

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

FOURTH SECTION

DECISION

Applications nos. 26602/25 and 26731/25
George DEGIORGIO against Malta
and Alfred DEGIORGIO against Malta

The European Court of Human Rights (Fourth Section), sitting on 1 September 2026 as a Chamber composed of:

Lado Chanturia*, President*,
Lorraine Schembri Orland,
Faris Vehabović,
Anja Seibert-Fohr,
Anne Louise Bormann,
Sebastian Răduleţu,
András Jakab*, judges*,

and Hasan Bakırcı, *Section Registrar,*

Having regard to the above applications lodged on 21 August 2025.

Having deliberated, decides as follows:

INTRODUCTION

The case concerns complaints under Article 6 §§ 1 and 3 of the Convention in relation to the criminal proceedings against the applicants for wilful homicide.

THE FACTS

1. The applicants Mr George Degiorgio and Mr Alfred Degiorgio are Maltese nationals who were born in 1962 and 1964, respectively.

2. They were represented by Dr L. Cuschieri, practicing in Gwardamangia and Dr E. Bianco, practicing in Birkirkara, respectively.

3. The facts of the case, as submitted by the applicants may be summarised as follows.

A. The circumstances of the case

1. The background to the case

4. In 2019 the applicants (brothers) and a third person were charged with, *inter alia*, the wilful homicide of the journalist Daphne Caruana Galizia.

5. The third person pleaded guilty and reached a plea bargain at an early stage of the proceedings.

6. Following committal proceedings "*kumpilazzjoni*" (during which the applicants were legally represented by X), on 8 July 2022, the applicants were informed that their trial by jury would start on 5 September 2022.

2. The criminal proceedings

7. On 19 August 2022 X informed the Criminal Court that he was renouncing his mandate. Thus, the Criminal Court appointed an urgent hearing for 24 August 2022 for the applicants to indicate their new lawyer of choice. No lawyer of choice having been found by then, the time was extended again to 26 August and again to 31 August 2022, the court ordering that a legal aid lawyer experienced in jury trials be present on the latter day.

8. On 31 August 2022, the applicants noting that they were having difficulty finding a lawyer of choice and that despite having spoken to various lawyers none would accept the mandate, the Criminal Court appointed legal aid lawyers to represent them, despite the applicants' objections, and set trial to start on 4 October 2022.

9. On two occasions (28 and 30 September 2022) the legal aid lawyers unsuccessfully asked for more time to prepare the defence given the voluminous casefile (the acts of the committal proceedings constituting over 11,000 pages and 4GB of data). In its replies the Criminal Court noted, respectively, that the jury had been appointed a long time before with all its preparations and that two extensions had already been granted to ensure the applicants' defence; and that the applicants had been granted more time than that stipulated in the law (see paragraph 39 below).

10. Meanwhile, the second applicant went on a hunger strike to complain about the legal aid appointment. The Criminal Court thus ordered the situation to be monitored by the detention services and, on 3 October 2022, ordered a medical doctor to monitor the situation and keep the court updated.

11. On 4 October 2022, date when the trial was meant to begin, the trial was postponed given the health condition of the second applicant as reported by the doctor on 3 October 2022.

12. In a further report submitted to the Criminal Court on 13 October 2022, the doctor informed the court that, following his assessment on 3 October 2022, which found the second applicant to be dehydrated, with sunken eyes, the latter had resumed eating and drinking and had been discharged from hospital. He continued to do so until 12 October 2022, when

he again went on hunger strike. The second applicant was on a wheelchair, but was aware of the time, location and people around him. He was also conscious of his actions, and his blood and sugar levels were normal. The doctor, having explained to him the situation and possible consequences on his health, considered him fit for trial but advised that he be accompanied by a medical team.

13. In the meantime, an urgent interim request to suspend the proceedings (in the context of the constitutional proceedings lodged on 3 October 2022 – see paragraph 28 below) was rejected by means of a first-instance decision of 11 October 2022, after the court heard the parties and examined the evidence adduced. The documents provided do not make it clear whether the Constitutional Court rejected an appeal against that decision on 14 October 2022, or whether the applicants withdrew it on 24 October 2022.

(a) The trial

14. The trial started on 14 October 2022. At the order of the Criminal Court, a medical team (consisting of a nurse and a doctor) was assigned to assist the second applicant 24/7. They were required to inform the judge immediately should his health condition deteriorate.

15. On that day, the legal aid lawyers declared that it was humanly impossible for them to examine all the material in forty days during which they had also had other clients to assist. However, the Criminal Court noted that the law stipulated a period of twenty days, which could be extended by the court if the circumstances required it. Indeed, this had been done, and the applicants had been given double the time indicated in the law. The court also noted that the jury date had been set four months earlier, thus giving the applicants sufficient time to prepare their defence. Once the applicants' lawyer of choice had renounced his mandate, they had been repeatedly given time to find a replacement, and their time for preparation was extended; that timeframe was reasonable for them to familiarise themselves with the acts of the proceedings and prepare a defence. The Criminal Court thus considered that the proceedings had to continue, save if the Constitutional Court considered otherwise – in which case it would suspend the trial.

16. The applicants alleged that thereafter (without specifying the exact time of day) the legal aid lawyers told them that they were unable to review all the evidence and develop a defence strategy to discuss with the applicants. The lawyers also said that they did not have a strategy for cross-examination of witnesses; insisting that since they were unable to offer them a proper defence, all the jurors would find them guilty, in which case they would be condemned to life imprisonment. Thus, the lawyers recommended that the applicants reach a plea bargain and admit to the "homicide charge". The applicants considered this to be a Hobson's choice, in the sense that they believed that they had no genuine alternative but to accept the plea bargain.

17. That morning the jurors were called in and the applicants pleaded not guilty.

18. The applicants alleged that during the lunch break their legal aid lawyers discussed the matter with the first applicant as the second applicant "was practically unconscious", and the former instructed the lawyers to go for a plea bargain. The prosecution having proposed a forty-year jail term, the first applicant instructed the lawyers to proceed on those lines. Thus, the prosecution and the defence presented a joint agreement, informing the Criminal Court of the plea bargain reached between the parties (see paragraph 22 below) and noted that they had no submissions to make.

19. According to the minutes of the hearing, in the afternoon and on the basis of the plea bargain agreement with the prosecution, the legal aid lawyers declared that the applicants wished to change their pleas to guilty of all charges. Thus, the Criminal Court ordered that a medical doctor and a psychiatrist assess both applicants to ensure that they were fit and understood the implications of their declarations. Subsequently, both medical experts confirmed under oath that the applicants were capable of understanding the implications of their pleas. When asked by the court, separately, each applicant confirmed his guilty plea. The consequences of such plea were explained by the court, including the fact that they risked a life sentence, and they were given time to reflect. When asked again, the applicants confirmed their position.

20. The applicants alleged that "when the judge asked them whether they wanted to change their guilty pleas" it was only the nurse assisting the second applicant who informed the court that she had heard him whisper that he wanted to plead guilty, as he could hardly speak.

21. The parties having declared that they had no other submissions to make, the session was then suspended for judgment. On the same day, in line with the agreement reached by the parties, the applicants were sentenced to forty years' imprisonment. The Criminal Court also ordered them to pay 42,930.73 euros (EUR) in expert expenses and the proceeds of the crime, in the sum of EUR 50,000 per applicant.

22. The parties' agreement as submitted, jointly, to the Criminal Court read as follows:

> "That the parties are agreeing in terms of Article 453A of Chapter IX of the Laws of Malta that in view of the admission on the part of the accused applicants George Degiorgio and Alfred Degiorgio registered *seduta stante* today the 14th October 2022 for all the charges brought against them in the bill of indictment in the names above premised (six charges), the penalty to be imposed on each of the accused George and Alfred Degiorgio shall be that of forty (40) years effective imprisonment, and this besides any other sanction applicable *ex lege* to the charges for which guilt has been admitted, including the payment of a share of the expert expenses incurred in connection with the proceedings in the names above premised."

(b) The appeal

23. Represented by a lawyer of their own choice, the applicants appealed to the Court of Criminal Appeal, challenging both the interlocutory decision of the Criminal Court ordering the jury to proceed and that they be represented by legal aid lawyers, and the Criminal Court's judgment, considering that they had been convicted based on an admission which had not been given voluntarily. In respect of the latter, in relation to both applicants, they argued that they had had insufficient time to discuss their defence with their legal aid lawyers, and thus it could not be said that their admission and plea bargain had been obtained freely in the context of a fair trial in respect of the principle of equality of arms. The second applicant further argued that he had not had the mental capacity to take that decision and stand trial. He claimed that, while he had no physical problem, given that he was under assistance in relation to feeding and drinking, he was nonetheless weak which effected his capability of rejecting his brother's advice and assessing the consequences of his decision.

24. By a judgment of 22 November 2023 the Court of Criminal Appeal rejected the appeal. It noted that, while the interlocutory decision was not appealable prior to an appeal judgment on the merits, the issues raised were intrinsically linked to their further complaint relating to the main judgment and would be part of that assessment. In the latter connection, the Court of Criminal Appeal noted that the applicants had claimed that their admission had not been voluntary because it was given in the context of an unfair trial, in the absence of equality of arms, given that they had not been accompanied by a lawyer of choice, and that there had been insufficient time to prepare their defence.

25. In respect of this complaint, the Court of Criminal Appeal noted the written agreement signed by the parties and submitted to the Criminal Court on 14 October 2022 (see paragraph 22 above) in relation to their plea bargain. As to their admission, it recalled that, according to domestic case-law, the minutes of the hearing were to be considered as accepted facts by the parties (*għandhom jagħmlu stat fil-konfront tal-partijiet*) at least *prima facie* in the absence of any evident error, and that the applicants in the present case had not claimed that there had been any error or inaccuracy in the relevant minutes. Thus, with reference to each step taken on that day, as recorded in the minutes of the hearing (see paragraph 19 above), the Court of Criminal Appeal considered that the procedural safeguards applicable to guilty pleas under Article 453 of the Criminal Code had been fully respected. The Criminal Court had gone even further by appointing medical experts to ascertain that the applicants' admission had been made freely and was not motivated by any "involuntary elements", and that they had fully understood the implications of their actions.

26. As to their claims concerning the fairness of the proceedings, with reference to domestic case-law and that of the European Court of Human

Rights ("ECtHR"), it listed the relevant provisions of domestic law (see paragraphs 39, 41 and 43 below) recalling that it was its primary duty to ensure that the law had been respected in order to guarantee that the applicants had a fair trial. Bearing in mind the principle of parity of arms, it considered that, while it was true that the file was voluminous, the lawyers had had more than forty days to prepare – double the time recommended in the law. Moreover, in the Maltese domestic system, each witness (who had testified at the committal stage) was to be reheard at the jury trial (save some exceptions provided in law and carrying relevant safeguards) and no further evidence than that already presented could be submitted, thus no evidentiary surprises awaited the applicants. These circumstances distinguished the case from the ECtHR case-law relied on by the applicants. Furthermore, the applicants' eventual plea bargain concerning sentencing and admission was the last step in a process which had already been initiated by their lawyer of choice (*via* discussions with the prosecution) long before the jury date. This fact was not disputed by the applicants. In addition, the Criminal Court had taken great caution in ensuring that their admission had been voluntary and made in full awareness of its implications. Taking these circumstances into account, as well as the domestic law and the ECtHR case-law, it considered that there had been no element or deficiency in the procedures which could have affected the overall fairness of the proceedings.

27. In respect of the appeal ground submitted solely by the second applicant, the Court of Criminal Appeal noted that the Criminal Court had, on 3 October 2022, ordered a medical expert to assess the second applicant's ongoing situation and keep the court informed, which he did, and on 13 October 2022 the doctor had reported to the court that he had found the second applicant fit for trial. Moreover, on the doctor's advice, the Criminal Court had appointed a medical team to assist him 24/7 and keep the court informed should his condition deteriorate. Once at the trial, at the request of the Criminal Court, the second applicant was examined by a doctor and a psychiatrist following his guilty plea. According to the medical doctor's testimony, the second applicant was hydrated, and his blood, glucose and oxygen parameters were good. According to the psychiatrist's testimony, the second applicant (who had been examined separately from his brother) had also fulfilled the relevant criteria to be considered mentally fit to stand trial. Asked whether the applicants were understanding what was going on, the psychiatrist confirmed. The Criminal Court had even asked the psychiatrist whether specifically the second applicant was understanding (with even more caution than in relation to his brother) what was going on, and the psychiatrist confirmed this. Furthermore, no other questions were raised by the legal representatives despite an invitation to that effect by the court. Bearing in mind the expert's conclusions and the precautions adopted by the Criminal Court, the Court of Criminal Appeal considered that this appeal ground was

unfounded, given that nothing indicated that the second applicant had not been in a position to understand the consequences of his statement.

B. The constitutional redress proceedings

28. Prior to their admission, on 3 October 2022, the applicants had instituted constitutional redress proceedings, with the assistance of legal aid lawyers. They complained, under Article 6 § 3 of the Convention, that during their criminal proceedings they had not been given the possibility to appoint a legal representative of their own choosing; that the legal aid lawyers had been imposed on them; and that the latter had not been given sufficient time to examine the evidence already presented.

29. An urgent interim request to suspend the proceedings was rejected by means of a first-instance decision of 11 October 2022, after the court heard the parties and examined the evidence adduced (see paragraph 13 above).

30. During these proceedings, besides the submissions of the parties, including the victim third parties, the court heard witness testimony from both applicants, one of their legal aid lawyers during the criminal proceedings, both medical experts, and the registrars of the Criminal Court.

1. The first-instance judgment

31. By a judgment of 19 April 2024 the Civil Court (First Hall), in its constitutional competence, rejected their complaints on the merits.

32. Referring to the general principles arising from the ECtHR's case-law, it found that the Criminal Court had given various extensions to the applicants to find a lawyer of choice and even postponed the trial by jury in consideration of their wishes. It ultimately appointed the legal aid lawyers as a measure of last resort given that the applicants could not find a lawyer of choice ready to accept the mandate. In the interests of the celerity of proceedings, the Criminal Court could not postpone the trial *ad eternum*. The latter, coupled with the fact that the applicants had been given the opportunity to find a lawyer of choice, were relevant and sufficient reasons to appoint legal aid lawyers at that stage. Moreover, assessing proceedings as a whole, that appointment had not rendered their trial unfair. Indeed, the applicants had had the benefit of a detailed assessment by the Court of Criminal Appeal concerning their claim that their admission had not been voluntary which found no procedural irregularities. Thus, by appointing legal aid lawyers, experienced in jury trials, the Criminal Court had helped the applicants and not breached their rights.

33. As to their complaint concerning the preparation time, it took note of the legal aid lawyers' testimony and the considerations of the Criminal Court in that respect (see paragraph 15 above). It noted that the Criminal Court had doubled the time provided by law and, while the case file was voluminous and the situation had not been ideal given the recent appointment, this was

not sufficient to consider that forty days had not been enough to prepare a defence, especially given that all witnesses had to be re-heard at trial. Moreover, the applicants had declared – and subsequently conformed with that declaration – that they did not want to communicate with the legal aid lawyers. Indeed, it appeared that they only had one communication over skype just before the trial, the applicants having opted to continue searching for a lawyer of choice. It was thus them who had wasted the time allotted to them to prepare their defence. Furthermore, while the applicants argued that it was the lack of time to prepare their defence that had led to their admission, the applicants had not denied that such a course of action had already been initiated by their previous lawyer of choice. Thus, the actions of the Criminal Court which had appointed legal representatives, when the applicants had difficulty finding their own, and extended their preparation time, as well as respected the overall fairness of the proceedings, had not breached the applicants' rights.

2. The appeal

34. The applicants appealed, arguing that they had been given too short a time to find a lawyer of choice (who would be reluctant given the short preparation time available for the defence); that the legal provision applied to appoint their legal aid lawyers was intended for situations where no lawyer could be found at all, but was not intended to cover situations where no lawyer could be found within a limited timeframe; and that, while extra preparation time had been given by the court, it had been humanly impossible for the legal aid lawyers to prepare a defence in time for the jury trial.

35. By a final judgment of 28 April 2025 the Constitutional Court confirmed the first-instance judgment. Making those findings its own, it emphasised that the applicants had been given sufficient time to find a lawyer of choice, namely twelve days, during which they contacted various lawyers, none of whom had wanted to take up their case. It thus could not be said that they had not been given the possibility to find a lawyer of choice, and it was only in light of their inability to find one (ready to take their case) that the Criminal Court assigned legal aid lawyers to the applicants. The right to a lawyer of choice not being absolute and given the requirements for defendants to be legally represented, the Criminal Court had acted appropriately when appointing legal aid lawyers at that stage and in those circumstances, also given that the applicants had not opted for self-representation. It considered that an accused's requests could not be accepted at all costs, to the detriment of the public interest in ensuring that proceedings come to an end within a reasonable time for the benefit of society as a whole, the accused and the victim's family.

36. As to the preparation time, the Constitutional Court confirmed the findings of the first-instance court on the matter (see paragraph 33 above). It noted that, once the lawyers had been appointed, the applicants had been

given an additional forty days before the start of the trial. This was more than double the period stipulated by law, and was considered reasonable for the applicants to familiarise themselves with the acts of the proceedings and prepare a defence, as noted by the Criminal Court. Nevertheless, the matter was no longer relevant (*il-mertu ġie eżawrit*) once the applicants had chosen to plead guilty and agreed to a plea bargain. The Constitutional Court did not find it credible that the applicants had submitted a guilty plea for lack of time, despite their claimed innocence. While, in their testimony, they alleged that the lawyers had informed them that their options were either heading towards a defeat in the jury trial or lodging an admission, no proof of this had been put forward. Nor had this been claimed during the trial or when they submitted their guilty plea. It thus rejected this ground of appeal with reference to the case of *Gäfgen v. Germany* ([GC], no. 22978/05, § 183, ECHR 2010), emphasising the finding that there was no reason to assume that the "confession should thus be regarded as a consequence of measures which extinguished the essence of his defence rights".

RELEVANT LEGAL FRAMEWORK

37. Article 453 of the Criminal Code reads as follows:

> "(1) If the accused, in answer to the question prescribed under article 450, states that he is guilty of the offence, the court shall in the most solemn manner warn him of the legal consequences of such statement, and shall allow him a short time to retract it; but if the accused persists in his statement, such statement shall be recorded and the court shall proceed to pass on the accused such sentence as would according to law be passed on an accused convicted of the offence.
>
> (2) Nevertheless, if there is good reason to doubt whether the offence has really taken place at all, or whether the accused is guilty of the offence, the court shall, notwithstanding the confession of the accused, order the trial of the cause to be proceeded with as if the accused had not pleaded guilty."

38. In so far as relevant article 453A of the Criminal Code reads as follows:

> "(1) Before the accused pleads to the general issue as provided in article 453, the accused and the Attorney General may request the court, in the eventuality of a plea of guilty, to apply a sanction or measure or, where provided for by law, a combination of sanctions or measures, of the kind and quantity agreed between them and to which the accused can be sentenced upon conviction for the offence or offences with which he is accused.
>
> (2) If the court is satisfied that the sanction or measure, or combination of sanctions and measures, requested as provided in sub-article (1) is one which it would have been lawful for it to impose upon conviction for the offence to which the accused has pleaded guilty and does not have cause to order the trial of the cause to be proceeded with for a reason referred to in article 453(2) or for any other reason to reject the request, and after explaining to the accused in clear terms the consequences of his request, the court shall, upon a plea of guilty by the accused, proceed to pass the sentence indicated to it by the

parties declaring in its judgement that the sentence being awarded is being so awarded at the request of the parties."

39. In so far as relevant, article 438 of the Criminal Code reads as follows:

"(6) The accused shall be served with a notice of such date [for the hearing of the trial] allowing a term of at least twenty days to prepare his defence. The court may, on good cause being shown, and after hearing the Attorney General, extend such term to any further period as it may deem fit."

40. In so far as relevant article 492 (1) of the Criminal Code reads as follows:

"(1) Where at any time before the constitution of the jury the accused declares himself guilty and for the fact admitted by the accused there is established the punishment of imprisonment for life, the court may, instead of the said punishment, impose the punishment of imprisonment for a term from twelve to forty years."

41. In so far as relevant, article 646 of the Criminal Code reads as follows:

"(1) Subject to the ensuing provisions of this article, witnesses shall always be examined in court and viva voce.

(2) The deposition of witnesses, whether against or in favour of the person charged or accused, if taken on oath in the course of the inquiry according to law, shall be admissible as evidence:

Provided that the witness is also produced in court to be examined viva voce as provided in sub-article (1) unless, when assessing the circumstances of the case, it is apparent to the court that appearing for viva voce examination may cause the witness to suffer psychological harm, or when the witness is dead, absent from Malta or cannot be found and saving the provisions of sub-article (8) (...)"

42. Article 572A of the Criminal Code reads as follows:

"The court may upon the request of a suspect, accused persons or of a requested person referred to in article 355AT(2)(c), where the circumstances so justify, order that the advocate assigned to them be replaced."

43. Subsidiary legislation 9.11 entitled "court practice and procedure and good order (Criminal Court) rules of court", in so far as relevant, reads as follows:

"2. (1) Only one application for the postponement of a trial by jury, on the ground of indisposition of counsel, may be granted.

(2) The Criminal Court, in dealing with any such application, shall appoint the Advocate for Legal Aid or another advocate to undertake the defence of the accused, should the advocate retained by the accused not appear on the day to which the trial shall be put off."

COMPLAINTS

44. The applicants complained under Article 6 § 3 of the Convention that they had not been given adequate time and opportunity to find a new lawyer

of choice, and that the appointment of the legal aid lawyers had not been according to law.

45. The applicants further complained under Article 6 § 3 that the legal aid lawyers had no adequate time to prepare their defence.

THE LAW

A. Joinder of the applications

46. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Article 6 §§ 1 and 3 of the Convention

47. The applicants complained of a violation of their rights under Article 6 § 3 of the Convention.

48. At the outset, the Court reiterates that, the guarantees contained in paragraph 3 of Article 6 are specific aspects of the general concept of a fair trial set forth in paragraph 1. The various rights, of which a non-exhaustive list appears in paragraph 3, reflect certain of the aspects of the notion of a fair trial in criminal proceedings. When compliance with paragraph 3 is being reviewed, its basic purpose must not be forgotten nor must it be severed from its roots. The Court therefore considers complaints under Article 6 § 3 under paragraphs 1 and 3 of Article 6 taken together (see, *inter alia*, *Meftah and Others v. France* [GC], nos. 32911/96 and 2 others, § 40, ECHR 2002-VII, with further references).

49. The provision, in so far as relevant, reads as follows:

> "1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...
>
> 3. Everyone charged with a criminal offence has the following minimum rights:
>
> ...
>
> (b) to have adequate time and facilities for the preparation of his defence;
>
> (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; ..."

1. The applicants' submissions

50. The applicants explained that after their lawyer of choice had been assisting them for four and half years, they had only been given a short time "during the official summer recess, when most lawyers would be unreachable" to find another lawyer of choice. In this connection, they further considered that the appointment of the legal aid lawyers had been imposed on them by the Criminal Court by resorting to a law that was meant to be

invoked only when no lawyer was willing to assist a particular person or because of some conflict of interest, and not when, as in the applicants' case, they could not find a lawyer because of the specific circumstances. They alleged that all the lawyers they had spoken to had indicated to them that it would be impossible for them to prepare for a jury trial in just a few days.

51. Without prejudice to their previous complaints, they also complained that the legal aid lawyers had not had adequate time to take cognisance of all the acts of the case and of all the evidence produced by the prosecution. They were therefore unable to come up with a line of defence and prepare effective cross-examination for the witnesses which were to be produced at trial. They also had had no time to discuss all this with the applicants, thus leaving them without a defence.

2. The Court's assessment

(a) Preliminary remarks

52. The Court reiterates that an applicant must complain that a certain act or omission entailed a violation of the rights set forth in the Convention or the Protocols thereto in a manner which should not leave the Court to second-guess whether a certain complaint was raised or not (see *Fu Quan, s.r.o. v. the Czech Republic* [GC], no. 24827/14, § 145, 1 June 2023, and *Grosam v. the Czech Republic* [GC], no. 19750/13, § 90, 1 June 2023). Specifically, the Court has held that ambiguous phrases or isolated words do not suffice for it to accept that a particular complaint had been raised (see *Ilias and Ahmed v. Hungary* [GC], no. 47287/15, § 85, 21 November 2019).

53. In the present case, the Court notes that, apart from certain factual allegations made in the 'Facts' section of the application (see paragraphs 16 and 18 above), nothing in the applicants' complaints before this Court (see paragraphs 44-45 and 50-51 above) challenges the voluntariness of the guilty plea (contrast their pleas before the Criminal Court of Appeal, see paragraph 23 above).

54. However, the Court notes that the complaints brought before it mirror those brought before the constitutional jurisdictions. The latter proceedings had been lodged prior to the applicants' decision to plead guilty and the subsequent appeal. Consequently, those complaints had been made in isolation, outside the context of the proceedings as a whole. However, the Court has already noted above (see paragraph 48 above) that complaints under Article 6 § 3 are examined conjointly with Article 6 § 1. Accordingly, in making their assessment, the constitutional jurisdictions examined the complaints in the light of the evolving situation and the overall fairness of the proceedings, which by then had come to an end.

55. In this connection, the Court reiterates that its primary concern under Article 6 § 1 is to evaluate the overall fairness of the criminal proceedings (see, *inter alia*, *Taxquet v. Belgium* [GC], no. 926/05, § 84, ECHR 2010;

El Khoury v. Germany, nos. 8824/09 and 42836/12, § 93, 9 July 2015; and *Habran and Dalem v. Belgium*, nos. 43000/11 and 49380/11, § 94, 17 January 2017). The Court, in making its assessment, will look at the proceedings as a whole, having regard to the rights of the defence but also to the interests of the public and the victims that crime is properly prosecuted and, where necessary, to the rights of witnesses (see, *mutatis mutandis*, *Al-Khawaja and Tahery v. the United Kingdom* [GC], nos. 26766/05 and 22228/06, § 118, ECHR 2011; *Pákozdi v. Hungary*, no. 51269/07, § 26, 25 November 2014; and *Adamčo v. Slovakia*, no. 45084/14, § 56, 12 November 2019).

56. In this connection, it cannot be ignored that the applicants reached a plea bargain agreement and pleaded guilty to all the charges (with the consequences that that may entail, see paragraph 66 below), an element which is of relevance to the assessment of certain complaints more than others, as illustrated in the Court's assessment of the two complaints in the present case.

(b) Assistance of their own choosing

57. Regarding the applicants' complaint that they had not been given adequate time and opportunity to find a lawyer of choice, and that the appointment of the legal aid lawyers had not been according to law, the Court considers that, in the present case, the guilty plea filed by the applicants has no bearing, *a priori*, on the assessment of this complaint (compare *Cuscani v. the United Kingdom*, no. 32771/96, §§ 34-40, 24 September 2002, in respect of a complaint of a lack of interpretation as a result of which the applicant could not appreciate the consequences of his guilty plea).

58. The Court notes that the fact that the appointment of the legal aid lawyers conformed with the domestic law has already been established by the domestic courts (see paragraphs 26 and 35 above). In this connection, the Court reiterates that it is not its task to take the place of the domestic courts, which are in the best position to assess the evidence before them, establish facts and interpret domestic law. The Court should not act as a court of fourth instance and will not therefore question the judgment of the national courts, unless their findings can be regarded as arbitrary or manifestly unreasonable (see *Zaghini v. San Marino*, no. 3405/21, § 62, 11 May 2023). Indeed, the applicants themselves both at the domestic level (see paragraph 8 above) and before this Court (see paragraph 50 above) admitted that they had been unable to find a lawyer who accepted to take on the case. It follows that the use of the impugned provision (see paragraph 43 above) in the present case and the subsequent findings of the domestic courts in that respect were not arbitrary nor unreasonable.

59. As to whether that appointment conformed to the Convention standards, the Court has made clear that, when exercising the choice which Article 6 §§ 1 and 3 (c) confers on them, the national authorities must have regard to the defendant's wishes as to his or her choice of legal representation, but may override those wishes when there are relevant and sufficient grounds

for holding that this is necessary in the interests of justice (see *Dvorski v. Croatia* [GC], no. 25703/11, § 79, ECHR 2015 and the case-law cited therein, and *Correia de Matos v. Portugal* [GC], no. 56402/12, § 126, 4 April 2018). Where such grounds are lacking, a restriction on the free choice of defence counsel would entail a violation of Article 6 § 1 together with paragraph 3(c) if it adversely affected the applicant's defence, regard being had to the proceedings as a whole (see *Dvorski*, cited above, § 79).

60. As noted by the constitutional jurisdictions (see paragraphs 32 and 35 above), in the present case, the decision of the Criminal Court to appoint legal aid lawyers in the circumstances of the case had been appropriate and based on relevant and sufficient reasons. Indeed, the applicants had had twelve days to find a lawyer (19-31 August 2022), and despite the summer period and their argument before this Court that most lawyers would be "unreachable", the facts show that, on their own admission, the applicants had been in touch with several lawyers who however refused to take their case (see paragraph 8 above). No evidence has been submitted as to the reasons for such refusals. Indeed, it was uncertain whether the applicants would find a lawyer of choice, it was therefore reasonable for the Criminal Court to disregard their objections. In those circumstances, the Court accepts that the interests of the celerity of the case – which concerned the wilful homicide of a journalist – and that of third parties, constituted relevant and sufficient grounds in the interests of justice for overriding the applicants' wishes.

61. The Court further notes that the applicants could have requested, upon valid reason, the replacement of such lawyers (see article 572A of the Criminal Code, at paragraph 42 above), a course of action the applicants opted to forgo. Moreover, the impugned decision had been subject to the scrutiny of the Criminal Court and subsequently the constitutional jurisdictions.

62. This having been established, it is unnecessary for the Court to examine whether that choice had an adverse effect on the applicants (see conversely *Dvorski*, cited above, § 103 et seq.). Nonetheless, the Court finds it pertinent to point out that, even if the relevant and sufficient reasons had been lacking, the applicants themselves have not explained or even attempted to argue how the decision to appoint to them legal aid lawyers had affected the fairness of their proceedings. Indeed, as already noted above in the Court's preliminary considerations (see paragraph 54 above), the constitutional proceedings whereby the applicants raised this Convention complaint had been initiated even before the trial had started (see, *mutatis mutandis*, *Stevan Petrović v. Serbia*, nos. 6097/16 and 28999/19, § 171, 20 April 2021). In these circumstances, it is unnecessary for the Court to make any considerations regarding their guilty plea.

63. It follows that this complaint must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

(c) Adequate time for the preparation of their defence

64. Conversely, for the purposes of the assessment of this complaint the Court cannot ignore the fact that the applicants reached a plea bargain agreement and pleaded guilty to all the charges.

65. The Court reiterates that it can be considered a common feature of European criminal-justice systems for an accused to obtain the lessening of charges or receive a reduction of his or her sentence in exchange for a guilty or *nolo contendere* plea in advance of trial. There cannot be anything improper in the process of charge or sentence bargaining in itself (see *Natsvlishvili and Togonidze v. Georgia*, no. 9043/05, § 90, ECHR 2014 (extracts)).

66. The Court considers that, where the effect of plea bargaining is that a criminal charge against the accused is determined through an abridged form of judicial examination, this amounts, in substance, to the waiver of a number of procedural rights. This cannot be a problem in itself, since neither the letter nor the spirit of Article 6 prevents a person from waiving these safeguards of his or her own free will. However, it is also a cornerstone principle that any waiver of procedural rights must always, if it is to be effective for Convention purposes, be established in an unequivocal manner and be attended by minimum safeguards commensurate with its importance (ibid., § 91; see also *Mughal v. The United Kingdom* (dec)., no. 28055/08, § 17, 21 February 2012 in relation to a guilty plea). In addition, it must not run counter to any important public interest (see *Hermi v. Italy* [GC], no. 18114/02, § 73, ECHR 2006-XII; *Scoppola v. Italy (no. 2)* [GC], no. 10249/03, § 135, 17 September 2009; and *Natsvlishvili and Togonidze*, cited above, § 91).

67. By analogy with the above-mentioned principles concerning the validity of such waivers, the Court has held that a decision to accept a plea bargain should be accompanied by the following conditions: (a) the bargain must be accepted in full awareness of the facts of the case and the legal consequences and in a genuinely voluntary manner; and (b) the content of the bargain and the fairness of the manner in which it had been reached between the parties must be subject to sufficient judicial review (ibid., § 92). A similar test was applied in the context of guilty pleas (see *V.C.L. and A.N. v. the United Kingdom*, nos. 77587/12 and 74603/12, §§ 202-03, 16 February 2021, and compare, in substance, the earlier *Mughal* (dec.), cited above, §§ 18-19).

68. Turning to the present case, the Court notes that the applicants did not challenge the content of their plea bargain before the domestic courts or this Court, nor did they claim that it was unfair. The Court also notes that a written record of the agreement reached between the parties was drawn up and submitted jointly to the Criminal Court for consideration, thus making it possible to have the exact terms of the agreement set out for judicial review in a clear and incontrovertible manner (compare, *Natsvlishvili and Togonidze*, cited above, § 92).

69. As to their guilty plea, as noted above, the applicants did not reiterate before this Court their complaint (made at the domestic level, before the Court of Appeal, see paragraph 23 above) that "they had been convicted based on an admission which had not been given voluntarily". Their complaint was limited to the singular procedural issue concerning the lack of adequate time to prepare their defence. Nevertheless, the Court will examine whether their guilty plea, and consequent waiver of certain procedural rights, conformed to the Convention standards.

70. In the cases at hand, the applicants' guilty pleas were undoubtedly "unequivocal" and, as they were legally represented, the applicants were almost certainly made aware that there would be no examination of the merits of their cases if they pleaded guilty (see, *mutatis mutandis*, *V.C.L. and A.N. v. the United Kingdom,* cited above, § 202). Furthermore, as held by the Court of Criminal Appeal (see paragraph 25 above), the procedural safeguards applicable to guilty pleas under Article 453 of the Criminal Code had been fully respected, and the Criminal Court had gone even further by appointing medical experts to ascertain that the applicants' admission had been made freely and was not motivated by any "involuntary elements", and that they had fully understood the import of their actions.

71. In this connection, the Court observes that, while the applicants made factual allegations about the "Hobson's choice" presented to them by their legal aid lawyers and referred to the second applicant as being "practically unconscious" on the day of the trial and being hardly able to speak (see paragraphs 16 and 18 above), not one piece of evidence – such as an affidavit or a medical report – in support of their allegations has been submitted to this Court (contrast *X v. the United Kingdom*, Commission decision of 23 March 1972, unreported). Moreover, their factual allegations are vague in chronology, and do not entirely correspond to the trial record (in the form of the minutes of the hearing submitted to the Court), in respect of which there was no contestation before the Court of Appeal (see paragraph 25 above). In this connection, the Court reiterates that it would require compelling evidence for the Court to consider that an official document, such as a trial record, is unreliable (see *Saranchov v. Ukraine*, no. 2308/06, § 54, 9 June 2016). In the present case none was presented, the Court will therefore proceed on the assumption that the trial was conducted in the manner described in the record (see, for example, *Galstyan v. Armenia*, no. 26986/03, § 76, 15 November 2007) and assessed by the Court of Criminal Appeal.

72. In addition, there is no reason to doubt that the guilty pleas were submitted in full awareness of the facts of the case and the legal consequences. Apart from the fact that no submissions to that effect have been made by the applicants at any stage, the Court observes that, in Malta, all the evidence is brought forward prior to the trial, within committal proceedings. In that phase, during which the applicants had been represented by their lawyer of choice, they were presented with the facts and all the prosecution

evidence and could thus already make an assessment of the likelihood of their being convicted (compare *Mughal* (dec.), cited above, § 18). Indeed, at that stage and with their lawyer of choice, they had already envisaged a plea bargain agreement, there is therefore no reason to doubt that they were aware of the possible legal consequences both of the plea bargain, and their admission, the latter having also been explained to them by the judge during the trial at the relevant time. Thus, the applicants were fully aware of all the facts and elements of the prosecution's case against them, as well as the possible legal consequences.

73. As to whether the guilty pleas were made in a genuinely voluntary manner, the Court observes that both applicants were fit to stand trial, and that the experts testified to that on the same day, after examining the applicants (see paragraph 19 above). At no point, that day or thereafter, did the applicants challenge the experts' conclusions. There is therefore no reason to question their mental and physical state, or the validity of the pleas accepted by the domestic courts on that ground (compare *Snowdon v. the United Kingdom*, Commission decision of 12 March 1998, unreported). Further, the Court notes that it has not been argued, and even less has it been established, that those statements had been made in breach of Article 3, which would render the proceedings as a whole unfair (see *Ibrahim and Others v. the United Kingdom* [GC], nos. 50541/08 and 3 others, § 254, 13 September 2016).

74. As to whether the situation they were in, namely in relation to the time allotted to the legal aid lawyers for the preparation of their defence, could have constituted a form of pressure or constraint (irrespective of the unsubstantiated allegations made by the applicants at paragraph 16 above), the Court notes as follows.

75. According to its case-law, while the authorities responsible for appointing counsel have to ensure that they are capable of effectively defending the accused, national judges must also strike a balance between the need to ensure that the accused have enough time to prepare and the need to ensure that a trial progresses in a reasonably expeditious way (see *Naviede v. the United Kingdom* (dec.), no. 38072/97, 7 September 1999, and *Tsonyo Tsonev v. Bulgaria (no. 2)*, no. 2376/03, § 36, 14 January 2010). When assessing whether the accused had adequate time for the preparation of his defence, particular regard has to be had to the nature of the proceedings, as well as the complexity of the case and stage of the proceedings (see *Gregačević v. Croatia*, no. 58331/09, § 51, 10 July 2012 and *Albert and Le Compte v. Belgium*, 10 February 1983, § 41, Series A no. 58).

76. In the present case, while a little more than forty days to cover the entire material might appear short, the Court observes that two lawyers, rather than one, had been appointed to assist the applicants charged with the same facts and offences. The applicants were already aware of all the evidence already presented at the committal stage, on the basis of which they had

already considered a plea bargain and a guilty plea. Given the extent of the evidence, the trial was likely to last several days, which would give the lawyers more time to prepare the defence. Lastly, the domestic jurisdictions, particularly the Criminal Court, which was familiar with the case set for trial, considered that time to be sufficient.

77. Thus, in the Court's view, even assuming that the time allotted for the preparation of their defence might appear short, this could not be considered as sufficient pressure to find that their guilty pleas were tainted by constraint (see, *mutatis mutandis*, and, *a contrario*, *Deweer v. Belgium*, 27 February 1980, § 54, Series A no. 35).

78. Additionally, the Court cannot but note that there was no "flagrant disproportion" between the alternatives facing the applicants (contrast *Deweer*, cited above, § 51) which could be said to have rendered the pressure so compelling that the applicants yielded to it. Indeed, the Court notes that, on the one hand, the applicants were faced with a plea bargain of forty years imprisonment, and, on the other hand, if convicted, to a maximum sentence of life-imprisonment – which, given their age (60 and 58 years respectively at the time), is unlikely to amount in practice to a substantially longer prison sentence.

79. Finally, the Court reiterates that there is no evidence of any other inducement, constraint or pressure being applied to them by their legal aid lawyers (or anyone else), as also found by the constitutional jurisdictions, who had the advantage of hearing both the applicants and legal aid counsel (see paragraph 30 above).

80. The Court thus considers that their guilty pleas had also been given voluntarily.

81. Lastly, as the admissions had been subject to thorough assessment by both by the Court of Appeal and the constitutional jurisdictions, they were accompanied by safeguards commensurate with their importance.

82. In the light of the foregoing, the Court concludes that the applicants' acceptance of the plea bargain and consequent guilty pleas, which entailed the waiver of their rights to an ordinary examination of the case on the merits, was a conscious and voluntary decision. Based on the circumstances of the case, that decision could not be said to have resulted from any duress. Moreover, throughout the process and subsequent to their decision, the applicants had relevant and sufficient safeguards against a possible abuse of process. Lastly, the available case materials disclose no indication that the waiver ran counter to any major public interest (see, *mutatis mutandis*, *Natsvlishvili and Togonidze*, cited above, § 97).

83. It follows that this complaint must be rejected as being manifestly ill founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

1. *Decides* to join the applications;

2. *Declares* the applications inadmissible.

Done in English and notified in writing on 24 September 2026.

Hasan Bakırcı Registrar	Lado Chanturia President