the Central Economic Administrative Court ("the TEAC"). By a decision of 16 November 2001, the TEAC allowed the appeal in part, revoking the annulment of the tax claims in respect of the years 1991 and 1992.

8. The subsequent appeals lodged by the applicant with the domestic courts (the *Audiencia Nacional* and the Supreme Court) were dismissed by decisions of 26 July 2004 and 6 October 2005 respectively.

9. On 28 March 2005 the tax authorities commenced the enforcement of the debt against the applicant. They issued a tax assessment for EUR 296,031.01, which included, in addition to the main debt, EUR 36,004.39 in respect of a surcharge for late payment and EUR 84,181.79 in respect of default interest. The tax assessment considered other items and previous payments, which is the reason why the total was lower than the sum of the main amount, the surcharge and the interest. The applicant paid these amounts, by means of a seizure of assets by the tax authorities.

10. Once the payment had been made, within the framework of the tax enforcement proceedings, the applicant lodged two separate applications for undue payment against the tax authorities' assessment, one in respect of the main debt and the other in respect of the surcharge for late payment and default interest. In both applications he relied on section 110 of the Royal Decree 391/1996 (see below) and argued that, after the TEARA's decision of 27 May 1999 had declared the initial tax claims null and void (see paragraph 6 above), the tax claim for 1991 has lost its effect and the underlying title should have been reactivated before enforcing the debt. Therefore, he considered that the enforcement initiated by the tax authorities on 28 March 2005 had not been based on a valid title.

11. The TEARA initially dismissed the application in respect of the main debt on 25 October 2012. However, on 8 September 2016, the TEAC allowed an appeal by the applicant and declared the payment of the main debt null and void. It agreed with the applicant's arguments that the initial tax claim for year 1991 had lost its effect after the TEARA's decision of 27 May 1999 and that the title had never been reactivated. It therefore considered that, in accordance with section 110 of the Royal Decree 391/1996, the enforcement title relied on by the tax authorities had not been valid; in view of this, the payment for the main debt was not due.

12. In parallel proceedings, the TEARA also dismissed the application in respect of the surcharge for late payment and default interest on 25 October 2012, as did the TEAC on 28 January 2016, upon an appeal by the applicant. In these decisions, the TEARA and the TEAC considered that the tax claim

for year 1991 had not lost its effect because the applicant had never requested the provisional enforcement of the TEARA's decision of 27 May 1999; and the TEAC's decision of 16 November 2001 (see paragraph 7 above) had revoked the annulment of tax claim for year 1991.

13. On 3 May 2016 the applicant lodged an appeal against the TEAC's decision with the *Audiencia Nacional*. He submitted his pleadings on 2 February 2017. In them, he alleged, among other things, that the main debt had been annulled by the TEAC's decision of 8 September 2016 and that, as the surcharge and interest were ancillary to the main debt, they should equally be declared null and void.

14. By a judgment of 19 June 2017, the *Audiencia Nacional* dismissed the applicant's appeal in line with the reasoning of the TEARA and the TEAC. Concerning the applicant's allegation that the surcharge and interest should be declared null and void as a result of the annulment of the main debt, the *Audiencia Nacional* did not expressly address that issue and stated only that "the allegations made at this time should have been made at the time when the tax was demanded or when the payment was requested, that is, once the tax assessments had become final".

15. By contrast, on 28 September 2017 the *Audiencia Nacional*, composed of the same judges but with a different judge acting as rapporteur, passed judgment in the cases of two of the applicant's siblings, who until that moment had been subject to similar and parallel tax claims by the tax authorities, had followed the same route of appeal and had raised the same legal issues as the applicant. They had lodged their appeals with the *Audiencia Nacional* on the same day as the applicant, on 3 May 2016. In their cases, the *Audiencia Nacional* allowed their appeals and declared their respective surcharges and interest to be null and void, on the basis that, as they were ancillary to the main debt, which had been annulled by the TEAC on 8 September 2016, they should equally be annulled.

16. The applicant lodged an appeal on points of law against the *Audiencia Nacional* judgment with the Supreme Court, which on 18 January 2018 was declared inadmissible owing to the lack of objective interest for the development of case-law.

17. Subsequently, the applicant lodged an application for annulment with the *Audiencia Nacional* against the judgment of 19 June 2017. He complained that his right to equality before the law had been breached on account of the opposite outcome in his siblings' cases, and that his right to a fair trial had also been breached on account of the *Audiencia Nacional*'s failure to respond to his submission concerning the ancillary nature of the surcharge and interest.

18. On 3 April 2018 the *Audiencia Nacional* dismissed the application for annulment. Firstly, it stated that, as the judgments in the cases of the applicant's siblings were given after the judgment in the applicant's case, the court was not bound by the criteria applied in the siblings' cases. Secondly,

without addressing the particular issue of whether the previous judgment had responded to the applicant's submission that the surcharge and interest were ancillary to the main debt, it considered that the judgment of 19 June 2017 had duly stated the reasons for dismissing his appeal.

19. The applicant lodged an *amparo* appeal with the Constitutional Court. In it he relied on Article 24 of the Spanish Constitution, concerning the right to a fair trial. He complained under that article that the *Audiencia Nacional*, in its judgment of 19 June 2017, had failed to respond to his submission concerning the ancillary nature of the surcharge and interest, and that, in its decision of 3 April 2018, it had again avoided responding to the applicant's argument that his previous submission remained unresolved. He further relied on Article 14 of the Constitution, concerning the right to equality before the law, under which he invoked the opposite outcome in his siblings' cases.

20. On 26 September 2018 the Constitutional Court declared the *amparo* appeal inadmissible owing to the lack of special constitutional significance.

RELEVANT LEGAL FRAMEWORK

21. Under Spanish legislation, the definition of ancillary tax obligations, the default interest, the surcharge for late payment and the application for undue payment are regulated under the General Tax Act. These sections read as follows:

Section 25. Ancillary tax obligations

"1. Ancillary tax obligations are the obligations other than those included in this section that consist of monetary payments to be made to the Tax Administration and whose payment is ordered in connection with another tax obligation.

Obligations to settle default interest, and surcharges for late declaration and those relating to the enforcement period as well as others imposed by law, shall have the nature of ancillary tax obligations.

2. Tax penalties are not considered ancillary obligations."

Section 26. Default interest

"1. Default interest is an ancillary obligation that will be required of taxpayers and tax defaulters as a result of making a payment after the deadline or submitting a self-assessment tax return or declaration resulting in an amount being payable once the term established for this purpose in the tax regulations has expired, after the collection of an undue refund or in other cases provided for in the tax regulations.

The requirement for default interest on tax does not need prior notification from the Administration or the existence of a culpable delay on the part of the obligor.

2. Default interest shall be required, *inter alia*, in the following cases:

a) When the period established for voluntary payment of a debt resulting from a settlement made by the Administration or a penalty ends, without the payment having been made.

b) When the term established for the submission of a self-assessment tax return or declaration ends without it having been submitted or with it having been incorrectly submitted ...

...

3. Default interest shall be calculated on the amount which has not been paid in time or on the amount of the refund unduly collected, and shall be payable during the time for which the obligor's delay extends ...

...

6. Default interest shall be the legal interest rate in force throughout the period in which it is payable, increased by 25 per cent, unless the General State Budget Act establishes a different rate.

..."

Section 28. Surcharges for the enforcement period

"1. Surcharges for the enforcement period are incurred at the start of the enforcement period ...

There are three types of surcharges for the enforcement period: the enforcement surcharge, the reduced surcharge for the summary enforcement procedure, and the ordinary surcharge for the summary enforcement procedure.

These surcharges are mutually incompatible and are calculated on the total debt which is unpaid in the voluntary period.

...

4. The ordinary surcharge for the summary enforcement procedure will be 20 per cent ...

5. The ordinary surcharge for the summary enforcement procedure is compatible with default interest ..."

Section 221. Procedure for the refund of an undue payment

"1. The procedure for the recognition of the right to the refund of an undue payment shall be initiated automatically or at the request of the interested party, in the following cases:

a) When there has been a duplication in the payment of tax debts or penalties.

b) When the amount paid was greater than the amount to be paid as a result of an administrative measure or a self-assessment tax return.

c) When amounts corresponding to tax debts or penalties have been paid after the expiry of the time-limits ...

d) When tax regulations so establish.

..."

22. Section 110 of the Royal Decree 391/1996 on the rules of procedure for economic-administrative claims, which is no longer in force, read as follows:

Section 110. Ordinary timing and effects

"1. Once the proof of notification of the decisions rendered in a single instance has been incorporated into the case-file, the Registry of the Regional and Local Courts and the Members of the Central Court shall return all the management documents, with a certified copy of the decision, to the unit from which they originate, which shall acknowledge receipt of it.

2. If, as a consequence of the decision, any unit, body or agency should rectify the administrative measure that was the object of the claim, it shall do so within a period of fifteen days.

3. The same procedure shall be followed after the receipt of the notification of the decisions rendered in first instance has been incorporated into the case-file, when these decisions are final; however, if they are the object of appeal, the proceedings shall be sent to the competent body to examine the appeal lodged.

4. If as a result of the claim being upheld the amounts unduly paid are to be refunded, the interested party shall be entitled to the legal interest from the date of payment.

..."

THE LAW

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

23. The applicant complained that his right to a fair trial, as provided in Article 6 § 1 of the Convention, had been breached on account of the *Audiencia Nacional*'s failure, in its judgment of 19 June 2017 and decision of 3 April 2018, to provide a reply to the applicant's submission concerning the ancillary nature of the surcharge and interest, which proved decisive in the judgments concerning his siblings. The relevant part of Article 6 § 1 reads as follows:

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

A. Admissibility

24. Although the parties did not raise the issue of applicability *ratione materiae* of Article 6, the Court reiterates that, as regards the civil limb of Article 6, it is not applicable to the assessment of tax and the imposition of surcharges (see *Ferrazzini v. Italy* [GC], no. 44759/98, § 29, ECHR 2001-VII).

25. However, concerning the applicability of the criminal limb of Article 6 § 1 of the Convention, the "*Engel* criteria" are to be considered (*Engel and Others v. the Netherlands*, 8 June 1976, §§ 82-83, Series A no. 22). As regards the surcharge for late payment, under the domestic law it was not classified as criminal but as part of the fiscal regime. Nevertheless, it was not intended as pecuniary compensation for damage but as a punishment

to deter reoffending, which means that, in nature, its purpose was deterrent and punitive (see *Jussila v. Finland* [GC], no. 73053/01, § 38, ECHR 2006-XIV). Although that element alone suffices to establish the criminal character of the offence, the criminal character is further evidenced by the severity of the penalty (see *Janosevic v. Sweden*, no. 34619/97, § 69, ECHR 2002-VII); it amounted to 20 per cent of the tax payable as provided by section 28 of the General Tax Act, which totalled in the applicant's case 36,004.39 euros (EUR). The Court thus concludes that the criminal limb of Article 6 § 1 is applicable.

26. 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' arguments

27. The applicant submitted that, after the TEAC's decision of 8 September 2016 had declared the payment of the main debt null and void, he had alleged before the *Audiencia Nacional* that, as the surcharge for late payment and default interest were ancillary to the main debt, they should equally be annulled. The judgement of the *Audiencia Nacional* of 19 June 2017 had dismissed his appeal without providing any reasoning with respect to his submission concerning the ancillary nature of the surcharge and interest. Moreover, when the *Audiencia Nacional* had been given the opportunity to amend its error by means of the application for annulment, the *Audiencia Nacional*, in its decision of 3 April 2018, had again failed to respond to the applicant's argument that his submission concerning the ancillary nature of the surcharge and interest remained unresolved. The applicant argued that that submission was decisive to the outcome of the case, as proven by the fact that the appeals of his siblings had been allowed on the basis of precisely that argument. Consequently, he contended that the proceedings before the *Audiencia Nacional* had been unfair and contrary to Article 6 § 1 of the Convention. Additionally, he submitted that the dismissal of his appeal by the judgment of 19 June 2017, while his siblings in the same circumstances had had their appeals allowed in two judgments of 28 September 2017, had implied a breach of legal certainty, which had also amounted to a violation of Article 6 § 1.

28. The Government submitted that the judgment of the *Audiencia Nacional* of 19 June 2017 had been fully and thoroughly reasoned, in compliance with the requirements of Article 6 § 1 of the Convention. The *Audiencia Nacional*, in its decision of 3 April 2018, had duly examined all the applicant's submissions, concluding that its previous judgment had been adequately reasoned. The Government admitted that the applicant's siblings had received the opposite outcome in a similar situation in the

judgments in their cases. However, the Government denied any breach of legal certainty, because the applicant's case had been decided before his siblings' cases and there had thus been no legal precedent to be followed in his case.

2. The Court's assessment

(a) General principles

(i) On divergent case-law of domestic courts

29. The Court reiterates that it is not its task to take the place of the domestic courts. It is primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation. The possibility of conflicting court decisions is an inherent trait of any judicial system which is based on a network of trial and appeal courts with authority over the area of their territorial jurisdiction. Such divergences may also arise within the same court. It is not in principle the Court's function to compare different decisions of national courts, even if given in apparently similar proceedings; it must respect the independence of those courts. The criteria which guide the Court in its assessment of the circumstances in which contradictory decisions by different domestic courts ruling at final instance entail a violation of the right to a fair hearing, enshrined in Article 6 § 1 of the Convention, consist in establishing, firstly, whether "profound and long-standing differences" exist in the case-law of the domestic courts; secondly, whether the domestic law provides for a mechanism for overcoming these inconsistencies; and, thirdly, whether that mechanism has been applied and, if appropriate, to what effect (see *Lupeni Greek Catholic Parish and Others v. Romania* [GC], no. 76943/11, § 116, 29 November 2016).

30. On the other hand, the Court has also stated that one of the fundamental aspects of the rule of law is the principle of legal certainty, a principle which is implied in the Convention. Conflicting decisions in similar cases stemming from the same court which, in addition, is the court of last resort in the matter, may breach that principle and thereby undermine public confidence in the judiciary, such confidence being one of the essential components of a State based on the rule of law. In this connection, the Court has held, in cases involving one and the same applicant, that different decisions by domestic courts based on identical facts were susceptible of running contrary to the principle of legal certainty and could even amount to denial of justice (see *Vusić v. Croatia*, no. 48101/07, §§ 44-45, 1 July 2010, and *Santos Pinto v. Portugal*, no. 39005/04, §§ 40-45, 20 May 2008).

(ii) On the reasoning of court decisions

31. According to the Court's established case-law, reflecting a principle linked to the proper administration of justice, judgments of courts and tribunals should adequately state the reasons on which they are based.

The extent to which this duty to give reasons applies may vary according to the nature of the decision and must be determined in the light of the circumstances of the case. Without requiring a detailed answer to every argument advanced by the complainant, this obligation presupposes that parties to judicial proceedings can expect to receive a specific and explicit reply to the arguments which are decisive for the outcome of those proceedings (see *Orlen Lietuva Ltd. v. Lithuania*, no. 45849/13, § 82, 29 January 2019).

(b) Application of the general principles to the present case

32. The Court considers that the applicant raised two issues that require a separate examination: (i) the breach of legal certainty on account of the disparity between his judgment of 19 June 2017 and his siblings' judgments of 28 September 2017, and (ii) the lack of reasoning by the *Audiencia Nacional* with respect to his submission concerning the ancillary nature of the surcharge and interest. The Court will analyse those issues consecutively.

(i) On divergent judgments in his case and his siblings' cases

33. The Court notes that the parties did not dispute the fact that the applicant's siblings, despite being in identical or similar situations to the applicant, obtained favourable judgments from the *Audiencia Nacional*, in contrast to the outcome in the applicant's case. The two judgments in the applicant's siblings' cases were delivered within a short period of time after the judgment in the applicant's case.

34. While that divergence is a matter of concern for those involved, as already noted above, the possibility of conflicting court decisions is an inherent trait of any judicial system and cannot in itself be considered in breach of the Convention (see *Svilengaćanin and Others v. Serbia*, nos. 50104/10 and 9 others, § 80, 12 January 2021).

35. In the present case, the Court observes that the alleged divergence affected the applicant's appeal as compared to the ones lodged by his siblings. The judgment on the applicant's appeal had been adopted two months earlier than the judgment on his siblings' appeals. The applicant did not submit that the divergence on that specific issue went against a well-established case-law on which he could have reasonably relied to expect a specific outcome of his appeal and even less that such divergence extended over any longer period than between the judgment in his case and the judgments in his siblings' cases, and he did not provide any further examples of judgments in which such a divergence might have taken place, either before the judgment in his case of 19 June 2017 or after. In sum, the only element that could raise the issue of legal certainty is the divergent outcomes in the interpretation of a specific point of law in parallel proceedings of the applicant's siblings, who

had been subject to similar tax claims (compare to *Borg v. Malta*, no. 37537/13, §§ 110-11, 12 January 2016).

36. Given these circumstances, and bearing in mind that it is not its function to compare different decisions delivered by national courts, the Court concludes that there were no "profound and long-standing differences" in the relevant case-law and no breach of the principle of legal certainty to an extent incompatible with the guarantees of Article 6 § 1.

37. Accordingly, there has been no violation of Article 6 § 1 of the Convention on this account.

(ii) On the reasoning of the Audiencia Nacional

38. In respect of the reasoning of the *Audiencia Nacional* in the applicant's case, the Court observes that, on 8 September 2016, the TEAC declared the applicant's payment of the main debt null and void. On the basis of that decision, the applicant submitted his pleadings before the *Audiencia Nacional* on 2 February 2017, arguing, among other things that, as the surcharge and interest were ancillary to the main debt, they should equally be declared null and void.

39. The *Audiencia Nacional*, in its judgment of 19 June 2017, addressed the same issues the administrative bodies had dealt with previously, but did not provide any reasoning concerning the applicant's new argument that derived from the annulment of the main debt. In this respect, the judgment included the phrase "the allegations made at this time should have been made at the time when the tax was demanded ...". However, the *Audiencia Nacional* failed to explain why despite the fact that the surcharge and interest were considered ancillary under section 25 of the General Tax Act, the enforcement proceedings concerning the surcharge and interest could be pursued even in the absence of a valid enforcement title for the main debt, as declared in the TEAC's decision of 8 September 2016 (see paragraph 11 above).

40. The Court further observes that, when the applicant lodged the application for annulment with the *Audiencia Nacional*, he complained of the lack of a reply to his submission concerning the ancillary nature of the surcharge and interest in the judgment of 19 June 2017. The *Audiencia Nacional*, in its decision of 3 April 2018, did not expressly respond to that particular submission made by the applicant.

41. As stated above, the obligation to give reasons does not require a detailed answer to every argument advanced by the complainant, but only a specific and explicit reply to the arguments which are decisive for the outcome of those proceedings. In the present case, the applicant's argument concerning the ancillary nature of the surcharge and interest was potentially decisive for the outcome of the case, as shown by the judgments of 28 September 2017 in the applicant's siblings' cases, which allowed their appeals precisely on the basis of that specific argument.

42. It is not the Court's task to determine whether the applicant's claims should have been allowed or not. It is not even its task to examine whether his submissions were well-founded. However, it is not necessary for the Court to conduct such an examination in order to conclude that the applicant's submission concerning the ancillary nature of the surcharge and interest was in any event relevant and, as noted above, potentially decisive for the outcome of the case. It therefore required a specific and express reply, which the domestic courts did not provide. In such circumstances, it is impossible to ascertain whether the *Audiencia Nacional* failed to examine the applicant's submission at all, or whether it assessed and dismissed it and, if so, what were the reasons for so deciding (see, *mutatis mutandis*, *Farzaliyev v. Azerbaijan*, no. 29620/07, § 39, 28 May 2020).

43. The foregoing considerations are sufficient to enable the Court to conclude that the applicant's right to a reasoned judgment has been breached.

44. There has accordingly been a violation of Article 6 § 1 of the Convention on this account.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

45. 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

46. The applicant submitted no claim in respect of pecuniary or non-pecuniary damage.

47. The Court therefore does not award any sum under this head.

48. On the other hand, the Court has consistently held that where, as in the instant case, an individual has been the victim of proceedings that have entailed breaches of the requirements of Article 6 of the Convention, the most appropriate form of redress would, in principle, be a retrial or the reopening of the case, at the request of the interested person (see, among other authorities, *Gençel v. Turkey*, no. 53431/99, § 27, 23 October 2003). In this connection, it notes that paragraph 2 of section 102 of the Spanish Administrative Procedure Act, as amended by Organic Law no. 7/2015 of 21 July 2015, provides for the possibility of revision of a final decision where it has been determined in a ruling of the Court that there has been a violation of the Convention or one of the Protocols thereto.

B. Costs and expenses

49. The applicant generally claimed the reimbursement of the costs and expenses incurred before the national authorities and before the Court, without specifying any amount.

50. The Government submitted that the applicant had failed to provide any proof in support of his claim for costs and expenses.

51. 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 (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 370, 28 November 2017). In the present case, the Court notes that the applicant did not submit any supporting document for his claim. Consequently, the Court dismisses the applicant's claim in this regard.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 6 § 1 of the Convention admissible;

2. *Holds* that there has been no violation of Article 6 § 1 of the Convention as regards the complaint about a breach of the principle of legal certainty;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention as regards the complaint about insufficiently reasoned judgment of the *Audiencia Nacional*;

4. *Dismisses* the applicant's claim for just satisfaction.

Done in English, and notified in writing on 14 December 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Georges Ravarani President