



FIRST SECTION

**CASE OF RINGIER AXEL SPRINGER SLOVAKIA, A.S.
v. SLOVAKIA (No. 4)**

(Application no. 26826/16)

JUDGMENT

Art 10 • Freedom of expression • Disproportionate imposition of administrative fine on multimedia publishing house for broadcasting a programme containing a celebrity's statements on his drug use • Lack of relevant and sufficient reasons by domestic authorities indicating that programme had intended to promote or induce drug use

STRASBOURG

23 September 2021

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 Ringier Axel Springer Slovakia, a.s. v. Slovakia (no. 4),

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

Péter Paczolay, *President*,
Krzysztof Wojtyczek,
Alena Poláčková,
Erik Wennerström,
Raffaele Sabato,
Lorraine Schembri Orland,
Ioannis Ktistakis, *judges*,

and Renata Degener, *Section Registrar*,

Having regard to:

the application (no. 26826/16) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovak company, formerly Ringier Axel Springer Slovakia, a.s. and now News and Media Holding, a.s. (“the applicant company”), on 11 May 2016;

the decision to give notice to the Slovak Government (“the Government”) of the complaint concerning the applicant company’s rights under Article 10 of the Convention;

the parties’ observations;

Having deliberated in private on 31 August 2021,

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

INTRODUCTION

1. The application concerns interference with the freedom of expression of the applicant company, a multimedia publishing house, on account of an administrative fine imposed on it for having broadcast an online programme about a well-known Slovak singer containing statements by the latter about his use of marijuana.

THE FACTS

2. The applicant company is a joint-stock company established in 1990 under Slovak law, with its registered office in Bratislava. It is a multimedia publishing house.

The applicant company was represented by Mr J. Havlát, a lawyer practising in Bratislava.

3. The Government were represented by their Co-Agent, Ms M. Bálintová, from the Ministry of Justice.

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

5. On 13 July 2012 the applicant company provided, as part of the “Celebrities” series accessible through an on-demand audiovisual media service, a short programme containing an interview with a popular Slovak singer, X., called “[X.] at [the music awards]: Did he want to shock when he [was thankful] for the weed?”. This followed a comment by X. at the annual music awards in Slovakia that he was thankful for “the inspiring green weed” (marijuana). In the programme, the journalist spoke about X.’s success as well as the above comment, which was in her view likely to have shocked most of the viewers. Videoclips were also shown of X. smoking. The interview then proceeded as follows:

“X.: “It’s not for everyone, but for those whom it serves well ... it’s a blessing...”
(laughter)

Journalist: (laughter) “Alright. OK.”

X.: “I’m missing it already, you know, so I can’t ...”

Journalist: “So let’s just all shout about the awful scandal he caused. Better not. Let’s not deceive ourselves. This weed is already well known to the Slovak people, no need to introduce it.”

X.: “You know what, someone has to say that. I’ll use the most ... basic comparison. The fact that vodka, whisky and alcohol are available almost everywhere even to the underage if they are smart is ... a bigger shame than [me saying] at [the music awards] that ... I’m thankful for the magic green weed. I would exchange it. I would ban alcohol and allow marijuana.””

6. Afterwards the Broadcasting Council (*Rada pre vysielanie a retransmisiu*) opened administrative proceedings against the applicant company with regard to the above programme.

7. By a decision of 18 December 2012 the Broadcasting Council found that by broadcasting a programme which had, in its view, openly promoted the use of drugs, the applicant company had breached its obligations under section 19(1)(e) of the Broadcasting and Retransmission Act (Law no. 308/2000 Coll.). Referring to sections 64(1)(d) and 67(15)(a) of the same Act, the Broadcasting Council imposed a fine of 500 euros (EUR) on the applicant company for this breach.

8. The applicant company appealed, arguing that the Broadcasting Council had assessed the relevant elements in isolation and regardless of the context, and had interpreted the term “promotion” too broadly. The applicant company asserted that the purpose of the impugned programme had been to inform the public about issues of legitimate public interest: rather than approving X.’s controversial comments or promoting the use of marijuana, it had aimed to highlight, with a dose of irony, X.’s blatant attempt to attract attention and at expressing the view that the issue of drug use should be the subject to open discussion, of which X.’s opinions were part.

9. By a judgment of 30 October 2013 the Supreme Court overruled the impugned decision on the grounds that the Broadcasting Council had failed to properly weigh the restriction of the applicant company's freedom of expression against the need to protect the public interest, as required by the Court's case-law.

10. On 11 February 2014 the Broadcasting Council issued a new decision in which it again concluded that the applicant company had breached the Broadcasting and Retransmission Act and fined it EUR 500. It held that the applicant company's freedom of expression was to be restricted on the grounds of the ban on promoting drug use provided for in section 19(1)e) of the Broadcasting and Retransmission Act, which pursued the legitimate aim of protecting public order. That ban reflected the public interest in not publishing information which amounted to a positive assessment of drug use. Given the objective (strict) liability nature of the administrative offence, what was decisive in the case at hand was not whether the applicant company had aimed to promote drug use, but whether the programme, in the light of its content and the manner of processing the information, had had a promotional character. In the Broadcasting Council's opinion, such was the case since X.'s comments had disseminated the idea that marijuana had a positive influence; the journalist's comments had downplayed and justified them as being common, which went beyond a simple statement of views and beyond reproducing information that had already been publicly available. In that way, the applicant company had significantly interfered with the legitimate interests in protecting public order, health and morals, while the lowest possible fine had restricted its freedom of expression to a very little extent, which had made the interference fully proportionate.

11. Following an appeal by the applicant company, the Supreme Court issued a judgment on 24 February 2015 by which it upheld the Broadcasting Council's decision as not exceeding the limits set by law. It disagreed with the applicant company's arguments that it had acted in accordance with journalistic ethics requiring space to be provided to someone whose comments had been subject to critical reactions and that the journalist's "ironic" comments had sought to express a certain contempt towards X.'s self-presentation. In the Supreme Court's view, the applicant company had aimed to provide support to X. and – as demonstrated by the journalist's laughter – at downplaying his comments insinuating that the use of marijuana could lead to success. In no way had the programme presented the need to openly discuss the issue or mentioned various views initiating such a discussion and the harmful consequences of drug use, nor had the journalist distanced herself from X.'s statement favouring the use of marijuana over alcohol. Although the choice of reporting technique had been left solely to the discretion of the applicant company, the latter had to bear objective (strict) liability for the manner of processing the information

and its content, which should not have breached the constitutional and legal framework for the protection of society.

12. On 4 May 2015 the applicant company filed a constitutional complaint asserting that the Supreme Court's judgment had violated its rights under Article 10 of the Convention. In its view, the court should not have upheld the Broadcasting Council's decision because the latter had interpreted the term "promotion" too broadly, assessed the relevant elements in isolation and regardless of the context, and had failed to apply, in line with its first judgment, the standards for the protection of freedom of expression as established in the Court's case-law, for example, the cases of *Jersild v. Denmark* (23 September 1994, Series A no. 298) and *Thoma v. Luxembourg* (no. 38432/97, ECHR 2001-III). The applicant company mainly argued that a description of an objective event that had previously taken place in front of thousands of viewers could not be considered to be promotion of marijuana, that its aim had only been to impart information of public interest and that the journalist's comments had been misunderstood and misinterpreted.

13. By a decision of 6 October 2015 (no. III. ÚS 484/2015) the Constitutional Court dismissed the above complaint as manifestly ill-founded. Acknowledging that the Supreme Court had failed to comment on compliance by the Broadcasting Council with its opinion expressed in its judgment of 30 October 2013, the Constitutional Court considered that the reasoning underlying the confirmatory judgment of 24 February 2015 was clear and respectful of freedom of expression. Indeed, instead of actively co-creating the context of X.'s comments in order to condemn or create distance from them, the applicant company had to a large extent downplayed or even openly justified those statements. The Constitutional Court further observed that not only had the impugned programme been designed to entertain rather than provide a platform for debate, its content could also not have been considered as a contribution to such a debate, which had not even been active in the media at that time, or as a report without which the public's right to information would have been restricted. The manner in which the information had been processed instead indicated the applicant company's intention not to lag behind other tabloid platforms and to differentiate itself from them by contesting the alleged scandal, such an attitude being on the verge of abuse of freedom of expression and the right of third parties to information.

RELEVANT LEGAL FRAMEWORK

BROADCASTING AND RETRANSMISSION ACT (LAW NO. 308/2000 COLL.)

14. The Broadcasting and Retransmission Act regulates the rights and obligations of, *inter alia*, broadcasting companies and network operators. It also defines the competencies of the Broadcasting Council.

15. Section 3(b) defines an on-demand audiovisual media service (*audiovizuálna mediálna služba na požiadanie*) as a service of an economic nature offering a catalogue of programmes through electronic communications intended for viewing. The aim of such a service is to inform, entertain or educate the general public.

16. Pursuant to section 19(1)(e), no provider of on-demand audiovisual media services may, openly or in a hidden form, promote alcoholism, smoking or drug use, or downplay the consequences of using such substances.

17. Under sections 64(1)(d) and 64(2), the Broadcasting Council is to impose a fine, without any prior warning, in the event of (for example) a breach of section 19 of the Broadcasting Act. Under section 64(3), the level of such a fine depends on the gravity, manner, duration, consequences and extent of the impugned broadcast, as well as the level of unjust enrichment gained in that regard.

18. Pursuant to section 67(15)(a), the Broadcasting Council is to impose a fine of between EUR 500 and 40,000 on a provider of on-demand audiovisual media services if the content of a programme does not meet the standards stipulated in section 19.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

19. The applicant company complained that the administrative fine imposed on it on account of the content of one of its on-demand audiovisual programmes had violated its right to freedom of expression. It relied on 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

20. Article 35 § 3 (b) of the Convention, as amended by Article 5 of Protocol No. 15 to the Convention¹, provides:

“3. The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:

(b) the applicant has not suffered a significant disadvantage, unless respect for human rights as de-fined in the Convention and the Protocols thereto requires an examination of the application on the merits.”

21. The Government submitted at the outset that the applicant company had not suffered a significant disadvantage within the meaning of Article 35 § 3 (b) of the Convention. They observed that, compared to the applicant in *Sylka v. Poland* ((dec.), no. 19219/07, 3 June 2014), the applicant company had only been sanctioned by an administrative fine and that the amount, EUR 500, had been almost negligible in the light of the applicant company’s large profits.

22. They further argued that the Court had already dealt with several applications against Slovakia concerning the issue of freedom of expression and that the execution of the relevant judgments had been closed by the Committee of Ministers’ Resolution no. CM/ResDH(2019) of 10 July 2019. Lastly, the Broadcasting Council’s decision imposing the fine on the applicant company had been reviewed twice by the Supreme Court and eventually also by the Constitutional Court.

23. The applicant company disagreed, claiming that a mere reference to the amount of the fine was not sufficient to conclude that it had not suffered a significant disadvantage and that it was necessary to take into account what was objectively at stake in the present case, namely whether there was a matter of principle. In its view, the Court was called upon to decide to what extent the domestic authorities were allowed to prevent the media from presenting controversial topics of public interest. It emphasised that in cases concerning freedom of expression, the application of the new admissibility criterion should take due account of the importance of this freedom and be subject to careful scrutiny by the Court (*Sylka*, cited above, § 28).

24. Moreover, the previous cases against Slovakia referred to by the Government had all concerned disputes related to the conflict between the

¹ Article 5 of Protocol No. 15 to the Convention reads as follows:

“In Article 35, paragraph 1, sub-paragraph b of the Convention, the words ‘and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal’ shall be deleted.”

right to respect for privacy and freedom of expression, which was not the issue in the instant case concerning an unjustified interference by a State authority. The applicant company was also of the view that the domestic courts had failed to respect the principles established by the Court's case-law.

25. The Court notes that that the applicant company's subjective perception of the alleged violation was that the administrative-offence proceedings had had a chilling effect that could affect the exercise of its right to freedom of expression in the future.

26. The Court reiterates the key importance of freedom of expression as one of the preconditions for a functioning democracy. In cases concerning freedom of expression the application of the admissibility criterion contained in Article 35 § 3 (b) of the Convention should take due account of the importance of this freedom and be subject to careful scrutiny by the Court. This scrutiny should encompass, among other things, such elements as contribution to a debate of general interest and whether a case involves the press or other news media (see, among other authorities, *Sylka*, cited above; *Margulev v. Russia*, no. 15449/09, § 41, 8 October 2019; and *Panioglu v. Romania*, no. 33794/14, § 74, 8 December 2020).

27. Applying these principles to the case at hand, the Court notes that while the size of the administrative fine could, in the circumstances of the case, be considered modest, but not negligible, the applicant company claimed that the case raised a question of principle as to what extent the domestic authorities were allowed to prevent the media from presenting controversial topics of public interest. This could be interpreted as the fine having a chilling effect which could make the media, and in particular the applicant company, reluctant to contribute to the debate on matters of general interest.

28. Seen in the context of the essential role of a free press in ensuring the proper functioning of a democratic society, the alleged violation of Article 10 of the Convention in the present case concerns, in the Court's view, "important questions of principle". The Court is thus satisfied that the applicant company suffered a significant disadvantage as a result of the administrative-offence proceedings, regardless of pecuniary interests, and does not deem it necessary to consider whether respect for human rights compels it to examine the case (see, *mutatis mutandis*, *Margulev*, cited above, § 42).

29. Accordingly, the Court does not find it appropriate to reject this complaint with reference to Article 35 § 3 (b) of the Convention, and dismisses the Government's objection regarding the alleged lack of a significant disadvantage.

30. The Court further notes that the application 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

31. The applicant company asserted that the aim of the impugned programme had been to provide X. the possibility to present his opinions and thereby inform the public about issues of legitimate public interest. It maintained that, contrary to what had been alleged by the Government, the use and possible decriminalisation of marijuana had been at the time, and still was, a very lively topic widely discussed in Slovak society and even in Parliament since it had also been mentioned in the manifesto of one of the governing political parties. The applicant company claimed that, in spite of the fact that the above issues undoubtedly represented a topic of legitimate public interest and that the information in the programme had been imparted with a view to condemning X.'s position through irony, its freedom of expression had been restricted in an unjustified manner, which was likely to have a chilling effect.

32. Reiterating that the form of presentation or reporting technique had been solely at the discretion of the given media, the applicant company maintained that in the programme concerned the journalist had chosen a particular technique consisting in letting X. speak more or less freely and ridicule himself through his own statements, which he had done without any need for the journalist to specifically disagree. Thus, the argument that the programme had promoted or favoured the use of drugs over alcohol was misleading and speculative, and the term "promotion" had been interpreted too broadly. The national authorities had failed to take account of the whole context of the programme and had not understood the journalist's ironic tone. Relying on the case of *Jersild* (cited above, §§ 33-36), the applicant company submitted that the fact that X.'s statements had been provoking or negatively received could not justify the interference with its freedom of expression if they had not been presented as its own; indeed, it was necessary to focus on the source of the controversial statements, not on the person providing space for their presentation. Moreover, relying on the case of *Thoma* (cited above, § 64), they submitted that journalists could not be expected to permanently and constantly disagree with provocative or sensitive statements and quotations.

33. In the Government's view, it was undisputed that the interference had been based on section 19(1)(e) of the Broadcasting and Retransmission Act and had pursued the legitimate aim of protecting health and morals. They shared the assessment made in the instant case by the Supreme Court and the Constitutional Court, which had correctly applied the principles enshrined in Article 10. Relying on the above provision of domestic law and on the notion of "duties and responsibilities", the Government argued that the applicant company had only been allowed to inform the public about such a sensitive matter as drug use in good faith and with the purpose of

providing precise and reliable information in accordance with the ethics of journalism.

34. While admitting that the topic of drug use should be subject to open discussion, including famous people, the Government emphasised that the impugned programme had not mentioned any need for such a discussion or any expert opinions launching one. It had only conveyed, in relation to the criticism aimed at X. after the music awards, a one-sided view promoting marijuana as being less harmful than alcohol. As the domestic courts had noted, instead of condemning or distancing herself from X.'s statements, the journalist had downplayed them and presented them as common with a view to providing support to X. and ridiculing his critics. The interview could thus in no way be considered as a contribution to a public debate, especially as it had been part of an entertainment programme.

35. The Government were therefore convinced that the imposition of a fine on the applicant company had been justified by a pressing social need to protect the public, in particular young people, from the promotion of drugs and the downplaying of the effects of their use, and that the domestic authorities had not exceeded their margin of appreciation.

2. *The Court's assessment*

36. The Court accepts at the outset, and it has not been disputed by the parties, that there was an interference with the applicant company's right to freedom of expression. As to the legal basis for the interference, the Court notes the broad scope of the powers of the Broadcasting Council (see paragraphs 17 and 18 above). On the facts of the present case, it is nevertheless prepared to accept that the interference was "prescribed by law" – namely by the Broadcasting and Retransmission Act, which set up the regulatory framework for the Broadcasting Council (see also *MAC TV s.r.o. v. Slovakia*, no. 13466/12, § 33, 28 November 2017). The Government further submitted that the interference had been aimed at the protection of health and morals, a legitimate aim under Article 10 § 2. It remains to be established whether the interference was necessary in a democratic society.

37. A significant feature of the present case is that the applicant company did not make the objectionable statements itself, but assisted in their dissemination through one of its journalists responsible for the impugned programme. In assessing whether the imposition of the administrative fine was "necessary", the Court will therefore have regard to the principles established in its case-law relating to the role of the press (see, *mutatis mutandis*, *Jersild*, cited above, § 31).

38. The Court reiterates that by virtue of the essential function the press fulfils in a democracy, Article 10 of the Convention affords journalists protection, subject to the proviso that they act in good faith in order to provide accurate and reliable information in accordance with the tenets of responsible journalism (see, among other authorities, *Pentikäinen v. Finland*

[GC], no. 11882/10, § 90, ECHR 2015). In considering the “duties and responsibilities” of a journalist, the potential impact of the medium concerned is an important factor and it is commonly acknowledged that the audiovisual media have often a much more immediate and powerful effect than the print media. The audiovisual media have means of conveying through images meanings which the print media are not able to impart. At the same time, the methods of objective and balanced reporting may vary considerably, depending among other things on the media in question. It is not for this Court, nor for 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 this context the Court reiterates that Article 10 protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed (see *Jersild*, cited above, §§ 31). The punishment of a journalist for assisting in the dissemination of statements made by another person in an interview would seriously hamper the contribution of the press to discussion of matters of public interest and should not be envisaged unless there are particularly strong reasons for doing so (*ibid.*, § 35, and *Thoma*, cited above, § 62). A general requirement for journalists systematically and formally to distance themselves from the content of a quotation that might insult or provoke others or damage their reputation is not reconcilable with the press’s role of providing information on current events, opinions and ideas (see *Thoma*, cited above, § 64).

39. When analysing an interference with the right to freedom of expression, the Court must, *inter alia*, determine whether the reasons adduced by the national authorities to justify it were relevant and sufficient. In doing so, it has to satisfy itself that these authorities applied standards which were in conformity with the principles embodied in Article 10 and relied on an acceptable assessment of the relevant facts (see, among many other authorities, *Perinçek v. Switzerland* [GC], no. 27510/08, § 196, ECHR 2015 (extracts), and *OOO Iypress and Others v. Russia*, nos. 33501/04 and 3 others, § 79, 22 January 2013). As enshrined in Article 10, freedom of expression is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly (see, among many other authorities, *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], no. 931/13, § 124, 27 June 2017).

40. Turning to the particular circumstances of the instant case, the Court observes that the applicant company was fined in the administrative proceedings initiated by the public authority on the grounds that one of its journalists had allegedly downplayed or justified statements made in an interview by X., a popular singer, about marijuana, and had thus breached the ban on promoting drug use.

41. The Court notes, firstly, that the impugned programme reacted to a then topical event (X.'s thank you speech at the annual music awards) that had seemingly been the subject of public attention or even shocked reactions. In so far as it also touched upon the decriminalisation of marijuana, there is no reason to consider that it was not part of a wider public debate. The Court reiterates in this connection that although the publication of news about the private life of public figures is generally for the purposes of entertainment, it contributes to the variety of information available to the public and undoubtedly benefits from the protection of Article 10 of the Convention (see *Dupate v. Latvia*, no. 18068/11, § 51, 19 November 2020). Furthermore, the public interest also relates to matters which are capable of giving 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, for example, *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, §§ 89 and 103, ECHR 2015 (extracts), with further references). In the particular circumstances of the present case, the Court is thus ready to accept that, in providing the programme at issue, the applicant company could be understood as having contributed, to some extent at least, to the coverage of a subject of public interest.

42. Secondly, the Court notes that the programme in question provided space for X. to present his subjective perception of the use of marijuana and his point of view on its decriminalisation. As such, the programme had some news value and remained within the bounds of freedom of expression, which requires that the public has the right to be informed of the different ways of viewing such a matter.

43. Although the journalist's reactions to X.'s statements could be open to several interpretations, the Court has doubts, in the circumstances of the present case, as to whether they could be considered as inciting viewers to use marijuana or as praising its effects (see, conversely, *Palusinski v. Poland* (dec.), no. 62414/00, 3 October 2006). Nor is it convinced that the journalist's laughter necessarily meant that she approved of X.'s position. In the Court's view, the Supreme Court did not provide any particularly strong reasons when considering completely irrelevant the applicant company's explanations as to the attitude taken by the journalist (see paragraph 8 above) and when ruling out the possibility that, by her reactions, the journalist might have been seeking to distance herself from X.'s statements (see paragraph 11 above). The Court reiterates in this context that to sanction a journalist for assisting in the dissemination of statements made by another person in an interview or for not having formally distanced him or herself from the content of such statements is not reconcilable with the press's role of providing information on current events, opinions and ideas (see the case-law cited in paragraph 38 above).

44. In the Court's view, the domestic courts' decisions instead revealed a particularly rigid interpretation of the journalist's comments, vitiated by the absence of a due assessment of all relevant factors; such an attitude is not easy to reconcile with the right to freedom of expression also covering the use of a sarcastic tone and ironic language. The courts also failed to sufficiently show that the applicant company had acted in bad faith or otherwise inconsistently with the diligence expected of a responsible journalist reporting on a matter of public interest (see *Erla Hlynisdóttir v. Iceland* (no. 2), no. 54125/10, § 75, 21 October 2014). Hence, the domestic courts did not give "relevant and sufficient" reasons indicating that the programme had intended to promote marijuana or induce drug use, rather than simply seeking to expose to the public X.'s controversial attitude.

45. The foregoing considerations are sufficient to enable the Court to conclude that the national authorities' reaction to the programme compiled by the applicant company was disproportionate to the legitimate aim pursued, and was therefore not necessary in a democratic society, within the meaning of Article 10 § 2 of the Convention (see, for example, *Milisavljević v. Serbia*, no. 50123/06, § 42, 4 April 2017).

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

47. 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

48. The applicant company claimed 500 euros (EUR), corresponding to the amount of the fine imposed, in respect of pecuniary damage. It also claimed EUR 10,000 in respect of non-pecuniary damage, as the sanction had caused it to feel a sense of injustice.

49. The Government did not deny the existence of a causal link between the pecuniary damage claimed and the alleged breach of Article 10 of the Convention. With regard to non-pecuniary damage, they considered the claim overstated and requested that, should the Court find a violation of the Convention, a more appropriate amount be awarded.

50. The Court, being satisfied that there was a causal link between the pecuniary damage claimed and the violation of the Convention found, awards the totality of the sum sought under this head, that is, EUR 500.

51. At the same time, it awards the applicant company EUR 2,600 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

52. The applicant company also claimed EUR 10,317 for the costs and expenses incurred before the domestic authorities and the Court.

53. The Government asked the Court to award the applicant company an appropriate amount in this regard.

54. 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 considers it reasonable to award the applicant company the sum claimed, that is to say EUR 10,317.

C. Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application 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:
 - (i) EUR 500 (five hundred euros), plus any tax that may be chargeable, in respect of pecuniary damage;
 - (ii) EUR 2,600 (two thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (iii) EUR 10,317 (ten thousand three hundred and seventeen euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount[s] 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 23 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Renata Degener
Registrar

Péter Paczolay
President