ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ
ΝΟΜΙΚΗ ΥΠΗΡΕΣΙΑ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ

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Τομέας Ατομικών
Δικαιωμάτων/Ελευθεριών
Νομικής Υπηρεσίας
(διεθνής πτυχή)

ΜΕ ΤΟ ΧΕΡΙ

Πρόεδρο Παγκύπριου Δικηγορικού Συλλόγου
Πρόεδρο Κοινοβουλευτικής Επιτροπής Ανθρωπίνων Δικαιωμάτων
Πρόεδρο Κοινοβουλευτικής Επιτροπής Νομικών

Θέμα: Απόφαση Ευρωπαϊκού Δικαστηρίου Ανθρωπίνων Δικαιωμάτων στην ατομική προσφυγή *Drousiotis v. Cyprus* (no. 42315/15)

Επισυνάπτω για ενημέρωση απόφαση του Ευρωπαϊκού Δικαστηρίου Ανθρωπίνων Δικαιωμάτων (από τούδε «το Δικαστήριο») στην ατομική προσφυγή *Drousiotis v. Cyprus* (αρ. αίτησης 42315/15), η οποία κατέστη τελεσίδικη στις 5.10.22. Για τους λόγους που καταγράφονται στην επισυναπτόμενη απόφαση, το Δικαστήριο προέβη σε εύρημα παραβίασης του δικαιώματος της ελευθερίας της έκφρασης του αιτητή όπως αυτό διασφαλίζεται στο Άρθρο 10 της Ευρωπαϊκής Σύμβασης Ανθρωπίνων Δικαιωμάτων (από τούδε «η Σύμβαση»).

Αιτητής είναι ο δημοσιογράφος Μακάριος Δρουσιώτης, ο οποίος στις 10.3.05 δημοσίευσε στην εφημερίδα «Πολίτης» άρθρο με τίτλο «το καθεστώς του νότου προάγει την παράνοια». Θεωρώντας το δημοσίευμα δυσφημιστικό, ο Σ.Π. καταχώρησε αγωγή για λίβελλο εναντίον του αιτητή και της εταιρείας Εκδόσεις Αρκτίνος Λτδ. που εξέδιδε την

εφημερίδα «Πολίτης». Το Επαρχιακό Δικαστήριο Λευκωσίας έκρινε το δημοσίευμα δυσφημιστικό και απέρριψε τις υπερασπίσεις του έντιμου σχολίου και του προνομιούχου δημοσιεύματος που πρόβαλαν οι εναγόμενοι.[1] Επιδίκασε αποζημιώσεις εναντίον των εναγομένων αλληλεγγύως και/ή κεχωρισμένως για το ποσό των 25,000 ευρώ. Οι εναγόμενοι άσκησαν έφεση εναντίον της πρωτόδικης απόφασης η οποία απορρίφθηκε από το Ανώτατο Δικαστήριο στις 6.3.15.[2] Ενώπιον του Δικαστηρίου ο αιτητής παραπονέθηκε για παραβίαση του δικαιώματος της ελευθερίας της έκφρασης.

Αντικείμενο εξέτασης ενώπιον του Δικαστηρίου αποτέλεσε η σύγκρουση μεταξύ δύο δικαιωμάτων και δη, της ελευθερίας της έκφρασης του αιτητή και του σεβασμού της ιδιωτικής ζωής του Σ.Π., δικαιώματα που προστατεύονται αντίστοιχα στα Άρθρα 10 και 8 της Σύμβασης. Το Δικαστήριο εξέτασε αν η επέμβαση στην ελευθερία της έκφρασης του αιτητή ήταν «αναγκαία σε μία δημοκρατική κοινωνία»[3] και πιο συγκεκριμένα, αν στην υπό εξέταση περίπτωση τα εθνικά δικαστήρια πέτυχαν δίκαιη εξισορρόπηση μεταξύ των δύο αλληλοσυγκρουόμενων δικαιωμάτων. Το Δικαστήριο καθοδηγήθηκε από τη γνωστή απόφαση του Τμήματος Ευρείας Συνθέσεως *Axel Springer AG v. Germany* [GC], αρ. αίτησης 39954/08, ημερ. 7.2.12 η οποία καταγράφει τα κριτήρια που το καθοδηγούν κατά την αξιολόγηση της αναγκαιότητας της επέμβασης και της δίκαιης εξισορρόπησης που πρέπει να επιτυγχάνεται μεταξύ της ελευθερίας της έκφρασης και του σεβασμού της ιδιωτικής ζωής.

Εν συντομία, τα εφαρμοστέα κριτήρια είναι τα ακόλουθα: (α) συμβολή σε συζήτηση θεμάτων δημοσίου ενδιαφέροντος, (β) το καθεστώς του προσώπου που η δημοσίευση το αφορά, (γ) το περιεχόμενο, ο τρόπος και οι συνέπειες της δημοσίευσης και (δ) η βαρύτητα της ποινής που επιβάλλεται σε δημοσιογράφους και σε εκδότες. Επίσης, πρέπει να διακρίνεται η δήλωση γεγονότων από την έκφραση γνώμης, ενώ όπου μια δήλωση γεγονότων ισοδυναμεί με έκφραση γνώμης, η αναλογικότητα της επέμβασης κρίνεται στην ύπαρξη ή μη ικανοποιητικής πραγματικής βάσης. Πέραν αυτών, η έλλειψη σχετικής και επαρκούς αιτιολογίας εκ μέρους των εθνικών δικαστηρίων ή η μη εξέταση των εφαρμοστέων κριτηρίων κατά την αξιολόγηση της εν λόγω επέμβασης οδηγεί σε παραβίαση του Άρθρου 10 (βλ. παράγραφος 39-46 της Απόφασης).

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[1] Βλ. αρ. αγωγής 2560/2005, απόφαση ημερ. 04.05.11.

[2] Βλ. πολιτική έφεση αρ. 236/11, απόφαση ημερ. 06.03.15.

[3] Δεν αποτέλεσε αντικείμενο εξέτασης και ούτε αμφισβητήθηκε ότι οι αποφάσεις του Επαρχιακού Δικαστηρίου Λευκωσίας και του Ανώτατου Δικαστηρίου με τις οποίες κρίθηκε το δημοσίευμα δυσφημιστικό και με τις οποίες επιδικάστηκαν αποζημιώσεις, αποτελούσαν «επέμβαση» στο δικαίωμα του αιτητή. Ούτε ότι η εν λόγω επέμβαση προβλεπόταν στο νόμο (στον *περί Αστικών Αδικημάτων Νόμο*) για προστασία της υπόληψης ή των δικαιωμάτων τρίτων, βλ. παράγραφους 35-38 της Απόφασης.

Στη συγκεκριμένη περίπτωση το Δικαστήριο έκρινε ότι η παράταση της θητείας του Σ.Π. αποτέλεσε θέμα δημοσίου ενδιαφέροντος. Ήταν επομένως αναμενόμενο ο Τύπος να ασχοληθεί εκτεταμένα με το θέμα. Ο Σ.Π. θεωρήθηκε δημόσιο πρόσωπο λόγω της θέσης του στη Νομική Υπηρεσία (κατά τον επίδικο χρόνο ήταν Εισαγγελέας της Δημοκρατίας), των φιλοδοξιών του να διοριστεί Γενικός Εισαγγελέας και της συμμετοχής του σε δημόσιες συζητήσεις εξαιτίας των δημοσιευμάτων και των βιβλίων του. Επομένως, αναπόφευκτα και εν γνώσει του εισήλθε στη δημόσια σφαίρα (public domain) και ήταν αναμενόμενο οι πράξεις του να υπόκεινται σε αυστηρό έλεγχο. Όσον αφορά τη φύση του δημοσιεύματος, το Δικαστήριο παρατήρησε ότι αυτό δεν ασχολήθηκε με πτυχές της προσωπικής ζωής του Σ.Π. αλλά με την παράταση της θητείας του στη Νομική Υπηρεσία και δημοσιεύθηκε κατόπιν έντονου πολιτικού διαλόγου.

Σύμφωνα με το Δικαστήριο, τα εθνικά δικαστήρια εστίασαν στη γλώσσα που χρησιμοποίησε ο αιτητής και στον τόνο του δημοσιεύματος, τα οποία (τα εθνικά δικαστήρια) χαρακτήρισαν ως προσβολές ή ύβρεις, θεωρώντας ότι ξεπερνούσαν τα αποδεκτά όρια και επομένως δεν αποτελούσαν έκφραση γνώμης στα πλαίσια πολιτικού διαλόγου. Δεν ενσωμάτωσαν όμως τη γλώσσα και τον τόνο του δημοσιεύματος στην αξιολόγησή τους ούτε εξέτασαν τα κριτήρια αυτά υπό το φως των γεγονότων και του υποβάθρου της τότε εποχής. (βλ. παράγραφο 53 της Απόφασης). Το Δικαστήριο περαιτέρω σημείωσε ότι ο αιτητής άσκησε κριτική για την παράταση της θητείας του Σ.Π. χρησιμοποιώντας καυστικό και ειρωνικό στυλ, χωρίς όμως να υπάρχει οποιαδήποτε ένδειξη κακής πίστεως, ενώ σύμφωνα με τη νομολογία του Δικαστηρίου, οι δημοσιογράφοι μπορεί να υπερβάλλουν ή να προκαλούν και το στυλ τους αποτελεί μέρος της επικοινωνίας τους η οποία προστατεύεται, όπως προστατεύεται και το περιεχόμενο της επικοινωνίας (βλ. παράγραφο 54 της Απόφασης). Οι εκφράσεις που χρησιμοποιήθηκαν στο παρόν δημοσίευμα, αποτελούσαν, κατά το Δικαστήριο, έκφραση γνώμης (value judgments) και σε αυτό το πλαίσιο, δεν εναπόκειται ούτε στο Δικαστήριο αλλά ούτε στα εθνικά δικαστήρια να υποκαταστήσουν τις δικές τους απόψεις με εκείνες του Τύπου όσον αφορά την τεχνική που πρέπει να χρησιμοποιούν οι δημοσιογράφοι σε μία δεδομένη κατάσταση (βλ. παράγραφο 56). Το Δικαστήριο επίσης δεν πείστηκε ότι η έκφραση γνώμης δεν είχε ικανοποιητική πραγματική βάση. Υπενθύμισε όμως ότι, ακόμη και να υπάρχουν ανακρίβειες στα γεγονότα, αυτές πρέπει να γίνονται ανεχτές αν το δημοσίευμα έγινε καλή τη πίστη και το θέμα είναι αμφιλεγόμενο (βλ. παράγραφο 58 της Απόφασης).[4]

[4] Στην παρούσα περίπτωση δεν ήταν ξεκάθαρο αν ο τότε Γενικός Εισαγγελέας γνώριζε για την παράταση της θητείας του Σ.Π. ή όχι.

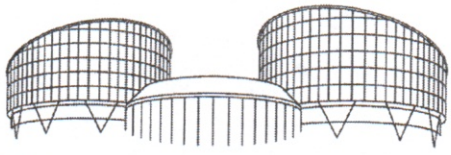
Όσον αφορά τις αποζημιώσεις που επιδικάστηκαν υπέρ του Σ.Π., το Δικαστήριο έκρινε ότι αυτές ήταν δυσανάλογες της πιθανής ζημίας που προκλήθηκε στην φήμη του. Εξάλλου, κατά τη διάρκεια εκδίκασης της αγωγής στο Επαρχιακό Δικαστήριο, ο Σ.Π. διορίστηκε Βοηθός Γενικός Εισαγγελέας (βλ. παράγραφο 59 της Απόφασης). Όσον αφορά το ύψος των αποζημιώσεων καθαυτό, δηλαδή 25,000 ευρώ, το Δικαστήριο έκρινε ότι ήταν δυσανάλογο, ενώ αποζημιώσεις τέτοιου ύψους απαιτούν αυξημένο έλεγχο της αναλογικότητας καθότι μπορεί να αποθαρρύνουν τον ανοιχτό διάλογο σε θέματα που απασχολούν το κοινό.

Εν κατακλείδι, το Δικαστήριο έκρινε ότι στη συγκεκριμένη περίπτωση υπήρξε έλλειψη επαρκούς αιτιολογίας εκ μέρους των εθνικών δικαστηρίων. Τα εθνικά δικαστήρια επικεντρώθηκαν σε μεγάλο βαθμό στην υπερβολή των εκφράσεων που χρησιμοποιήθηκαν χωρίς να αποδώσουν επαρκή σημασία σε άλλα σχετικά κριτήρια που πρέπει να λαμβάνονται υπόψη κατά την άσκηση της εξισορρόπησης. Το ποσό που επιδικάστηκε ως αποζημίωση επίσης ήταν δυσανάλογο προς τους επιδιωκόμενους στόχους. Επομένως η επέμβαση δεν ήταν «αναγκαία σε μία δημοκρατική κοινωνία» και υπήρξε παραβίαση της ελευθερίας της έκφρασης του αιτητή.

Επιδικάστηκαν αποζημιώσεις μη χρηματικής φύσεως ύψους 12,000 ευρώ και δικηγορικά έξοδα ύψους 5,362.50 ευρώ υπέρ του αιτητή. Δεν επιδικάστηκαν χρηματικές αποζημιώσεις, παρόλο που ο αιτητής διεκδίκησε το ποσό που καταβλήθηκε στον Σ.Π. πλέον νόμιμο τόκο από την ημερομηνία καταχώρησης της αγωγής για λίβελλο.

Θεοδώρα Χριστοδουλίδου

Δρ. Θεοδώρα Χριστοδουλίδου
Ανώτερος Δικηγόρος της Δημοκρατίας
για Γενικό Εισαγγελέα της Δημοκρατίας



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

THIRD SECTION

CASE OF DROUSIOTIS v. CYPRUS

(Application no. 42315/15)

JUDGMENT

Art 10 • Freedom of expression • Insufficient reasons and disproportionate damages award in defamation action against journalist for newspaper article on high-ranking attorney in the Law Office of the Republic of Cyprus • Excessiveness of expressions used weighing heavily in domestic courts' proportionality assessment without adequate importance to other factors relevant to the balancing act between competing rights at stake • Unusually large award capable of discouraging open discussion matters of public concern • Eventual payment of award by publishing house not affecting disproportionality finding

STRASBOURG

5 July 2022

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 Drousiotis v. Cyprus,

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. 42315/15) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Cypriot national, Mr Makarios Drousiotis ("the applicant"), on 24 August 2015;

the decision to give notice to the Cypriot Government ("the Government") of the complaint concerning the applicant's freedom of expression and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 14 June 2022,

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

INTRODUCTION

1. The case concerns a judgment given against a journalist in civil defamation proceedings. The applicant complained of a breach of his right to freedom of expression under Article 10 of the Convention.

THE FACTS

2. The applicant was born in 1959 and lives in Nicosia. He was represented before the Court by Ms L. Cariolou and Mr C. Velaris, lawyers practising in Nicosia.

3. The Government were represented by their Agent, Mr G. Savvides, Attorney General of the Republic of Cyprus.

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

I. BACKGROUND TO THE CASE

5. The applicant is a journalist by profession. At the relevant time he wrote articles for *Politis* – a national daily newspaper – and had his own column entitled "ΕΝ-ΣΤΑΣΕΙΣ", in which he commented on current political affairs.

6. On 13 November 2001, following a recommendation of the Attorney General, the Public Service Commission decided to proceed with the compulsory retirement of S.P., who at the time was a high-ranking attorney in the Law Office of the Republic of Cyprus.

7. On 31 January 2003, following a recourse (no. 1004/2001) lodged by the applicant, the Supreme Court set aside the Public Service Commission's decision and S.P. was reinstated to his position as of that date.

8. On 20 January 2005, following a request by S.P. to that effect, the Council of Ministers decided to extend his term of service by one year, for reasons of public interest. The decision noted that S.P. had been deprived of his right to exercise his duties in full during the fifteen months in which he had been removed from office, and that the Public Service Commission's decision had been set aside by the Supreme Court.

9. On 9 March 2005 *Politis* published an article entitled "They changed their mind" ("*Άλλα έλεγαν τότε κι άλλα κάνουν σήμερα*"). The gist of the article was that although in the past it had been the regular practice of the AKEL and DIKO parties to submit amendments during the voting of the State budget which were aimed at banning the employment of retired persons by the State, nonetheless, under the presidency of T.P. (former member of DIKO) and the support of ministers from AKEL, the Council of Ministers had extended the service of S.P. for one year beyond retirement age. According to the article, this was not the first time that the service of a public servant had been extended. However, what was now deemed a matter of "public interest" by the Council of Ministers had been considered in the past by the coalition government to be an "unacceptable form of political favour" ("*απαράδεκτο είδος ρουσφετιού*"). The article stated that, legal though that decision might have been, it was politically wrong ("*Άλλο όμως η νομοθεσία και άλλο το ιερό και όσιο του κάθε ενός βουλευτή, υπουργού ή προέδρου της Δημοκρατίας και των κομμάτων*").

10. On 9 March 2005 the same newspaper published an article containing the opinion of S.P., who believed that the main aim of the above-mentioned article had been to cause disruption and reduce the chances of his being appointed to the position of Attorney General. The Council of Ministers' decision had been in accordance with the law and was similar to decisions in respect of other civil servants who had had their service extended.

11. Other publications also reported the opinion of a politician who described the decision as a scandal and unlawful, as it did not serve the public interest. The General Secretary of the Pancyprian Public Employees' Trade Union requested that the decision be declared void, complaining that the union had not been consulted on the matter – which constituted a breach of contractual agreement – and nor had the Attorney General. Other politicians highlighted the contradictions of the coalition government, characterised the decision as "a scandal" and "a peculiar case", as it appeared to have been made in the absence of the Attorney General, or without having been

requested by him, and that it had been aimed at favouring certain causes and had been driven by clientelism ("*προφανέστατα εξυπηρετεί ευνοιοκρατικούς σκοπούς και σκοπιμότητες και υπηρετεί ουσιαστικά μια λογική πελατειακών σχέσεων*"; "*σε περιπτώσεις που κάποιοι θεωρούνται δικά μας παιδιά δείχνει μια ελαστικότητα, κατά την άποψή μου, ανεπίτρεπτη*").

12. On the same day, the government spokesman explained that the decision whether to extend the term of office of a civil servant belonged to the Council of Ministers. It was fair that S.P. should be allowed to offer his services for a prescribed period given his absence from the service on account of the previous unlawful decision. On the question of whether the Attorney General had been consulted on the matter, he replied that he "[thought] that when the decision was taken, the Attorney General was abroad" ("*νομίζω ότι όταν ελήφθη απόφαση ο Γενικός Εισαγγελέας έλειπε στο εξωτερικό*").

II. THE PUBLISHED ARTICLE

13. On 10 March 2005 the applicant, a journalist by profession, published an article titled "The regime (of the south) promotes paranoia" in *Politis*. The article read as follows:

> "The Council of Ministers approved in secret the extension of service of the attorney of the Republic [S.P.] for reasons of public interest! No one knows what those reasons are. Attorney General [S.N.], [S.P.'s] superior, did not request such an extension. He was not even informed afterwards about the decision of the Council of Ministers. So much for the respect shown to the institutions by the current government. In his statements to the media, the interested party [S.P.] said that he himself had submitted a request to the Council of Ministers. He also said that because he had entered the service at the age of 33, it was not fair for him to retire at the age of 60! So, the public interest is whatever Mr [S.P.] feels is fair or unfair for himself.
>
> Today's government is the most unreliable and inconsistent government Cyprus has ever had. With the votes of AKEL and DIKO [political parties that supported the coalition at the time], Parliament cut the salary of the secretary of the Council of Ministers [C.F.] during the presidency of [G.C.], when the government at the time had decided to extend his term of office. Now they are extending [S.P.'s] term of office because he is kissing up to [*γλείφει*] [D.C., the President of the House of Representatives], who is preparing him for the position of Attorney General! [S.P.] also complained that the opposition was making noise [*δημιουργεί θόρυβο*] in order to damage his candidacy for the position of Attorney General.
>
> We don't know if [T.P., the President of the Republic of Cyprus] will do that too. But, as we wrote yesterday, the current government has only one inviolable principle: the quid pro quo [*Τη συναλλαγή*]. Personally, I do not believe that [T.P.] has the slightest appreciation for [S.P.], nor would he have taken him into account if that decision had not been a part of a broader quid pro quo [*συναλλαγή*] with [D.C.].
>
> Only if [S.P.] had not met the patriotic criteria would [T.P.] not have done a political favour [*ρουσφέτι*] for [D.C.]. But [S.P.] is the author of the great work, *The Falsified Annan Plan and Rosemary's Baby*. For those who don't know, Rosemary's baby is the devil's child. This 1,482-page book is a monument of incoherence and turbulent thought and was presented to the public by his friend [D.C]. Enjoy an excerpt from the book

written by [S.P.]: 'But, Mr President, [D.C.], friend of the Then and Then and in the Then-Then, I remember the things of the Then-Then, that you were saying and doing and proclaiming [*λαλούσες*] publicly and privately, both to the outside and to the inside, to those with a complex or without, the corrupted of the corruption ... [*κομπλεξικά και μη διαπλεκόμενους της διαπλοκής*].'

The problem, dear readers, is not the inconsistency of the reasons and actions of the duo [T.P.] and [D.C]. Nor is it the lack of respect for the institutions, or the favouritism [*κουμπαροκρατία*] and gerontocracy [*γεροντοκρατία*]. The problem is much more serious, and, I am afraid, incurable. The current regime – because it is a regime – spits on logic, insults common sense [*λοιδορεί τη* σωφροσύνη] and promotes paranoia. If you haven't understood that, we are in deep trouble."

III. CIVIL DEFAMATION PROCEEDINGS

A. First-instance proceedings (civil action no. 2560/05)

14. On 30 March 2005 S.P. brought civil defamation proceedings before the Nicosia District Court against the applicant and the publishing house of the newspaper *Politis* in relation to the article of 10 March 2005.

15. It appears from S.P.'s and the applicant's written submissions to the District Court that on 1 May 2008, while the proceedings were pending, S.P. was appointed to the position of Deputy Attorney General.

16. S.P. argued that the article had been written in bad faith to damage his image and the public's opinion of him; the extension of his service had been based on the law and was the result of the unfairness he had suffered owing to the unlawful termination of his service. According to S.P., he had only later realised from the articles in the newspaper that the Attorney General might not have been aware of the decision, but there was no such obligation to inform him under the law. He also asserted that his personal and professional reputation as an attorney, a writer and a person publishing articles concerning political, legal and current happenings in Cyprus had been harmed.

17. The applicant argued that his article had been published in the context of a wider public debate concerning the extension of S.P.'s service. It had been aimed at criticising the inconsistencies of the coalition government and the political, as opposed to the legal, correctness of the decision to extend S.P.'s mandate, at a time when S.P. was also being considered for the post of Attorney General. He had written the article having regard to the previously published opinions on the matter, including that of S.P. He felt that the decision at issue had not respected the State institutions, as it appeared from the publications at the time that it had been made in the absence and without the prior knowledge of the Attorney General and had been supported by political parties which had strongly opposed similar actions in the past. He further argued that he had used strong expressions with the aim of shocking the reader and raising concern over the development of the country and the need to restore its institutions. He had therefore contributed to a political discussion in accordance with the duties of the press on a matter of public

interest concerning a public person, and although his expressions might have been harsh or shocking, they should be afforded greater protection.

18. The applicant also contended that the expression that S.P. had "kissed up" to D.C. had been used to indicate the close relationship between S.P. and D.C. He had based that opinion on information that he had borne in mind during that period, such as the fact that D.C. was the only person who had presented S.P.'s books to the public; that D.C. and his party, AKEL, had openly criticised the decision on S.P's early retirement as an attempt to "eliminate" S.P.; that S.P. shared similar politically left-wing ideals with D.C.; and that in his books, S.P. had praised or excessively flattered D.C. while heavily criticising other politicians. On the basis of these facts, the applicant believed that D.C. wanted S.P. to be the next Attorney General. As regards the excerpt from S.P.'s book, according to the applicant, the entire book was hard to follow and contained incoherent language, hence the expression "monument of incoherence and turbulent thought". The title of the article, as well as the terms "regime", "spits on logic" and "promotes paranoia", had been aimed at pointing out the contradictory actions of the two men, T.P. and D.C. The expression "patriotic criteria" was supported by the fact that both T.P. and S.P. had been against the Annan Plan of 2004, as was also evident from S.P.'s book *The Falsified Annan Plan and Rosemary's Baby*.

19. On 4 May 2011 the Nicosia District Court held that the publication was defamatory and ordered the applicant and the publishing house to pay damages, jointly and/or severally, in the amount of 25,000 euros (EUR), plus statutory interest calculated from the day on which the civil action had been brought until payment. The court also ordered the applicant and the publishing house to pay, jointly and/or severally, legal costs amounting to EUR 3,472.59, plus statutory interest from the day on which the civil claim had been brought until payment, plus value-added tax (VAT).

20. The District Court dismissed the applicant's testimony. The court was not convinced that the expression "kissing up" had been aimed merely at portraying the relationship between S.P. and D.C. and in any event, the explanations provided to the court were not contained in the article. Nor did the article contain any reference to the excerpts from the book which had allegedly given the applicant the impression that S.P. was excessively flattering D.C. (see paragraph 18 above). According to the court, the article clearly stated that the extension of S.P.'s service had been granted "*because* he [was] kissing up to [D.C.]" (emphasis added by the domestic court), giving the impression to the reader that the extension had been the result of S.P.'s flattery of D.C. The court further considered that the imputation that the writer of the book was a paranoid person was not limited to a criticism of the book itself. From the article, one might assume that S.P. had managed to secure the extension by "kissing up" to D.C., who had then turned to T.P.

seeking to exchange political favours in the context of a broader political deal between the two.

21. The court noted that the decision to extend the service of S.P. had indeed been a matter of public interest. However, the references in the article were factual allegations and the small excerpt from S.P.'s voluminous book had been used to reinforce the idea that S.P. was a paranoid person unsuited to holding a public post. The court further noted that even assuming that the reference to the general ethical and social duty of journalists to publish such articles had been adequate, the article was not limited to criticising either the circumstances of the extension or the Council of Ministers' decision. Instead, it contained various allegations and innuendos concerning S.P. Its tone was aggressive, mocking and ironic. The court concluded that the publication, as it was written, exceeded what was reasonably appropriate under the circumstances.

22. Lastly, in calculating the amount of damages to be awarded, the court considered S.P.'s personality, his 'serious and responsible position' (*μια σοβαρή και υπεύθυνη θέση*) in the Law Office, the seriousness of the defamation, the lack of an apology by the applicant, the absence of aggravating factors for the applicant and the number of copies of the paper sold on the day (6,697 copies).

B. Appeal proceedings (no. 236/11)

23. On 14 June 2011 the applicant lodged an appeal with the Supreme Court. He reiterated the arguments raised before the District Court and challenged the amount awarded in damages as excessively high.

24. On 6 March 2015 the Supreme Court dismissed the appeal. It upheld the District Court's assessment, finding that S.P. was a public person, not because of his position in the Law Office, but because he systematically wrote articles in the Cypriot press on various social and political issues, and he was the author of the political book which was "commented on" in the disputed article. According to the Supreme Court, S.P. had chosen to reveal to the general public further aspects of his personality which had attracted public interest – an element which was directly linked to possible interferences with his personality rights. He had therefore laid himself open to public scrutiny, which he should have been able to tolerate. However, the court held that such scrutiny should not unduly harm S.P.'s honour and reputation and that the freedom of expression and the right to reputation should be balanced, having regard to the principles of necessity and proportionality.

25. The court considered that the applicant had not criticised S.P.'s book, nor was the article focused on criticising other political persons who might have been involved in the extension of S.P.'s mandate. Instead, it impinged on the honour and reputation of S.P. by presenting him as a paranoid person and therefore incapable of holding, or unfit to hold, a public post. To that end,

the applicant had chosen four out of the 1,482 pages of S.P.'s book to mock his writing style. The Supreme Court also held that the defamatory references to S.P. in the article were not comments, but rather allegations of fact or insults (*Υβρεις, θα λέγαμε εμείς.*). The court saw no reason to alter the amount awarded in damages at first instance.

C. Payment of damages and costs

26. The amounts awarded in damages, as well as the costs of the legal proceedings ordered against the applicant and the publishing house, were paid in full by the publishing house.

RELEVANT LEGAL FRAMEWORK

27. The relevant constitutional provisions concerning freedom of expression, as well as legislative provisions concerning the law of defamation, are set out in *Alithia Publishing Company Ltd and Constantinides v. Cyprus* (no. 17550/03, §§ 34-39, 22 May 2008).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

28. The applicant complained that the domestic decisions had breached his right to freedom of expression as provided in Article 10 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

A. Admissibility

29. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

30. The applicant submitted that the domestic courts had failed to conduct a proper balance of the right to freedom of expression against the right to respect for private life in conformity with the criteria laid down in the Court's case-law.

31. He submitted that through the impugned article he had expressed value judgments as a journalist on matters of public interest concerning a public person and the government's actions at the time, warranting heightened protection under Article 10 of the Convention. He asserted that his article ought to be interpreted in the context of the political debate at the time. Instead, the domestic courts had based their decisions predominantly on their disapproval of the characterisation of S.P. as a sycophant and the tone of the article in general.

32. He further submitted that the amounts he had been ordered to pay in damages and costs were excessively high.

(b) The Government

33. The Government endorsed the reasoning of the civil and appeal courts and maintained that there had been no violation of Article 10 in the present case. They further argued that the applicant had failed to comply with his duty to act in good faith and to provide reliable and precise information, as well as to verify factual allegations before disseminating them to the public. Specifically, the article did not make mention of certain information available to the applicant, such as the fact that S.P. had been wrongly dismissed from office; the Supreme Court had set aside the dismissal and restored him to his previous position; the Pensions Law gave the Council of Ministers discretion to extend the term of office of civil servants for reasons of public interest; S.P.'s extended term of office had not been a novelty nor had it been unlawful or illegal; and the extension was a means of restitution on the part of the Council of Ministers in view of S.P.'s unfair dismissal. Furthermore, the applicant had made no effort to contact S.P., but instead had focused only on S.P.'s position in the publication of 9 March 2005; nor had the applicant tried to establish whether the Attorney General had indeed been unaware of the extension.

34. The Government further argued that the interference had been in accordance with the law and necessary for the protection of the reputation of others. S.P. was a civil servant, not a politician, and he could not therefore be treated on an equal footing with politicians. He was considered a public person on account of his publications, but the defamatory article at issue had not concerned his writings, but rather the extension of his term of service.

2. The Court's assessment

(a) Existence of an interference

35. The Court notes that the parties did not dispute that the impugned judgments holding the applicant liable for defamation and ordering him to pay damages to S.P. constituted an "interference" with his right to freedom of expression under Article 10. The Court sees no reason to hold otherwise.

(b) Whether the interference was prescribed by law and pursued a legitimate aim

36. The Court is satisfied that the interference with the applicant's right to freedom of expression had a legal basis, namely the Civil Wrongs Law, whose foreseeability and accessibility the applicant did not dispute.

37. The Court is also satisfied that the interference pursued a legitimate aim, namely the protection of the reputation or the rights of others.

38. What remains to be resolved, therefore, is whether the interference was "necessary in a democratic society".

(c) Whether the interference was necessary in a democratic society

(i) General principles

39. The Court refers to the general principles for assessing the necessity of an interference with the exercise of freedom of expression as set out in *Axel Springer AG v. Germany* ([GC], no. 39954/08, §§ 78-95, 7 February 2012).

40. When called upon to examine the necessity of an interference in a democratic society in the interests of the "protection of the reputation or rights of others", the Court may be required to ascertain whether the domestic authorities struck a fair balance when protecting two values guaranteed by the Convention which may come into conflict with each other in certain cases, namely, on the one hand, freedom of expression protected by Article 10 and, on the other, the right to respect for private life enshrined in Article 8 (see *Balaskas v. Greece*, no. 73087/17, § 37, 5 November 2020). In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and be carried out in a manner causing prejudice to personal enjoyment of the right to respect for private life (see *Axel Springer AG*, cited above, § 83 and *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, § 76, 27 June). On the other hand, Article 8 cannot be relied on in order to complain of a loss of reputation which is the foreseeable consequence of one's own actions, such as, for example, the commission of a criminal offence (see *Axel Springer AG, cited above*, § 83, and *Sidabras and Džiautas v. Lithuania*, nos. 55480/00 and 59330/00, § 49, ECHR 2004-VIII).

41. The Court has identified a number of relevant criteria that must guide its assessment when balancing Article 8 and Article 10, of which the

following are particularly pertinent to the present case: whether a contribution is made to a debate of public interest; the status of the person concerned; the content, form and consequences of the publication in question; and the gravity of the penalty imposed on the journalists or publishers (see *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, §§ 109-13, ECHR 2012, and *Axel Springer AG*, cited above, §§ 90-95).

42. The Court reiterates that there is little scope under Article 10 § 2 of the Convention for restrictions on political speech or on a debate on matters of public interest (see, for example, *Ceylan v. Turkey* [GC], no. 23556/94, § 34, ECHR 1999-IV; *Wingrove v. the United Kingdom*, 25 November 1996, § 58, *Reports of Judgments and Decisions* 1996-V; and, more recently, *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, § 96, ECHR 2015 (extracts)).

43. The press plays an essential role in a democratic society. Although it must not overstep certain bounds, regarding in particular protection of the reputation and rights of others, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest. Not only does the press have the task of imparting such information and ideas; the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of "public watchdog" (see *Axel Springer AG*, cited above, § 79).

44. Journalistic freedom also covers possible recourse to a degree of exaggeration or even provocation, and it is not for the Court, any more than it is for the national courts, to substitute its own views for those of the press as to what techniques of reporting should be adopted in a particular case (ibid., § 81).

45. A distinction must be made between statements of fact and value judgments. The existence of facts can be demonstrated, whereas the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10. However, where a statement amounts to a value judgment, the proportionality of an interference may depend on whether there exists a sufficient "factual basis" for the impugned statement: if there is not, that value judgment may prove excessive. In order to distinguish between a factual allegation and a value judgment, it is necessary to take account of the circumstances of the case and the general tone of the remarks, bearing in mind that assertions about matters of public interest may, on that basis, constitute value judgments rather than statements of fact (see *Morice v. France* [GC], no. 29369/10, § 126, ECHR 2015).

46. The Court has also held in numerous cases that a lack of relevant and sufficient reasoning on the part of the national courts or a failure to consider the applicable standards in assessing the interference in question will entail a violation of Article 10 (see, among many other authorities, *Uj v. Hungary*,

no. 23954/10, §§ 25-26, 19 July 2011). However, Contracting States have a certain margin of appreciation in assessing the necessity and scope of any interference with the freedom of expression protected by Article 10 of the Convention. Where the national authorities have weighed up the interests at stake in compliance with the criteria laid down in the Court's case-law, strong reasons are required if it is to substitute its view for that of the domestic courts (see *Bédat v. Switzerland* [GC], no. 56925/08, § 54, 29 March 2016, with further references).

(ii) Application of those principles to the present case

47. The Court notes that the present case concerns a conflict of the right to respect for the applicant's right to freedom of expression under Article 10 of the Convention and S.P.'s right to the protection of his reputation under Article 8 of the Convention. It is accepted that the applicant's article made direct reference to S.P., presented him as a sycophant and commented negatively on the extension of his term of service. The Court considers that the characterisations given to S.P. were capable of tarnishing his reputation and causing him prejudice in his professional and social environment. Accordingly, the said characterisations attained the requisite level of seriousness and could harm S.P.'s rights under Article 8 of the Convention.

(α) Whether the impugned article contributed to a debate of general interest

48. The Court has already held that the public interest relates to matters which affect the public to such an extent that it may legitimately take an interest in them, which attract its attention, or which concern it to a significant degree. This is also the case regarding matters which can give rise to considerable controversy, which concern an important social issue, or which involve a problem that the public would have an interest in being informed about (see *Couderc and Hachette Filipacchi Associés*, cited above, § 103, with further references).

49. In this connection, the Court notes first of all that the article was published shortly after the publication of the decision to extend the service of S.P. by the Council of Ministers. That matter gave rise to considerable controversy and political debate and was the subject of other publications and commentaries which, *inter alia*, considered the decision to be a scandal (see paragraphs 9 and 11 above). Accordingly, the Court is of the view that since the matter of the extension of S.P.'s service was of public interest and raised considerable controversy, it was natural that that action would be subjected to scrutiny by the press. In the present case, there was therefore little scope for restrictions under Article 10 § 2 of the Convention (see paragraph 42 above).

(β) The status of S.P.

50. The Court observes that S.P. was a high-ranking attorney in the Law Office of the Republic of Cyprus. It also appears from the case file that at the time of the publication of the article at issue, S.P. was being considered for the position of Attorney General (see paragraph 10 above), a high and important post of particular public concern (see, *mutatis mutandis*, *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, § 98, 27 June 2017). Moreover, S.P. systematically wrote articles in the Cypriot press on various social and political issues and he was the author of political books (see paragraphs 16 and 24 above). As the Supreme Court rightly pointed out, S.P. had willingly revealed to the public aspects of his personality which had attracted public interest; he had therefore laid himself open to public scrutiny, which he should have been able to tolerate.

51. The Court endorses those considerations and reiterates that persons may be considered public figures on the basis of the acts and/or position through which they have entered the political arena (see *Nilsen and Johnsen v. Norway* [GC], no. 23118/93, ECHR 1999-VIII; *Kapsis and Danikas v. Greece*, no. 52137/12, § 35, 19 January 2017; and *Milosavljević v. Serbia (no. 2)*, no. 47274/19, § 62, 21 September 2021). It follows that S.P. can be compared to a public figure on account of a combination of factors, namely his position in the Law Office of the Republic of Cyprus, the fact that he aspired to become the next Attorney General and was being considered for the post, and his participation in public debates through his publications in the press and his books with political content. As a result, in this context, he must be considered to have inevitably and knowingly entered the public domain and laid himself open to close scrutiny of his acts. He ought to show, therefore, a greater degree of tolerance.

(γ) The nature of the offending remarks and their factual basis

52. The Court notes that the impugned article did not concern aspects of S.P.'s private life. Rather, it commented on the extension of his term of service while considering other issues in the political context at the time and was published following a heated political debate that had taken place on matters which raised controversy and concern in a newspaper column designated to comment on such issues. Specifically, the applicant heavily criticised the extension of S.P.'s service, as he believed that no good reason had been provided for the extension and that the extension had taken place, without the knowledge of S.P.'s superior, in the context of a broader political exchange between the President of the Republic of Cyprus and the President of Parliament. It appears from publications at the time that other persons in the political sphere had expressed similar concerns (see paragraph 11 above),

albeit in a less exaggerated manner, and the admittedly strong and coarse expressions of the applicant should be read within this broader context.

53. The Court notes that the domestic courts' assessment focused on the understanding that the article consisted of a series of unnecessary insults and factual allegations attacking S.P.'s reputation, which could not be regarded as an opinion in a political debate, because it exceeded the permissible limits (see paragraphs 20, 21, 24 and 25 above). While the domestic courts acknowledged that the extension of S.P.'s service was a matter of public interest, and that S.P. was a person in the public sphere, they conducted a balancing exercise which focused primarily on the harsh words and tone of the article, without truly incorporating those factors in their assessment and without considering the article against the general background at the time it was written. The courts did not specifically consider, for example, whether the context of the case, the public interest and the intention of the applicant as a journalist and the author of the impugned article justified the possible use of a dose of provocation or exaggeration (see *Balaskas,* cited above, § 58 and *Kapsis and Danikas*, cited above, § 38).

54. The Court observes that the applicant chose to convey his strong criticism of the extension of S.P.'s service, using a caustic and ironic style with admittedly harsh expressions, which according to him was aimed at stirring controversy, provoking the public and attracting its attention (see paragraph 17 above). Journalists may exaggerate and even provoke (see, in particular, *Mamère v. France*, no. 12697/03, § 25, ECHR 2006-XIII). There is no indication that the article was published in bad faith, or that the domestic courts considered it as such. Certain attention-grabbing expressions do not by themselves raise an issue under the Court's case-law (see *Couderc and Hachette Filipacchi Associés*, cited above, § 145), while style forms part of communication and is protected together with the content of the expression (see *Uj*, cited above, § 20; see also, *mutatis mutandis*, *Kılıçdaroğlu v. Turkey*, no. 16558/18, § 62, 27 October 2020).

55. In this connection, the Court observes that the expressions used in the article were essentially made up of value judgments and not concrete statements of fact (compare, for example, *Üstün v. Turkey*, no. 37685/02, §§ 9 and 32, 10 May 2007, and *Tuşalp v. Turkey*, nos. 32131/08 and 41617/08, §§ 17, 21, 22 and 47, 21 February 2012; see also *Balaskas*, cited above, §§ 54-55, concerning the characterisation of a headmaster as a "well-known neo-Nazi").

56. As to the factual basis of the impugned expressions, all the District Court did was fault the applicant for not specifying which parts of S.P.'s books suggested S.P.'s flattery of or "kissing up" to D.C. (see paragraph 20 above). Although the applicant's article could have cited more material to support such a conclusion, it is not for the Court or the national courts, for that matter, to substitute their own views for those of the press as to what

technique of reporting should be adopted by journalists in any given situation (see *Stoll v. Switzerland* [GC], no. 69698/01, § 146, ECHR 2007-V).

57. The Court reiterates that the necessity of a link between a value judgment and its supporting facts may vary from case to case according to the specific circumstances (see *Feldek v. Slovakia*, no. 29032/95, § 86, ECHR 2001-VIII). A value judgment may be protected under Article 10 even if it has a slim factual basis (see, *mutatis mutandis*, *Arbeiter v. Austria*, no. 3138/04, § 26, 25 January 2007). During the domestic proceedings, the applicant endeavoured to explain the basis of his allegations (see paragraphs 17 and 18 above). This aspect was not sufficiently elaborated upon by the domestic courts.

58. The Court cannot conclude that the impugned expressions were without factual basis. As the applicant argued before the domestic courts, his conclusion had been based on past publications which showed that the decision to extend S.P.'s service was contrary to the government's prior stance in similar instances. Whereas the lawfulness of the decision seemed to be generally accepted, its political appropriateness was heavily questioned (see paragraphs 9 and 11 above). While it is true that the applicant did not conduct his own investigation into whether the Attorney General had been informed of the decision, he argued in the domestic courts that it appeared from the publications at the time that it had been made in the absence and without the prior knowledge of the Attorney General (see paragraph 11 above), an allegation which was not entirely unfounded, given the information available at the time (see paragraphs 12 and 16 above). The Court reiterates in this connection that even factual inaccuracies should be tolerated if published in good faith and if the expression at issue concerns controversial topics (see, *mutatis mutandis*, *Ţiriac v. Romania*, no. 51107/16, § 96, 30 November 2021).

(δ) The severity of the sanction imposed

59. Under the Convention, an award of damages for defamation must bear a reasonable relationship of proportionality to the injury to reputation suffered (see, *mutatis mutandis*, *Tolstoy Miloslavsky v. the United Kingdom*, 13 July 1995, § 49, Series A no. 316-B). Even though it may be presumed that the publication of the article in a national newspaper might have affected S.P. to some extent, the Court considers that the amounts of the award in question were disproportionate to any potential damage caused to his reputation and has doubts as to whether the consequences of the article were sufficiently serious as to override the applicant's right to freedom of expression. This is especially so considering that while the first instance court proceedings were still pending, S.P. was appointed to the position of Deputy Attorney General (see paragraph 15 above) – a fact which, while subsequent to the publication of the article, may constitute an indication as to the concrete extent of the damage that S.P. suffered to his reputation and status.

60. That being so, the Court notes that the applicant and the publishing company were ordered to pay jointly and/or severally EUR 25,000. This amount is unusually high in absolute terms (see *Rashkin v. Russia*, no. 69575/10, § 19, 7 July 2020, and *Antunes Emídio and Soares Gomes da Cruz v. Portugal* [Committee], no. 75637/13 and 8114/14, § 64, 24 September 2019). The Court reiterates that awards of that magnitude will trigger a heightened scrutiny of their proportionality (see *Rashkin,* cited above, § 20). The Court finds it difficult to accept that any presumed or potential injury to S.P.'s reputation in the present case was of such a level of seriousness as to justify an award of that size. While the Court acknowledges that, unlike in the present case (see paragraph 26 above), in the two cases cited above, the amounts were eventually paid by the applicants personally (see *Rashkin,* cited above, § 7, and *Antunes Emídio,* cited above, § 27), nonetheless, the Court notes that at the time the judgment was rendered, the applicant was personally liable to pay the amount in damages, either alone or jointly with the publishing house (see paragraph 19 above). Such an award, given its magnitude, may, in the Court's view, discourage open discussion of matters of public concern and the fact that the publishing house eventually chose to pay the amount in full in the present case, cannot alter this finding.

(ε) Conclusion

61. Against this background, the Court finds that the reasons provided to justify the interference in issue, although relevant, were not sufficient. The domestic courts concentrated heavily on the excessiveness of the expressions used without affording adequate importance to other relevant factors to be considered when undertaking their balancing exercise. Additionally, the amount awarded in damages was disproportionate to the aims pursued. The interference in issue was therefore not "necessary in a democratic society".

62. There has accordingly been a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

63. 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

64. The applicant claimed 59,147.77 euros (EUR) in respect of pecuniary damage, amounting to the total sum due to S.P. as a result of the domestic courts' award of damages, expenses and interest. The applicant submitted

that, as those amounts were beyond his financial means, he had reached an agreement with the newspaper's publishing company and the latter had paid the expenses on his behalf. He additionally claimed EUR 20,000 in respect of non-pecuniary damage.

65. The Government contested those amounts. Specifically, as regards the applicant's claim in respect of pecuniary damage, the Government argued that he had not submitted proof of the alleged agreement with the publishing company; all amounts had been paid by the publishing company; and he had not shown that he was contractually bound to pay the amounts claimed, partly or in full, to the publishing company.

66. The Court, having regard to the documents before it, considers that the applicant's claim in respect of pecuniary damage is unsubstantiated since he has not provided the Court with the alleged agreement which could potentially show that he was, or is still, bound to repay any amount to the publishing company. However, it awards the applicant EUR 12,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

67. The applicant also claimed EUR 6,362.50 in respect of the costs and expenses incurred before the domestic courts and EUR 12,955 in respect of those incurred before the Court.

68. The Government contested the above amounts, arguing that they were unsubstantiated, the invoices provided were not in the applicant's name and hence did not relate to amounts actually incurred by him, and the amounts claimed were also excessive and unreasonable.

69. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the sum of EUR 5,362.50 in respect of the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning Article 10 of the Convention admissible;

2. *Holds* that there has been a violation of Article 10 of the Convention;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts at the rate applicable at the date of settlement:

(i) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 5,362.50 (five thousand three hundred and sixty-two euros and fifty cents), 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* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 5 July 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Georges Ravarani
President