



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

FIFTH SECTION

CASE OF KHADIJA ISMAYILOVA v. AZERBAIJAN (No. 3)

(Application no. 35283/14)

JUDGMENT

Art 8 • Private life • Positive obligations • Refusal by the domestic courts to sanction a newspaper for an article commenting on the private and sexual life of a renowned investigative journalist • Reputation • Article published few months after the secret filming and dissemination of intimate videos of the applicant • No legitimate public interest in exploiting an existing breach of a person's privacy for the purpose of satisfying the prurient curiosity of a certain readership • Article apparently written in response to recent criticism of the members of the ruling party in Parliament by some pro-opposition journalists • No contribution to any issue of legitimate public interest • Article's statements written to attack the journalist or set her up for attack on grounds of morality • Compatibility of the statements with the ethics of journalism and the permissible bounds of freedom of expression not duly examined by domestic courts • Domestic courts' failure to balance competing interests at stake

STRASBOURG

7 May 2020

FINAL

07/08/2020

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

In the case of Khadija Ismayilova v. Azerbaijan (no. 3),

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

Síofra O’Leary, *President*,
Gabriele Kucsko-Stadlmayer,
Ganna Yudkivska,
André Potocki,
Yonko Grozev,
Lətif Hüseynov,
Anja Seibert-Fohr, *judges*,

and Victor Soloveytschik, *Deputy Section Registrar*,

Having regard to:

the application against the Republic of Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Azerbaijani national, Ms Khadija Rovshan gizi Ismayilova (*Xədicə Rövşən qızı İsmayilova* – “the applicant”), on 23 April 2014;

the decision to give notice of the application to the Azerbaijani Government (“the Government”);

the parties’ observations;

Having deliberated in private on 24 March 2020,

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

INTRODUCTION

The applicant alleged that the refusal by the domestic courts to sanction a newspaper for an article commenting on what it depicted as her private and sexual life had constituted a failure by the respondent State to comply with its positive obligation under Article 8 of the Convention to protect her right to respect for her private life and her reputation.

THE FACTS

1. The applicant was born in 1976 and lives in Baku. The applicant was represented by Mr R. Hajili, a lawyer based in Strasbourg, and Mrs Z. Sadigova, a lawyer practising in Azerbaijan.

2. The Government were represented by their Agent, Mr. Ç. Əsgərov.

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

A. Background

4. The applicant has been a renowned investigative journalist since 2005. She worked as a staff reporter and director at the Azerbaijani service

of Radio Free Europe/Radio Liberty (“Azadliq Radio”), whose broadcasts were often critical of the government, covering various topics, including corruption and violations of human rights (see for more details *Khadija Ismayilova v. Azerbaijan*, nos. 65286/13 and 57270/14, § 6, 10 January 2019, and *Khadija Ismayilova v. Azerbaijan (no. 2)*, no. 30778/15, §§ 6-10 [27 February 2020], not yet final). In addition, she worked as a regional coordinator for the Organised Crime and Corruption Reporting Project, where she trained journalists in investigation techniques and cross-border reporting. She has received a number of international awards for her journalistic activity.

5. The applicant conducted journalistic investigations into corruption in Azerbaijan. Between 2010 and 2012 she published and contributed to several articles concerning the President’s family (see *Khadija Ismayilova*, cited above, §§ 7-8, and *Khadija Ismayilova (no. 2)*, cited above, § 11).

6. According to the applicant, she began receiving threats after the publication of her articles. On 7 March 2012 she received an anonymous letter threatening that a secretly filmed video of her of an intimate nature would be made public. On 14 March 2012 a video was posted online on a website named “musavat.tv”, featuring scenes of a sexual nature involving the applicant and a man who, according to her, was her then boyfriend, taken with a hidden camera secretly installed in her bedroom. Following a complaint by the applicant, a criminal investigation was launched, which turned out to be ineffective.

7. At around the same time as the posting of the video and afterwards, a number of articles criticising the applicant were published in various newspapers. In particular, on 13 March 2012 the newspaper *Yeni Azərbaycan* (the official newspaper of the ruling New Azerbaijan Party) published an article titled “Khadija Ismayilova as she seems and as she is”. The article began with a reference to the applicant’s statement about receiving the threatening letter. It went on to criticise the applicant and those who had spoken in support of her. In particular, it criticised both her and a colleague at Azadliq Radio for lack of professionalism and anti-government bias. Moreover, citing another former employee of Azadliq Radio, it also insinuated that the applicant was a person of immoral behaviour who spent a great deal of her time in bars and clubs and regularly held all-night parties and “orgies” with her friends in her office. The same article was published in the newspaper *İki Sahil* on 15 March 2012.

8. On 16 March 2012 the newspaper *Səs* published an article titled “Not surprising”. The article spoke about a number of scandals in which various opposition politicians had been involved. At the end, the article briefly alluded to the above incident involving the applicant, without going into much detail about it, but stating that it was not surprising that many opposition-oriented individuals were involved in “sex scandals”. On 5 April 2012 *Səs* published another article titled “Who should Khadija sue?”

attacking the applicant for “immoral behaviour” and suggesting that the video scandal had been created by herself and her friends at “musavat.tv”. Several more articles mentioning the applicant were published later in *Səs*, besides the one which gave rise to the present application (see Section B below).

9. In the summer of 2013 another video, filmed with the same hidden camera, was posted on the internet.

10. The above-mentioned events are the subject of the Court’s judgment in *Khadija Ismayilova* (cited above), in which the Court found two violations of Article 8 of the Convention and a violation of Article 10 of the Convention.

11. Following the events giving rise to the present application, in December 2014 the applicant was arrested and detained on a charge of having incited a former colleague to commit suicide. In February 2015 she was additionally charged with the criminal offences of large-scale misappropriation, illegal entrepreneurship, large-scale tax evasion and abuse of power in connection with her activity as the director of Azadliq Radio between 1 July 2008 and 1 October 2010. The events relating to her arrest and detention are the subject of the Court’s judgment in *Khadija Ismayilova* (no. 2) (cited above), in which the Court found violations of Articles 5 §§ 1 and 4, 6 § 2 and 18 of the Convention, taken in conjunction with Article 5.

12. On 1 September 2015 the applicant was sentenced to seven and a half years’ imprisonment. After a series of appeals, on 25 May 2016 she was acquitted in part and her sentence was reduced to three and a half years’ imprisonment, conditionally suspended for five years. She was released from prison on the same day.

B. Events complained of in the present case

1. The newspaper article

13. According to the information page on its website, the newspaper *Səs*, mentioned in paragraph 8 above, is a “socio-political newspaper” founded in 1990 and in circulation since 1991. Starting from 1998, it has been published daily. According to the newspaper itself, “*Səs* has played the role of the party base for the New Azerbaijan Party and, after the party’s establishment, has continued its activity as its media trumpet”.

14. On 6 November 2012, around eight months after the dissemination of the first video (see paragraph 6 above) and before the dissemination of the second video (see paragraph 9 above), and while the criminal investigation into the invasion of the applicant’s private life was still ongoing, *Səs* published an article titled “A historical house of MPs” (“*Tarixi deputatxana*”), authored under the pen-name Rovshan. The compound word “*deputatxana*”, which does not have a direct equivalent in English, was a

pejorative neologism meaning “parliament” (used here instead of the usual “*parlament*”).

15. The first paragraph of the article began with a rhetorical question as to why opposition-oriented journalists, to whom the author referred as “pen-pushing blabbermouths”, were not capable of writing about any other topics except constantly criticising either “those in power” or members of the National Assembly. It then stated that those opposition journalists did not want to remember that, at the time the current opposition had been in power in 1992, the same National Assembly had been a “*deputatxana*” of representatives of the Popular Front Party and the Müsavat Party (whom the article repeatedly and pejoratively referred to as “*cəbhəkratlar*”, “*müsavatkratlar*” and “*müsavatxorlar*” (no direct English equivalent)).

16. In the next paragraph, the article stated that various negative things had happened in Parliament in 1992, such as some MPs making insulting accusations against then-President Elçibey; some “smoking Marlboro cigarettes while high on cannabis” inside the session hall of the parliament; some being hung-over after spending whole nights in restaurants and bars; some asleep and loudly snoring; and some others making official speeches filled with expletives. The author referred to the MPs of that time as slackers and wondered why the opposition-oriented journalists spoke of the current parliament as a “zoo” or a “harem”, but did not speak about their own “donkeys”, “jackals” and “venomous snakes” whom even a real zoo would not accept.

17. The author began the last paragraph by commenting on a recent article written by an unnamed journalist from the opposition’s *Yeni Müsavat* newspaper (it appears that he was referring to Zamin Haji, a well-known columnist), in which the latter had spoken about the former Italian pornographic actress Cicciolina (Ilona Staller), who had been elected as a member of the Italian Parliament and, after having been elected, had made critical comments about Saddam Hussein and Osama bin Laden. The author wondered what “silly ideas” had crossed the journalist’s mind when he had written about her, and further wondered if such “silly ideas” extended to suggesting that the Azerbaijani Parliament should also have a pornographic actress among its members. The author then continued:

“If opposition newspapers’ pen-pushing blabbermouths have such cheap and narrow thoughts, let them make room for Khadija Ismayilova in their Public Chamber¹ and name her the Public Chamber’s Pornstar Cicciolina! And the Popular Front and Müsavat non-MPs should enjoy the ‘national’ Cicciolina as much as they like. After all, they are quite used to such things! And we can put lovely headlines on such adventures. For example, ‘Which bit of Cicciolina did Zamin Haji kiss?’, ‘Why did Elnur Astanbayli show his tongue to Cicciolina sexually?’, ‘Natiq Gahramanoglu and

¹ The Public Chamber (*İctimai Palata*) was a civic forum created by a number of politicians representing various opposition parties and non-partisan politicians who were not elected in the 2010 parliamentary elections, as well as a number of political activists.

Samir Sari were not able to share Cicciolina!', 'The queue for Cicciolina at the Public Chamber' and so on."

Original in Azerbaijani:

"Əgər müxalifətyönlü qəzetlərin qələm dağarcıqları bu qədər ucuz və dar düşüncəyə malikdirlərsə, getsinlər öz 'İctimai Palata'larında Xədicə İsmayılovaya yer ayırsınlar, adını da qoysunlar 'İctimai Palata'nın PORNOULDUZ ÇİÇÇOLİNOSU [sic]! Cəbhəkrat və Müsavatkrat deputatxanaları isə 'milli' ÇİÇÇOLİNODAN istədikləri qədər feyz alsınlar. Axı onlar belə şeylərə kifayət qədər alışıqlıdırlar! Bizlər də həmin macəralara qəşəng-qəşəng başlıqlar qoyaq. Məsələn, 'Zəmin Hacı Çiççolinonun harasından maç elədi?', 'Elnur Astanbəyli Çiççolinoya niyə seksual xarakterli dil göstərdi?', 'Natiq Güləhmədov Samir Sarı ilə Çiççolinonu bölüşdürə bilmədi!', 'İctimai Palatada Çiççolino növbəsi' və s."

2. Civil proceedings instituted by the applicant

18. On 27 December 2012 the applicant brought an action against the newspaper, relying *inter alia* on Articles 32 and 46 of the Constitution, Article 8 of the Convention, Article 23 of the Civil Code, Article 10 of the Law on Mass Media and the Constitutional Court's decision of 31 May 2002. She claimed that the article was insulting and damaging to her honour and dignity, her right to respect for her private and family life, and her right to freedom of expression. She submitted that she was facing blackmail in connection with her journalistic activity: her private life had recently been invaded and a hidden intimate video recording of her had been filmed and released on the internet. Referring specifically to the passage cited in paragraph 17 above, she argued that the article in question was part of a larger campaign mounted against her in the pro-government press in retaliation for her journalistic activity and that it had made her into an object of ridicule by "lowering her in the eyes of society". The article had used the incident involving the hidden video for the purpose of insulting her and damaging her reputation. The insulting and derogatory statements made in the article had caused her to experience significant mental suffering and had tarnished her reputation in the eyes of her colleagues, friends, relatives and readers. She requested the court to order the newspaper to publish an apology and sought compensation for distress in the amount of 50,000 Azerbaijani manats (AZN).

19. The respondent newspaper argued before the court that the applicant should have sued "musavat.tv", the original publication source of the hidden video, and not the newspaper, which had simply written a critical commentary about her. The newspaper submitted that it too condemned the interference with the applicant's private life. However, being a "just, fair and highly reputed newspaper", it had a duty to its readers to inform them about "social, political and other events of public interest". The respondent newspaper further stated that, in its view, the fact that the applicant, who was not married, had an extramarital sexual relationship with "some person" was contrary to the image of a woman as "the highest manifestation of our

national and moral values”. Behaviour such as the applicant’s could be damaging to the morals of younger generations. The newspaper argued that the contents of the article in question fell within the limits of its right to freely express its opinions. It further contended that the article could not have damaged the applicant’s reputation because, contrary to her submissions, it was not believable that she possessed a reputable image among readers in the first place. In this connection, it went on to criticise some of the applicant’s past views and actions, which, in its view, were pro-opposition or even unpatriotic. It stated that no one supported her, not even other pro-opposition journalists and politicians mentioned in the article, because none of them had sued the newspaper on account of the matter.

20. By a judgment of 13 February 2013 the Sabail District Court, referring to Article 47 of the Constitution, Article 23 of the Civil Code, the decision of the Plenum of the Supreme Court of 14 May 1999 and the decision of the Constitutional Court of 31 May 2002, dismissed the applicant’s claim, reasoning as follows:

“On the basis of the evidence examined at the hearing, the court concludes that the Constitution guarantees freedom of thought and expression. The [article published] in the newspaper *Səs* is a manifestation of the freedom of thought and expression and of the journalist’s independent opinion. Assessing this article as degrading to honour and dignity could be construed as forcing a person to think differently and contrary to his will, and therefore the claim should be dismissed. When dismissing the claim, the court has also taken into account that, while the claimant is under a burden to prove that she endured physical and mental suffering, she has not [proved it], and therefore the claim should be dismissed.”

21. The applicant appealed, reiterating her claims and arguments. She also insisted that she had endured mental suffering as a result of the nature of the publication, which was insulting and harmful to her honour and dignity, and that it was difficult to prove the existence of mental suffering through any concrete arguments. She argued that anyone would experience mental suffering in the same situation. She further submitted that it was up to the court to assess the severity of suffering and moral damage inflicted in the present case.

22. By a judgment of 13 June 2013 the Baku Court of Appeal dismissed her appeal, upholding the first-instance court’s reasoning.

23. On 23 October 2013 the Supreme Court dismissed a further appeal by the applicant, finding that the appellate court had correctly applied the substantive and procedural rules of law.

RELEVANT LEGAL FRAMEWORK

A. The 1995 Constitution

24. The relevant Articles of the Constitution, as in force at the relevant time, provided as follows:

(i) Article 32. Right to personal inviolability

“I. Everyone has the right to personal inviolability.

II. Everyone has the right to keep secret private and family life. It is prohibited to interfere with private or family life, except in cases established by law. Everyone has the right to be protected from unlawful interference in his or her private and family life.

III. No one may collect, keep, use and disseminate information about a person’s private life without his or her consent. ...

...

V. Except in cases prescribed by law, everyone may become acquainted with information collected concerning him or her. Everyone has a right to demand the correction or elimination of information concerning him or her which does not correspond to the truth, is incomplete or has been collected by means of a violation of the requirements of the law.

...”

(ii) Article 46. Right to defend the honour and dignity

“I. Everyone has the right to defend his or her honour and dignity.

II. The dignity of a person is protected by the State. No circumstance can justify humiliation of a person’s dignity. ...”

(iii) Article 47. Freedom of thought and expression

“I. Everyone has freedom of thought and expression.

II. No one shall be forced to disclose his or her thoughts and beliefs or to renounce his or her thoughts and beliefs. ...

...”

Article 71. Protection of human and citizens’ rights and freedoms

“I. Bodies of the legislative, executive and judicial powers have the duty to ensure and to protect human and citizens’ rights and freedoms established by the Constitution.

II. No one may restrict the implementation of human and citizens’ rights and freedoms. Everyone’s rights and freedoms shall be restricted only on the grounds specified in this Constitution and the legislation, as well as by the rights and freedoms of others.

...

VII. Any disputes concerning violations of human and citizens' rights and freedoms shall be settled in the courts of law.

..."

B. The 2000 Civil Code

25. The relevant provisions of the Civil Code, as in force at the material time, provided as follows:

(iv) Article 23. Protection of honour, dignity and business reputation

"23.1. An individual is entitled to obtain, by way of a court order, a retraction of information harming his or her honour, dignity or business reputation, disclosing secrets relating to his or her private or family life or breaching his or her personal or family inviolability, provided that the person who disseminated such information fails to prove that the information was true. The same rule shall also apply in cases of incomplete publication of factual information if, as a result, the honour, dignity or business reputation of an individual is harmed. ...

23.2. If information harming the honour, dignity or business reputation of an individual or invading the secrecy of his or her private or family life is disseminated in the mass media, the information shall be retracted in the same mass media source.
...

23.3. If the mass media publish information breaching an individual's rights and interests protected by law, that individual has the right to publish his or her reply in the same mass media source.

23.4. In addition to the right to seek a retraction of the information harming his or her honour, dignity or business reputation, the individual has the right to claim compensation for damage caused by the dissemination of such information. ..."

C. Law on Mass Media of 7 December 1999

26. The relevant provisions of the Law on Mass Media, as in force at the material time, provided as follows:

(v) Article 10. Prohibition of abuse of the freedom of mass media

"It is prohibited to use the mass media for the purposes of disseminating secrets protected by the legislation of the Republic of Azerbaijan, violently changing the existing constitutional State order, attacking the integrity of the State, promoting war, violence and cruelty, propagating ethnic, racial or social intolerance, publishing under the guise of an authoritative source rumours or false and biased articles degrading the honour and dignity of citizens, [publishing] pornographic material, slandering, or other illegal actions.
..."

(vi) Article 44. The right to retraction, correction and response

"If a mass media source provides information of a slanderous and insulting nature degrading the honour and dignity of an individual or a legal entity, the individual or

his or her representative, or the chief officers or authorised representatives of the legal entity, have the right, within a period of one month, to respond in the same mass media source, to demand a retraction or correction of the false information, and an apology, or to apply directly to a court.

...”

(vii) Article 60. Liability for abusing the freedom of the mass media and journalistic rights

“The editorial board (chief editor) and journalists (authors) of a mass media source shall be subject to civil, administrative, criminal or other liability for:

...

(4) breaching the privacy of citizens;

...”

D. Decisions of the Supreme Court and the Constitutional Court

27. The decision of the Plenum of the Supreme Court of 14 May 1999 on the practice of the courts in the application of the legislation on protection of honour and dignity reads as follows, in so far as relevant:

“6. ... When claiming compensation for non-pecuniary damage, the claimant must prove that he or she has endured physical or mental suffering.”

28. The decision of the Constitutional Court of 31 May 2002 on the interpretation of Articles 21 and 23 of the Civil Code of the Republic of Azerbaijan reads as follows, in so far as relevant:

“If a person’s honour, dignity or business reputation is harmed, this causes the person to experience distress and suffering and to feel morally insulted.

...

The provisions of Article 21 of the Civil Code ... concern only compensation for material damage as well as loss of opportunity. As for the damages provided for by Article 23 of the same Code, they must be understood as covering the non-pecuniary damage (physical and mental suffering) and pecuniary damage caused by the harm to honour, dignity or business reputation.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

29. The applicant complained that the refusal by a domestic court to sanction a newspaper for an article commenting on what it depicted as her private and sexual life had constituted a failure by the respondent State to comply with its positive obligation under Article 8 of the Convention to protect her right to respect for her private life and her reputation. That Article reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. Scope of the complaint

30. At the outset, given that the matters complained of and the applicant’s submissions in the present case are related to the matters examined in the judgment of *Khadija Ismayilova v. Azerbaijan* (nos. 65286/13 and 57270/14, 10 January 2019), the Court considers it necessary to elaborate on the scope of the present complaint.

31. In the applications giving rise to the *Khadija Ismayilova* judgment, the applicant complained, among other things, under Article 8 of the Convention about matters relating to the invasion of her privacy, including the threatening letter she had received, the intrusion into her home and the installation of hidden video cameras, the filming of videos of an intimate nature and their publication on the internet, and newspaper articles which had widely publicised the fact of the invasion of the applicant’s privacy. That case concerned, *inter alia*, the failure by the respondent State to comply with its positive obligation under Article 8 to protect the applicant against the invasion of her privacy.

32. In particular, the Court found that the applicant’s private life had been affected by the entirety of the above-mentioned interconnected circumstances relating to the invasion of her private life, including the publicity given by the media to the matter (see *Khadija Ismayilova*, cited above, §§ 105-06). Ultimately, in the light of its finding that the criminal investigation instituted in connection with the applicant’s complaints had been inadequate, the Court did not examine further the applicant’s arguments concerning the “smear campaign” in the media in the context of the Article 8 complaint raised in the case (*ibid.*, § 131).

33. The newspaper article giving rise to the present application, which was published around eight months after the incident involving the first video, was not specifically referred to by the applicant in the context of her complaints in the *Khadija Ismayilova* case. In that case, the applicant mainly referred to the newspaper articles described in paragraphs 7-8 above.

34. The events which were the subject of the Court’s examination in *Khadija Ismayilova* constitute the general factual background for the present case and must therefore be taken into account. However, while the circumstances of the present case are related to those events, they are nevertheless distinct and give rise to different legal issues. The complaint in the *Khadija Ismayilova* case concerned, at its core, a set of issues relating to

the invasion of the applicant's privacy. The complaint in the present case concerns an article which was published after that invasion of privacy had occurred and which she alleges overstepped the permissible limits of journalistic freedom of expression when discussing details of the applicant's private life based on revelations following that invasion of her privacy, as well as the question whether the domestic courts struck a fair balance between the applicant's Article 8 rights and the newspaper's Article 10 rights when dismissing her claim for damages.

B. Admissibility

1. Applicability of Article 8 of the Convention

35. The Court notes that the applicant complained in terms of the positive obligation on the State under Article 8 of the Convention to adequately protect her right to respect for her private life and her reputation from interference by the *Səs* newspaper.

36. The concept of "private life" is a broad term not susceptible to exhaustive definition. It covers the physical and psychological integrity of a person, as well as his or her sexual life (see *Khadija Ismayilova*, cited above, § 106). It can therefore embrace multiple aspects of the person's physical and social identity. Article 8 protects in addition the right to personal development, and the right to establish and develop relationships with other human beings and the outside world (see *Denisov v. Ukraine* [GC], no. 76639/11, § 95, 25 September 2018, with further references). Article 8 thus guarantees a right to "private life" in the broad sense, including the right to lead a "private social life", that is, the possibility for the individual to develop his or her social identity (see, among other authorities, *Bigaeva v. Greece*, no. 26713/05, § 22, 28 May 2009). At the same time, it also includes a right to live privately, away from unwanted attention (see *Smirnova v. Russia*, nos. 46133/99 and 48183/99, § 95, ECHR 2003-IX (extracts), and *Bărbulescu v. Romania* [GC], no. 61496/08, § 70, 5 September 2017 (extracts)).

37. Publication of a photo or a video recording may intrude upon a person's private life (see *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 96, ECHR 2012, and *Bremner v. Turkey*, no. 37428/06, § 62, 13 October 2015).

38. In addition to the broad concept of private life, the Court has also found that a person's reputation formed part of his or her personal identity and psychological integrity and therefore fell within the scope of his or her private life (see *Pfeifer v. Austria*, no. 12556/03, § 35, 15 November 2007; *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, § 76, 27 June 2017; and *Denisov*, cited above, § 97). Harm to reputation has been alleged before the Court in various contexts in cases involving both professional and social reputation. In particular, the

Court has held that the use of offensive expressions or cartoons, even as part of criticism relating to a matter of general interest, can be harmful to a person's reputation (see *Palomo Sánchez and Others v. Spain* [GC], nos. 28955/06 and 3 others, §§ 13, 15, 67 and 72-73, ECHR 2011). An attack on a person's reputation can also be made by touching upon a person's intimate characteristics which constitute profound parts of the person's identity, such as deliberate misrepresentation of a person's gender (see *Sousa Goucha v. Portugal*, no. 70434/12, § 27, 22 March 2016).

39. 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 made in a manner causing prejudice to personal enjoyment of the right to respect for private life (see, among other authorities, *Axel Springer AG v. Germany* [GC], no. 39954/08, § 83, 7 February 2012). This requirement covers social reputation in general, as well as professional reputation in particular (see *Denisov*, cited above, § 112, with further reference to *Medžlis Islamske Zajednice Brčko and Others*, cited above, §§ 76 and 105-06). The requirement of attaining a certain level of seriousness has been applied not only in the narrower contexts of honour and reputation as particular aspects of private life, but also in other contexts involving the more general, broad concept of "private life", such as publication of a photograph (see *Vučina v. Croatia* (dec.), no. 58955/13, §§ 29-31, 24 September 2019).

40. In *Khadija Ismayilova*, the Court found that the acts which constituted the invasion of the applicant's privacy – detailed in paragraph 116 of that judgment – had indisputably affected her physical and moral integrity and had been in and of themselves grave and an affront to human dignity. Moreover, they had apparently been linked to her professional activity as an investigative journalist and were to be regarded as a form of harassment intended to dissuade her from doing her work, unless such a motive could be conclusively ruled out as a result of an effective investigation, which had not been done in that case (see *Khadija Ismayilova*, cited above, §§ 116 and 119-20).

41. In the present case, it is undisputed that the article published on 6 November 2012 sought to slur the applicant's private and indeed her sexual life. While the article did not make any express references or factual statements relating to the secretly filmed video, it is clear from the overall context of the case and the respondent newspaper's submissions before the domestic courts that the statements concerning the applicant stemmed from the video. Thus, the impugned statements were made in the general context of an already existing breach of the applicant's privacy, which at the time was the subject of an ongoing criminal investigation and was later examined by the Court in *Khadija Ismayilova*. The article likened the applicant to a porn star, mockingly hinted that various opposition-oriented journalists should engage in sexual acts with her or had already done so and gave

examples of various hypothetical newspaper headlines that could be written on the subject, all of them clearly suggestive of various sexual acts.

42. The Court accepts the applicant's submissions that the article giving rise to the present application, the meaning and effect of which should be assessed in the general context of the entire series of events relating to the breach of her privacy, caused her serious moral distress and harm to her personal relationships and social reputation.

43. For these reasons, Article 8 is applicable.

2. Absence of other grounds of inadmissibility

44. The Court notes that otherwise 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.

C. Merits

1. The parties' submissions

45. The applicant argued that, because of her journalistic work on high-level corruption, her private life had been invaded and she had been blackmailed with the intimate video secretly filmed in her flat. At the same time, she had also been deliberately targeted by a smear campaign in pro-government media. Several articles had been published in various newspapers, which had not only disparaged her, but had also essentially publicised the internet site which had disseminated the video and its content (see paragraphs 7-8 above).

46. According to the applicant, *Səs* was a newspaper controlled by the ruling party and had never hidden its affiliation with it. The newspaper's website even prominently featured the ruling party's logo. The newspaper was owned by the Alinja Charitable Society, which had been founded by a board member and one of the founders of the New Azerbaijan Party.

47. As to the newspaper article which gave rise to the present application, the applicant submitted that the statements in the article did not have any factual basis. They contained intentionally distorted and degrading comments connected with the secretly filmed and subsequently disseminated video footage of the applicant's sexual life. These statements did not relate to the applicant's activities as a public person, but concerned her personal, intimate life. The aim of the article, as part of a "smear campaign" against her, was to damage her image and to disgrace her.

48. The applicant noted that she was not a member of any political party, was not a politician and did not hold any public office. While she was tolerant of critical opinions about her, the statements made in the article exceeded any limits of acceptable criticism and were exclusively aimed at ridiculing her private life, making her intimate life a subject of public

discussion and portraying her as someone having the lifestyle of a porn star or a prostitute. The applicant stated that she had always tried to keep her private life secret, but it had been invaded through the installation of hidden video cameras in her home without her knowledge.

49. The applicant argued that, in a country with an “Eastern mentality” like Azerbaijan, portraying a woman in such a light could result in stigmatisation by society and her own relatives, and even physical harm from the latter.

50. The applicant submitted that in the present case, the respondent State was under an obligation to protect her personal reputation from publications that went beyond acceptable criticism. The rulings of the domestic courts in respect of her claim against the newspaper had lacked adequate reasoning.

51. The Government submitted that the article in question reflected the author’s view on information about the applicant which was already publicly available. That information had not been brought to light by the author; it had been revealed long before the publication of the article. The author had not obtained the information illegally. During the domestic proceedings, the author had explained that, in his opinion, the applicant’s behaviour was contrary to national moral standards and was a bad example for the younger generation.

52. The Government argued that the domestic courts had carefully balanced the right of the newspaper to freedom of expression against the applicant’s right to respect for her private life. They had taken account of the relevant provisions of the Constitution, the Convention, the domestic legislation and the case-law of the Supreme Court, and their conclusions were not incompatible with the Convention.

53. The Government disputed the applicant’s submissions that the newspaper *Səs* was controlled by the government, arguing that the applicant had failed to produce any reliable evidence proving her allegations. They noted that the applicant was a public figure and that it was not surprising that some of the domestic media had on various occasions commented on facts relating to her. The Government disagreed with the applicant’s submission that there had been a smear campaign against her linked to her journalistic work.

2. The Court’s assessment

(a) General principles

54. Bearing in mind the need to protect the values underlying the Convention and considering that the rights under Articles 10 and 8 of the Convention deserve equal respect, the Court has held that the balance to be struck by national authorities between those two rights must seek to retain the essence of both (see *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], no. 931/13, § 123, 27 June 2017). The general principles

applicable to the right to private life, the right to freedom of expression and the balancing of these rights have been set out in *Von Hannover (no. 2)* (cited above, §§ 95-107), *Axel Springer AG* (cited above, §§ 78-88), and *Couderc and Hachette Filipacchi Associés v. France* ([GC] no. 40454/07, §§ 82-93, ECHR 2015 (extracts)).

55. In those and other cases the Court has identified a number of relevant criteria for balancing the right to freedom of expression against the right to respect for private life. Those criteria are summarised in *Von Hannover (no. 2)* (cited above, §§ 109-13) and *Axel Springer AG* (cited above, §§ 90-95) and include the following: contribution to a debate of general interest, the degree to which the person affected was well known and the subject of the report, the prior conduct of the person concerned, the content, form and consequences of the publication, and, where relevant and appropriate, the circumstances in which the photographs were taken. Where an application is examined under Article 10, the Court will also have regard to the way in which the information was obtained and its veracity, and the severity of the penalty imposed on the journalists or publishers.

56. The applicant relies in the present case on the State's positive obligations which are inherent in effective respect for private or family life and which may involve the adoption of measures designed to secure respect for private and family life even in the sphere of the relations of individuals between themselves.

57. As to freedom of expression, the Court reiterates that, subject to paragraph 2 of Article 10, it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. It emphasises that, although the press must not overstep certain bounds, regarding in particular "protection of the reputation and rights of others", its duty is nevertheless to impart information and ideas on all matters of public interest, and the public also has a right to receive them. The task of imparting information necessarily includes "duties and responsibilities", as well as limits which the press must impose on itself spontaneously (see *Von Hannover (no. 2)*, cited above, §§ 101-02; *Axel Springer AG*, cited above, §§ 78-79; and *Couderc and Hachette Filipacchi Associés*, cited above, §§ 88-89).

58. The Court reiterates that there is a fundamental distinction to be drawn between reporting facts – even if controversial – capable of contributing to a debate of general public interest in a democratic society, and making tawdry allegations about an individual's private life (see *Armonienė v. Lithuania*, no. 36919/02, § 39, 25 November 2008). In respect of the former, the pre-eminent role of the press in a democracy and its duty to act as a "public watchdog" are important considerations in favour of a narrow construction of any limitations on freedom of expression. However, different considerations apply to press reports concentrating on sensational

and, at times, lurid news, intended to titillate and entertain, which are aimed at satisfying the curiosity of a particular readership regarding aspects of a person's strictly private life. Such reporting does not attract the robust protection of Article 10 afforded to the press and, in such cases, freedom of expression calls for a narrower interpretation (see *Von Hannover v. Germany*, no. 59320/00, §§ 65-66, ECHR 2004-VI; *Leempoel & S.A. ED. Ciné Revue v. Belgium*, no. 64772/01, §§ 68 and 77, 9 November 2006; *Hachette Filipacchi Associés (ICI PARIS) v. France*, no. 12268/03, § 40, 23 July 2009; and *MGN Limited v. the United Kingdom*, no. 39401/04, § 143, 18 January 2011). While confirming the Article 10 right of members of the public to have access to a wide range of publications covering a variety of fields, the Court has stressed that in assessing in the context of a particular publication whether there is a public interest which justifies an interference with the right to respect for private life, the focus must be on whether the publication is in the interest of the public and not whether the public might be interested in reading it (see *Mosley v. the United Kingdom*, no. 48009/08, § 114, 10 May 2011, and *Ungváry and Irodalom Kft v. Hungary*, no. 64520/10, § 47, 3 December 2013).

59. In this connection, the Court specifies 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, especially in that they affect the well-being of citizens or the life of the community. This is also the case with regard 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 *Couderc and Hachette Filipacchi Associés*, cited above, §§ 103, with further references).

60. Although Article 10 offers a degree of protection to the publication of news about the private life of public figures even for the purposes of entertainment because it contributes to the variety of information available to the public, such protection may cede to the requirements of Article 8 where the information at stake is of a private and intimate nature and there is no public interest in its dissemination (see *Couderc and Hachette Filipacchi Associés*, cited above, § 89, and *Mosley*, cited above, § 131).

61. Moreover, offensive language may fall outside the protection of freedom of expression if it amounts to wanton denigration, for example where the sole intent of the offensive statement is to insult (see *Skalka v. Poland*, no. 43425/98, § 34, 27 May 2003 and *Uj v. Hungary*, no. 23954/10, § 20, 19 July 2011).

62. The choice of the means calculated to secure compliance with Article 8 of the Convention in the sphere of the relations of individuals between themselves is in principle a matter that falls within the Contracting States' margin of appreciation, whether the obligations on the State are positive or negative. Likewise, under Article 10 of the Convention, the

Contracting States have a certain margin of appreciation in assessing whether and to what extent an interference with the freedom of expression protected by this provision is necessary. However, this margin goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those delivered by an independent court. In exercising its supervisory function, the Court's task is not to take the place of the national courts, but rather to review, in the light of the case as a whole, whether the decisions they have taken pursuant to their power of appreciation are compatible with the provisions of the Convention relied on (see *Von Hannover (no. 2)*, cited above, §§ 104-05; and *Couderc and Hachette Filipacchi Associés*, cited above, § 90).

63. In cases such as the present one, which require the right to respect for private life to be balanced against the right to freedom of expression, the outcome of the application should not, in theory, vary according to whether it has been lodged with the Court under Article 8 of the Convention by the person who was the subject of the article or under Article 10 of the Convention by the publisher. As stated previously, as a matter of principle these rights deserve equal respect and the margin of appreciation should in theory be the same in both cases (see *Von Hannover (no. 2)*, cited above, § 106; *Axel Springer AG*, cited above, § 87; and *Couderc and Hachette Filipacchi Associés*, cited above, § 91).

64. Where the balancing exercise has been undertaken by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court has indicated that it would require strong reasons to substitute its view for that of the domestic courts (see *Von Hannover (no. 2)*, cited above, § 107, and *Axel Springer AG*, cited above, § 88). However, the margin of appreciation accorded to the decisions of the domestic courts would be a narrow one if the balance struck by them was unsatisfactory, in particular because the importance or scope of one of the rights at stake was not duly considered (see *Aksu v. Turkey* [GC], nos. 4149/04 and 41029/04, § 67, ECHR 2012, and *Perinçek v. Switzerland* [GC], no. 27510/08, § 199, ECHR 2015).

(b) Application of those principles to the present case

65. In the present case, the Court considers that the relevant criteria for the balancing exercise include whether the publication contributed to a debate of general interest, the degree to which the applicant was known in society, her prior conduct, and the content, form and consequences of the publication (see paragraph 55 above).

66. The Court emphasises again that the article in question was published a few months after a serious invasion of the applicant's privacy, involving the secret filming and dissemination of intimate videos. At the time of publication a criminal investigation into those events was ongoing.

67. Bearing in mind this background, the Court notes that the article was apparently written in response to recent criticism of the National Assembly by some pro-opposition journalists. One of those journalists had recently written about the Italian politician Ilona Staller, also known by the stage name Cicciolina, used in her previous career as a pornographic actress. In this connection, the impugned article brought up the applicant's name, compared her to Cicciolina, stated that she too should be named as a porn star, and suggested that she should engage in sexual liaisons with a number of opposition-oriented journalists. As noted above (see paragraph 41 above), it used language in relation to the applicant that could be considered lewd.

68. It is not necessary, given the focus of the applicant's complaint, for the Court to decide whether the overall contents of the article sought to raise or address issues of public interest. It is sufficient to note that it was essentially a short piece of writing the apparent main purpose of which was to attack several opposition-oriented journalists because of their critical stance towards the members of the ruling party in Parliament. It also contained allegations and insinuations about unnamed members of parliament in the early 1990s, at a time when some of the current opposition had been in power. Those allegations and insinuations were of a general character, did not amount to reporting of topical news or current events, did not appear to be intended as part of a genuine historical or political debate, and, as it appears, mainly had the purpose of attacking the opposition and accusing the opposition-oriented journalists of being biased in their reporting on current issues.

69. The focus of the applicant's complaint is confined to the particular statements made in the article about herself, which were exclusively related to her private life and did not discuss any of her work or public activities. While this was not expressly stated in the article, contextually it appears clear that the applicant's name was brought up for no reason other than the secret recording and subsequent dissemination of the intimate video. In their respective submissions before the domestic courts, the applicant raised this argument and the newspaper confirmed it (see paragraphs 18-19 above).

70. The Court does not see how those particular statements could have contributed to any issue of legitimate public interest.

71. It is true that, once a person's privacy has been breached and the information about it has entered into public domain, the damage is already done and it is virtually impossible to restore the situation to when the breach had never happened. However, while responsible reporting on matters of public interest in accordance with the ethics of journalism is protected by the Convention, there can be no legitimate public interest in exploiting an existing breach of a person's privacy for the purpose of satisfying the prurient curiosity of a certain readership, publicly ridiculing the victim and causing them further harm.

72. The Court notes the Government's argument that the applicant was a public figure and that it was to be expected that some of the domestic media would comment on various facts relating to her. However, the Court reiterates that, even where a person is known to the general public, he or she may rely on a "legitimate expectation" of protection and respect for his or her private life. Thus, the fact that an individual belongs to the category of public figures cannot in any way, even in the case of persons exercising official functions, legitimise intrusions into private life (see, among other authorities, *Von Hannover* (no. 2), cited above, § 97 and *Couderc and Hachette Filipacchi*, cited above, § 122).

73. Furthermore, it is important that the applicant herself had never sought any public exposure in relation to aspects of her private and intimate life which were not relevant to the positions she had taken on public issues as a journalist. Her privacy had been invaded without her knowledge and against her will. Therefore, it cannot be argued that the discussion of her private life was the result of her previous conduct.

74. As to the content, form and consequences of the publication, the Court notes that the applicant's portrayal in the article was not a joke made in a satirical, playful and irreverent style without any intent to criticise, and could not be assessed as such by a reasonable reader (compare and contrast *Sousa Goucha*, cited above, §§ 53-55). The *Sas* newspaper was not a comedy show or a satirical publication; it positioned itself as a serious socio-political newspaper and was a self-professed "media trumpet" of the ruling party. As such, the messages conveyed on its pages were expected to have a significant degree of seriousness. The comments were meant to be critical, as confirmed by the newspaper's submissions before the domestic courts (see paragraph 19 above). The only discernible intent behind the statements made in respect of the applicant was to attack her or set her up for attack on grounds of morality. By further exploiting the previous breach of her privacy, the article in question sought, by using offensive and derogatory language, to attribute to the applicant characteristics and behaviour in a manner calculated to negatively and radically influence how she was viewed in society.

75. Having regard to the above considerations which are relevant for the adequate balancing exercise, the Court will now have regard to the manner in which the case was dealt with at the domestic level. It notes, at the outset, that neither party has expressly commented on whether the existing domestic legislation and related case-law of the domestic courts concerning, in particular, protection of "honour, dignity and business reputation", liability for "abusing the freedom of the mass media" and compensation for damages (see the terms used in the domestic legislation reproduced in paragraphs 25-27 above) constituted an adequate legal framework for adoption of practical and effective measures designed to fully secure the respondent State's compliance with its positive obligation under Article 8 of

the Convention to protect the right to private life and reputation in cases such as the present one (see paragraph 62 above; see also, *mutatis mutandis*, *Söderman v. Sweden* [GC], no. 5786/08, §§ 85, 89 and 108 et seq., ECHR 2013; *Mosley*, cited above, §§ 119-20; and *White v. Sweden*, no. 42435/02, §§ 26-27, 19 September 2006). In such circumstances, the Court does not consider it necessary to examine this matter in detail for the purposes of the present complaint. It nevertheless observes that the domestic legal system provided the applicant with the possibility of bringing a civil action for damages against the newspaper and that her action was examined by the domestic courts under the legislation and case-law mentioned above. It will therefore proceed to review the domestic courts' judgments dismissing the action brought by the applicant against the newspaper.

76. The domestic courts held that the statements made in the article were a manifestation of the author's freedom of thought and independent opinion, that assessing those statements as degrading to the applicant's honour and dignity would constitute an undue restriction of that freedom, and that the applicant had failed to prove that she had endured any physical or mental suffering as a result of the publication (see paragraphs 20 and 22-23 above). However, the brief reasoning provided by the courts is not compliant with the general principles mentioned above (see paragraphs 54-64 above) and does not demonstrate that the courts duly examined whether the statements made about the applicant were compatible with the ethics of journalism and whether they had overstepped the permissible bounds of freedom of expression. Neither does it demonstrate that the courts carried out an adequate assessment of all the relevant factual circumstances and duly considered the importance and scope of the applicant's right to respect for her private life, which was one of the two Convention rights at stake in the present case, both rights being of equal importance.

77. The Court considers that the reasoning provided and the conclusions adopted by the domestic courts are not such as to enable it to establish that they conducted, in accordance with the aforementioned relevant criteria (see paragraphs 55 and 65-74 above), an adequate balancing exercise between the applicants' Article 8 rights and the newspaper's right to freedom of expression.

78. The foregoing considerations are sufficient for the Court to conclude that the respondent State did not comply with its positive obligation to take adequate measures to secure protection of the applicant's right to respect for her private life and her reputation.

79. There has accordingly been a violation of Article 8 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

A. Article 6 § 1 of the Convention

80. The applicant complained under Article 6 § 1 of the Convention that the domestic courts had not addressed the relevant arguments raised by her and had thus breached her right to a reasoned decision. Article 6 § 1 of the Convention provides:

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

81. In her observations, the applicant reiterated her complaint. The Government contested the applicant’s submissions.

82. The Court notes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

83. However, having regard to the finding relating to Article 8 of the Convention (see paragraph 79 above), the Court considers that it is not necessary to examine whether, in this case, there has been a violation of Article 6 § 1 of the Convention.

B. Article 10 of the Convention

84. The applicant complained under Article 10 of the Convention that the impugned newspaper article was part of a wider campaign of threats and attacks against her, including the invasion of her privacy, and was linked to her journalistic activity. Article 10 of the Convention provides 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.”

85. The applicant’s submissions in this regard are broadly similar to her submissions under Article 10 in *Khadija Ismayilova* (cited above, §§ 153-54). The Government contested the applicant’s submissions.

86. The Court refers to its findings under Article 8 of the Convention above as well as to its findings under Article 10 of the Convention in *Khadija Ismayilova* (cited above, §§ 158-66) in connection with the distinct but related secret recording and dissemination of the intimate video.

87. Taking those findings into account and having regard to the parties' submissions in the present case, the Court considers that there is no need to give a separate ruling on the admissibility and merits of the complaint under Article 10 in the present case (compare *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

88. 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

89. The applicant claimed 50,000 euros (EUR) in respect of non-pecuniary damage.

90. The Government submitted that the claim was excessive and that the finding of a violation would in itself constitute sufficient compensation in the present case.

91. The Court considers that the applicant has suffered non-pecuniary damage which is not sufficiently compensated for by the finding of a violation of Article 8 of the Convention. Making its assessment on an equitable basis, it awards the applicant EUR 4,500 in respect of non-pecuniary damage.

B. Costs and expenses

92. The applicant also claimed EUR 8,923.37 in respect of costs and expenses, including EUR 2,923.37 for the legal fees incurred before the domestic courts and EUR 6,000 for the legal fees incurred before the Court. In support of her claims, she submitted a contract for legal services concluded collectively with Mr R. Hajili, Mrs Z. Sadigova and Mr E. Sadigov.

93. The Government contested the claim, arguing that the contract was invalid because it lacked certain necessary information, such as the lawyers' bank account details and their tax identification numbers. They further argued that, in any event, the amounts claimed were excessive and unreasonable and that, while the fees in respect of the domestic proceedings were specified in the contract in Azerbaijani manats (AZN), the applicants had converted those amounts into euros at the rates applicable at various incorrect dates. In sum, the Government submitted that it would be reasonable to award a total amount of AZN 2,500 covering all costs.

94. The Court notes that the applicant was represented before the Court by Mr R. Hajili and Mrs Z. Sadigova, neither of whom represented her in the domestic proceedings. The third lawyer, Mr E. Sadigov, did not represent the applicant before the Court. Moreover, having regard to the documents in the case file, the Court notes that, in the domestic proceedings, Mr E. Sadigov represented the applicant before the Supreme Court only.

95. Furthermore, 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.

96. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,500 covering costs under all heads.

C. Default interest

97. 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 complaints under Article 6 § 1 and Article 8 admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds* that there is no need to examine separately the complaint under Article 6 § 1 of the Convention;
4. *Holds* that it is not necessary to examine the admissibility and merits of the complaint under Article 10 of the Convention;
5. *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, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

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

6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 7 May 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik
Deputy Registrar

Síofra O'Leary
President