



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

## THIRD SECTION

### **CASE OF MLADINA D.D. LJUBLJANA v. SLOVENIA (No. 2)**

*(Application no. 43388/17)*

## JUDGMENT

Art 10 • Freedom of expression • Civil sanctioning of a publisher for publishing a photo of a well-known politician and his family alongside a photo of the family of the German Nazi politician Joseph Goebbels in the satirical section of a weekly magazine • Domestic courts called upon to balance the publisher's rights against those of the politician, and not against those of his family members, who obtained compensation in separate domestic proceedings • Domestic courts did not sufficiently take into account the broader context in which the impugned publication was made, its limited effect on the audience of the magazine and its publication in the highly satirical section thereof • Interference not “necessary in a democratic society”

Prepared by the Registry. Does not bind the Court.

STRASBOURG

13 January 2026

*This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.*



**In the case of Mladina d.d. Ljubljana v. Slovenia (no. 2),**

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

Ioannis Ktistakis, *President*,

Peeter Roosma,

Lətif Hüseynov,

Diana Kovatcheva,

Mateja Đurović,

Canòlic Mingorance Cairat,

Vasilka Sancin, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 43388/17) against the Republic of Slovenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovenian company, Mladina d.d. Ljubljana (“the applicant company”), on 13 June 2017;

the decision to give notice to the Slovenian Government (“the Government”) of the complaint concerning Article 10 of the Convention and to declare inadmissible the remainder of the application;

the parties’ observations;

Having deliberated in private on 25 November 2025,

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

## INTRODUCTION

1. The case concerns defamation proceedings in which the applicant company was held liable for defamation for having published a photo of a well-known Slovenian politician and his family alongside a photo of the family of the German Nazi politician Joseph Goebbels. The applicant company complains under Article 10 of the Convention.

## THE FACTS

2. The applicant company is the private company Mladina d.d. Ljubljana, having its registered office in Ljubljana. The applicant company was represented by Ms J. Zakonjšek, a lawyer practising in Ljubljana.

3. The Government were represented by their Agent, Ms T. Mihelič Žitko, Senior State Attorney.

### I. BACKGROUND OF THE DOMESTIC PROCEEDINGS IN ISSUE

4. The applicant company is the publisher of the political and cultural weekly magazine *Mladina*. The magazine includes, towards the end, a section

titled “Mladinamit.” This title incorporates the name of the magazine, “Mladina” (meaning “youth”), combined with the term “mit” (meaning “myth”). Alternatively, the title may be interpreted as a composite of the syllables “Mla” and “dinamit,” the latter meaning “dynamite.”

5. At the time of the events under consideration, B.G., who instituted the defamation proceedings against the applicant company in Slovenia, was a member of parliament elected to the National Assembly of the Republic of Slovenia, a prominent Slovenian politician and a member of the Slovenian Democratic Party (SDS), which was then part of the opposition in parliament.

6. Prior to the impugned publication in *Mladina*, D.S., the then press officer of the Slovenian Social Democrats (SD) political party and the applicant company’s former photographer had posted a photograph of B.G. next to a photograph of Joseph Goebbels on his private Facebook page. This post and the question whether such a comparison was appropriate had become a matter of a lively debate on social and journalistic media.

7. On 4 March 2011, in response to the aforementioned public debate concerning the publication of photographs of B.G. and Joseph Goebbels on Facebook, an editorial by the editor-in-chief of *Mladina*, G.R., was published in Issue No. 9 of the magazine, entitled “On Goebbels and His Own” (*O Goebbelsu in njegovih*). In the editorial, G.R. responded to the debate in question, writing that the publication of the photographs had prompted unjustified criticism of D.S. He pointed out the double standards at work in Slovenian journalism and drew parallels between the political methods employed by the SDS, represented, *inter alia*, by B.G., and those of the members of the German Nazi Party.

8. In a separate section of the same issue of *Mladina* – the satirical “Mladinamit” section – there appeared a satirical article by R.B. entitled “Not every Dr G. is Dr Goebbels” (*Ni vsak dr. G. že dr. Goebbels*). The following text was published under the headline:

“Our former colleague [D.S.] compared Dr G. to Dr Goebbels on his Facebook page. The editorial board of Mladinamit joins the protest. It may perhaps appear that Dr G. is drawing inspiration from his role model, but he is still far from being like him; currently, he is not even half as good. Much more practice in manipulation is still needed. Sieg!”

9. Below the text, a photograph of the family of the German Nazi politician Joseph Goebbels, captioned “Dr Goebbels with his family”, and a photograph of B.G.’s family, captioned “Dr G. with his family”, were published side by side. The format of both pictures was identical and their composition was similar. They depicted a father, mother and three children. In both pictures the families were sitting, with the mother holding one child in her arms and the other two seated next to the father. It appeared that B.G.’s children were less than ten years old at the time when the picture was taken.

10. The family photo of B.G. used in the article was taken at a public mass in Brezje on Assumption Day, which (together with several other public and political figures) the family attended, allowing their photographs to be taken

and published in other newspapers. Assumption Day is one of the most important religious holidays in Slovenia, where the largest mass is celebrated in Brezje, attracting thousands of attendees each year.

## II. SUBSEQUENT EVENTS

11. On 7 March 2011, after the publication of Issue No. 9 of *Mladina*, G.G., the then president of the Zares parliamentary party, which was part of the governing coalition at the time of the events, addressed an open letter to the editor-in-chief of *Mladina* in which he criticised the publication of the family photographs in “Mladinamit”. Subsequently, several Slovenian newspapers published critical reactions, which included the criticism by some representatives of the journalistic profession and the Human Rights Ombudsman to the respective publication in “Mladinamit”, condemning it for breaching ethical standards, particularly due to the involvement of children.

12. In Issue No. 10 of *Mladina*, dated 11 March 2011, the editor-in-chief, G.R., published an editorial entitled “Real Name” in which he defended the decision to publish the photographs in question. He alleged that the media had double standards as to the manner in which politicians’ children were treated and pointed out that B.G. had voluntarily involved his children in political activities to gain political advantage. The same issue of *Mladina* also included articles and contributions by other authors expressing approval for the impugned publication.

## III. THE PROCEEDINGS BEFORE THE DOMESTIC COURTS

### A. The judgment of the Ljubljana District Court

13. On 15 September 2011 B.G. brought an action against the applicant company before the Ljubljana District Court. He argued that the publication, in Issue No. 9 of *Mladina* (see paragraphs 8-9 above), of the photograph of him and his family comparing them to the Nazi politician and criminal Joseph Goebbels and his family, followed by additional content in Issue No. 10 (see paragraph 12 above), had caused damage to his honour, good name and dignity, thereby infringing his personality rights. He emphasised that the comparison to Joseph Goebbels, who symbolised totalitarianism, violence, ethnic cleansing and, in the context of the published family photograph, the murder of his own children, was a vile and cruel insult which showed contempt for him and was aimed at discrediting him. He asserted that the actions of the applicant company had had negative effects on his family as a whole and on his wife and three children individually. He sought compensation for non-pecuniary damage in the amount of 40,001 euros (EUR) and publication of both the judgment and an apology in the same issue of *Mladina*.

14. On 24 October 2011, the applicant company replied that it considered its actions to have been lawful, as it had been exercising its right to freedom of expression. The applicant company submitted that B.G. was a public figure and one of the most important politicians in Slovenia. It explained that the editorial by the editor-in-chief, G.R. (see paragraph 7 above), made it clear that the point of comparing (the photographs of) B.G. and Joseph Goebbels had not been to argue that B.G. was a criminal or a Nazi, but to compare their methods of political action and to point out that B.G., like Joseph Goebbels, used information about and photographs of his family life to gain political popularity. According to the applicant company, all the subsequent articles had been part of the public debate and had further clarified the intent of the impugned publication. The applicant company relied on the standards of the European Court of Human Rights and its case-law regarding the freedom of the press to impart information on matters of public interest. The applicant company stressed that none of the articles in question equated B.G. with Joseph Goebbels as an individual or suggested that, like Joseph Goebbels, B.G. would be willing to sacrifice his own children. Instead, the comparison concerned solely their political methods, which could be subjected even to harsher criticism.

15. On 10 July 2013 the Ljubljana District Court delivered a judgment dismissing B.G.'s claim. The District Court explained that B.G. did not have standing to seek damages for the distress allegedly suffered by his family members. It further reasoned that the unlawfulness of the articles in question had to be assessed by considering them as a whole and in the light of all the other circumstances of the case. Therefore, the District Court found that while the focus on the photographs might have made the subject of the journalists' criticism less apparent, a thorough examination of all the impugned articles yielded a clearer understanding. The explicit statements contained in these articles, along with their broader context, clearly indicated that the comparison was solely between the political methods of B.G. and those of Joseph Goebbels. The District Court thus dismissed the view that, by comparing B.G. with the Nazi criminal Joseph Goebbels, the articles conveyed the message that B.G. stood for all Nazi "values" and that he was prepared to sacrifice his own children. The District Court noted that the articles in question concerned a matter which had been a subject of public debate at the time, namely, whether it was permissible to compare B.G. to Joseph Goebbels (see paragraph 6 above), and concerned B.G., who was a public figure and could therefore be subjected to harsher criticism than the average citizen. Additionally, the court established that the criticism of B.G.'s conduct had been a value judgment, which had a sufficient factual basis. Moreover, the District Court considered that the disputed photograph had undoubtedly been taken at a public event and that B.G. had willingly and repeatedly exposed his family to public attention, including by having them

appear in popular magazines and permitting the sale and promotional use of photographs featuring them.

### **B. The judgment and decision of the Ljubljana Higher Court**

16. B.G. appealed against the above judgment before the Ljubljana Higher Court.

17. In a judgment and decision of 12 February 2014 the Ljubljana Higher Court upheld B.G.'s appeal in part and amended the Ljubljana District Court's judgment, ordering the applicant company to publish its judgment in *Mladina*, together with the following apology to B.G. in the same edition.

"Mladina, d.d., apologises to B.G. for comparing a photograph of his family to a photograph of Joseph Goebbels with his family. Mladina d.d."

18. In the parts of its ruling rejecting B.G.'s claim for monetary compensation and deciding on the costs of the proceedings, the Higher Court set aside the contested judgment and remitted the case to the district court for re-examination. The Higher Court upheld the first-instance court's ruling that the published texts had not encroached upon B.G.'s right to reputation. However, it determined that this conclusion did not extend to the publication and comparison of the family photographs. The Higher Court noted that it was not the case that all the articles and the publication of the photographs had to be considered as a whole, since the publication of photographs interfered with one's intimacy far more than words. Consequently, it considered it necessary, when weighing up the competing rights to freedom of expression and to one's honour and reputation, to distinguish the text of the articles from the published photographs and to carry out a separate balancing of the conflicting interests in connection with the photographs. The Higher Court recognised that the disputed photograph of B.G. portrayed him not only in his well-known public role as a politician but also, and inseparably, in his role as a father. It further noted that the comparison with the second photograph, which depicted a widely recognized symbol of evil associated with the Nazi regime, leveraged the negative connotations attached to it.

### **C. The judgment of the Supreme Court of Slovenia**

19. The applicant company lodged an appeal on points of law against the judgment of the Ljubljana Higher Court. The Supreme Court declared the appeal on points of law admissible concerning the issue of balancing the competing rights in relation to the photographs.

20. The Supreme Court dismissed the applicant company's appeal on points of law in a judgment of 10 September 2015. The Supreme Court relied on the case-law of the European Court of Human Rights regarding the importance of freedom of expression and its practice in weighing up

competing rights in the case of photographs and accompanying text. It determined that the articles published in the subsequent issues of *Mladina* (see paragraph 12 above) could not be considered in conjunction with the article in Issue No. 9 (see paragraphs 8-9 above). Additionally, it concluded that the editorial and the impugned article in that same issue could not be regarded as directly connected to one another owing to the complete separation between the corresponding sections. Therefore, the Supreme Court affirmed that the disputed article in “Mladinamit” had to be assessed separately, taking into account the photograph and the entire context of the article’s publication. The Supreme Court acknowledged that “Mladinamit” was a satirical section and thus enjoyed wider protection. However, it affirmed that the comparison between the published family photographs went beyond a comparison of political methods. It observed that, placed side by side, the published photographs were of identical dimensions and composition, thereby creating a multi-layered comparison between B.G.’s family and that of Joseph Goebbels. Consequently, the Supreme Court concluded that the applicant company’s intent had not merely been to influence public debate on political propaganda methods but also to trigger a shocking comparison in the reader’s mind, especially given the circumstances of the death of the Goebbels family.

#### **D. The decision of the Constitutional Court of Slovenia**

21. On 21 May 2014, the applicant company lodged a constitutional complaint against the Higher Court’s judgment of 12 February 2014 (see paragraphs 17-18 above) and, on 24 December 2015, another against the Supreme Court’s judgment of 10 September 2015 (see paragraph 20 above). It claimed, *inter alia*, that the article was a satirical criticism of the politician’s conduct and not a comparison of the two families or an attack on B.G.’s personality. The applicant company objected to the manner in which those courts had taken into account the narrower and the broader context when weighing up the conflicting interests, especially with regard to the other published material. It also objected to the domestic courts’ findings as to the meaning and intent of the publication.

22. The Constitutional Court considered the applicant company’s two complaints jointly and dismissed them on 14 December 2016. It held that the courts concerned had provided adequate and sufficient grounds for their decisions and had struck a fair balance between the applicant company’s freedom of expression and B.G.’s reputation. The Constitutional Court recognised the broad scope of freedom of the press. However, it determined that, in this specific case, the relevant courts had correctly applied the pertinent criteria from their own case-law and that of the European Court of Human Rights.



23. The Constitutional Court noted that photographs could infringe on personal rights more than textual articles and thus had to be considered separately, albeit with due regard to the context. The court acknowledged that the publication had taken place in the wider context of the public debate about the political methods used by the SDS and their comparison to those of Joseph Goebbels and the German Nazi party. The Constitutional Court also considered that the wider context comprised the textual articles published in the same issue of *Mladina* and in the following one. The narrower context for the publication of the photographs encompassed a textual dimension (the title and the short caption just above the photographs), in which the applicant company satirically drew a comparison between B.G. and Joseph Goebbels as manipulative politicians (see paragraph 8 above), and a visual dimension, in which the applicant company compared their families by placing the impugned photographs side by side (see paragraph 9 above). The Constitutional Court therefore concluded that the visual comparison focused on the two families rather than the politicians, thereby going beyond a comparison of political methods.

24. The Constitutional Court highlighted that the photographs of B.G. and Joseph Goebbels had not been published alongside the editorial (see paragraphs 7-8 above) to illustrate the message it contained but in a separate section. The Constitutional Court noted that the average reader of *Mladina* might not have read or been aware of the content of the editorial and, therefore, might not have made the connection between its meaning and the photographs in the satirical section. In this regard, the Constitutional Court based its findings on the perspective of the average reader, concluding that such a reader would most likely see a comparison between the two families. The Constitutional Court relied heavily on the specific effect that the photographs (as opposed to the text) could be expected to have on readers, especially given the negative associations attached to the figure of Joseph Goebbels, regardless of the readers' awareness of Joseph Goebbels' murder of his children. It dismissed the applicant company's submission that the criticism had not been aimed at B.G. as a person but at his political methods. The Constitutional Court took into account that B.G. was a public figure and was thus expected to be more tolerant of criticism and it also had regard to the satiric nature of the publication. However, B.G. was depicted as a father and, as such, deserved protection against unjustified intrusions affecting his family. Although B.G. had exposed his family to the press, this did not imply that he had thereby given his consent for the photographs to be published in any context. Moreover, the Constitutional Court noted that, even if B.G. and his political party, the SDS, engaged in harsh criticism of others, including using references to Nazism and Fascism, this did not justify the inappropriate comparison between B.G.'s family and that of Joseph Goebbels. The Constitutional Court also found that the outcome of the examination of the rights in question would most likely have been different if the visual aspect

of the satirical contribution had focused solely on the comparison between B.G. and Joseph Goebbels in their political roles, as had the textual parts, and not also on their families. In the Constitutional Court's view, the satirical nature of the publication could not tip the balance in favour of freedom of expression in the circumstances of the present case.

#### **E. The re-examination of the claim for compensation**

25. Upon re-examination following the decision of the Ljubljana Higher Court of 12 February 2014 (see paragraphs 17-18 above) the Ljubljana District Court, in its judgment of 24 March 2016, ordered the applicant company to pay B.G. compensation in the amount of EUR 5,000, together with default interest from 8 October 2011 onwards, and dismissed the remainder of the claim. The Ljubljana District Court awarded the compensation after finding that the publication of the family photographs had disturbed B.G.'s peace of mind and inherent dignity, in particular in relation to his role as a family man and father.

26. Both B.G. and the applicant company appealed against the judgment of 24 March 2016.

27. In its decision of 18 January 2017, the Ljubljana Higher Court upheld the appeals, set aside the contested judgment and referred the case back to the first-instance court for re-examination. The Higher Court noted that the first-instance court had failed to take all the relevant circumstances into account when assessing the claim for damages, namely, the published photographs' connection to a matter of public interest and B.G.'s public role, prior conduct and consent for the photographs to be taken. The court also emphasised that the sanction should not be so severe as to have a chilling effect on journalists.

28. Following its second re-examination, the Ljubljana District Court, taking into account the circumstances set forth by the Ljubljana Higher Court, delivered a judgment on 10 April 2017. It again ordered the applicant company to pay B.G. compensation in the amount of EUR 5,000 along with default interest from 8 October 2011. The court dismissed the remainder of B.G.'s claim.

29. The judgment of 10 April 2017 was appealed against by both B.G. and the applicant company, each party contesting the amount awarded as compensation, albeit from different perspectives.

30. In a judgment of 11 October 2017, the Ljubljana Higher Court upheld the applicant company's appeal in part and amended the judgment appealed against by reducing the compensation awarded by EUR 2,000. As a result, the applicant company was ordered to pay B.G. EUR 3,000, plus statutory default interest from 8 October 2011. The Higher Court acknowledged that the first-instance court had properly considered all relevant factors, including the potential chilling effect on the exercise of the right to freedom of

expression. However, it found that the compensation awarded was nonetheless excessive and not in line with that awarded in similar cases. The Higher Court also upheld B.G.'s appeal in part and increased the amount assessed in respect of the cost of the proceedings, which the applicant company was ordered to reimburse. It dismissed the remainder of both appeals.

#### **F. Other relevant facts**

31. As a result of the articles targeted by B.G. in his action (see paragraph 13 above) and the publication and comparison of photographs of the families of B.G. and Joseph Goebbels in the satirical "Mladinamit" section of *Mladina*, B.G.'s family members lodged claims for compensation in a separate set of proceedings. By a final judgment of the Ljubljana Higher Court of 12 April 2017, his three children were awarded EUR 14,000 in total. His wife and the applicant company reached a settlement for an undisclosed sum.

### **RELEVANT LEGAL FRAMEWORK**

#### **I. THE CONSTITUTION**

32. The relevant constitutional provisions read as follows:

##### **Article 15 (Exercise and Limitation of Rights)**

"...

Human rights and fundamental freedoms shall be limited only by the rights of others and in such cases as are provided for in this Constitution.

..."

##### **Article 34 (Right to Personal Dignity and Security)**

"Everyone has the right to personal dignity and security."

##### **Article 35 (Protection of the Right to Privacy and Personality Rights)**

"The inviolability of the physical and mental integrity of every individual, his or her privacy and his or her personality rights shall be guaranteed."

##### **Article 39 (Freedom of Expression)**

"Freedom of expression of thought, freedom of speech and public appearance, freedom of the press and other forms of public communication and expression shall be

guaranteed. Everyone may freely collect, receive and disseminate information and opinions.

...”

## II. APPLICABLE CIVIL LAW

33. Article 179 of the Code of Obligations, which constitutes the statutory basis for awarding compensation for non-pecuniary damage, provides that such compensation may be awarded in the event of the infringement of personality rights, provided that the circumstances of the case, and in particular the level and duration of the distress and fear caused thereby, justify such an award. Moreover, under Article 178 of the Code of Obligations, where a personality right such as the right to reputation has been infringed, a court may order that the judgment be published at the respondent’s expense, or that the impugned statement be corrected or retracted.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

34. The applicant company complained that the decisions of the domestic courts had infringed its right to freedom of expression under Article 10 of the Convention, which in its relevant parts reads as follows:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

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 ... for the protection of the reputation or rights of others ...”

#### A. Admissibility

35. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

#### B. Merits

##### *1. The parties’ submissions*

###### **(a) The applicant company**

36. The applicant company submitted that the courts had wrongly prioritised B.G.’s honour and good name over the applicant company’s right

to freedom of expression. It argued that the domestic courts had disregarded or incorrectly assessed relevant aspects of the case, such as the satirical nature of the publication in question and the fact that B.G. had not been attacked in his role as a father but in his role as a politician, who had himself exposed his family to the public in order to attract voters who adhered to traditional family values.

37. The applicant company argued that, in accordance with the Court's case-law, it was necessary to consider the perspective of the average reader, who would in this case understand that the publication represented a criticism of the politician's actions and not a comparison between families. This followed both from the wider context (public debate regarding the post on Facebook) and the narrower context (title and text of the article "Not every Dr G. is Dr Goebbels").

38. The applicant company noted that the photo of B.G.'s family that had been used had been taken at a public mass, where B.G. had allowed photographs to be taken and subsequently published in other newspapers. In connection with this event, the applicant company noted that the Assumption Day mass at Brezje was a political event that attracted extensive media coverage and was attended every year by key right-wing politicians. Therefore, in the applicant company's view, any politician in attendance, even in the company of his or her family, was there as a politician and could be subjected to harsh criticism, including comparisons to Joseph Goebbels.

39. Moreover, the applicant company argued that the domestic courts had overlooked that B.G.'s conduct was characterised by intolerance, xenophobia and nationalism. It pointed out in this regard that B.G. himself and his political party, the SDS, had often expressed intolerant views and harshly criticised its opponents, including by comparing them to figures associated with Nazism and Fascism.

40. The applicant company also pointed out that the domestic proceedings had concerned only B.G., and not his family, and argued that the Constitutional Court had wrongly granted B.G. the right to protect not only his own reputation but also the reputation of his family as a whole. In this regard, the applicant company pointed out that B.G.'s family members had defended their rights in separate proceedings.

#### **(b) The Government**

41. The Government acknowledged that the domestic courts' decisions against the applicant company constituted interference with its right to freedom of expression under Article 10 of the Convention. However, they pointed out that this interference had a basis in law – Articles 178 and 179 of the Code of Obligations – and had pursued one of the legitimate aims referred to in Article 10 § 2 of the Convention, namely, the protection of the reputation or rights of others. As to the necessity of the interference, the Government argued that the domestic courts had applied the criteria established by the

Court and had carefully weighed up the two competing rights, namely the applicant company's right to freedom of expression and B.G.'s right to reputation.

42. The Government emphasised that in weighing up the conflicting rights the domestic courts had considered that freedom of expression related not only to the content of the article but also to the form and manner of expression. Therefore, the domestic courts had weighed up the conflicting interests in relation to the photographs separately, while taking into account the significance of both the broader and the narrower context (see paragraph 23 above).

43. The Government highlighted the public criticism that had followed the applicant company's publication of the family photographs and the controversial comparison between families, including from politicians, journalists and the Human Rights Ombudsman, among many others. They submitted that this only further confirmed that the conclusions of the domestic courts were correct.

44. As regarded the importance of the political satire, the Government relied on the Constitutional Court's reasoning to the effect that, in the circumstances, the political satire would have amounted to criticism of a politician if, in the visual part of the article, B.G. had remained the only subject of the satirical comparison, as was the case in the textual part (see paragraph 24 above). In this regard, the Government pointed out that if the meaning of the political satire in question had been as clear as the applicant company had suggested, there would have been no need to further explain the purpose of publishing the family photographs in the articles that had appeared in the next issue of the weekly. In the Government's view, this confirmed that the average reader had not interpreted the publication of the photographs in the same way as the applicant company had claimed in its submissions to the Court and before the domestic courts.

45. The Government considered that the applicant company's allegation that the domestic courts had granted B.G. a special right to protect the reputation of his family as a whole (see paragraph 40 above) had no basis in the decisions of the domestic courts. In the Government's view, those courts had considered the emotional impact of the publication of the photographs on B.G. as a husband and father. The facts suggested that the publication had adversely affected the well-being of B.G.'s family members, which had in turn influenced family dynamics. Since an individual's well-being was naturally linked to that of their family, the Government argued that the distress experienced by B.G.'s family members had also impacted B.G.'s own well-being, which had been at the centre of the case.

46. Lastly, the Government disputed that the mass held in Brezje on Assumption Day was not a family event but merely a highly publicised political event, as alleged by the applicant company (see paragraph 38 above), noting also that this mass was the focus of an important religious pilgrimage.

## 2. *The Court's assessment*

47. The applicant company's complaint stems from the domestic proceedings in which it was found liable for defamation and ordered to publish the judgment finding against it, issue an apology, and pay compensation to B.G., whose rights were found to have been infringed by the publication of his family photo in the satirical section of the applicant company's magazine. The Court considers, and this is not disputed between the parties, that the domestic court judgments complained of by the applicant company amounted to an "interference" with the exercise of the applicant company's right to freedom of expression (see paragraph 41 above; see *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, § 66, 27 June 2017, and *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, § 79, ECHR 2015 (extracts)). It must therefore be determined whether the interference was "prescribed by law", pursued one or more of the legitimate aims set out in Article 10 § 2 and was "necessary in a democratic society" in order to achieve them (see *Hrachya Harutyunyan v. Armenia*, no. 15028/16, § 37, 27 August 2024, and *Medžlis Islamske Zajednice Brčko and Others*, cited above, § 67).

48. The Court further notes – and this is also not contested – that the interference complained of was prescribed by law, namely, by Articles 178 and 179 of the Code of Obligations (see paragraph 33 above), and was intended to pursue a legitimate aim referred to in Article 10 § 2 of the Convention, namely, to protect "the reputation or rights of others".

49. It remains for the Court to consider the central issue in this case – and only one disputed between the parties – namely, whether the interference was "necessary in a democratic society".

### (a) *Applicable general principles*

50. The general principles for assessing the necessity of an interference with the exercise of freedom of expression were summarised in *Bédat v. Switzerland* ([GC], no. 56925/08, § 48, 29 March 2016) and, more recently, in *Halet v. Luxembourg* ([GC], no. 21884/18, § 110, 14 February 2023).

51. The Court has observed on several occasions that satire is a form of artistic expression and social commentary which, by its inherent features of exaggeration and distortion of reality, naturally aims to provoke and agitate. Accordingly, any interference with the right to use this means of expression should be examined with particular care (see *Sousa Goucha v. Portugal*, no. 70434/12, § 50, 22 March 2016, and *Handzhiyski v. Bulgaria*, no. 10783/14, § 51, 6 April 2021).

52. The Court reiterates that the right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect

for private life. 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 in a manner causing prejudice to personal enjoyment of the right to respect for private life (see *Khural and Zeynalov v. Azerbaijan*, no. 55069/11, § 39, 6 October 2022, and *Bédar*, cited above, § 72). In such instances, the Court may be required to verify whether the domestic authorities struck a fair balance when protecting the two values guaranteed by the Convention – namely, on the one hand, freedom of expression (as protected by Article 10) and, on the other, the right to respect for private life, as enshrined in Article 8. The general principles applicable to the balancing of these rights, as well as the appropriate approach to be taken to that end, were summarised in *Medžlis Islamske Zajednice Brčko and Others* (cited above, §§ 77-78) and *Annen v. Germany* (no. 6) (no. 3779/11, §§ 22-23, 18 October 2018).

53. As regards freedom of expression in the context of reporting and publishing photographs, the question of assessing the necessity of an interference with that freedom and the State's margin of appreciation in that regard, the Court refers to its established case-law in the cases of *Couderc and Hachette Filipacchi Associés* (cited above, §§ 83-87 and 90-93), *Von Hannover v. Germany* (no. 2) ([GC], nos. 40660/08 and 60641/08, §§ 95-107, ECHR 2012) and *Axel Springer AG v. Germany* ([GC], no. 39954/08, §§ 78-88, 7 February 2012).

54. The Court would emphasise that while freedom of expression includes the publication of photographs, this is nonetheless an area in which the protection of the rights and reputation of others takes on particular importance, as photographs may contain very personal or even intimate information about an individual and his or her family (see *Von Hannover* (no. 2), cited above, § 103, and *Eerikäinen and Others v. Finland*, no. 3514/02, § 70, 10 February 2009). Therefore, it may be necessary to distinguish between the text of a report and the publication of photographs (see *Rothe v. Austria*, no. 6490/07, § 73, 4 December 2012). Moreover, the potential impact of the medium of expression concerned is an important factor in the consideration of the proportionality of an interference (see *Jersild v. Denmark*, 23 September 1994, § 31, Series A no. 298, and *Murphy v. Ireland*, no. 44179/98, § 69, ECHR 2003-IX (extracts)).

55. In its case-law, the Court has identified a number of criteria in the context of balancing the competing rights under Articles 8 and 10 of the Convention, in particular where the publication of photographs was at stake. These criteria include: contribution to a debate of public interest; the degree of notoriety of the person affected; the subject of the news report; the prior conduct of the person concerned; the content, form and consequences of publication; and, where appropriate, the circumstances in which the photographs were taken (see *Von Hannover* (no. 2), cited above, §§ 108-13, and *Von Hannover* (no. 3), no. 8772/10, § 46, 19 September 2013). When it examines an application lodged under Article 10, the Court will also examine



the way in which the information was obtained, its veracity and the gravity of the penalty imposed on the journalists or publishers (see *Couderc and Hachette Filipacchi Associés*, § 93, and *Axel Springer AG*, §§ 89-95, both cited above). Moreover, the Court would emphasise that in all cases of this kind it must consider whether the journalists acted in accordance with their duties and responsibilities, in particular with the ethics of journalism (see *M.L. v. Slovakia*, no. 34159/17, § 41, 14 October 2021, and *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 102, ECHR 2004-XI).

56. The Court considers in each case whether the criteria thus defined may be transposed to the case in question, although certain criteria may have more or less relevance given the particular circumstances of the case (see *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], no. 931/13, § 166, 27 June 2017, and *Mediengruppe Österreich GmbH v. Austria*, no. 37713/18, § 51, 26 April 2022).

57. Where the balancing exercise between the competing rights has been undertaken by the national authorities, in conformity with the criteria laid down in the Court's case-law, as summarised above, the Court would require strong reasons to substitute its view for that of the domestic courts (see *Axel Springer AG*, cited above, § 88; *Von Hannover (no. 2)*, cited above, § 107; and, more recently, *Delfi AS v. Estonia* [GC], no. 64569/09, § 139, ECHR 2015).

58. The Court reiterates in this connection that its task in exercising its supervisory function is not to take the place of the national authorities but rather to review under Article 10 the decisions they have taken pursuant to their power of appreciation. However, this does not mean that the supervision is limited to ascertaining whether the respondent State exercised its discretion reasonably, carefully or in good faith; what the Court has to do is to look at the interference complained of in the light of the case as a whole and determine whether the reasons adduced by the national authorities to justify it are "relevant and sufficient". In so doing, the Court has to satisfy itself that the national authorities not only applied standards which were in conformity with the principles embodied in Article 10 but also based their decisions on an acceptable assessment of the relevant facts (see *Ringier Axel Springer Slovakia, a.s. v. Slovakia (no. 3)*, no. 37986/09, § 77, 7 January 2014, and *Saaristo and Others v. Finland*, no. 184/06, §§ 56-57, 12 October 2010).

**(b) Application of the above principles to the present case**

59. The Court observes at the outset that the interference with the applicant company's right to freedom of expression related to the publication of a photo of a well-known Slovenian politician, B.G., and his family alongside a photo of the family of a German Nazi politician, Joseph Goebbels, in Issue No. 9 of the applicant company's weekly magazine, *Mladina*, in March 2011. The photos in questions were published in the satiric section of the magazine, and were accompanied by a brief commentary (see

paragraphs 8-9 above). The same issue of *Mladina* also included an editorial which drew parallels between the political methods employed by the SDS political party, represented, *inter alia*, by B.G., and those of the members of the German Nazi Party (see paragraph 7 above).

60. The Court finds that the publication of a photograph of B.G.'s family positioned adjacent to a family photograph of a German Nazi politician, constituted an attack on B.G.'s reputation serious enough to bring the right to respect for private life under Article 8 into play (see also *Fuchsmann v. Germany*, no. 71233/13, § 30, 19 October 2017, and *Medžlis Islamske Zajednice Brčko and Others*, cited above, § 79). The domestic courts were therefore required to strike a fair balance between two rights guaranteed by the Convention – namely, on the one hand, freedom of expression enshrined in Article 10 and, on the other, the right to respect for private life, as enshrined in Article 8 (see paragraph 52 above).

61. The Court observes in this connection that in the defamation proceedings instituted by B.G. against the applicant company the domestic courts acknowledged that the case concerned a conflict of two rights, namely the right to freedom of expression and the right to reputation, and recognised the importance of the applicant company's freedom to publish critical comments about B.G. (see paragraphs 20 and 22 above). The domestic courts determined that the publication of the textual material did not encroach upon B.G.'s right to reputation (see paragraph 18 above). Conversely, they concluded that an infringement had occurred with the publication and comparison of the photographs of B.G.'s and Joseph Goebbels' respective families (see paragraphs 18, 20 and 24 above).

62. In exercising its supervisory function, the Court is called upon to ascertain, in the light of the case as a whole, whether the domestic courts when striking the above balance between the competing rights at stake, remained within their margin of appreciation. It will examine in this connection whether the domestic courts ruled in accordance with the criteria established by the Court (see paragraph 55 above) and, in particular, whether they sufficiently considered those principles that are directly relevant to the subject matter of the impugned publication.

*(i) Degree of notoriety of the person affected*

63. The Court observes that the domestic courts acknowledged that B.G. was a public figure in respect of whom the limits of critical comment were wider (see paragraphs 15, 18 and 24 above) and sees no reason to disagree with this conclusion. It notes that public figures are inevitably and knowingly exposed to public scrutiny and must therefore display a particularly high degree of tolerance (see *Milosavljević v. Serbia*, no. 57574/14, § 59, 25 May 2021, with further references). Moreover, politicians must be aware that political invective often spills over into the personal sphere; such are the hazards of politics and the free debate of ideas, which are the guarantees of a

democratic society (see *Lopes Gomes da Silva v. Portugal*, no. 37698/97, § 34, ECHR 2000-X, and *Mladina d.d. Ljubljana v. Slovenia*, no. 20981/10, § 46, 17 April 2014).

64. Apart from B.G., the photographs also depicted B.G.'s children and wife, who were private individuals. The Court observes in this connection that the publication and comparison of the family photographs at the centre of the present case faced criticism in Slovenia from, among others, certain representatives of the journalistic profession and the Human Rights Ombudsman (see paragraph 11 above), particularly because of the exposure of B.G.'s minor children. However, the issue in the present case is confined to the weighing of the applicant company's rights against those of B.G. It was the latter's interests that were directly engaged in the impugned proceedings. By contrast, B.G.'s wife and children were not parties to those proceedings and were awarded compensation in separate domestic proceedings (see paragraph 31 above).

*(ii) Method by which the information was obtained and the circumstances in which the photographs were taken*

65. The applicant company pointed out that the family photograph of B.G. was taken at a public mass in Brezje on Assumption Day, an event in which the family had actively participated, allowing their photographs to be taken and published in various newspapers (see paragraphs 10 and 38 above). The Court notes that this fact was acknowledged by the Constitutional Court (see paragraph 24 above) and that there is nothing to suggest that a sanction was imposed on the applicant company for merely publishing the photograph. It was rather the use of this photograph in the context of a comparison to the Goebbels family that led to the interference with the applicant company's freedom of expression (see paragraph 24 above).

66. In this connection the Court also notes that, since B.G. had actively sought the limelight and exposed his family himself (see paragraph 15 above), having regard to the degree to which he was known to the public, his "legitimate expectation" that his private life would be effectively protected was reduced (see *Axel Springer AG*, cited above, § 101).

*(iii) Contribution to a debate of public interest; form and content of the message conveyed*

67. The Court reiterates that in the balancing of interests under Articles 8 and 10 of the Convention, the contribution to a debate of general interest made by photographs or articles in the press is an essential criterion (see *Rothe*, cited above, § 54, and *Von Hannover (no. 2)*, cited above, § 109, with further references).

68. It observes that the domestic courts determined that the editorial and the accompanying text above the photographs addressed political issues –

specifically, the permissibility of comparing B.G. to Joseph Goebbels and their respective political methods (see paragraphs 6, 15 and 23 above) – and thereby contributed to a debate of public interest. They reached the same conclusion with regard to the subsequent issue of *Mladina*, which addressed the debate surrounding the impugned publication (see paragraphs 12, 15 and 23 above). The Court agrees with this assessment and attaches particular importance to the fact that the debate surrounding the publication at issue concerned important matters of public concern, such as the methods employed by political parties and the bounds of permissible public criticism in that regard.

69. It notes that the comparison of the two photographs in the present case should be characterised as a form of value judgment (see paragraph 15 above), but that such a judgment can prove to be excessive in the absence of any factual basis (see *Mladina d.d. Ljubljana*, cited above, § 43). In this regard, the Court takes note of the applicant company’s arguments – which the Government did not contest – that it was B.G. himself who had exposed his family to the media in a political context (see paragraph 36 above) and that the criticism underpinning the publication in question related precisely to the political methods employed by B.G. in so exposing his family in order to gain political support (see paragraph 12 above). It therefore cannot be said that the comparison of the photographs – while undoubtedly highly provocative – lacked any factual basis.

70. As regards the degree of provocation involved and the comparison’s impact on the reader, the domestic courts appear to have taken the view that the visual comparison went beyond the legitimate matter of public concern and had a greater impact than that of its textual context (see paragraphs 18, 20 and 24 above). In this connection the Court would point out that the form of expression cannot be dissociated from its context and apparent goal (see *Grebneva and Alisimchik v. Russia*, no. 8918/05, § 62, 22 November 2016), since the question whether a publication concerns an issue of public concern should depend on a broader assessment of the subject matter and the context of the publication (see *Tønsbergs Blad A.S. and Haukom v. Norway*, no. 510/04, § 87, 1 March 2007). Against this background, the Court considers that, in assessing the present case, due regard should also be had to the following considerations.

71. Firstly, apart from the broader context determined by the content referred to above (see paragraphs 23 and 68 above), the title and the short caption placed directly above the photographs (see paragraph 8 above) clearly indicated the political and satirical dimension of their publication.

72. Secondly, the impugned photographs were published in the satirical “Mladinamit” section of *Mladina* (see paragraph 8 above), whose very name, containing the word “dynamite” (see paragraph 4 above), reflects its intentionally provocative and explosive editorial style. The Court cannot accept as convincing the domestic courts’ and the Government’s assertion

that the average reader of *Mladina* would fail to grasp the political context of the photographs in question and the broader message conveyed by them (see paragraphs 20, 24 and 44 above; see also, *mutatis mutandis*, *Nikowitz and Verlagsgruppe News GmbH v. Austria*, no. 5266/03, § 25, 22 February 2007, and *Wirtschafts-Trend Zeitschriften-Verlagsgesellschaft mbH v. Austria* (no. 3), nos. 66298/01 and 15653/02, § 44, 13 December 2005). While the Court acknowledges that B.G.'s role as a politician and as a father were linked in the photograph (see paragraphs 18 and 24 above), it nonetheless considers that the average reader of *Mladina* would primarily have perceived B.G. in his role as a politician and the two photographs as a comparison of two politicians and their respective political methods. Indeed, the average reader, when engaging with a satirical publication, will not interpret it literally but will instead take into account its nature as satire, which has humorous elements and naturally aims to provoke and agitate (see *Sousa Goucha*, cited above, § 50; *Grebneva and Alisimchik*, cited above, § 59, and *Nikowitz and Verlagsgruppe News GmbH*, cited above, § 25).

73. Thirdly, the Court notes that in considering the “duties and responsibilities” of a journalist, the potential impact of the medium concerned is an important factor and it is commonly acknowledged that the audiovisual media have often a much more immediate and powerful effect than the print media (see *Jersild*, cited above, § 31, and *Murphy*, cited above, § 69). In this respect, the Court finds it relevant to note that the publication appeared in a satirical section of a weekly magazine, which deals with political and cultural topics (see paragraph 4 above) and is as such addressed to a specific audience. The photographs were not published in a mainstream press nor disseminated through audiovisual media. They therefore had only a limited impact on the audience and in consequence on B.G.'s reputation – a factor which ought to have been taken into account by the domestic courts (compare with *Zemmour v. France*, no. 63539/19, § 62, 20 December 2022; *Radio France and Others v. France*, no. 53984/00, § 39, ECHR 2004-II, and *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, § 119, ECHR 2013 (extracts)).

74. Lastly, as regards the comparison with the German Nazi regime, the Court notes that comparisons to the German Nazi regime do not automatically justify a conviction for defamation on the ground of the special stigma attached to the latter, especially if there exist special circumstances justifying such a comparison (see *Scharsach and News Verlagsgesellschaft v. Austria*, no. 39394/98, §§ 43-45, ECHR 2003-XI). Moreover, the Court observes that in *Wabl v. Austria* (no. 24773/94, 21 March 2000) the term “Nazi” was used without any connection to the underlying debate, whereas in the present case the comparison with the Nazi politician Joseph Goebbels was used precisely to criticise the use, by the SDS party, including B.G., of political methods similar to those of the German Nazi regime, including the exposure of one's family to political discourse, as emphasised by the applicant company.

Finally, it should be remembered that journalistic freedom also includes the possibility of recourse to a certain amount of exaggeration, or even provocation (see *Lopes Gomes da Silva*, cited above, § 34).

*(iv) Consequences of the publication*

75. As to the consequences of the publication in question, the Court notes that none of the domestic courts pointed to any specific negative impact or effects the publication might have had for B.G. but focused rather on the consequences for his family's reputation. However, the Court notes that B.G.'s family members received compensation on account of the impugned publication. Even assuming that B.G.'s own reputation suffered as a result of the articles in question, it has not been demonstrated that the consequences suffered by him were sufficiently serious to override the public's interest in receiving the information contained in them (see, *mutatis mutandis*, *Pricope v. Romania*, no. 60183/17, § 58, 30 May 2023, and *Stancu and Others v. Romania*, no. 22953/16, § 147, 18 October 2022).

*(v) Conclusion*

76. The Court reiterates that, in the present case, the domestic courts were called upon to balance the applicant company's rights against those of B.G., and not against those of B.G.'s family members, who had already obtained compensation in separate domestic proceedings (see paragraphs 31 and 64 above). Having regard to this and to the other considerations set above, the Court finds that domestic courts did not sufficiently take into account the broader context in which the impugned publication was made, including the prior lively debate about B.G. and his political methods on social media, its limited effect on the audience of *Mladina* and its publication in the highly satirical section of the magazine (see paragraphs 4 and 72 above).

77. It follows that the domestic courts failed to establish convincingly any pressing social need for placing the protection of B.G.'s reputation above the applicant company's right to freedom of expression and the general interest in promoting freedom of expression where issues of public interest are concerned. This conclusion cannot be affected by the fact that the proceedings complained of were civil rather than criminal in nature (see *Zybertowicz v. Poland*, no. 59138/10, § 48, 17 January 2017, and *Mladina d.d. Ljubljana*, cited above, § 47).

78. Accordingly, the interference complained of was not "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention.

79. There has therefore been a violation of Article 10 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

80. 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**

81. The applicant company claimed 5,253.85 euros (EUR) – namely, the amount it had been ordered to pay to B.G. in the domestic proceedings –, plus statutory default interest, in respect of pecuniary damage. Moreover, it claimed EUR 13,693.84 in respect of non-pecuniary damage to its reputation as a result of the outcome of the domestic proceedings.

82. The Government did not raise any objection to the payment of the sum claimed in respect of pecuniary damage in the event that a violation of the Convention was found. However, they objected to the sum claimed in respect of non-pecuniary damage, arguing that the finding of a violation would be sufficient.

83. The Court is satisfied that there is a causal link between the applicant company’s claim in respect of pecuniary damage and the violation found. Hence, it considers it appropriate to award the applicant company the entire sum claimed in respect of pecuniary damage, plus the statutory interest applicable under domestic law, running from the date when the applicant company paid it (see *Tuşalp v. Turkey*, nos. 32131/08 and 41617/08, § 57, 21 February 2012). However, the Court considers that in the circumstances of the present case, the finding of a violation constitutes sufficient just satisfaction in respect of any non-pecuniary damage.

## **B. Costs and expenses**

84. The applicant company also claimed EUR 19,089 for the costs and expenses incurred before the domestic courts and the Court.

85. The Government contested the applicant company’s claim, arguing that it was excessive. They considered that the costs for legal representation were not supported by sufficient documents and had not been properly based on the official rate for lawyers.

86. 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. Moreover, the Court reiterates that it does not consider itself bound by domestic scales and practices, although it may derive some assistance from them (see, among many examples, *Gaspari v. Slovenia*, no. 21055/03, § 83, 21 July 2009).

87. In the present case, regard being had to the documents in its possession and the above criteria, the Court awards the applicant EUR 10,000 covering costs under all heads.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 10 of the Convention;
3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant company;
4. *Holds*
  - (a) that the respondent State is to pay the applicant company, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
    - (i) EUR 5,253.85 (five thousand two hundred and fifty-three euros and eighty-five cents), plus the statutory interest applicable under domestic law, running from the date of that payment, and any tax that may be chargeable, in respect of pecuniary damage;
    - (ii) EUR 10,000 (ten thousand euros), plus any tax that may be chargeable to the applicant company, 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 13 January 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško  
Registrar

Ioannis Ktistakis  
President