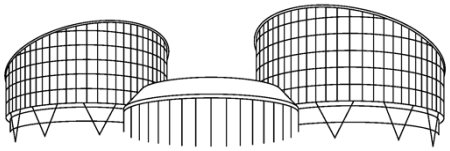

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF TAFZI EL HADRI AND EL IDRISSI MOUCH v. SPAIN

(Application no. 7557/23)

JUDGMENT

Art 8 • Positive obligations • Private life • Dismissal of civil defamation action of two social educators against a newspaper and a journalist for an article identifying them by their full names and stating they had exposed minors, in the centre they worked at, to religious indoctrination aligned with Islamist fundamentalist ideologies • Art 8 applicable • Margin of appreciation not exceeded • Domestic courts' balancing exercise between competing Art 8 and Art 10 rights in conformity with criteria laid down in Court's case-law

Prepared by the Registry. Does not bind the Court.

STRASBOURG

8 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 Tafzi El Hadri and El Idrissi Mouch v. Spain,

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

Kateřina Šimáčková*, President*,
María Elósegui,
Andreas Zünd,
Diana Sârcu,
Mykola Gnatovskyy,
Vahe Grigoryan,
Sébastien Biancheri*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 7557/23) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Spanish nationals, Mr Khalil Tafzi El Hadri and Mr Omar El Idrissi Mouch ("the applicants"), on 6 February 2023;

the decision to give notice to the Spanish Government ("the Government") of the complaint under Article 8 of the Convention;

the parties' observations;

Having deliberated in private on 2 December 2025,

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

INTRODUCTION

1. The application concerns the alleged failure of the domestic courts to properly balance competing rights (Articles 8 and 10 of the Convention) in defamation proceedings instituted by the applicants, by giving insufficient protection to the applicants' right to protect their reputation.

THE FACTS

2. The applicants were born in 1966 and 1969 respectively. Mr Khalil Tafzi El Hadri ("the first applicant") lives in Hospitalet de Llobregat, Spain, and Mr Omar EL Idrissi Mouch ("the second applicant") lives in Brussels, Belgium. The applicants were represented by Mr B. Salellas Vilar, a lawyer practising in Girona.

3. The Government were represented by their co-Agent, Ms H. E. Nicolás Martínez.

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

I. BACKGROUND TO THE CASE AND THE ABC ARTICLE

5. In 2011 both applicants were working as social educators at the C.V. residential centre for minors in Barcelona ("centre for minors"). The centre was managed by M.F. Foundation ("the foundation"), a private entity.

6. On 27 September 2011, *ABC* — one of the best-selling national newspapers in terms of daily readership — published an article "Centres for minors, seedbeds of fundamentalism" (*Los centros de menores, semilleros del integrismo*) in its online edition and on page 26 of its print edition. The article read as follows:

> "Many educators, who have been employed solely because they are able to speak a Moroccan dialect, preach non-integration to teenagers.
>
> Some centres for minors that take in many Muslim boys have become hotbeds for training Islamists, according to warnings from administrations such as those in Catalonia and Andalusia. However, [these authorities] are powerless to tackle a problem that feeds into a failure of social integration.
>
> The autonomous communities which have the power to regulate these centres delegate their management to foundations that employ the educators and sometimes even appoint the director. Many of these shelters are already full of Moroccan adolescents who have entered Spain illegally and without identity documents, so their age is unknown. The vast majority speak the Dariya dialect. Consequently, when teachers are being recruited, their knowledge of the language takes precedence over any qualifications or [educational] specialisation. As a result, almost all of the teachers assigned to Moroccan adolescents are [Moroccan] nationals and Muslims. The situation becomes more complicated when one of these centres for minors [which are mostly Muslims] needs to employ a new monitor because those already working there are [in charge of] recruiting from within the Islamist environment they are [familiar with]. Moreover, the absence of an administrative filter means that the recruitment of these teachers can become a breeding ground for Islamist radicals. The same is true of security [guards].
>
> **Prelude to jihad**
>
> In recent years, both the Interior Ministry and other administrative bodies have detected that a significant number of these centres have educators who convey Islamist messages to young people, [bringing them closer to the prelude] to "jihad". That is to say, they do not openly call for terrorist activity, but their discourse does provide a breeding ground for some to consider waging [their] "holy war". Furthermore, the Anti-Terrorist Services have identified individuals who have been recruited at some of these centres and who have subsequently travelled to Iraq and Afghanistan to fight. The educators also preach from a position of superiority as the children are generally illiterate and displaced in an unfamiliar country. Over time, groups form with great internal cohesion because of their shared religious identity. "I am different from the others, and I integrate with those who are like me" is the message they internalise. The [L.M.] centre in Almería is no exception to this problem. On 2 September, a fight broke out after children of [Roma] origin complained about the management's favourable treatment of Moroccans. Ahmed U. assaulted one of the [Roma] children, after which the rest of the Moroccans [started to fight], and the situation quickly escalated into a pitched battle. The management reportedly took no action, giving the Moroccans the benefit of the doubt according to [sources in] the centre, which stress that the Muslims

acted as a group united by their religious principles. The current ringleaders are Sohuail A. A. and Mohamed D.

The situation at the [C.V.] centre for minors in Barcelona is also of great concern, as recognised by the centre's management, which has informed the Department of Social Action and Citizenship of the *Generalitat* [the Government of Catalonia]. Of the 26 Maghrebi minors currently housed in this centre, 24 are from Tangier and many of them have known each other since their childhood because they lived in the same neighbourhood. They communicate with their educators in the Dariya dialect. One of [the educators is] Omar El Idrisi who, according to sources at the centre [*según confirman fuentes de este centro*], indoctrinates the pupils in Islamist fundamentalism [*los adoctrina en el integrismo islamista*]. He takes his pupils to pray at the Tariq Ibu Ziyad Mosque, [which is] named after the Berber general who led the Muslim invasion of the Iberian Peninsula. Another educator at the centre is Khaliltafzi[1] [sic.] El Hadri, a member of Justice and Charity [*Justicia y Caridad*], one of the most radical strands of Islam *(una de las corrientes más radicales del Islam)*. When [the minors turn] 18, they are recruited to work in establishments run by Islamists, where they continue their [radicalisation]".

7. The above text was accompanied by the following summary in the centre of the page:

"From rootlessness to active Islamism

Educators In the recruitment, [their] ability to communicate with Moroccan minors is prioritised, so in nearly all cases Maghrebi Islamists are recruited.

Preaching Educators indoctrinate minors in the most radical [form of] Islam [*el islamismo más radical*] in order to prevent them from integrating into the "corrupt" West, taking them to the most fundamentalist mosques to pray.

Ghettos In a centre in Barcelona, 24 out of 26 minors are from Tangier, and one of their educators is from Justice and Charity, one of the most radical strands of Islam.

Destination Iraq Groups of Islamists have been detected who, after leaving the centre for minors, fought in Iraq. Others frequented the circles of the perpetrators [*frecuentaron el entorno de los autores*] of 11-M [that is, the terrorist attacks in Madrid on 11 March 2004]."

8. On 30 September 2011 the M.F. Foundation commenced disciplinary proceedings against the first applicant over the statements made in the publication. Having heard the applicant's explanations, on 7 October 2011 the foundation discontinued the proceedings.

9. In September 2011 more than thirty foundation employees who worked at the centre for minors, including the applicants, issued a communiqué expressing strong disagreement with the article, which they said contained false information and unfairly questioned the professionalism of the staff and also targeted individuals based on their national origin. The employees called for proper fact-checking before publishing such claims, requested an investigation to find those responsible for spreading the false information, affirmed that the school operated under official educational guidelines and

[1] As spelt in the article.

demanded a public retraction of the disputed statements to restore the reputation of the centre and its employees.

10. At some point, apparently shortly after the article was published, the director of the C.V. centre for minors wrote a letter to the Consortium of Social Services of Barcelona (a public entity operating in the field of health and social care) denying that there was any radicalism at the centre. The director gave an update on the measures taken in response to the publication, including the holding of a meeting between the centre's management and the foundation and the interviewing of the applicants and other staff members. He emphasised that the two applicants had good professional and work records. He stated that the origin of the information reported in the article was unknown, and that the centre's activities were based on an educational project approved by the domestic authorities. That project, oriented towards cohesion and social inclusion, would not contribute to the spread of any fundamentalist or radical ideology. Staff had been reminded of the guidelines for communications with the media. The director said that all the employees who had been interviewed had denied having spoken to or communicated with the media in any way.

11. Both applicants continued to work as social educators at the centre for minors until 31 May 2012, when the centre closed. Referring to material from domestic civil proceedings, the Government submitted that the centre was closed because the contract between the Consortium of Social Services of Barcelona and the M.F. Foundation had not been renewed. The domestic courts found that the applicants were dismissed along with the other staff members because of the closure of the centre.

II. RELEVANT DOMESTIC PROCEEDINGS

A. Criminal proceedings

12. On 24 September 2012 the applicants filed a criminal complaint against the *ABC* newspaper and the author of the article.

13. In January 2013 an investigating court in Barcelona opened a preliminary investigation but, in the same decision, discontinued it for lack of territorial jurisdiction to deal with the case. It referred the case to an investigating court in Madrid. On 5 March 2013, the Investigating Court of Madrid no. 14 dismissed the case, as the acts complained of did not constitute a criminal offence. The investigating court emphasised the "eminently informative purpose" of the article, which meant that it fell under the protection of the right to freedom of expression; observed that criminal proceedings were reserved for particularly serious matters, which was not the situation in this case; and further observed that the applicants could have brought civil proceedings. It appears that the parties did not appeal against the decision to dismiss the case.

B. Civil proceedings

1. The applicants' civil claim and the first-instance proceedings

(a) Submissions of the parties to the civil proceedings

14. On 25 September 2015 the applicants filed a civil claim for breach of their right to honour against *DIARIO ABC, S.L.* ("the *ABC*") and the journalist who was the author of the article. They sought a finding that there had been an unlawful interference with their right to their reputation and compensation for the harm caused to them by the publication. They also sought an order for the article to be taken down and for the publication of the judgment at the defendants' expense.

15. The applicants claimed the article contained false accusations, attributing their employment as educators solely to their knowledge of Moroccan dialects and accusing the centre for minors of indoctrinating young people with Islamist fundamentalism. The applicants argued that the article unjustifiably attributed wrongful and unlawful conduct to them. They emphasised that the damaging accusations directly targeted them on the basis, they believed, of their religion and their Moroccan origins. The applicants observed that the *ABC* article explicitly named them and the centre for minors, accusing them of belonging to radical Islamic movements and attempting to indoctrinate minors with Islamist fundamentalism. The article had damaged their professional reputation as educators and, in the first applicant's case, as a university lecturer. The article appeared prominently in Google search results for their names, and any employer who found the article and became aware of its contents would be dissuaded from recruiting the applicants as educators. They observed that the article had been published by the third best-selling national daily newspaper, with an average daily circulation of 183,078, and that the damage was amplified by the additional number of visitors to its website.

16. The applicants argued that, given the seriousness of the allegations, the burden of proving that all the disputed statements were accurate was on the author of the article, who had failed to meet that requirement. It could easily be demonstrated that, contrary to the claims made in the article, the applicants held valid professional qualifications. The management of the centre publicly supported them and had discontinued the disciplinary proceedings (the applicants referred to the information and documents summarised in paragraphs 8-10 above). The applicants stressed that the article did not merely report others' opinions but presented the claims as factual. The journalist had reworked the information obtained, portraying the applicants as individuals of questionable morality and ethics. The *ABC* had included value judgments in an article, altering the facts in information given to them and defending the accuracy of the reported facts. The applicants pointed out that the accusations were not based on identifiable sources, but

gave rather vague references to unnamed sources at the centre for minors, which suggested that the journalist and *ABC* had failed to check the information. No source was cited to support the claim that one of them was a member of the group Justice and Charity. To highlight the damage caused to the first applicant's reputation by that specific allegation, they referred to academic articles concerning the ideology of Justice and Charity, according to which the movement advocated "jihad".

17. Lastly, they claimed that the publication promoted hatred and discrimination. The applicants argued that the 11 September 2001 and 11 March 2004 terrorist attacks in the USA and Spain had changed the West's perceptions of Islam and the Arab world, and that terms used in the article - such as "Islamist radicals" and "jihad" - evoked associations with violence and terror, regardless of the author's intention.

18. In the domestic proceedings the applicants submitted that they had continued to work in the centre for minors after the publication of the article. The first applicant stated in court that he had received unemployment benefits after the closure of the centre for minors. He subsequently carried out a job search by sending out his curriculum vitae but received no responses or offers of employment. He also stated that he was invited to a few interviews with unspecified employers but these were then cancelled on the same day. He attributed this to the recruiters' finding out about the article. The second applicant stated in court that he had combined his employment at the centre for minors with another job at C.A.S.M., a residential centre for minors, where he had been employed until 2014.

19. The journalist and the *ABC* submitted in reply that the article dealt with an issue of obvious public interest, namely the situation in Spain (and Catalonia in particular) of unaccompanied foreign minors, especially those of Moroccan origin, who were not integrated into Spanish culture and society. Because of a lack of administrative control over educators, many of those minors were indoctrinated with radical Islamic ideas in centres for minors. The article was clearly aimed at providing information and there had been no intention of damaging the applicants' reputations. The journalist argued that he had checked the information carefully with reliable sources before the article was published. The criterion of accuracy was complied with, and the article did not use offensive language for either facts or opinions.

20. The public prosecutor's office supported the newspaper and the journalist.

(b) First-instance judgment of 26 February 2018

21. On 26 February 2018 the Court of First Instance of Hospitalet de Llobregat dismissed the claim. It held that its role was to analyse whether the article had violated the applicants' right to their reputation or whether it was protected by freedom of expression or freedom of the press, in the light of the principles developed in the case-law of the Supreme Court and the

Constitutional Court of Spain, as well as the Court's case-law (including *Castells v. Spain*, 23 April 1992, Series A no. 236, and *Fuentes Bobo v. Spain*, no. 39293/98, 29 February 2000), all of which were cited in the judgment. The court reiterated that freedom of expression prevailed over the protection of the right to privacy as long as the information was truthful, was a matter of public interest or relevance, and was not expressed unnecessarily offensively or harmfully.

22. The first-instance court found it necessary to clarify the concept of "Islamic fundamentalism" before it assessed the impact of the article on the applicants' reputations. The court observed that, despite its frequent misuse in everyday language, the term referred to the literal interpretation of Islamic texts and did not inherently imply violence or "jihad". According to the Dictionary of the Royal Spanish Academy, the term referred to the attitude of certain groups who insisted on preserving the absolute and unchangeable nature of Islamic doctrine. It therefore stood for those branches of Islam that promoted a strict, literal interpretation of the sacred texts and rejected any form of reinterpretation or modification. The expression in question, which the applicants claimed had been wrongly attributed to them, described those of the Muslim faithful who adhered to that literalist view, and did not inherently imply violence or jihad.

23. The first-instance court further found that recent terrorist attacks involving young people, including nationals of European states, had led to a strong public interest in understanding how young people could be drawn into radical Islamism. The court observed that, at the time in question, Spain, like other European countries, remained on a "level 4" (high) security alert. The information provided by the newspaper was therefore of general interest, as it was aimed at explaining the dangers posed by a failure of Moroccan immigrants to integrate into Western society, against the background of the jihadist threat. One of the reasons for the lack of integration was the methods used by the administration to accommodate those young people in centres for minors, particularly when it came to choosing and appointing staff.

24. The domestic court then turned to the content of the article, in so far as it concerned the applicants. It observed that the article stated, in general terms, that when educators were engaged to work in centres for young immigrant children of Maghrebi origin, particular attention was paid to their knowledge of the language and dialects, given the children's language problems. Prioritising knowledge of the language over educational considerations increased the risk of employing people who preached a more radical form of Islam. That could hinder the social integration of the young people into European culture and encourage their integration into Muslim communities. Given the particular vulnerability of these young people, it could also increase the risk of them joining groups that were susceptible to jihadist recruitment.

25. The court noted the applicants' denial that they were members of the group Justice and Charity and their denial that they had indoctrinated young people with Islamist fundamentalism or accompanied them to pray in mosques, as well as their submission that the centre was forbidden to provide any kind of religious education. The court found that even though the applicants stated that the information in the article did not entirely correspond to reality, the article only suggested that the applicants: (1) professed a particular strand of Islam, exercising their right to freedom of religion; (2) encouraged their students to participate in it (*hacen participes de la misma*); and (3) belonged to a legitimate political party (*que pertencen a un partido politico legítimo).* The behaviour or attitudes attributed to the applicants were an exercise of their freedom of religion and their right to join political parties, which could not be seen as dishonourable or insulting. None of the statements, even if uncertain or inaccurate (*aun inciertas o inexactas*), implied that the applicants were indoctrinating minors in jihad or encouraging them to commit violent acts.

26. The court further noted the journalist's explanation that his article was intended to highlight the risks involved in educating young people in centres for minors through educators who might hold radical ideological views. This concern did not stem from allegations of indoctrination of violence but rather from the children's particular situation of isolation and vulnerability. According to the journalist, that background could lead them to misinterpret religious messages, potentially resulting in their conversion to jihadism. The article did not accuse the educators of indoctrinating minors in the practice of jihad or of encouraging them to participate in violent acts. Instead, the article revealed that the system designed by the public administration for the care of these minors had exacerbated the existing problem of the minors' social integration. The court concluded that describing the applicants as fundamentalists (*calificar a los actores de integrismo*) therefore did not damage their reputation, even if the term might be wrongly associated by some with violent extremism.

27. Lastly, the court of first instance found that, even though the applicants subsequently denied that the facts published were accurate, the journalist checked them with necessary diligence. The court referred to the following considerations:

> "In the article, [the journalist] states that [his source] is the Department of Social Action and Citizenship, who obtained their information from the centre for minors itself, as well as the Ministry of the Interior. As regards the origin of the information and checking its accuracy, he clarified in court that, given that his professional career had focused on [analysing] terrorism (originally that perpetrated by ETA and currently that of jihadists), he had contacts in the intelligence services who had confirmed the information he had published (saying that the information had been obtained from people who worked at the centre). He also states that he checked the information with the *Generalitat*, but was not able to obtain a version [of the events] directly from the

[centre for minors]. When he attempted to contact them and indicated the subject he wanted to discuss, they simply hung up."

2. *Proceedings in the Barcelona* Audiencia Provincial

28. The Barcelona *Audiencia Provincial* considered the applicants' appeal and dismissed it on 6 February 2019, upholding the findings of the first-instance court.

29. The appellate court reiterated the Court's case-law on freedom of expression as one of the essential foundations of society and one of the basic conditions for its progress and for the development of everyone. Subject to paragraph 2 of Article 10, it applied not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. These were the demands of pluralism, tolerance and broadmindedness without which there was no "democratic society". As set out in Article 10, this freedom is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly (the appellate court cited *Handyside v. the United Kingdom*, 7 December 1976, § 49, Series A no. 24; *Éditions Plon v. France*, no. 58148/00, § 42, ECHR 2004-IV, and *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 45, ECHR 2007-IV).

30. The appellate court found that the article in the present case was not a neutral report, because it contained the journalist's opinions and evaluation of the situation and was not confined to merely relaying others' statements. The court then observed that the article addressed issues in the management of centres for Muslim immigrant minors, focusing on various factors which could foster those minors' Islamist radicalisation. The article also highlighted concerns raised by the authorities about employment practices in those centres and the lack of administrative filters. There was widespread concern about immigrant integration and the education of vulnerable minors, especially when terrorism was under discussion. Therefore, the appellate court found the subject of the article to be of great public interest. It found that, although the article "mixed freedom of information and freedom of expression", the former clearly prevailed. The appellate court reiterated that freedom of information was a right not only of the journalist but also of a society, so that a free and informed public opinion could be formed on matters of general interest, which was intrinsically linked to political pluralism inherent for a democratic State.

31. Before assessing the accuracy of the statements made in the article, the domestic court considered whether the content was unnecessarily offensive or was irrelevant to the ideas being conveyed. It reiterated that freedom of expression and information generally outweighed a person's right to their reputation, particularly when the topic was of public interest, and that any limitations had to be narrowly interpreted. The appellate court further

observed that the expressions used in the article were to be interpreted in context, not just by their literal or "street" meaning, to determine whether they were offensive or unjustified.

32. The appellate court rejected the applicants' argument that the statements made had been insulting or offensive. The court failed to see how an allegation of attendance at a mosque would be offensive. It referred to the centre for minors' 2008 activity report and stressed that visiting a mosque was listed among the centre's educational (or, in another part of the judgment, recreational) activities. Similarly, it found that a statement that one of the applicants was a member of Justice and Charity was not inherently offensive. As regards the allegation that the applicants had been indoctrinating minors, the court observed that disciplinary proceedings had been commenced, and then discontinued, in respect of only one of the applicants.

33. In connection with the above findings, the appellate court noted that the present case contrasted with the Supreme Court's judgment no. 581/2016 of 30 September 2016 (which concerned, among other things, allegations made in a TV report that the claimants had been promoting Wahhabism, and that one of the claimants in that case was a Wahhabi, see paragraph 60 below), in that the article in the present case did not mention Wahhabism, which was described as an ultra-conservative and radical version of Islam. It referred instead, in general terms, to "Islamic fundamentalism". Contrary to the applicants' allegation that an ordinary ("street") person would directly associate fundamentalism with violence and terrorism, that term – as rightly noted by the first-instance court – only referred to strands of Islam based on a literal or orthodox reading of the religious texts. The scope of the right to freedom of information could not be restricted by erroneous interpretations of individual words. The court also found nothing in the text of the article to support the applicants' argument that it included accusations that they had incited people to hatred or violence. Having considered the term "indoctrination" and referring to its definition in a Spanish academic dictionary, the court found that transmitting ideas or beliefs "or a strand of religion based on the literal reading of sacred texts" could not be considered insulting (the court referred again to the centre's activities including the celebration of Ramadan and visiting a mosque). Having considered various interpretations of the term "jihad", the court observed that the article did not suggest that the applicants had incited people to "jihad" but rather highlighted the danger of calls to jihad in a general way.

34. The appellate court therefore found that the journalist did not make allegations of "violence or hatred [or] any appeal to terrorism" against the applicants, and that the expressions used in the article were not manifestly insulting, humiliating, or grossly offensive (*manifestamente injuriosas, vejatorias o ultrajantes*).

3. Proceedings before the Supreme Court

(a) The parties' submissions to the Supreme Court

35. The applicants lodged a cassation appeal, maintaining their earlier submissions and arguing, in essence, that the lower courts had incorrectly balanced the right to freedom of information and the right to one's reputation. They pointed to the lower courts' failure to find the statements about them offensive, as well as to give due weight to the terms and expressions used in the text, as well as the context of the article. The courts had not taken into account the fact that the article contained false information, namely that educators had been recruited based solely on their language skills and that they lacked professional qualifications; that the centre was a breeding ground for Islamic radicals who were responsible for indoctrinating minors in radical Islamism - the precursor to jihad; that the applicants had been indoctrinating minors, with the first applicant doing so by taking them to a mosque; and that another applicant belonged to a political party aligned with radical Islamism. Expressions such as "Islamist fundamentalism", "Islamic radicalism" and "jihad" were clearly unnecessary in an article that was supposedly only intended to highlight organisational issues in centres for unaccompanied immigrant minors of Moroccan nationality and Muslim faith. They maintained that the article did not fall under the category of neutral reporting. Referring, notably, to the Supreme Court's judgment no. 472/2014 of 12 January 2015 (see paragraph 61 below), they pointed to the journalist's failure to demonstrate that he had diligently checked the information before the publication either with the centre (whose management, as the applicants noted, had approved of their work) or with other sources.

36. The *ABC* and the journalist objected to the cassation appeal, arguing, in essence, that the domestic courts had correctly balanced the conflicting rights. In so far as the accuracy of the article was concerned, it only reported a risk of especially vulnerable minors being manipulated by educators who had been employed despite not having the proper qualifications. The information was both of general interest and accurate. The only implication was that minors might misinterpret their educators' strong religious message. The journalist had duly checked the information. In addition to his extensive experience in terrorism issues and his sources in the Ministry of the Interior, he had checked the information with the *Generalitat* and had attempted to verify it further with the centre itself, although they had not answered his phone call. The article did not contain words or expressions which were insulting, humiliating or unrelated to the subject-matter of the article.

(b) The Supreme Court's judgment of 24 March 2021

37. On 24 March 2021 the Civil Chamber of the Supreme Court dismissed the cassation appeal. The Supreme Court confirmed that the fundamental rights in conflict were the right to one's reputation and the right to freedom

of information, and that its task was to carefully balance these rights. It upheld the appellate court's finding that the purpose of the article was to communicate to the public information about the issue detected by the regional and central authorities that a failure of the social and cultural integration of Moroccan immigrant minors could be a factor in those minors being recruited by Islamist terrorists. That issue could be exacerbated by the absence of the required controls on the educators' having requisite professional qualifications. However, the Supreme Court observed that the information in the article was accompanied by value judgements or opinions the journalist himself had drawn from the information.

38. The Supreme Court then reiterated that freedom of information could only take precedence over the right to one's reputation if three conditions were met: (1) publication concerned a matter of public interest, (2) it was presented proportionally, that is, without clearly injurious or degrading language, and (3) it met the requirement of veracity (truthfulness).

39. The Supreme Court further endorsed the lower courts' finding that the information reported in the article was clearly of general interest, given that it concerned the issue of Islamic terrorism.

40. The Supreme Court quoted extensively from its own findings in earlier cases (see, for an overview, paragraphs 58-62 below). In particular, the Supreme Court reiterated that the duty of truthfulness (veracity) required journalists to exercise reasonable diligence in fact-checking, in line with professional standards and the specific context of a case. Accuracy did not mean that the report had to be absolutely correct in every detail, but rather that the journalist had taken reasonable steps to check the information before publication. The Supreme Court referred to its own precedents and stressed that, when a source was credible and reliable, fact-checking beyond confirming the source's identity or reliability was not necessarily required.

41. Applying the principles summarised in its earlier precedents to the present case, the Supreme Court concluded as follows:

> "The core information conveyed in the article in question is indisputably... of public interest. The facts attributed to the applicants do not in themselves undermine [the applicants'] dignity or reputation in the eyes of others[. T]hey consist of a statement that they indoctrinate pupils in a particular strand of Islam, more radical than others [(*determinada corriente de la religion ilslámica, más integrista que otras*)] by taking them to pray in a particular mosque. [Such] conduct is neither wrongful nor dishonourable [either in Islam] or in any other religion. [The allegation that] the applicants belong to a particular strand of Islam characterised by radicalism [is] not socially reprehensible either.
>
> [Furthermore], the reporter consulted various official sources when writing his article and attempted to obtain the version of the centre for minors, but was unsuccessful. The [first-instance] court's weighing of the facts was ... in line with the [Supreme Court's] case law, notably the ... judgment no. 581/2016 of 30 September [2016, see paragraph 60 below].

4. The applicants' amparo *appeal*

42. The applicants lodged an *amparo* or constitutional appeal. On 7 October 2022 the Constitutional Court rejected the applicants' *amparo* appeal because the case had no special constitutional significance.

C. Other relevant information

1. The applicants' professional lives after the publication

43. Employment records for the first applicant dated September 2024 were submitted by the Government with their further observations. They showed that since 2003 the first applicant had been working for the Polytechnic University of Catalonia, including part-time between 2013 and 2015 (when he had also been in receipt of unemployment benefits); that between 2016 and 2018 he had worked in the sphere of education, including for the Consortium of Social Services of Barcelona; and that since 2016 he had been employed with a social initiative cooperative providing educational services for youth and families in the region.

44. The Government also cited a court statement made by the second applicant and his employment records dated September 2024 in their further observations. These showed that the second applicant had worked at both the C.V. centre for minors and at the C.A.S.M., another residential centre for minors, at the same time, between September 2008 and January 2014. In 2014 he moved to Belgium.

2. The accessibility of the article

45. In their additional observations dated 16 September 2024 the Government submitted that they had searched for the applicants' names using the Google search engine. They had entered different word combinations, as suggested by the applicants in their domestic statement of claim (see paragraph 15 above). None of the results referred to the *ABC* article. A warning stating that some results might have been removed under European data protection law was displayed on the search results page.

46. It appears that the article is still accessible in the digital edition of the newspaper and can be found using search engines and keywords such as the full name of the centre for minors, but apparently not by searching for the applicants using their names.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. THE SPANISH CONSTITUTION

47. Under Article 20 of the Constitution, the following rights are recognised and protected: the right to free expression and dissemination of

thoughts, ideas and opinions through words, in writing or by any other means of reproduction (Article 20 (1)(a)); and the right to receive and communicate truthful information by any means of dissemination (Article 20 (1)(d)). These freedoms are limited by respect for other rights recognised under the relevant Title of the Constitution, by the legal provisions implementing it, and in particular by the right to respect for honour, private life and one's image and to the protection of youth and childhood to one's reputation, to privacy, to one's own image and to the protection of youth and childhood (Article 20 (4)).

II. THE RIGHT TO CORRECTION OR RIGHT OF REPLY

A. Institutional Law 2/1984 of 26 March 1984

48. The right of reply, or the right to have a correction published (also known as "the Right to Rectification Law", or right of reply law, *derecho de rectificación*), is governed by Institutional Law 2/1984 of 26 March 1984. Under section 1 of the Law, any natural or legal person has the right to the publication of a correction to information published by any social communication organisations if it concerns facts that affect them which they consider inaccurate and the publication of which may cause them harm.

49. The right of reply is exercised by sending a letter requesting it to the head of the organisation which published the information within seven calendar days following the publication of the information to be corrected. The correction should be limited to the facts asserted to be in need of correction (section 2 of the Law). If a correction is not published within the time-limit prescribed by law, the affected person has seven working days to bring a right of reply claim before a first-instance judge (section 4).

50. Under section 5 of the Law, a claim for the right of reply should be made in writing, and there is no need for legal representation. The claim should be accompanied by evidence that a request for the right of reply was sent within the time-limit provided by law. The information to be corrected should also be provided if it was published in writing; in other cases, a quotation or description, as accurate as possible, should be provided. The claim will be considered by a judge without hearing the defendant. The judge will decline to admit the claim if he or she does not have jurisdiction to hear it or if the requested correction is "manifestly inappropriate". Otherwise, the editor or the head of the organisation responsible for the publication or their representatives will be called to a summary hearing, which will be held within seven days of the request.

51. The process is governed by section 6 of the Law and the proceedings are conducted under the rules for summary ("verbal") proceedings set out in the Civil Procedure Law, with the following modifications:

(a) a judge may ask the defendant to present the information in question, including as a recording or a transcript;

(b) only evidence which is relevant and can be examined at the hearing can be admitted; and

(c) the decision will be given on the same day as the trial or the day after.

52. The ruling should be limited to either a refusal of the right of reply or an order to publish the correction and disseminate it in the manner and within the time limits provided for in the Law, and the losing party will be ordered to pay costs. The exact terms of an order granting a request for the right of reply must be complied with (*en sus propios términos*). This procedure may be undertaken alongside a criminal or civil action of another nature that may provide redress to the injured party for the information originally disseminated published (*que pudieran asistir al perjudicado por los hechos difundidos*).

B. The Civil Procedure Act

53. Under section 248 of the Civil Procedure Act no. 1/2000 of 7 January 2000 (*Ley de Enjuiciamiento Civil*), there are two types of civil proceedings by way of declaration: ordinary proceedings and "verbal proceedings" (that is, summary proceedings). Claims involving the right of reply to the dissemination of inaccurate and harmful information are decided by summary proceedings (section 250.1.9 of the Act).

C. The case-law of the Constitutional Court

54. In ruling no. 168/1986 of 22 December 1986 the Constitutional Court held, in essence, that the purpose of Institutional Law No. 2/1984 was to restore a certain balance in access to public opinion between individuals and the media, with the parties being able to bring ordinary civil and criminal actions to put their arguments about the accuracy of facts asserted by either party (see, for a summary of the Constitutional Court's findings and the context of the case, *Ediciones Tiempo v. Spain* (no. 13010/87, Commission decision of 12 July 1989, Decisions and Reports 62, p. 247). The Constitutional Court held that the right of reply ("right of rectification") was merely a means (*es sólo un medio*) allowing a person to prevent or avoid damage to their reputation or any other legitimate rights or interests when they believed the facts reported were inaccurate. That legitimate preventative purpose, which was independent of redress for the damage caused by publishing inaccurate information, would often be thwarted by delays in carrying out the intended rectification (§ 4 of the Legal Grounds). The Constitutional Court held that the summary nature of the procedure meant that the judge did not have to examine whether the published facts and those contained in the reply were true. A judicial decision granting a request for the

right of reply did not guarantee that the complainant's version of the facts was correct and it did not make the issue *res judicata* if there were subsequently proceedings in which the facts were examined. For this reason, the right of reply could be pursued alongside a criminal action or a different kind of civil action, particularly a civil action for the protection of the right to one's reputation.

55. In judgment no. 40/1992 of 30 March 1992 (a case report published in the *Official State Gazette* of 06 May 1992) the Constitutional Court took into account the correction made by the defendant media at the claimant's request in order to conclude that the error of fact in the original publication had been made in good faith. To reach this conclusion, the Constitutional Court noted that in cases where the issue was not only giving information but also supporting a news item or an opinion expressed by third parties, it was relevant if incomplete information had been subsequently corrected. While the right to rectify information did not replace the protection of the right to one's reputation or render it unnecessary, it did mitigate damage. That was because it was the most suitable (*idóneo*) mechanism for addressing an interference with the right to one's reputation, which could consist only of omission of relevant facts.

III. PROTECTION OF THE RIGHT TO ONE'S REPUTATION

A. Institutional Law 1/1982 of 5 May 1982

56. The civil judicial protection of the right to one's reputation is governed by Institutional Law 1/1982 of 5 May 1982 "On the civil protection of the right to one's reputation, to personal and family privacy, and to one's image". This right can be used to protect against an unlawful interference with the right to one's reputation, such as the imputation of facts or the expression of value judgments that in any way harms the dignity of another person, undermining his or her reputation or self-esteem (section 7). Under section 9 of Institutional Law no. 1/1982, if an unlawful interference is found, the judgment should specify all the measures appropriate to put an end to the disputed unlawful interference and, in particular, whatever is necessary to restore the injured person to the full enjoyment of their rights, with a declaration of the interference suffered, an order that it cease immediately, and the restoration of the previous situation. Where there has been an interference with the right to one's reputation, the restoration of the violated right includes, without prejudice to granting the right of reply under the procedure provided by law, the publication of the ruling in full or in part, at the expense of the party found to be in breach of the right to one's reputation, with the publication being at least equal in visibility to that of the original publication. The judgment should specify, in particular, what should be done

to prevent imminent or future interference, as well as the compensation for the damage already caused.

B. Domestic case-law

1. Case law of the Constitutional Court

57. The Constitutional Court's ruling no. 178/1993 of 31 May 1993 concerned a case in which a media outlet had based its reporting on a single source: a press release from the local Civil Guard that had been prepared and released by the Information Office on behalf of the Press Office of the provincial government. Notably, the Constitutional Court held that, when a news source had particular characteristics that made it reliable or credible, there might be no need for fact-checking beyond the reliability or identity of the source, especially if those details were included in the article itself. The Constitutional Court also found that if the media outlet had received the information directly from a press service or agency that had previously obtained it from somewhere else, it would be unreasonable to expect them to check the information against other sources. They would only need to check that the source was indeed a state body.

2. The earlier rulings of the Supreme Court referred to in its judgment of 24 March 2021

58. The Supreme Court's judgment no. 511/2011 of 5 July 2011 (STC 4920/2011) was given in defamation proceedings against a radio station in which the individual claimant argued that he had been accused on a radio programme of knowing the perpetrators of the Madrid terrorist attacks on 11 March 2004; of being involved in the attacks by providing technological support; and of receiving training in explosive in Al-Fatah camps. The Supreme Court dismissed the claim, highlighting the undeniable public importance of the information. It further found that the requirement of truthfulness had been complied with, as the reporting accurately reflected the contents of an investigation report (which had initially been reported in the *El Mundo* newspaper and then echoed in the radio programme).

59. In judgment no. 174/2013 of 6 March 2013 (STS 1611/2013), the Supreme Court considered a case brought by an individual claimant concerning a news article that allegedly attributed status of leader of the Lebanese terrorist group Hezbollah in Spain to him. The Supreme Court found that the content of the report corresponded with the results of the police investigation into a specific meeting held by radical Islamists, as those results stood at the time of publication. The reported information was not completely untrue or lacking in factual basis, as the news source was credible, serious and reliable, and it was unnecessary to verify anything other than the accuracy of the source. The Supreme Court reiterated that the concept of "truthfulness"

was not the same thing as the "truth" of what was published or disseminated. The requirement under the Constitution for published information to be truthful does not mean there is no protection for erroneous information. Rather, it puts a duty of diligence on journalists, who must check their facts against objective information before publishing. The requirement of accuracy (truthfulness) is therefore met when, before publishing, a reporter carries out an investigation into the facts being reported with the diligence required of an information professional. The Supreme Court observed that, while some of the statements regarding the claimant's alleged connections with Hezbollah activists in Spain were somewhat inaccurate, the reporting was neither defamatory nor insulting or disproportionate. Overall, the Supreme Court considered the reporting to be objective and in the public interest and concluded that any reputational impact stemmed from the facts of the police investigation rather than from how the news was reported.

60. The Supreme Court's judgment no. 581/2016 of 30 September 2016 (STS 4279/2016) was given in a case concerning statements made in a report broadcast by *Televisión de la Comunidad de Madrid, S.A. (Telemadrid*) in a news programme. The claimants (an individual and a TV channel) alleged that the television report had accused them of promoting Wahhabism and had led viewers to believe that their philosophy and ideology coincided with those of the terrorist organisation Al-Qaeda and the masterminds behind the terrorist attacks of 11 September 2001. The lower courts analysed the specific statements made in the article to the effect that the individual claimant was a Wahhabi and that it was this religious movement that inspired the claimant television channel; and that this religious movement "was behind Al Qaeda and the 9/11 attacks", in so far as that terrorist organisation is also Wahhabi-inspired, and some of the perpetrators of the terrorist attacks of 11 September 2001 in New York had also been Wahhabi. The Supreme Court found, notably, that the content of the report did not discredit the claimants. Belonging to a religious movement or attempting to spread it internationally were not defamatory allegations. Stating that people who have committed horrific crimes belonged to that religious movement did not violate the claimants' right to their reputation because it did not attribute dishonourable or reprehensible behaviour to the claimants. Nor could a mere reference to the fact that al-Qaeda and the perpetrators of the attacks of 11 September 2001 belonged to the same religious movement be considered an insinuation that the claimants were terrorists. If the claimants' argument were accepted, it would lead to the absurd situation where any news reports that mentioned that a person who had committed a criminal or dishonourable act belonged to a particular region or religious, political, ethnic or cultural group would be found defamatory to residents of that region, or to members of such group. Additionally, even if the report might have negatively affected the claimants' reputation, it would have been justified by *Telemadrid*'s constitutional right

to freely report truthful information as long as it concerned matters of public interest and the facts were reasonably checked.

61. In its judgment no. 472/2014 of 12 January 2015 (STS 545/2015), the Supreme Court dealt with a case involving a TV report that called twelve imams "Salafists" and accused them of supporting al-Qaeda and promoting jihadism. The Supreme Court ruled that the topic was clearly relevant and of public interest but found that the report was inaccurate and spread serious, unproven claims that harmed the claimant imams' reputations (the case had been brought by two of them). The Supreme Court observed that some sources on which the claims were based had remained unidentified, and the official sources cited, such as the public prosecutor's office and the police, only referred to the existence of jihadist cells operating in Spain and did not directly link the claimants to terrorist activities. The programme included dramatic imagery and opinions that went beyond neutral reporting. Using the claimants' photographs increased the damage to their reputation caused by the lack of accurate information.

62. According to the case law of the Supreme Court, the duty of accurate reporting (truthfulness) means reasonable diligence in fact-checking news reports to professional standards and adapting to the circumstances of the case, even though the information may later be denied or not confirmed. If rumours which are not fact-checked or mere inventions are reported as the truth, that will not satisfy those standards (see, among others, the Supreme Court's rulings no. 384/2020 of 1 July 2020; no. 170/2020 of 11 March 2020; no. 774/2020 of 24 February 2020; no. 51/2020 of 22 January 2020; no. 606/2019 of 13 November 2019, and no. 252/2019 of 7 May 2019).

IV. INSTITUTIONAL LAW 3/2018 ON THE PROTECTION OF PERSONAL DATA AND GUARANTEE OF DIGITAL RIGHTS

63. Under section 93 ("The right to be forgotten in internet searches") of Institutional Law 3/2018 of 5 December 2018 on the Protection of Personal Data and Guarantee of Digital Rights, everyone has the right to ask internet search engines to remove any links containing information relating to the person concerned from the lists of results generated by a search based on their name where these links are inappropriate, inaccurate, irrelevant, out of date or excessive, or have become so through the passage of time, regard being had to the purposes for which the information was collected or processed, the time that has elapsed, the nature of the information and any public interest in it. Exercising the right to be forgotten as referred to in this section does not prevent information published on a website being accessed through the use of search criteria other than the name of the person.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

64. The applicants complained on the application form that, by rejecting their civil claim against the *ABC* and the journalist, the domestic courts had failed to protect their right to their reputation, as they had not looked at the negative impact the publication had had on the applicants' professional lives; that the journalist had not acted with the required diligence; and that the publication could have contributed to the emergence of hate speech. They referred to Article 8 of the Convention which 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. The parties' submissions

(a) The Government

65. The Government argued that there had been no interference with the applicants' Article 8 rights. Firstly, the *ABC* article did not allege that the applicants had indoctrinated minors in "jihad" or encouraged them to engage in "holy war" or carry out violent acts of any kind. In the case of the first applicant, references were made to his membership of a socio-political movement called Justice and Charity, which puts forward a conservative interpretation of Islamic tenets that rejects violence. As established by the domestic courts, that could not in itself be considered offensive, humiliating or contrary to the "right to one's reputation" in terms of the domestic law. Similarly, none of the statements made about the second applicant were insulting, humiliating or offensive to the extent of damaging their reputation. Secondly, the Government argued that, contrary to the applicants' submissions that the article had had a devastating effect on their professional prospects, the article had had no noticeable impact on the applicants' professional lives. Disciplinary proceedings were initiated against only one applicant, contrary to their claim, and were discontinued within a week. That remained the only effect of the publication, and otherwise the two applicants continued to work at the centre for minors after the article was published. Only some time later was the centre closed for financial reasons, resulting in their dismissal. The Government therefore saw no link between the publication and the applicants' job loss. The Government also referred to the

applicants' employment records and their submissions to the domestic courts and argued that after the closure of the centre the first applicant had continued to be employed part-time with the university, and since 2016 he had been employed with associations operating in the area of teaching, or the care of vulnerable minors and individuals in need of social protection (see paragraph 43 above); and that the second applicant had been successfully employed with another centre for minors until he moved to Belgium in 2014 (see paragraph 44 above). The Government considered that the alleged attack on the applicants' reputation therefore did not attain a level of seriousness required for Article 8 to be engaged.

66. The Government further argued that the applicants had failed to exhaust domestic remedies in relation to their complaint. If they had considered the statements concerning them to be untrue, and if the publication had been detrimental to the applicants' professional lives as alleged, they could have asked the *ABC* to publish a correction. If the *ABC* had refused, the applicants could have initiated correction (right of reply) proceedings. As these proceedings are swift, the applicants could have obtained a public correction of the information within a very short period of time, also preventing access to it via the internet thereafter. The Constitutional Court in its rulings (notably, no. 168/1986 of 22 December 1986, see paragraph 54 above) had highlighted the preventative nature of rectification proceedings, as they allowed a person affected by false or inaccurate information to avoid the damage caused by the publication of that information (they also referred to the Constitutional Court's findings in judgment no. 40/1992 of 30 March 1992, see paragraph 55 above). Additionally, the Government noted that the applicants could have made use of their "right to be forgotten" as provided for by section 93 of the Institutional Law no. 3/2018 (see paragraph 63 above), which meant they could have had the article removed from search engine results for their names. The Government referred to this right being available not only if the information was inaccurate, but also if it was "inadequate", "irrelevant", "excessive", or had become so over time.

(b) The applicants

67. The applicants submitted in reply that they had been subjected to serious defamation, as the publication had linked their public image to the "deplorable and condemnable phenomena" of religious radicalism and terrorism. The article could be found immediately by searching for their names online. As a result, they were not able to find jobs as social educators. The article had had a detrimental effect on their professional lives.

68. The applicants further argued that they were not required to make use of the remedy and pointed out that the Constitutional Court had not rejected their complaint for non-exhaustion. Proceedings concerning their right to their reputations and for the right of reply were different and complementary types of proceedings, having different functions and objectives.

2. The Court's assessment

(a) Applicability of Article 8

69. The right to the protection of one's reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for one's private life. In order for Article 8 to apply, an attack on a person's reputation must attain a certain level of seriousness and must be carried out in a manner causing prejudice to the personal enjoyment of the right to respect for private life (see *Bédat v. Switzerland* [GC], no .56925/08, § 72, ECHR 2016; *Axel Springer AG v. Germany* [GC], no. 39954/08, § 83, 7 February 2012; and, in so far as relevant, *Denisov v. Ukraine* [GC], no: 76639/11, § 112, 25 September 2018). This requirement pertains to social reputation in general and professional reputation in particular (see *Denisov*, ibid.). Applicants are obliged to identify and explain specific repercussions on their private life and the nature and extent of their suffering, and to substantiate such allegations in a proper way (see *Denisov*, cited above, § 114).

70. The Court notes that the domestic courts acknowledged that the provisions of domestic law and the Convention and the principles developed in the Court's case-law concerning the right to respect for one's private life and reputation were engaged in the applicants' case.

71. The Court finds no reason to hold otherwise. It notes the parties' disagreement as to whether the *ABC* article seriously affected the applicants' opportunities for maintaining their professional lives, as they suggested. While the consequences of the publication of that article will be addressed in more detail in paragraph 110 below, the Court considers at this juncture that the following elements are relevant to its assessment of whether Article 8 was engaged. The relevant part of the article stated that the applicants, who were identified by their full names, had exposed minors in the centre they worked at to religious indoctrination aligned with Islamist fundamentalist ideologies; that one of them had taken pupils to a specific mosque associated with historical Islamic figures; and that another one was affiliated with a group stated to be known for its radical views. The applicants' place of employment and their religious affiliation, as perceived by the journalist, were both revealed. The disputed statements were in the article under the sub-heading "Prelude to jihad". The disputed article was available to a wide public readership. The Court finds that the contents of the disputed statements read in the context of the rest of the article affected the applicants' private life to a sufficient degree to engage Article 8.

72. The Court concludes that Article 8 is applicable in the present case and dismisses the Government's relevant objection.

(b) Exhaustion of domestic remedies

73. Firstly, as pointed by the Government, the applicants did not bring a claim for correction in the right of reply proceedings.

74. The Court reiterates at the outset that, in the event of there being a number of domestic remedies which an individual can pursue, that person is entitled to choose, for the purpose of fulfilling the requirement of exhaustion of domestic remedies, a remedy which addresses his or her essential grievance (see *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, § 177, 25 June 2019). The Court further notes – and the parties agree on this point – that Institutional Law 2/1984 clearly stipulates that rectification proceedings are compatible with other remedies capable of providing redress to an injured party, including civil proceedings (see paragraph 52 above).

75. The Court further reiterates that the primary objective of the right of reply is to allow individuals to challenge false information published about them in the press (*Axel Springer SE v. Germany*, no. 8964/18, § 34, 17 January 2023, with further references). The Court considers that, even though the applicants could have indeed attempted to initiate the "rectification" procedure to have their reply distributed as soon as possible, their failure to do so is immaterial for the purposes of determination of the exhaustion of the domestic remedies' issue, for the following reasons.

76. The crux of the present case is the alleged failure of the domestic courts to strike a fair balance when protecting two values guaranteed by the Convention, namely, on the one hand, freedom of expression protected by Article 10 and, on the other, the right to respect for private life enshrined in Article 8, in accordance with the criteria established by it for that purpose (see among many others, *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, § 77, 27 June 2017; and *Rodina v. Latvia*, nos. 48534/10 and 19532/15, § 112, 14 May 2020). It is clear from the facts of the case that the balancing exercise was performed by the domestic courts in the proceedings concerning the applicants' right to reputation. Moreover, it clearly follows from the applicants' consistent submissions to the domestic courts and in this Court that one of their main concerns was the alleged inaccuracy of the statements made in the article, as well as the alleged failure of the journalist to check his facts before publication.

77. However, under section 6 of the Right to Rectification Law, the scope of the domestic courts' consideration in the rectification proceedings is limited to either a refusal of rectification or an order to publish a correction and disseminate it in the same manner as the original statement (see paragraph 52 above). The Court further notes the Constitutional Court's clarification that a judge in right of reply proceedings did not have to determine whether either the published facts or those contained in the reply were true. A judicial decision granting an application for the right of reply did not necessarily mean that the version of the facts presented by the complainant was correct, and the ruling of a court in right of reply proceedings did not make the issue *res judicata* if there were subsequently proceedings which included an examination of the facts (see, for the relevant

Ruling, also cited by the Government, paragraph 54 above). Similarly, in *Ediciones Tiempo v. Spain* (no. 13010/87, Commission decision of 12 July 1989, Decisions and Reports 62, p. 247) the Commission observed that since a reply, to be effective, needs to be published immediately, the accuracy of the facts asserted in the reply cannot be checked in any great detail at the time of the publication. That led the former European Commission of Human Rights to go on to note that the applicant company in that case could bring other forms of civil or criminal action in order to obtain a ruling on whether the information was accurate through the ordinary judicial process. The applicants in the present case did bring a civil action, the outcome of which is now being considered by the Court.

78. In view of the above, the Court finds that the applicants were not required to bring separate right of reply proceedings before lodging their application with the Court. It accordingly dismisses the Government's non-exhaustion objection.

79. Secondly, in so far as the Government referred to the right to be forgotten as set out in Institutional Law no. 3/2018 (see paragraph 63 above), the Court considers that the suggested remedy – which, in addition, came into force more than six years after the disputed article was published – did not concern the substance of the dispute at issue (see paragraph 76 above). In any event, according to the Government, the *ABC* article no longer comes up on a search of the applicants' names. Accordingly, the Court rejects the Government's respective objection.

(c) Other grounds for inadmissibility and conclusion

80. The Court further 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 applicants

81. The applicants emphasised that Spanish society was acutely aware of the threats posed by jihadist terrorism, particularly following the 2004 terrorist attacks in Madrid. Although the article did not explicitly accuse the applicants of being jihadists, it did contain serious allegations. These included claims that the centres for minors were breeding grounds for jihad and that the applicants were responsible for indoctrinating children; as well as allegations that minors had ended up fighting in Iraq and Afghanistan as a result of the applicants' activities. The applicants asserted that these allegations had significantly impacted their reputations as well as their professional lives, particularly given the growing Islamophobia in Europe.

One of the applicants had faced disciplinary proceedings as a direct result of the article. Following the closure of the centre for minors, neither applicant had been able to resume their work as a social educator, as no employer was willing to employ them in such a position.

82. The applicants further argued that they brought their action once they understood that they would not be employed as educators any more, and as their criminal complaint had been dismissed. They submitted that the national courts had failed to strike a fair balance between respecting their private lives and ensuring freedom of the press. They maintained that the journalist had not acted in good faith, had not based his reporting on accurate facts and had not provided reliable and precise information in accordance with journalistic ethics. He had failed to contact the applicants or the centre. He had also failed to specify his sources or cite them correctly, and the article did not refer to any person or authority that had confirmed the published information. He had made inconsistent submissions to the courts. In court, the journalist had confirmed that his source had been unspecified intelligence services, with whom he had allegedly been in close contact, even though no reference to such a source had been made in the article. As regards his reference to a source in the centre for minors, both its employees and the Consortium of Social Services of Barcelona had firmly denied any contact with the media; and the journalist had also admitted in court that he had attempted to contact the centre but obtained no reply. The journalist had not contacted the group Justice and Charity to confirm that one of the applicants was a member. The author of the article could not be regarded as a neutral reporter. The situation contrasted with that of a journalist who published not his own statements but those made by a third person (the applicants referred to *Kącki v. Poland*, no. 10947/11, 4 July 2017). In their view, there were no grounds for exempting the journalist from the requirement to check his facts. Furthermore, the applicants were not famous or even well-known persons.

83. Lastly, the applicants highlighted the domestic courts' failure to take into account that the publication of the harmful information, unsupported by evidence and with its facts unchecked, had had a negative impact not only on the applicants but also on the centre for minors and the vulnerable children in its care. The applicants reiterated that the protection afforded by Article 10 to journalists was not unlimited. The domestic courts had failed to consider the effect the article could have had by encouraging the emergence of hate speech, as well as how vulnerable the Muslim community was. They argued that the journalist's approach did not attract the protection of Article 10 of the Convention and asserted that the article amounted to an unwarranted attack on the Muslim community that could not be justified by freedom of expression. Lastly, the applicants reiterated the importance of the State guaranteeing the integrity of certain social groups or minorities in order to maintain order and tolerance in society (they referred, notably, to *Norwood v. the United Kingdom* (dec.), no. 23131/03, ECHR 2004-XI and

Pavel Ivanov v. Russia (dec.), no. 35222/04, 20 February 2007), and stressed the vulnerable situation of the Muslim community. They reiterated the particular importance of this obligation in the case of the media and politicians, and emphasised that the law should prevent the public expression of racist ideologies or the denial of genocide crimes (they referred to, among other authorities, *Pavel Ivanov*, cited above), Referring notably to the "Report on Combating Racism and Xenophobia" by the European Commission dated March 2019, they emphasised the growing concern among various European bodies regarding the increase in Islamophobia.

(b) The Government

84. For the reasons summarised in paragraph 65 above, the Government maintained that the article had had no tangible impact on the applicants' professional lives. If the article had had the severe impact on the applicants' career prospects and development that they alleged, the Government did not see why they had waited almost four years to bring their civil claim to the domestic courts in 2015, which was also two years after their criminal complaint had been dismissed.

85. The Government argued that the domestic courts, including the Supreme Court, had carefully balanced the conflicting interests and taken all relevant circumstances into account when making their assessments. Their analyses had been precise and aligned with the Court's case-law. The domestic courts had found that the information published had definitely been of public interest. The domestic courts had properly and thoroughly examined the case from the standpoint of the criterion of accuracy (truthfulness) and as to whether the journalist had complied with the requirement to exercise diligence. The Government referred to the domestic findings that the journalist had written the article after consulting various serious and reliable official sources, and that he had attempted to obtain comment from the centre for minors. Furthermore, the journalist had specialised in the field of terrorism for years, initially focusing on the ETA terrorist group before extending his scope of work to include jihadist terrorism.

86. Lastly, the Government observed that the application form contained no comments on or criticism of the reasoning of the domestic courts, merely providing a chronological account of the various domestic proceedings as if the applicants regarded the Court as a new judicial instance. The Government reiterated that it was not the Court's task to assume the role of the competent domestic courts in examining the merits of the case, but rather to review the decisions of those courts, which enjoyed a certain margin of appreciation in the exercise of their judicial function.

2. The Court's assessment

87. The Court observes that in cases such as the present one, what is in issue is not an act of the State, but the alleged inadequacy of the protection afforded by the domestic courts to the applicants' private life. The Court will therefore focus on whether the authorities complied with their positive obligations.

(a) General principles

88. The positive obligation inherent in Article 8 of the Convention may oblige the State to take measures to ensure respect for private life even in the sphere of the relations of individuals between themselves. The principles are, nonetheless, similar, and regard must be had to the fair balance that has to be struck between the relevant competing interests (see *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, §§ 98 and 99, ECHR 2012). The general principles applicable to the balancing of these rights were first set out in *Von Hannover* (no. 2), cited above, §§ 104-07, and *Axel Springer AG*, cited above, §§ 85-88) and then restated in more detail in *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, §§ 90-93, ECHR 2015 (extracts), and *Perinçek v. Switzerland* [GC], no. 27510/08, § 198, ECHR 2015 (extracts).

89. The Court has previously identified a number of criteria to be met when balancing the two competing rights under Articles 8 and 10 of the Convention, which include the following: the subject of the publication and its contribution to a debate of public interest; how well known the person concerned is; the prior conduct of the person concerned; the content, form and consequences of the publication; and, where appropriate, the manner in which the relevant information was obtained (see *Couderc and Hachette Filipacchi Associés*, cited above, § 93).

90. The protection afforded by Article 10 of the Convention to journalists is subject to the proviso that they act in good faith in order to provide accurate and reliable information in accordance with the tenets of responsible journalism (see *Bédat,* cited above, § 50, with further references). Under paragraph 2 of Article 10 of the Convention, freedom of expression carries with it "duties and responsibilities", which also apply to the media even with respect to matters of serious public concern. Moreover, these "duties and responsibilities" are liable to assume significance when there is a question of attacking the reputation of a named individual and infringing the "rights of others". Special grounds are therefore required before the media can be dispensed from their ordinary obligation to verify factual statements that are defamatory of private individuals. Whether such grounds exist depends in particular on the nature and degree of the defamation in question and the extent to which the media can reasonably regard their sources as reliable with respect to the allegations (see *Pedersen and Baadsgaard v. Denmark* [GC],

no. 49017/99, § 78, ECHR 2004-XI, with further references; and, *mutatis mutandis*, *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, § 115, 27 June 2017, with further references).

91. The Court has on several occasions reiterated the importance of reading disputed statements in context (see *Morice v. France* [GC], no. 29369/10, § 156, ECHR 2015) and looking at the interference complained of in the light of the case as a whole, as opposed to the authorities' relying on sentences or their parts taken out of context (see *Timpul Info-Magazin and Anghel v. Moldova*, no. 42864/05, § 35, 27 November 2007 and *Khural and Zeynalov v. Azerbaijan*, no. 55069/11, § 48, 6 October 2022). In several cases the Court considered the disputed publications as a whole and had particular regard to the words used in the disputed parts, the context in which they were published and the manner in which it was prepared (see, among others, in the context of Article 10, *Sürek v. Turkey (no. 1)* [GC], no. 26682/95, § 62, ECHR 1999-IV; *Fedchenko v. Russia (no. 3)*, no. 7972/09, § 49, 2 October 2018; and *Tønsbergs Blad A.S. and Haukom v. Norway*, no. 510/04, § 90, ECHR 2007-III).

(b) Application in the present case

(i) Preliminary remarks

92. The Court's task in exercising its supervisory function is not to take the place of the national authorities but rather to review under Article 8 of the Convention the decisions they have taken pursuant to their power of appreciation (see, in the context of Article 10, *Bédat,* cited above, § 48, with further references).

93. The Court is satisfied that, contrary to the Government's submissions (see paragraph 86 above), the applicants outlined their key concerns about the disputed domestic decisions on the application form (see paragraph 64 above) and further reiterated them in their observations.

94. Further, the Court notes the applicant's allegations that the article had had a negative impact on the centre for minors and the young people in its care (see paragraph 83 above). In the absence of any complaint from either the centre, the M.F. Foundation, or any of the centre's employees or young people who had been cared for by the centre, the Court will limit its examination to the applicants' complaints under Article 8. It will take the context of the publication into account, in line with the case-law cited in paragraph 91 above *in fine*.

(ii) Alleged lack of protection of Article 10 and the assessment of contribution to a debate of public interest

95. The Court will turn at the outset to the argument raised by the applicants, both on the application form and in the observations (see

paragraphs 64 and 83 above), that the *ABC* article could have been conducive to the emergence of hate speech, to an extent that might exclude the publication from the protection of Article 10. They referred particularly to *Norwood* (cited above), which concerned the use of the freedom of expression for Islamophobic purposes.

96. The Court has consistently held that sweeping statements attacking or casting in a negative light entire ethnic, religious or other groups deserve no or very limited protection under Article 10 of the Convention, read in the light of Article 17 (see *Budinova and Chaprazov v. Bulgaria*, no. 12567/13, § 94, 16 February 2021, with further references). The Court further reiterates that Article 17 of the Convention, to which the applicants may be understood to refer in substance, should only be resorted to in cases concerning Article 10 of the Convention if it is immediately clear that the disputed statements sought to deflect this Article from its real purpose by employing the right to freedom of expression for ends clearly contrary to the values of the Convention (ibid.; see further *Roj TV A/S v. Denmark* ((dec.), no. 24683/14, §§ 32-38, 17 April 2018, for a summary of the statements or activities which the Court held should be exempted by Article 17 from the protection of Article 10 of the Convention).

97. In the present case, the Court finds no indication that the journalist was pursuing an aim of that nature. It notes the domestic courts' findings to the effect that the article did not contain manifestly insulting or offensive statements (see further paragraph 34 above for the domestic court's conclusion regarding the lack of allegations of violence or hatred made in the article in respect of the applicants). The Court finds no reason to depart from those findings. Further, in contrast to the facts of the above-cited *Norwood*, the Court discerns nothing in the text of the article that would amount to a public attack on Muslims in Spain or any specific region, by linking the religious group as a whole with terrorism, as submitted by the applicants. Nor can the Court discern in the text of the article attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population, which could be sufficient for the authorities to favour combating xenophobic or otherwise discriminatory speech where freedom of expression had been exercised in an irresponsible manner (see *Féret v. Belgium*, no. 15615/07, § 73, 16 July 2009, or *Dmitriyevskiy v. Russia*, no. 42168/06, § 99, 3 October 2017). Although some of the statements in the *ABC* article could be seen as controversial and the journalist's choice of terms, including in the headings and sub-headings of the article, was strong, the Court observes that the publication concerned a specific and clearly defined issue: the methods allegedly used in some centres for minors in order to accommodate unaccompanied minor immigrants, particularly staff selection policies and, in the absence of sufficient administrative oversight, the employment of staff who allegedly preached radical Islamism. The article highlighted the vulnerability of the foreign minors concerned, which made them especially

susceptible to manipulation and indoctrination. It further exposed the potential risks to the integration of those minors that might lead to their subsequently being recruited into radical Islamism. The Court therefore agrees with the domestic courts that the journalist and the newspaper could clearly rely on their right to freedom of expression.

98. As regards the criterion of contribution to a debate of public interest, the Court shares the domestic courts' view that, given both its contents and the existing context – notably, the high terror alert level in Spain in 2011, the time of publication – the article concerned a matter of serious public concern and contributed to a debate on a matter of strong public interest, in respect of which there is little scope for restriction under Article 10 § 2 of the Convention (see *Bédat,* cited above*,* § 49; and *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, § 144, 17 May 2016).

(iii) How well known the applicants were and their prior conduct

99. The Court reiterates that the extent to which an individual has a public profile or is well known influences the protection that may be afforded to his or her private life (see *Couderc and Hachette Filipacchi Associés*, cited above, § 117). The case file contains no information as to whether the applicants had previously been involved with the media. There is nothing in the case material to suggest that they had sought the limelight. They were not public figures. It was not disputed that they had not previously been in the public eye.

(iv) The content and form of the publication and the manner in which the relevant information was obtained

100. Taking into account the overall tone and wording of the *ABC* article as well as the scope of the issues raised in it, the Court agrees with the domestic courts' assessment that the article contained both value judgements and opinions drawn from the information by the journalist himself. In so far as the applicants were concerned, it contained statements of fact, that is, allegations of specific conduct by the applicants.

101. The Court reiterates that facts can be demonstrated, whereas the truth of value judgments is not susceptible of proof (see, among many others, *Morice*, cited above, § 126). Even where a statement amounts to a value judgment, the Court, in the context of an interference with Article 10 rights, will have regard to whether there was a sufficient factual basis for the disputed statement, since even a value judgment without any factual basis to support it may be excessive (see, among others, *Marian Maciejewski v. Poland*, no. 34447/05, § 77, 13 January 2015, with further references, and *Morice*, cited above, § 157).

102. The Court further notes that the article was not focused exclusively on the applicants. However, the centre for minors and the applicants were

chosen to illustrate the issues raised in the article. It is often the case that discussion of individual cases is used to highlight a more general problem. The Court has already accepted that it is legitimate to use individual cases to highlight a more general problem (see *Eerikäinen and Others v. Finland*, no. 3514/02, § 66, 10 February 2009; *Selistö v. Finland*, no. 56767/00, § 68, 16 November 2004; and *M.L. v. Slovakia*, no. 34159/17, § 51, 14 October 2021). The Court further notes that the first-instance and appellate courts analysed each of the statements concerning the applicants, which they interpreted as allegations of:

- taking pupils to a mosque (which, as the appellate court noted, was a part of the centre's activities as listed in its activity report, see paragraph 32 above);
- one applicant's belonging to Justice and Charity (which the first-instance court characterised as "belonging to a legitimate political party", see paragraph 25 above); and
- indoctrinating pupils in their care or, as the courts put it, "transmitting ideas, or beliefs, or a religious movement based on the literal interpretation of sacred texts" (see paragraphs 22 and 33 above).

103. The courts of the first two levels elaborated in detail on whether any of those statements could be seen as offensive or humiliating to a person's reputation and reached the conclusion that they could not (see paragraphs 24-26 and 31-34 above), having also regard to the meaning of the term "fundamentalism" in the Spanish language (see paragraph 22 above). The Supreme Court, for its part, found that allegations of indoctrinating pupils in a particular strand of Islam by taking them to pray in a particular mosque and allegations that the applicants belonged to a radical strand of Islam were not in themselves allegations of reprehensible or dishonourable conduct (see paragraph 41 above). The Court finds it relevant that, as found by the first-instance and the appeal courts, the article did not accuse the educators of indoctrinating minors in the practice of jihad or of encouraging them to participate in violent acts.

104. As regards the heading, sub-headings, overall tone and context of the article and the overall impact that the information presented in association with the applicants' names might have had on a reader, the Court reiterates that freedom of expression "is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that "offend, shock or disturb" (see *Morice*, cited above, § 161, with further references; *De Haes and Gijsels v. Belgium*, 24 February 1997, § 46, *Reports of Judgments and Decisions* 1997-I, 24 February 1997, nº42, and *Benitez Moriana and Iñigo Fernandez v. Spain*, nos. 36537/15 and 36539/15, § 55, 9 March 2021). Furthermore, it is not for the Court, any more than it is for the national courts, to substitute its own views for those of the press as to the techniques of reporting which should be adopted in a particular case (see, among other authorities, *Von Hannover*,

cited above, § 102). In any event, the Court finds that the journalist had an obligation to provide a sufficient factual basis in so far as the article contained specific statements concerning the applicants (see, *mutatis mutandis*, *Polanco Torres and Movilla Polanco v. Spain,* no. 34147/06, § 47, 21 September 2010; see further, in so far as relevant, *Morice*, cited above, § 157). The Court will now turn to the domestic courts' analysis of this aspect of the case.

105. The Court notes that the first-instance court and, subsequently, the Supreme Court, addressed the "truthfulness", or the accuracy criterion in detail (see paragraphs 40-41 above). The Court observes that the Supreme Court analysed the case in terms of journalistic diligence and the accuracy of the reported facts, just as the first-instance court had previously. The domestic courts observed that the article contained a direct reference to information from Department of Social Action and Citizenship of the local government (*Generalitat*), which, in turn, had received data from the centre for minors itself.

106. The Court reiterates that the domestic courts are better placed to assess relevant evidence and sees no reason to depart from their findings that the journalist based his allegations on information obtained from reliable official sources. The Court reiterates in this respect that journalists must be free to report on events based on information gathered from official sources without having to check them. The press should normally be entitled to rely on the content of official reports without having to undertake independent research (see *Axel Springer AG v. Germany* [GC], no. 39954/08, § 105, 7 February 2012; *Yordanova and Toshev v. Bulgaria*, no. 5126/05, § 51, 2 October 2012; *Mesić*, cited above § 66; and *Colombani and Others v. France*, no. 51297/99, § 65, ECHR 2002-V).

107. The Court further reiterates that the protection of journalistic sources is one of the cornerstones of freedom of the press. Without that protection, sources may be deterred from assisting the press in informing the public about matters of public interest. As a result, the vital public-watchdog role of the press may be undermined, and the ability of the press to provide accurate and reliable information may be adversely affected (see, among other authorities, *Goodwin v. the United Kingdom*, 27 March 1996, § 39, *Reports of Judgments and Decisions* 1996-II, and *Sanoma Uitgevers B.V. v. the Netherlands* [GC], no. 38224/03, § 50, 14 September 2010).

108. The Court also sees no reason in the applicant's submissions or the case material to depart from the domestic courts' findings that the journalist had attempted to contact the centre for minors to obtain their version of events, but without success. With regard to the applicants' argument concerning the denial by unspecified employees of the centre of any contact with the journalist (see paragraph 10 above for the letter of the director of the centre and paragraph 82 above for the applicants' argument), the Court observes that the article essentially states that the source was the local

authority, which had previously received the information from the centre itself. This does not mean that the journalist did not make a further call to the centre to check the information, as he stated in the domestic proceedings. Further, the applicants' reference to the Consortium of Social Services of Barcelona's denying any contact with the journalist, as well as the Consortium's expression of full support for the applicants (see paragraph 82 above), appears misplaced. In support of that argument, they only submitted to the Court a letter from the centre's management to the Consortium. The letter summarises the measures taken by the centre for minors as a follow-up to the publication of the article (see paragraph 10 above), but does not contain the Consortium's opinion, if any, on the matter.

109. In sum, the Court sees no reason to depart from the domestic courts' findings that the journalist displayed the required diligence in checking the information concerning the applicants before publishing it (see, *mutatis mutandis*, *Polanco Torres and Movilla Polanco,* cited above, §§ 50-51). The Court reiterates that if the national courts apply an overly rigorous approach to the assessment of journalists' professional conduct, journalists could be unduly deterred from discharging their function of keeping the public informed. The courts must therefore take into account the likely impact of their rulings not only on the individual cases before them but also on the media in general (see *Yordanova and Toshev v. Bulgaria*, cited above, § 55, with further references). The Court further considers that the expressions used by the journalist, although quite strong, had a sufficiently close connection with the facts of the case, and that his remarks could not be regarded as misleading or as a gratuitous attack (see *Morice*, cited above, § 161).

(v) The consequences of the publication

110. The Court accepts that the article was disseminated by one of the largest national daily newspapers (see paragraph 15 above for the information concerning the daily circulation provided by the applicants in the domestic proceedings). Furthermore, the article also became (and still is) accessible on the newspaper's website, which has a considerable number of daily visitors. The Court also notes that the article appears to no longer be searchable by the applicants' names (see paragraph 46 above), although at what point that began is unclear. However, it has not been disputed a search under the applicants' names would result in the article at least as late as 2015, when the applicants commenced their civil claim in the domestic courts.

111. As regards the consequences of the publication, the Court notes that the applicants consistently emphasised, both in the domestic proceedings and before the Court, that they had been unable to find employment as social educators as a result of the publication.

112. However, those allegations find no support in the case material. Having found that the matter as such attracted protection of Article 8 for the reasons stated in paragraph 71 above, the Court is nonetheless unable to

uphold the applicants' allegations that their professional lives were derailed by the disputed *ABC* publication, as they suggested. On the contrary, it notes that, as demonstrated by the Government, both applicants continued to work at the centre for minors for several months after the article was published, before being dismissed in May 2012 when the centre closed (see paragraph 11 above). It appears that the employer expressed its full support for them (see paragraph 10 above), and so did several of their colleagues (see paragraph 9 above). After the closure of the centre, the second applicant continued to be employed by another educational organisation for minors until 2014, when he moved to Belgium (see paragraphs 18 and 44 above). It appears that the first applicant pursued his academic career and had a history of employment in the field of social education and care of minors after the article was published (see paragraph 43 above).

113. Additionally, the Court observes that the applicants brought their civil claim in the domestic courts four years after the publication of the article. It has been suggested that they had hoped to obtain a remedy for the prejudice they had suffered within criminal proceedings (see paragraphs 12-13 above), but the Court observes that they took no steps between early March 2013, when their criminal complaint was dismissed, and September 2015, the date of commencement of their civil action (see paragraph 14 above). Although this delay is irrelevant to the analysis of the admissibility of the complaint before the Court, the applicants' submissions regarding the immediate and lasting detrimental effect of the publication appear to be somewhat inconsistent with the significant time that elapsed before they took any procedural steps to seek protection of their reputation.

(vi) Conclusion

114. In the light of the above, the Court finds that the domestic courts acted within their margin of appreciation when seeking to establish a balance between the applicants' rights under Article 8 and the newspaper's opposing right to freedom of expression under Article 10. The Court considers that the national courts conducted the required balancing exercise between the competing rights at stake in conformity with the criteria laid down in the Court's case-law, and it discerns no strong reasons to substitute its view for that of the domestic courts. By dismissing the applicants' claim, the domestic courts did not fail to comply with the positive obligation incumbent on the domestic authorities to protect the applicants' rights under Article 8 of the Convention.

115. There has accordingly been no violation of Article 8 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 8 January 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Kateřina Šimáčková President