



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

THIRD SECTION

CASE OF SAMOYLOVA v. RUSSIA

(Application no. 49108/11)

JUDGMENT

Art 8 • Private life • Home • Non-consensual disclosure of applicant's private data by a nationwide television-show reporting on the ongoing criminal proceedings against her husband, a retired prosecutor • Justified dismissal of claim about disclosure of applicant's declared income data • A bona fide journalistic investigation into a prima facie disparity between an official's assets or lifestyle and declared income • Prejudice to applicant's enjoyment of the right to respect for her reputation limited and not extending beyond mere association as a spouse • Unjustified dismissal of claim about disclosure of applicant's address, tax ID number and house interior images
Art 6 § 1 (civil) • Fair hearing • Civil courts' failure to adequately examine aspects of applicant's privacy invasion claims

STRASBOURG

14 December 2021

FINAL

14/03/2022

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

In the case of Samoylova v. Russia,

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

Georgios A. Serghides, *President*,

Paul Lemmens,

Dmitry Dedov,

María Elósegui,

Darian Pavli,

Peeter Roosma,

Andreas Zünd, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 49108/11) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Ms Marina Anatolyevna Samoylova (“the applicant”), on 19 June 2011;

the decision to give notice to the Russian Government (“the Government”) of the complaints under Articles 6 and 8 of the Convention and to declare inadmissible the remainder of the application;

the parties’ observations;

Having deliberated in private on 31 August and 9 November 2021,

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

INTRODUCTION

1. The present case concerns the alleged dissemination of private information about the applicant on national television and the alleged failure of the domestic courts to properly consider certain related claims.

THE FACTS

2. The applicant was born in 1961 and lives in Moscow. The applicant was represented by Mr E. Markov, a lawyer practising in Ukraine, and then by Ms Y. Breyeva, a lawyer practising in Moscow, Russia.

3. The Government were represented by Mr G. Matyushkin, the then Representative of the Russian Federation to the European Court of Human Rights and lately by Mr M. Vinogradov, his successor in that office.

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

5. At the material time the applicant was a lawyer admitted to the Russian Bar. Her husband was a prosecutor in Moscow and retired in 2006. Subsequently, he and several other people were charged with a number of

criminal offences relating to large-scale embezzlement committed between January and March 2007 (see *Valeriy Samoylov v. Russia*, no. 57541/09, 24 January 2012). It appears that together with several law-enforcement officials he had participated, through a series of criminal-law measures carried out on spurious grounds, in the seizure and sale of multiple items of kitchen equipment from several public companies. The applicant was not accused of or charged with any criminal offence in relation to those criminal proceedings.

6. In August 2009 the case against Mr Samoylov and his co-defendants was submitted for trial by jury. The presiding judge ordered that trial take place in camera, considering that the case file contained State secrets.

7. On 10 September 2009 Channel One, a nationwide television station, broadcast a popular television-programme *Chelovek I Zakon*. This programme contained a ten-minute report relating to the ongoing criminal proceedings and the sources of income and luxurious lifestyle of those defendants who had held public office:

(a) The report showed, for some ten seconds, a letter issued on 19 November 2008 by the tax authorities in Moscow addressed to an investigator in reply to his earlier request for information relating to Mr Samoylov and his family. The letter contained Mr Samoylov's full name, his official registration address in Moscow, his official taxpayer identification number and his declared income for 2004-07. The letter contained similar information in respect of the applicant and their son. In particular, it indicated that the applicant had declared income as follows: 21,903 Russian roubles (RUB) for 2004, RUB 18,671 for 2005, RUB 38,762 for 2006 and RUB 177,506 for 2007. It indicated the applicant's official registration address in Moscow, which was the same as for her husband's address.

(b) The report focused on the family's country house located in a prestigious area. The image of the above letter accompanied the narrator's text asserting that the value of such a house was 2,000,000 United States dollars (USD); that Mr Samoylov's income, even if calculated together with his wife's and son's income, amounted to some RUB 2,000,000 for 2004-07 which would barely be enough to buy a "house for a hamster" in that area. It was then concluded as follows: "The inquiry confirmed: the prosecutors [Mr Samoylov and another person] have been living through unlawful means".

(c) The report also showed three photographs of the interior of the country house, specifically a whirlpool bath and a spiral staircase.

8. The relevant part of the television programme may be summarised as follows:

"Mr P. [the television-programme presenter]: How come prosecutors have houses [worth] USD 2,000,000? An interesting question ...

[introductory summary of the programme; the video shows the entry to the Novyy Svet village] [a man's voice]: Where did [those officials] take millions of dollars? ...

Mr P.: ... We told you a little bit about this story two years ago. Today we can tell you almost everything.

[narrator/journalist; the video showing the guarded entry to the village]: Journalists have no access whatsoever to this prestigious village near Moscow ... We had to be accompanied by investigators, to be able to see the main secret, that is [Mr Samoylov's] house ...

[a voice]: These are nice houses, right?

[narrator/journalist]: Here is this street, here is this house for USD 2,000,000.

[an excerpt from another video of the exterior of the house is being shown] [a voice]: Samoylov's house. At the moment of this inspection, the gate is open.

[several photographs of the exterior of the house are being shown] [narrator/journalist]: What is so special? Why can't a prosecutor have a cottage for USD 2,000,000? He is also a human being and would like to have a nice retirement. But here is an income certificate for Mr Samoylov and his family.

[a copy of the tax authority's letter of 19 November 2008 is shown with a zoom on the table representing income data and also showing the official registration address in Moscow]

[narrator/journalist]: RUB 2,000,000 for four years. Taking into account the prices for the land in this village, [that sum] would only suffice for a home for a prosecutor's hamster ...

[Three photographs of the interior of the house are shown.] [narrator/journalist]: Moreover, Samoylov also has four apartments in [Moscow] ..."

9. Arguing that various aspects of the above report were defamatory or otherwise in breach of Russian law, Mr Samoylov brought civil proceedings before the Ostankinskiy District Court of Moscow against the broadcasting company and Mr P., the television-programme presenter and (allegedly) the author of the impugned report (see *Samoylov v. Russia* [Committee], no. 1750/11, §§ 12-15, 28 May 2019). The applicant also brought separate civil proceedings against the same respondents. Despite the applicant's objection concerning the difference of the nature and scope of certain claims, the District Court subsequently decided to treat her and her husband's claims together.

10. In a document entitled "Statement of claim for the protection of honour, dignity and business reputation and compensation in respect of non-pecuniary damage" and during the proceedings the applicant referred to the following aspects:

- The report showed the letter of 19 November 2008, which contained data presented as the applicant's income. In addition to that confidential income data for 2004-07, the report unlawfully (without her consent) indicated her full name, her home address in Moscow and her official taxpayer identification number.

- The income data were false. The applicant provided the District Court with a statement issued by the tax authority and indicating that she had actually earned nearly nine times more: she had declared RUB 113,003 for 2004; RUB 245,671 for 2005; RUB 270,000 for 2006; and RUB 1,405,560 for 2007. Moreover, in 2008 she had earned RUB 5,008,435.

- The alleged value of USD 2,000,000 for the country house (of which she owned a half, her husband the other half) had not been substantiated in the report and, in any event, had been exaggerated. The applicant submitted to the District Court a copy of the 2003 construction investment agreement under which she had paid USD 10,000 as the first instalment and had to pay USD 50,000 by end of 2005 for building and taking possession of the country house. With reference to a copy of another contract of sale, she explained that her husband had sold (it appears in 2005 for USD 50,000) a three-room flat in Moscow that he had inherited from his parents in order to complete the payment in respect of the country house. The applicant also submitted documents certifying that in April 2006 she and her husband had purchased the land under the country house.

- The presentation together of the above false or unsubstantiated data (the lower income and the high value of the property) implied that the applicant had received income from doubtful sources. In the applicant's view, that false information and its juxtaposition had damaged her reputation in the eyes of her colleagues, clients and neighbours.

- According to the applicant, following the disclosure of her residential address in Moscow and the disclosure of the location of the country house, she had been harassed by numerous journalists at her place of residence.

- Photographs of the interior of her residence and a video were shown during the television-programme. It appeared that the television journalist had been allowed to make the recordings by the investigating officer.

11. The applicant referred to Articles 23, 24 and 25 of the Russian Constitution (see paragraphs 18-20 below). In her final plea for relief in the statement of claim the applicant referred to Articles 150-52, 1100 and 1101 of the Civil Code and sought:

- (a) a judicial order requiring the respondent to issue a retraction of the false and disparaging statements in relation to her income and the value of the country house;

- (b) RUB 15,000,000 in respect of non-pecuniary damage.

12. The District Court examined the transcripts of the report and the documentary evidence submitted by the parties.

13. At the hearings the applicant made oral representations, clarifying her claims. She stated, in particular, that she had not given her consent to the disclosure of the information mentioned in the tax authority's letter of 19 November 2008; that the disclosure in the report had not been justified and had caused her distress; that she was also seeking retraction of the information contained in that letter. Her home address had been disclosed so

that she had become stigmatised by her neighbours and had been approached at her home by journalists. She had been a victim of an intrusion into her home and was seeking compensation for that too.

14. The applicant's husband subsequently clarified his claims and the relief being sought, indicating, *inter alia*, that he was seeking compensation in respect of non-pecuniary damage on account of the defamatory nature of certain statements in the report as well as on account of the disclosure of private information protected by the law.

15. By a judgment of 18 May 2010 the District Court dismissed the applicant's and her husband's claims. The court quoted Articles 150 and 151 of the Civil Code and certain paragraphs of the Plenary Supreme Court's ruling of 24 February 2005 (see paragraphs 21 and 22 below) and its ruling of 10 October 2003 concerning the application of international treaties of the Russian Federation, including the Convention and the Court's case-law under Articles 8 and 10 of the Convention. In particular, the court stated as follows:

"Under paragraph 8 of [the ruling of 24 February 2005] courts should distinguish between cases relating to the protection of one's honour, dignity and business reputation (Article 152 of the Civil Code) and cases relating to the protection of other intangible rights listed in Article 150 of the Code where those rights were violated by way of disseminating data the inviolability of which is specifically protected by the Constitution of the Russian Federation and federal laws. The dissemination of such data may cause non-pecuniary damage even where such data corresponds to reality and does not tarnish the plaintiff's honour, dignity and business reputation.

In particular, in cases concerning dissemination of data about a citizen's private life it is necessary to take into account that a respondent may be required to pay compensation in respect of non-pecuniary damage caused by the dissemination of such truthful data without the person's and his or her legal representative's consent (Articles 150 and 151 of the Civil Code) ... There are exceptions under section 49 § 5 of the [Mass Media Act] ... This provision corresponds to Article 8 of the [Convention].

A respondent must provide a retraction and pay compensation in respect of non-pecuniary damage where he or she disseminated information or statements about a plaintiff's private life that are tarnishing and do not correspond to reality, as provided in Article 152 of the Civil Code."

Turning to the circumstances of the civil case the court held as follows:

"The court makes the following findings in relation to the matter of retraction in respect of the statements mentioned above.

... Mr Samoylov was a public prosecutor and thus is a high-ranking official ... On 21 August 2006 he retired ... [His] high-ranking official position required him to comply with the law and to ensure transparency of his income and expenditure, especially in view of the anti-corruption programme that had been ongoing in the country at the time, up until present time ...

The court considers that when dealing with Mr Samoylov's financial situation, the author [of the report] used a comparison of extremes [*сравнение крайностей*] or hyperbole, which is a journalistic technique ... When showing the house and

indicating its approximate value of USD 2,000,000 (which was an expression of the author's opinion on the matter and, as such, does not amount to dissemination of statements tarnishing one's reputation), it was stated that a prosecutor's salary would suffice for buying a house only for a prosecutor's hamster; then an income certificate relating to Mr Samoylov and members of his family was shown too ... The [evidence] confirms that that document corresponds to the document kept in the criminal case file, and that it was obtained lawfully ...

The mass media have repeatedly reported, and continue to report, on the financial situation and revenue of high-ranking officials. Accordingly, the court considers it possible to refer to the case-law of the [European Court of Human Rights] and notes, in particular, that journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation (see, *mutatis mutandis*, [the European Court's] judgment of 26 April 1995 in *Prager and Oberschlick v. Austria*).

Regard being had to the above, the court accepts that the exact value of the house owned by the plaintiffs, the exact amount of their incomes and the exact amount of their real property, in the circumstances of the case, are immaterial. The most important issue is that the value of their house does not correspond to their income.

... According to the construction investment agreement dated 5 September 2003 ... the value of the house was set at ... USD 60,000 ..., which did not include the cost of the interior, including the installation of a winding staircase and a whirlpool bath ... [One of the plaintiffs' witnesses] submitted that [Mr Samoylov] had been offered a reduced price for the house because of his friendship with the management of the construction company ... [The court] finds it incompatible with the standing of the prosecutor. [The court] furthermore takes into account that the plaintiffs had their titles to the house and the land registered on the basis of the purchase agreement dated 4 April 2006 ... Accordingly, in addition to the amount paid under the construction investment agreement ... the plaintiffs paid a very significant sum of money which exceeded their income ... and the amount they received when they sold their three-roomed flat ... for the equivalent of USD 50,000 ...

Since the plaintiffs challenged the amounts indicated in [the tax authority's letter of 19 November 2008], they have no basis for arguing the disclosure of protected taxation data. Moreover, pursuant to [the Mass Media Act], a journalist must obtain consent for the disclosure of information concerning a person's private life from that person or his representative, except when such disclosure is necessary for the protection of public interests. [The court] considers that this rule applied when [the journalist] disclosed information concerning the income of the prosecutor's family. This is justified by the public interest. The question raised in the television-programme's report about the disparity between a public servant's income and the value of his property is a matter of general interest.

The court considers that [Mr Samoylov's] claims that the respondent party should retract the information presented in the television show that [Mr Samoylov] was involved in criminal activities and received unlawfully from an entrepreneur USD 500,000 should also be dismissed.

Pursuant to Article 161 § 3 of the Code of Criminal Procedure, a [person in charge of a pre-investigation inquiry] or an investigator can authorise disclosure of the data relating to the preliminary investigation of a criminal case, in so far as he or she considers such disclosure to be acceptable and if it does not impinge upon the investigation and does not violate the rights or legitimate interests of the persons involved in the proceedings.

... [the journalist] presented in the show evidence contained in the criminal case file, including a certificate showing the plaintiffs' revenues, video footage featuring [Mr Samoylov's] house, and excerpts from telephone conversations. The journalist obtained that material lawfully, with the investigator's approval. The journalist assessed that evidence. The veracity of his assessment cannot be subject to verification given that such verification should be carried out [in the course of the criminal investigation].

... According to [the applicant] (Mr Samoylov's wife and a plaintiff), the Moscow City Court is examining a criminal case against him ... [The court considers] that the journalist presented to the public his opinion that there was evidence confirming that [Mr Samoylov] was implicated in the commission of the offences he is charged with; [the journalist] commented on the criminal investigation, showed evidence collected and assessed it.

Section 49 of the [Mass Media Act] requires a journalist to verify the information he or she is planning to disseminate. However, this obligation cannot be equated to the obligation to provide proof (including by way of documentary proof) in the same manner as it is provided for in procedural codes. The [journalist's obligation] is related to a different scope of proof, foremost, given that a journalist has no access to the requisite mechanisms of obtaining and securing evidence. The opposite approach would restrict mass-media freedom, which would be unacceptable and would run counter to section 47 of the [Act]. The latter provides for a journalist's right to seek, request, receive and disseminate information. A similar approach has been frequently put forward in the case-law of the European Court of Human Rights.

The court notes that a right to retraction under section 43 of the [Act] directly depends on whether the media outlet has proof that the information it disseminated corresponded to reality ... The court considers that [the journalist] produced evidence confirming his statements about [Mr Samoylov's] involvement in illegal activities and dismisses the plaintiffs' claims.

The court has decided ... to dismiss [the plaintiffs'] claims for the protection of honour, dignity and business reputation and compensation in respect of non-pecuniary damage ..."

16. The applicant and her husband appealed. The applicant argued, *inter alia*, as follows:

- The first-instance court had failed to assess her claim relating to the respondent's collection and dissemination of such protected data as the applicant's full name and her home address.
- The court had provided no legal basis for its conclusion that the respondent had lawfully obtained the information contained in the income certificate (the tax authority's letter of 19 November 2008). In August 2009 the criminal case had been set for trial and the trial judge had ordered that the trial take place in camera. Thus the investigating authority had no longer been in charge of the case file and could not have lawfully provided journalists with copies of any material from it. In any event, the impugned income certificate, the photographs or the video of its interior had never been admitted as evidence in the criminal proceedings and had not been assessed as such during the criminal trial which had ended in June 2010.

17. On 20 December 2010 the Moscow City Court upheld the judgment. It stated that while the claimants had proved the dissemination of information tarnishing their honour and dignity (*распространение порочащих сведений*), this information had “corresponded to reality” (*соответствовала действительности*).

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT DOMESTIC LAW AND PRACTICE

A. Constitution of the Russian Federation

18. Pursuant to Article 23 of the Constitution, everyone has a right to inviolability of his or her private life, personal and family confidentiality, and a right to the protection of his or her honour and good name.

19. Article 24 of the Russian Constitution prohibits collection, storage, use or dissemination of information about an individual’s private life, without his or her consent.

20. Article 25 of the Constitution guarantees the inviolability of the home. None should be permitted to enter an individual’s home against the will of its residents, except in the cases prescribed by a federal law or by a court order.

B. Civil Code of the Russian Federation

21. The relevant provisions of the Civil Code read at the material time as follows:

“Article 150: Intangible rights

“1. Life and health, the dignity of an individual, personal integrity, honour and good name, business reputation, the inviolability of private life, personal and family confidentiality ... belong to an individual by birth or by law, are inalienable and are not transferrable by any other means ...

2. Intangible rights are protected in accordance with this Code and other [relevant] laws ... as well as in such cases and within such limits where the use of the methods for the protection of ... the rights ... flows from the nature of the intangible right breached and the character of the consequences of such a breach.”

Article 151: Compensation for non-pecuniary damage

“If non-pecuniary damage (physical or psychological suffering) has been inflicted upon an individual by acts violating his personal non-pecuniary rights or encroaching upon other intangible interests belonging to the individual, as well as in other cases set out in the law, a court may order the perpetrator to pay monetary compensation for the said damage.

In determining the amount of compensation, the court takes into account the degree of liability of the perpetrator and other relevant circumstances. The court also has to

take into account the degree of physical and psychological suffering in the context of the individual features of the person on whom the damage was inflicted.”

Article 152: Protection of honour, dignity and business reputation

“1. An individual has a right to claim in court retraction of information damaging his/her honour, dignity or business reputation, if the person having disseminated such statements has failed to prove that they corresponded to reality ...

5. An individual concerned by the dissemination of damaging information ... has a right, along with the right to request a retraction of such information, to ask for damages and compensation for non-pecuniary damage resulting from such dissemination ...”

22. On 24 February 2005 the Plenary Supreme Court of Russia adopted Resolution no. 3 on judicial practice in cases concerning the protection of the honour and dignity of individuals and the business reputation of individuals or legal persons, in which it indicated (see paragraph 8) that cases concerning the protection of honour, dignity and business reputation should be differentiated from cases concerning the protection of other intangible rights whose inviolability is specifically protected by the Constitution of Russia and other law and the dissemination of which may cause non-pecuniary damage even if the information in question is truthful and non-defamatory. In particular, in cases concerning the dissemination of information about the private life of an individual, it should be taken into account that unauthorised dissemination of even truthful information concerning private life may lead a court to award compensation for non-pecuniary damage resulting from the dissemination of such information (Articles 150 and 151 of the Civil Code). The only exception to this rule was when information about the private life of a plaintiff was disseminated with the aim of protecting some public interest under part 5 of section 49 of the Mass Media Act (see paragraph 23 below).

C. Mass Media Act of 27 December 1991

23. Section 49 § 1(5) of the Act provides that a journalist is legally required to seek the consent of the interested person when disseminating information relating to that individual’s personal life, except when “it is necessary for protecting the public interest”.

24. Examples include a pressing social need for identifying and uncovering a threat to democratic society, the rule of law and civic society, public order or the environment (Ruling no. 16 of 15 June 2010 “On the application of the [Mass Media Act]” by the Plenary Supreme Court of Russia, paragraph 25).

D. Personal Data Act of 27 July 2006

25. Section 3 of the Act defines “personal data” as any information relating to a specific person or to a person that is identified on the basis of such information. It includes a person’s last name, name, patronymic, address, material, social or employment status, and his or her income.

26. A journalist can process such data, without the person’s consent, for the purposes of her or his professional activities and/or lawful activities of the mass-media outlet, provided that such processing does not violate the person’s rights (section 6 of the Act).

27. According to the Supreme Court of Russia, a taxpayer identification number does not contain information of a personal nature, relating to an individual’s family situation or relationships, and thus does not fall within the scope of protection of the inviolability of private life (decision no. GKPIOO-402 of 30 May 2000).

E. Code of Criminal Procedure

28. Article 161 § 3 of the Code provided at the time that an investigator could authorise disclosure of the data (*данные*) relating to the preliminary investigation of a criminal case, in so far as he or she considered such disclosure acceptable and if it did not impinge upon the investigation and did not violate the rights or legitimate interests of the persons involved in the proceedings. It was prohibited to disclose data on the private lives of those persons, without their consent.

II. OTHER RELEVANT MATERIAL

A. Fight against corruption

1. United National Organisation

29. The United Nations Convention Against Corruption entered into force in respect of the Russian Federation in 2006. Its main purpose is to promote and strengthen measures to prevent and combat corruption more efficiently and effectively. In this connection, Article 8, which calls on States Parties to apply codes of conduct for public officials, states amongst other things that a State Party should “establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, *inter alia*, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials”. Article 52 § 5 states that “each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials”.

30. Further recommendations were provided in the Technical Guide to the Convention (2009) and included the following: disclosure covers all substantial types of incomes and assets of officials (all or from a certain level of appointment or sector and/or their relatives); disclosure forms allow for year-on-year comparisons of officials' financial position; disclosure procedures preclude possibilities to conceal officials' assets through other means or, to the extent possible, assets held by those against whom a state party may have no access; a reliable system for income and asset control exists for all physical and legal persons – such as within tax administration – to access in relation to persons or legal entities associated with public officials; officials have a strong duty to substantiate/prove the sources of their income; to the extent possible, officials are precluded from declaring non-existent assets, which can later be used as justification for otherwise unexplained wealth.

2. Organisation for Economic Co-operation and Development

31. In 2011 the Organisation for Economic Co-operation and Development published a [document](#) entitled “Asset Declarations for Public Officials: A Tool to Prevent Corruption”. According to that document, some of the declaration systems covered not only public officials but also certain persons related to them. Usually such related persons were not required to file declarations themselves; rather, public officials were required to provide certain data about them. The scope of this information was usually narrower than that relating to the public official him-/herself. One of the reasons for requesting this information was to prevent public officials from hiding their income and assets under the names of other people. Another one was the realisation that the private interest of a person in some way related to the public official often had the same potential to interfere with the discharge of public functions as a private interest held by the public official directly. The most common categories of persons whose data were to be disclosed in public officials' declarations reflected the same underlying principle, that is to cover information about the persons who formed the closest circle in the private life of an official (starting with the narrowest to the broadest circle starting with spouses and/or domestic partners and children). At the time, in a few countries – for example Albania, Belarus, and Kazakhstan – not only was information about spouses/relatives requested in the declaration submitted by the public official, but these persons had to submit their own declarations. Some systems asked for data about related persons when notice of a possible violation was received or a probe was initiated. For example, in Slovenia, if the comparison of the data submitted with the actual situation provided reasonable grounds for an assumption that the functionary was transferring his/her property or income to family members for the purpose of evading supervision, the Commission of the National Assembly could, at the proposal of the Commission for the Prevention of

Corruption, also request the functionary to submit data for his/her family members.

3. *Group of States against Corruption*

32. The Group of States against Corruption (GRECO) monitors States' compliance with the Council of Europe's anti-corruption standards. It works in cycles, known as evaluation rounds, each covering specific themes. Following an on-site visit, the GRECO evaluation team ("GET") produces an evaluation report, which may include recommendations requiring action to be taken by the State to ensure compliance therewith.

33. It follows from GRECO's [General Activity Report](#) for 2019 "Anti-corruption trends, challenges and good practices in Europe & the United States of America" that financial disclosure obligations are a tool of transparency; that, as regards persons with top executive functions in central governments, almost all of the countries reviewed were recommended to consider widening the scope of declarations of interests to include information on spouses and dependent family members. As regards declarations of assets, income, liabilities and interests, GRECO recommended to (i) introduce a robust, effective and regular system of declaration, including for the top management; (ii) ensure information is publicly and easily accessible and that the system is effectively implemented; and (iii) consider extending them to spouses and dependent family members.

B. Protection of personal data

34. For a summary of relevant information concerning the protection of personal data (including individual taxation information) and the exercise of freedom of expression by media outlets, see *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], no. 931/13, §§ 55-82, 27 June 2017.

THE LAW

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

35. The applicant complained that the civil courts had not examined part of her claims relating to the collection and dissemination of private information, in breach of Article 6 § 1 of the Convention, which reads as follows:

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

A. Admissibility

36. It has not been disputed that the civil limb of Article 6 of the Convention was applicable to the domestic proceedings concerning claims for compensation in respect of non-pecuniary damage and for a retraction in respect of false and defamatory statements and disclosure of private information and personal data. The Court finds no reason to hold otherwise (see also paragraphs 58-66 below).

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

B. Merits

1. The parties' submissions

(a) The applicant

38. The applicant submitted that in its television programme the media outlet had disseminated false data about her income while making an unsubstantiated and incorrect statement about the high value of the country house she owned together with her husband. The juxtaposed presentation of those two false statements had suggested that the source(s) of the applicant's income had been doubtful. Such a presentation had thus been defamatory.

39. The civil courts had failed to deal with her other claims relating to the collection and dissemination of her full name and home address. The courts had failed to assess the video of the exterior of the country house and photographs showing the interior of her residence. The applicant asserted that the civil courts had violated her right of access to a court or, at least, her right to a reasoned judgment, specifically as regards the omission to deal with certain claims.

(b) The Government

40. The Government submitted that the applicant had brought a specific type of tort action, namely a defamation lawsuit under Article 152 of the Civil Code. It provided protection against an affront to an individual's honour, dignity and reputation and afforded such form of redress as a judicial order with a specific form of redress such as requiring a respondent to retract the disparaging statements where they did not correspond to reality (*не соответствовали действительности*). The scope of factual and legal matters in that type of case was limited to determining that the respondent had disseminated statements about the claimant, and that such statements were disparaging and did not correspond to reality (see paragraph 22 above). All the other claims or arguments put forward by the

applicant had been outside the scope of a defamation case. In particular, if the applicant had intended to determine the origin of certain information and to sue the public officials who had provided it to the media outlet, she could have sought judicial review of unlawful actions on the part of public officials through the procedure under Chapter 25 of the Code of Civil Procedure. The Government concluded that there had been no violation of Article 6 of the Convention.

2. *The Court's assessment*

(a) **General principles**

41. As to the issue of unfairness resulting from the reasoning adopted by the domestic courts, the Court reiterates that it is not for it to deal with alleged errors of law or fact committed by the national courts unless and in so far as they may have infringed rights and freedoms protected by the Convention, for instance where, in exceptional cases, such errors may be said to constitute “unfairness” incompatible with Article 6 of the Convention (see *Bochan v. Ukraine* (no. 2) [GC], no. 22251/08, § 61, ECHR 2015).

42. The Court also reiterates that according to its established case-law reflecting a principle linked to the proper administration of justice, judgments of courts and tribunals should adequately state the reasons on which they are based. The extent to which this duty to give reasons applies may vary according to the nature of the decision and must be determined in the light of the circumstances of the case (see *García Ruiz v. Spain* [GC], no. 30544/96, § 26, ECHR 1999-I). Without requiring a detailed answer to every argument advanced by the complainant, this obligation presupposes that parties to judicial proceedings can expect to receive a specific and explicit reply to the arguments which are decisive for the outcome of those proceedings (see, among other authorities, *Ruiz Torija v. Spain*, 9 December 1994, §§ 29-30, Series A no. 303-A, and *Higgins and Others v. France*, 19 February 1998, §§ 42-43, *Reports of Judgments and Decisions* 1998-I). Moreover, in cases relating to interference with rights secured under the Convention, the Court seeks to establish whether the reasons provided for decisions given by the domestic courts were automatic or stereotypical (see, *mutatis mutandis*, *Paradiso and Campanelli v. Italy* [GC], no. 25358/12, § 210, ECHR 2017).

(b) **Application of the principles in the present case**

43. The applicant and her husband initiated separate proceedings on account of the impugned television report. The nature and scope of their claims overlapped in part as regards the factual basis and/or legal grounds. The District Court decided to process all the claims within one case.

44. In the document entitled “Statement of claim for the protection of honour, dignity and business reputation and for the compensation in respect of non-pecuniary damage”, the applicant referred to the rights protected by Articles 23-25 of the Russian Constitution (see paragraphs 18-20 above). The final plea for relief relied on Article 152 of the Civil Code relating to the protection of honour, dignity and reputation as well as on the general provision of Article 150 of the Civil Code which, *inter alia*, protects an individual’s privacy (see paragraph 21 above). The applicant also referred to Article 151 concerning compensation in respect of non-pecuniary damage. The plea ended with the two types of redress being sought: (i) one, which was specific for a claim under Article 152 of the Civil Code – for the retraction of false and disparaging statements arising from the assessment of her low income and high value of the residence; (ii) for the compensation in respect of non-pecuniary damage.

45. During the trial the applicant specified that she was seeking compensation in respect of non-pecuniary damage on account of the distress caused by the unlawful and unjustified breach of privacy consisting, *inter alia*, of the collection and disclosure of her full name, her full residential address and photographs of the interior of her country house (see paragraph 13 above). The Court also notes that the amended claim submitted on behalf of the applicant’s husband contained a specific note that he was seeking compensation in respect of non-pecuniary damage in relation to the breach of privacy as well as on account of defamation (see paragraph 14 above).

46. In the Court’s view, the applicant’s arguments leading to the plea mentioned above were related to both the action under Article 152 of the Civil Code and factual and legal matters pertaining to other aspects of the invasion of privacy which, as it appears, fell under Articles 150 and 151 of the Civil Code (see *Ageyevy v. Russia*, no. 7075/10, §§ 205-06, 18 April 2013).

47. Thus the Court considers that it could be reasonably assumed that the claim as presented was a mixed cause of action against the same respondent: a defamation claim and a claim for the protection of privacy.

48. In view of the foregoing considerations, the Court finds it established that in addition to a specific form of relief for the defamation claim, the applicant sought compensation in respect of non-pecuniary damage, on account of that defamation as well as on account of certain other aspects of the breach of privacy.

49. The above assessment is, in part, confirmed by the first-instance court’s stance in the present case. It found it pertinent to provide certain answers on the issues concerning the non-defamatory disclosure of private information (see paragraph 15 above). In particular, the court made findings regarding the legality of the manner in which the respondent had obtained the impugned income certificate (the tax authority’s letter of 19 November

2008), the argument relating to the disclosure of protected taxation data or dissemination of the video of the claimants' country house.

50. The Court considers that the applicant, who was a lawyer, worded her statement of claim in a manner that might have given rise to doubts as to the cause(s) of action and the scope of relief being sought. At the same time, the civil courts failed to deal adequately with the applicant's claims of invasion of privacy, in particular, on account of the disclosure of her full name, residential address, her taxpayer identification number and the photographs of the interior of the country house. Thus, while the first-instance court mentioned section 49 of the Mass Media Act in its summary of the applicable law (see paragraphs 15 and 23 above) it then made no related findings in relation to the particular circumstances of the case, other than ascertaining the legality of obtaining the material from the criminal case file as provided to the journalists by the investigator.

51. The domestic courts omitted to take a clear and specific stance regarding the applicant's privacy claims she had arguably put before them. In the particular context of the present case that omission was tantamount to a court's failure to provide a specific and explicit reply to at least some of the arguments which were decisive for the outcome of those proceedings (compare with the cases cited in paragraphs 41 and 42 above). Thereby the courts violated the applicant's right to a fair hearing under Article 6 § 1 of the Convention. In view of the foregoing considerations and taking note of the findings in paragraph 50 above, it is not necessary to examine whether the same omissions were such as to violate the applicant's right of access to a court.

52. There has therefore been a violation of Article 6 § 1 of the Convention in respect of the applicant.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

53. The applicant complained under Article 8 of the Convention that the impugned television report amounted to an unlawful and unjustified invasion of her privacy in that, being assisted by the investigating authorities, the television company had collected and disseminated information relating to her and disparaged her reputation and honour.

54. Article 8 of the Convention 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. Admissibility

1. *Six-month rule*

55. In so far as the applicant may be understood to have complained in her application form of 4 October 2011 of “interference” by public authorities on account of certain actions on the part of public officials such as investigators (a “negative obligation” under Article 8 of the Convention), it has not been substantiated in the present case that she brought any related proceedings. The “interference” allegedly took place prior to the dissemination of the impugned report on 10 September 2009. The civil case was directed against the broadcasting company and the television-programme presenter and ended with the appeal decision dated 20 December 2010. Accordingly, this part of the complaint has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

56. However, in so far as the matter relating to the journalists’ use of the information received from the State is part of the assessment relating to the State’s positive obligation on account of the civil case mentioned above, that matter is examined below.

57. As regards the applicant’s grievances under Article 8 of the Convention relating to the broadcasting of the television report, the Government have not argued that she did not exhaust domestic remedies (within the civil case), in particular as regards the disclosure of the information such as her residential address, her taxpayer identification number or the photographs of the interior of the country house. Having regard to the finding in paragraphs 51 and 52 above, the Court considers that she has complied with the six-month rule.

2. *Compatibility ratione materiae*

58. The Government have not contested that Article 8 of the Convention was applicable in the present case.

59. For its part, the Court reiterates that the concept of “private life” under Article 8 § 1 of the Convention is a broad term not susceptible to exhaustive definition (see *S. and Marper v. the United Kingdom* [GC], nos. 30562/04 and 30566/04, § 66, ECHR 2008, and *Vukota-Bojić v. Switzerland*, no. 61838/10, § 52, 18 October 2016). “Private life” has been held to include the right to live privately, away from unwanted attention (see *Bărbulescu v. Romania* [GC], no. 61496/08, § 70, 5 September 2017).

60. A person’s reputation, even if that person is criticised in the context of a public debate, forms part of his or her personal identity and psychological integrity and therefore falls within the scope of his or her “private life” (see *Denisov v. Ukraine* [GC], no. 76639/11, § 97,

25 September 2018, and *Pfeifer v. Austria*, no. 12556/03, § 35, 15 November 2007).

61. Where there has been compilation of data on a particular individual, processing or use of personal data or publication of the material concerned in a manner or degree beyond that normally foreseeable, private-life considerations arise (see *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], no. 931/13, § 136, 27 June 2017). The protection of personal data is of fundamental importance to a person's enjoyment of his or her right to respect for private and family life, as guaranteed by Article 8 of the Convention. Domestic law must afford appropriate safeguards to prevent any such use of personal data as may be inconsistent with the guarantees of this Article (see *S. and Marper*, cited above, § 103). Article 8 of the Convention thus provides for the right to a form of informational self-determination, allowing individuals to rely on their right to privacy as regards data which, albeit neutral, are collected, processed and disseminated collectively and in such a form or manner that their Article 8 rights may be engaged (see *Satakunnan Markkinapörssi Oy and Satamedia Oy*, cited above, § 137).

62. The concept of "private life" includes personal information which individuals can legitimately expect should not be published without their consent (see *Flinkkilä and Others v. Finland*, no. 25576/04, § 75, 6 April 2010, and *Saaristo and Others v. Finland*, no. 184/06, § 61, 12 October 2010). The Court has previously considered that the data collected, processed and published by private companies, providing details of the taxable earned and unearned income as well as taxable net assets, concerned the "private life" of those individuals, notwithstanding the fact that, pursuant to national law, that data could be accessed, in accordance with certain rules, by the public (see *Satakunnan Markkinapörssi Oy and Satamedia Oy*, cited above, § 138).

63. An individual's full name falls within the scope of "private life" under Article 8 § 1 of the Convention. An individual's home address also falls within the scope of "private life" (see *Alkaya v. Turkey*, no. 42811/06, § 30, 9 October 2012). It is also noted that an individual's residential address amounted to protected "personal data" under Russian law (see paragraph 25 above). It is uncontested that the applicant resided at the residence registration address in Moscow at the time and gave no consent to its disclosure in the impugned television report.

64. The Court also notes that along with the applicant's residential address and her full name, the impugned tax authority's letter (which had been compiled specifically in relation to Mr Samoylov's household, including the applicant) also included her taxpayer identification number. In the Court's view, that was information relating to an identified or identifiable natural person, and could, depending on the modalities and the use under national law, constitute relatively sensitive data closely linked to a

person's identity (see paragraph 27 above as regards the situation under Russian law). It has not been contested, and the Court considers, that in the circumstances of the case the applicant's taxpayer identification number fell within the scope of her "private life" protected under Article 8 § 1 of the Convention.

65. The applicant also mentioned some video "of the country house". It is noted that a video of the exterior of that house was shown in the television report. In the absence of specific arguments from the applicant, the Court does not find it necessary in the present case to determine whether Article 8 was applicable and complied with in this regard.

66. The applicant referred to the dissemination of photographic images of the interior of the country house in the television report. It is noted that the applicant owned that house together with her husband. It is uncontested that it was her (secondary) residence at the time and that neither she nor her husband gave consent to the taking and dissemination of those images. They had been taken either by the investigating officers during and in relation to the investigation of the criminal case against the husband or, perhaps, by the journalists during their visit to the house when filming for the impugned television report. The Court considers that in those circumstances the images fell within the scope of protection afforded by Article 8 § 1 of the Convention to one's "private life" and "home" (see *Halabi v. France*, no. 66554/14, §§ 41 and 55, 16 May 2019, and *Khadija Ismayilova v. Azerbaijan*, nos. 65286/13 and 57270/14, § 107, 10 January 2019).

3. *Conclusion on admissibility*

67. The Court notes that the complaint relating to the broadcasting of the television report is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

(a) The applicant

68. The applicant argued that the dissemination of false data and defamatory statements about her and the disclosure of her personal data had caused her prejudice and had attracted a lot of negative public attention to her. She had been harassed by journalists; her neighbours had stopped communicating with her; her colleagues and friends had started to avoid her.

69. While stating that income data in respect of public officials could be disseminated via media outlets, the Government did not specify which legal procedure had been used when the investigator(s) had transmitted her private information (her name, address, taxpayer identification number,

income data) to the journalists and when they had allowed them to take photographs and make a video in/of her country house. While there was a statutory obligation relating to the submission of income data relating to a public official's spouse, in the present case there had been no legal basis for disseminating such information and no public interest in receiving it.

70. The reporting on matters of public interest such as ongoing criminal proceedings could be considered as pursuing a legitimate aim. However, the manner in which the information about the applicant's private and family life and home had been presented in the television programme had made the reporting devoid of any valid public interest. The detailed information including a video and pictures of her house, her address and other personal details had had no value in itself. The applicant had not been subject to any criminal proceedings. Her husband had not been a fugitive from justice and his guilt had not been established when the report had been disseminated.

71. The applicant had given no consent to the dissemination of her private information. The civil courts had taken no heed of the fact that, unlike her husband, she had not been a public figure and had not consciously and intentionally presented herself to public scrutiny. The journalists had not displayed diligence because they had not afforded her an opportunity to comment on the content of the report they had planned to broadcast, and had failed to remove or mask her private information mentioned in the tax authority's letter of 19 November 2008. Had they done so, the applicant would not have been immediately recognisable to the general public. They had also failed to verify her income and the purchase price of the country house. Instead, in breach of the ethics of journalism they had distorted the information in order to obtain a sensationalist effect of the report. The civil courts had not carried out any genuine balancing exercise, while giving priority to the journalistic freedom of expression.

(b) The Government

72. The Government submitted that at the time the applicant had been married to a prosecutor and thus had had a special social status that had included certain restrictions relating to public office held by a person or his or her spouse or next of kin. In 2008 Russia had enacted a statute relating to the fight against corruption. It required public officials to submit data on their income, estate and pecuniary obligations as well as the same type of data in respect of their spouses and underage children. Pursuant to a presidential decree issued in 2009, prosecutors were listed among such public officials. Under Russian law the data mentioned above could be published via mass-media outlets. The above requirements were aimed at fighting corruption and at protecting the democratic institutions and values. In such circumstances it could be justified to make public income data relating to public officials and their family members. The relevant domestic legislation, together with Article 10 of the Convention, was aimed at

enforcing the independence of media outlets, in particular, when they exercised their “public watchdog” role in relation to covering topical issues relating to corruption on the part of public officials. In the present case the civil courts had thoroughly verified whether the information disseminated by the journalists had been truthful, and had carefully weighed the competing interests relating to freedom of expression and the respect for the applicant’s and her husband’s private lives.

2. *The Court’s assessment*

(a) **General principles**

73. The general principles concerning the State’s positive obligations under Article 8 of the Convention, in particular in the contexts requiring a fair balance to be struck vis-a-vis another person’s freedom of expression, are well-established in the Court’s case-law (see *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 98, ECHR 2012, and *Söderman v. Sweden* [GC], no. 5786/08, § 78, ECHR 2013; see also *Armonienė v. Lithuania*, no. 36919/02, § 36, 25 November 2008, and *Rodina v. Latvia*, nos. 48534/10 and 19532/15, § 103, 14 May 2020).

74. In this context the following criteria guide the national courts’ and the Court’s assessment: contribution to a debate of general interest made by the news report or another instance of exercising freedom of expression and its subject; the status and/or degree of notoriety of the person affected and his or her prior conduct; content, form and consequences of the report and, essentially in the context of complaints under Article 10 of the Convention, method of obtaining the information and its veracity, and (where relevant) severity of the penalty imposed (see *Von Hannover (no. 2)*, cited above, §§ 108-13, and *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 93 and 95, 7 February 2012).

75. A distinction has to be made between private individuals and individuals acting in a public context. Accordingly, whilst a private individual unknown to the public may claim particular protection of his or her right to private life, the same is not true of public figures in respect of whom limits of critical comment are wider, as they are inevitably and knowingly exposed to public scrutiny and must therefore display a greater degree of tolerance (see *Milisavljević v. Serbia*, no. 50123/06, § 34, 4 April 2017, and *Prunea v. Romania*, no. 47881/11, § 30, 8 January 2019). Civil servants acting in an official capacity are, like politicians, subject to wider limits of acceptable criticism than private individuals. However, it cannot be said that civil servants knowingly lay themselves open to close scrutiny of their every word and deed to the extent politicians do (see *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 80, ECHR 2004-XI).

76. Under the terms of paragraph 2 of Article 10 of the Convention the exercise of freedom of expression carries with it “duties and

responsibilities”, which are liable to assume significance when there is a question of attacking the reputation of private individuals and undermining the “rights of others”. The safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith and on an accurate factual basis and provide reliable and precise information in accordance with the tenets of responsible journalism (see *Stoll v. Switzerland* [GC], no. 69698/01, § 103, ECHR 2007-V).

77. Article 10 protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed. Consequently, it is not for the Court, or for the national courts for that matter, to substitute their own views for those of the press as to what reporting technique should be adopted by journalists (*ibid.*, § 146; see also *Laranjeira Marques da Silva v. Portugal*, no. 16983/06, § 51, 19 January 2010). Journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation (see *Prager and Oberschlick v. Austria*, 26 April 1995, § 38, Series A no. 313; *Thoma v. Luxembourg*, no. 38432/97, §§ 45-46, ECHR 2001-III; *Perna v. Italy* [GC], no. 48898/99, § 39, ECHR 2003-V; and *Ormanni v. Italy*, no. 30278/04, § 59, 17 July 2007).

78. Lastly, the Court reiterates that where the national authorities have weighed up the freedom of expression with the right to private life in compliance with the criteria laid down in the Court’s case-law, strong reasons are required if it is to substitute its view for that of the domestic courts (see *Von Hannover (no. 2)*, cited above, § 107; *Axel Springer AG*, cited above, § 88; and *Frisk and Jensen v. Denmark*, no. 19657/12, § 54, 5 December 2017).

(b) Application of the principles in the present case

(i) Contribution to a debate on a matter of general interest

79. The Court reiterates that there is little scope under Article 10 § 2 of the Convention for restrictions on political speech or on debate on matters of public interest. The margin of appreciation of States is thus reduced where a debate on a matter of public interest is concerned (see *Satakunnan Markkinapörssi Oy and Satamedia Oy*, cited above, § 167). Public interest ordinarily 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 (*ibid.*, § 171).

80. In ascertaining whether a publication disclosing elements of private life concerned a question of public interest, the Court has considered the importance of the question for the public and the nature of the information disclosed (see *Satakunnan Markkinapörssi Oy and Satamedia Oy*, cited above, § 168).

81. The Court has already examined the complaint by the applicant's husband in relation to his defamation in the same television report and the same domestic proceedings (see *Samoylov v. Russia* [Committee], no. 1750/11, 28 May 2019).

82. The Court observes that the impugned report had as its storyline the ongoing criminal proceedings against a group of public officials and others on account of alleged criminal activities in early 2007. That group included the applicant's husband who had been a public prosecutor but had retired in 2006. The report was aired on national television at the time when the criminal case had been submitted for trial by jury.

83. The Court also notes that in addition to the circumstances underlying the criminal charges the report touched upon a wider context relating to the allegedly luxurious lifestyles of the main protagonists, in particular those who had held public office (like the applicant's husband until 2006), and the possible origins of their wealth. The report targeted the applicant's husband and stated, with reference to the ongoing criminal proceedings, that he "[had] been living through unlawful means". It follows from the report's narrative that the dissemination of the income information was meant to demonstrate that Mr Samoylov's officially declared income (mostly, during and in relation to his office as a prosecutor prior to his retirement in 2006) taken alone or even in conjunction with the income of his family members would not suffice to acquire a country house in a prestigious area. In the Court's view, along with the reporting on the ongoing criminal proceedings, the principal purpose of this aspect of the report was to contribute to a debate of general interest (see, in the same vein, *Samoylov*, cited above, § 33).

(ii) *How well-known the applicant was and her conduct prior to the broadcasting of the television report*

84. The applicant was not targeted in the impugned report as a civil servant acting in an official capacity or in relation to her professional activities or her membership of the Russian bar. The Court does not need to determine whether the applicant was a "public figure" (compare *Faludy-Kovács v. Hungary*, no. 20487/13, § 30, 23 January 2018, and *Dupate v. Latvia*, no. 18068/11, § 55, 19 November 2020). At the material time (that is, in 2003-06 and in September 2009 when the impugned television report was broadcasted) she was married to Mr Samoylov, a prosecutor and then a retired prosecutor.

85. The Court has taken note of the national courts' and the Government's argument based on the anti-corruption legislation passed since 2008 and which included declaration and disclosure of income obtained by spouses of officials holding certain public offices. It appears that such requirements are widely employed in the fight against official corruption (see paragraphs 30-33 above).

86. In the Court's view, in the context of the report on the ongoing criminal proceedings against the retired high-ranking public official a bona fide journalistic investigation into a prima facie disparity between that official's assets or lifestyle and declared income (see paragraph 83 above) could legitimately have regard to the financial situation of that person's household, specifically his spouse's (the applicant's) declared income. This is especially so where the public official relies on the spouse's income to justify the household's assets.

(iii) Method of obtaining the information and its veracity

87. According to the applicant, the alleged sum of RUB 2,000,000 and specifically the applicant's income as a part of that sum, were data that were obtained unlawfully and was incorrect, giving the wrong impression that her earnings had been incommensurate with the fact of owning (residing in/benefiting from) an expensive country house.

88. As regards the method of obtaining the information, it is uncontested that the investigator provided the journalists with a copy of the impugned tax authority's letter of 19 November 2008. The civil courts considered that the information relating to the plaintiffs had been received lawfully. At the time Article 161 of the Code of Criminal Procedure allowed the disclosure of the "data" contained in a criminal case file (see paragraph 28 above). In the absence of more detailed submissions and for the reasons stated in paragraph 55 above, the Court is not in a position to assess whether the investigator's actions were in compliance with Russian law. It is noted that the applicant has not challenged the applicable legislative framework. For its part, the Court notes that under the Code disclosure of data was circumscribed and required avoiding the violation of the rights or legitimate interests of the persons involved in the proceedings.

89. As to the accuracy and reliability of the information, the Court reiterates that when contributing to public debate on matters of legitimate concern and acting in good faith, the press should normally be entitled to rely on the content of official reports without having to undertake independent research (see *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, §§ 68 and 72, ECHR 1999-III; *Colombani and Others v. France*, no. 51279/99, § 65, ECHR 2002-V; *Verlagsgruppe Droemer Knaur GmbH & Co. KG v. Germany*, no. 35030/13, § 46, 19 October 2017; and *Mityanin and Leonov v. Russia*, nos. 11436/06 and 22912/06, § 109, 7 May 2019). This means that journalists must be free to report on events on

the basis of information gathered from official sources without further verification, specifically as regards the veracity of the facts presented in the official document (see *Selistö v. Finland*, no. 56767/00, § 60, 16 November 2004, as confirmed in *Yordanova and Toshev v. Bulgaria*, no. 5126/05, § 51, 2 October 2012, where the Court also specified that the journalist had not “adopt[ed] the allegations as her own”).

90. In the present case the impugned document was a tax authority’s letter in reply to a request for information from the investigator in Mr Samoylov’s criminal case. It appears that that letter was then admitted to the investigation file as a piece of evidence. The origin of the information was identified in the journalistic report.

91. It does not appear that in 2004-07 information on the applicant’s and her husband’s income and pecuniary obligations was made publicly accessible in an official manner, specifically on the basis of any anti-corruption or tax regulations, which could have enabled the journalists to verify the information contained in the impugned letter (see also paragraph 84 above). It was not clearly established in the civil proceedings that the information about the applicant’s low income was incorrect. Be that as it may, in those proceedings the applicant was afforded an opportunity to challenge the veracity of that information, and the civil courts took the amended data into account.

92. As to the sum of USD 2,000,000, in the national courts’ view it could be reasonably perceived by the public that that sum might be a contemporaneous average market price for a similar house in the same area. It is noted that no further narrative or evidence was adduced in the report in relation to this sum or the house specifically. However, it does not appear that it was established in the civil proceedings that such average price when assessed with reference to years 2003 to 2006 was manifestly lower.

93. The civil courts chose to not take a stance on the correctness of the data presented in the report as the applicant’s (relatively low) income data for 2004-06 or as the (high) value of the country house. Instead, they concluded that even taking into account the higher income as indicated in the document submitted by the applicant (see paragraph 15 above), the statement about the disparity between that corrected income and the overall expenditure on the house still “corresponded to reality” in the meaning of Russian law and thus could not give rise to a retraction. The courts took into account the expenses incurred in 2006 to purchase the land under the house and the expenses, incurred on unspecified dates, for the interior design, such as the spiral staircase and the whirlpool bathtub. The courts thus concluded that the expenditure had still significantly exceeded Mr Samoylov’s, and even his household’s cumulative, income. The courts held that the assessment provided in the report “corresponded to reality” in the meaning of Russian law.

94. Having examined the available evidence, the courts considered, in substance, that there had been a sufficient factual basis for the allegation made in the report (compare *Morice v. France* [GC], no. 29369/10, § 155, ECHR 2015). The Court has no sufficient basis to disagree with this assessment, in particular as regards the “significance” of the income-expenditure disparity as it was established in the civil proceedings.

(iv) The content, form and consequences of the television report

95. As regards the alleged defamation, it has not been contested that the broadcasting of the television report, specifically the brief showing of the tax authority’s letter and its interpretation by the narrator, attained a certain level of seriousness and was carried out in a manner causing prejudice to the applicant’s enjoyment of the right to respect for private life (see *Bédat v. Switzerland* [GC], no. 56925/08, § 72, ECHR 2016). The appeal court in the civil case acknowledged that the report contained statements that could be classified as “tarnishing” both the applicant’s and her husband’s honour and/or dignity in the meaning of Russian law (see paragraph 17 above).

96. The only instance when the applicant featured in the report was when the document compiled by the tax authority was briefly shown in order to substantiate the allegation of disparity mentioned above. She and her income were only referenced in relation to assessing Mr Samoylov’s wealth. The applicant was not mentioned or discussed any further in the report relating to her husband. There was nothing in the report that directly linked the applicant to any alleged unlawful activity on the part of her husband. The Court does not consider that it was asserted that she had participated in the purchase of the property through unlawfully acquired means. In the Court’s view, in the circumstances of the present case the prejudice caused to the applicant’s enjoyment of the right to respect for her reputation was thus limited and did not extend beyond mere association, as a spouse, to Mr Samoylov in the context of the media outlet’s contribution to the debate on the matter of public interest concerning him.

97. In the present case the Court has been given no reason to doubt the journalists’ choice of investigative and reporting techniques, in particular, by enquiring into the sources of allegedly unlawful income received by the subjects of the narrative (public officials) through a wider regard to the income of that person’s spouse (see also paragraph 86 above). Similarly, the Court takes note of the technique focusing on the disparity between declared income of the household and expenditure.

98. In so far as the association mentioned above was limited to the applicant’s declared income, the Court considers that the national courts struck a fair balance between the rights under Articles 8 and 10 of the Convention (see also paragraph 86 above). Furthermore, as regards the alleged defamation and to the extent to which the applicant’s reputation was adversely affected in the present case (see paragraph 27 above), the Court

considers that when dismissing her claim for a retraction in relation to her income and the value of the country house the courts struck a fair balance when protecting freedom of expression and the applicant's reputation.

99. Having said this, the Court is not satisfied that the manner in which the civil courts dealt with certain other aspects of the case relating to sensitive private information was in compliance with the standards under Article 8 of the Convention. As indicated above, while the civil courts delved into matters pertaining to defamation, they did not provide adequate reasoning regarding the disclosure of the applicant's private information in the television report (see paragraphs 51 and 52 above). Specifically, while the courts took a stance on the lawfulness issue, they did not attempt to strike a fair balance when protecting freedom of expression and the applicant's right to respect for private life.

100. When showing the tax authority's letter of 19 November 2008, the journalists disclosed to the public the applicant's exact registration address in Moscow (see paragraph 7 above). It is uncontested that neither the applicant nor her husband had given consent to its disclosure in the television report and transmission to the journalists. According to the applicant, the disclosure of the address had resulted in her being harassed by others, including journalists, at home. While the civil courts found it pertinent to take a stance on the legality of the manner in which the journalists had obtained or received a copy of the tax authority's letter, they did not proceed to any further assessment of the disclosure of the address mentioned in that document to the public.

101. The civil courts did not delve into whether, having received the information, the journalists complied with their "duties and responsibilities" when deciding to disseminate it. The courts did not weigh whether the disclosure of the address on national television in a popular programme had served any legitimate and compelling purpose, for instance, the journalists' exercise of their freedom of expression together with the public's right to be informed in relation to matters of general interest (see, in the same vein, *Alkaya*, cited above, §§ 35-40; the relevant domestic provisions in paragraphs 23-24 and 26 above; see also *Magyar Helsinki Bizottság v. Hungary* [GC], no. 18030/11, §§ 155-62, 8 November 2016, and *Khadija Ismayilova*, cited above, § 147). For instance, unlike for the country house, whose area was identified and played some role in the reporting (for example, as regards the assessment of the value of the country house), the applicant's residence registration in Moscow and her exact address were not shown to be relevant to the narrative. Both the civil courts and the Court are in agreement that the impugned report, as such, concerned a matter of general interest (see paragraph 83 above). However, it was incumbent on the civil courts to ascertain that the disclosure of the applicant's exact address, which is rather sensitive private data, contributed to the debate on that matter of general interest in the present case (compare *Couderc*

and Hachette Filipacchi Associés v. France [GC], no. 40454/07, § 148, ECHR 2015 (extracts)).

102. Similarly, a person's taxpayer identification number may, depending on the national law and practices, disclose and/or facilitate further access to relatively sensitive data closely linked to his or her identity. In the present case it suffices to note that the civil courts did not attempt to delve into the necessity of disclosing it in the television report, in addition to the declared income data.

103. As to the images of the interior of the country house such as those showing a staircase and a whirlpool bath, they did not disclose any particular elements of the intimacy of the applicant's private life. It might be that those images could be relevant to the discussion on the value of the investment on the house, which was in turn relevant to whether the household had lived beyond its means. Be that as it may, the civil courts' decisions contain no assessment of any factual or legal elements pertaining to the dissemination of those images. It was not assessed whether in the circumstances of the case the showing of the interior of the country house had contributed to the debate on the matter of general interest in the present case; and whether this had served any legitimate and compelling purpose, for instance, the journalists' exercise of their freedom of expression. Lastly, while it is undisputed that the applicant did not give her consent to the dissemination of the images, it remains unclear how they were obtained. The Court concludes that the civil courts did not strike a balance between the rights protected by Articles 8 and 10 of the Convention (compare *Dupate*, cited above, §§ 55, 61-62 and 68).

(v) *Conclusion*

104. There have therefore been

(a) no violation of Article 8 of the Convention in relation to the alleged defamation and the showing of the data presented as the applicant's declared income; and

(b) a violation of Article 8 in relation to the showing of the applicant's address, her taxpayer identification number and the images of the interior of the country house.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

105. 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."

106. The applicant claimed 6,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,000 for the costs and expenses incurred before the Court.

107. The Government made no specific comment.

108. The Court grants the claims, plus any tax that may be chargeable.

109. 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

1. *Declares*, unanimously, the complaint under Article 6 § 1 and the complaint under Article 8 of the Convention (as regards the broadcasting of the television report) admissible;
2. *Declares*, unanimously, the remainder of the application inadmissible;
3. *Holds*, unanimously, that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds*, unanimously, that there has been a violation of Article 8 of the Convention in relation to the showing of the applicant's exact residential address, her taxpayer identification number and the images of the interior of the country house;
5. *Holds*, by four votes to three, that there has been no violation of Article 8 of the Convention in relation to the alleged defamation and the showing of data presented as the applicant's declared income;
6. *Holds*, unanimously,
 - (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 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 3,000 (three thousand 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.

SAMOYLOVA v. RUSSIA JUDGMENT

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

Milan Blaško
Registrar

Georgios A. Serghides
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judges Serghides, Lemmens and Elósegui is annexed to this judgment.

G.A.S.
M.B.

JOINT PARTLY CONCURRING AND PARTLY
DISSENTING OPINION OF JUDGES LEMMENS,
SERGHIDES AND ELÓSEGUI

1. We have voted with the majority to find a violation of Articles 6 § 1 and 8 of the Convention (operative points 3 and 4), but to our regret found ourselves unable to join the majority in finding no violation of Article 8 on some specific issues (operative point 5).

2. In our opinion, the Court should make no distinction in its conclusions between the various issues that are to be examined under Article 8. The applicant complains about a single failure by the respondent State, namely the failure to protect her Article 8 rights against a single interference committed by certain private entities. That interference occurred through the broadcasting of the television programme *Chelovek I Zakon* by Channel One on 10 September 2009.

The question put before the Court is whether the domestic courts struck a fair balance between the applicant's right to respect for her private life and the freedom of expression of the defendants in the domestic proceedings (see paragraph 73 of the judgment, and the judgments referred to therein). The domestic courts considered that the defendants had not violated the applicant's rights by disclosing certain information about her and making certain statements about her. If the Court finds that the domestic courts were entitled to reach that conclusion in respect of certain issues, but not in respect of other issues, then this means that there has been a violation of Article 8, period.

The Court should not, in our opinion, grant a certificate of compatibility with Article 8 by implying that it was legitimate for the domestic courts to hold that certain items could be shown in the impugned programme. The domestic courts were required to assess the programme as a whole. Logically, the Court should also review their decisions as a whole. Indeed, the answer to the question whether the domestic courts struck a fair balance can only be answered with respect to their decisions as a whole. Following Aristotle's principle of non-contradiction, that right cannot be simultaneously effective and not effective. Similarly, Article 8 cannot be simultaneously violated and not violated.

3. The applicant complains about the dissemination of her home address, her income as declared to the authorities, her taxpayer identification number and images of the interior of her country house. She also complains about the statements made, explicitly or implicitly, about her income and expenditure.

We do not believe it is necessary to assess whether or not the domestic courts were entitled to consider that it was lawful for the defendants to broadcast information about the applicant's declared income and make

statements about her income and expenditure.¹ It is sufficient to note that the domestic courts failed to protect the applicant's private life, *at least* with respect to the dissemination of her private address, her taxpayer identification number and the images of the interior of her country house. As explained in the present judgment, the domestic courts' reasoning with respect to these issues falls far short of the standards required by the Convention. We would have preferred that much more emphasis be given in the Court's judgment to two particularly troublesome aspects of the case: the fact that the domestic courts simply accepted, without any need for a balancing of interests, that a journalist could disseminate information that had been received from an investigator (compare paragraph 88 of the judgment), and the fact that they seriously underestimated the intrusiveness involved in broadcasting pictures of the interior of someone's house (compare paragraph 103 of the judgment).

Moreover, in the circumstances of this case these failures have not been compensated by a legitimate reason for the defendants to show another item (the applicant's declared income) or to make a statement about the applicant's income and expenditure.

4. Our conclusion is therefore that there has been a breach of Article 8. We do not think that it is necessary or appropriate to specify, either in the conclusion of the Court's analysis (see paragraph 104 (b) of the judgment) or in the relevant operative point (operative point 4), the *grounds* upon which this conclusion is reached. And we respectfully disagree, as already explained above, with the additional conclusion that Article 8 has not been violated on account of certain (other) items presented in the television programme (see paragraph 104 (a) and operative point 5).

¹ We will therefore not comment on how the majority apply the relevant general principles (see paragraphs 79-103 of the judgment). While we agree with most of that analysis, we consider that it would have been sufficient to concentrate on the deficiencies in the courts' reasoning. It seems to us that the majority are too eager to indicate that journalists can legitimately disclose information relating to corruption by public officials, including information relating to their family members. As a matter of principle, this is correct. However, the issue in the present case is whether or not the journalists went *too far* in disclosing elements relating to the applicant's private life, and whether the domestic courts paid *sufficient* attention to her rights.