

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

THIRD SECTION

CASE OF CHELTSOVA v. RUSSIA

(Application no. 44294/06)

JUDGMENT

STRASBOURG

13 June 2017

FINAL

13/09/2017

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



In the case of Cheltsova v. Russia,

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

Helena Jäderblom, *President,*
Branko Lubarda,
Helen Keller,
Dmitry Dedov,
Pere Pastor Vilanova,
Georgios A. Serghides,
Jolien Schukking, *judges,*

and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 23 May 2017,

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

PROCEDURE

1. The case originated in an application (no. 44294/06) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Ms Inna Ivanovna Cheltsova ("the applicant"), on 19 September 2006.

2. The Russian Government ("the Government") were represented initially by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

3. The applicant alleged a violation of her right to freedom of expression.

4. On 10 November 2010 the complaint under Article 10 of the Convention was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1947 and lives in Fryazino, the Moscow Region.

6. She is retired and receives a monthly pension, which at the material time amounted to 2,440 Russian roubles (RUB).

7. The applicant is also the founder and editor-in-chief of *Fryazinets* ("the newspaper"), an independent weekly newspaper published in Fryazino with a circulation of 2,000-5,000 copies.

A. Defamation proceedings instituted by S.P.

8. On 14 April 2005 the Shchelkovo town prosecutor's office opened a criminal investigation in case no. 81992 against a woman called S.P. under Article 201 § 1 of the Criminal Code ("abuse of powers by a person performing managerial functions in a commercial or other organisation"). The date is apparent from the decision to resume that criminal investigation, which was taken on 3 July 2006 (see paragraph 17 below). The initial investigation was opened on the grounds that S.P., as a person performing managerial functions at a non-commercial organisation, had allegedly abused her position by fraudulently receiving 5,243 Russian roubles (RUB) in petty cash from Strela ZhSK[1].

9. On an unspecified date in April 2005 the applicant published a statement by the Shchelkovo town deputy prosecutor in the newspaper. The statement included the following text:

> "... On 14 April 2005 the Shchelkovo town prosecutor's office opened a criminal case against S.P. under Article 201 § 1 of the Criminal Code ..."

10. After publication of the statement the newspaper's editorial department received a number of telephone calls from residents of Fryazino who informed the applicant that S.P., an employee at Fryazino town administration, had been rude to them when they had tried to make an appointment with the mayor through the administration's Public Reception Office.

11. In issue no. 16 (228) of 27 April-3 May 2005 of the newspaper the applicant published an article entitled "Reporting the details", which included, among other statements, the following:

> "... Our last issue contained information about the opening of a criminal case against S.P. by the Shchelkovo town prosecutor's office. Who is she and what has she done? S.P. is an employee of the town administration and [as such] is a municipal civil servant working in the mayor's Public Reception Office. It is forbidden for municipal civil servants to have a second job. However, S.P. combines her activities in the Public Reception Office – where, judging by the telephone calls to the editorial department, she does not always behave appropriately towards visitors: [she] raises her voice and is rude, for which she has been reprimanded by the head of the Public Reception Office, K., – with jobs as accountant at Strela-3 ZhSK ... and head of Strela ZhSK, and so forth. As head of Strela ZhSK, S.P. allowed financial irregularities to take place and [as a result of those] the [residential building] association's members brought civil proceedings against her."

1. ZhSK *(ЖСК, Жилищно-строительный кооператив)*: a residential building association, a specific type of legal entity under the Russian law.

12. In August 2005 S.P. brought defamation proceedings against the applicant and the newspaper's editorial department before the Shchelkovo Town Court ("the Town Court"), seeking a retraction of the information contained in the article and non-pecuniary damages.

13. On 14 September 2005 the Town Court, without the applicant being present, held a hearing. In particular, it questioned several witnesses: the head of Strela-3 ZhSK, a member of the governing board of Strela ZhSK, an employee of the Public Reception Office and three people who had visited it. It also examined several items of evidence, such as Strela ZhSK's payroll records, a certificate confirming that S.P. had received a salary from it, and a document from the auditors of Strela ZhSK confirming that some of its funds had been spent in an irregular way. The Town Court did not consider whether the impugned information had consisted of statements of fact or value judgments. It found in the plaintiff's favour, ordering the newspaper to publish a retraction of the statements that S.P. had not always behaved appropriately towards visitors, had raised her voice and had been rude, that she had combined her functions as a municipal civil servant with jobs at Strela ZhSK and Strela-3 ZhSK, that she had allowed financial irregularities to take place as head of Strela ZhSK and that members of the association had brought civil proceedings against her. The Town Court ordered the applicant to pay S.P. RUB 10,000 in non-pecuniary damages. The judgment read, in particular, as follows:

> "... The publication contains statements (*сведения*) [which are] a negative assessment of S.P.'s personality and her business abilities in connection with breaches of law, improper and unethical behaviour in discharging her official functions, and a lack of conscientiousness in performing her duties as head of ZhSK, which tarnish her honour, dignity and business reputation and are not true.
>
> ... The term 'combining of employment' in the Labour Code ... is defined as a worker performing other regularly paid work under a contract of employment. No proof has been presented to the court that S.P. has concluded a contract of employment with Strela ZhSK and Strela-3 ZhSK. S.P. has submitted that she performed the functions of bookkeeper and head of those entities as a volunteer and had no contract of employment or payment. ... [A] witness, Ya., a member of Strela ZhSK's board, has explained that there was no contract between Strela ZhSK and S.P. The court rejects the part of his statement which said that S.P. received a salary from Strela ZhSK because the original of the document presented by the witness as a payroll document bore no statement to confirm that it was a payroll document. ... On the same grounds, the court finds that the certificate issued by [Strela] ZhSK to confirm that a salary was paid is unreliable [as evidence]. ...
>
> ... Given that it has not been proved during the court hearing that S.P. concluded contracts of employment with the [Strela ZhSK and Strela-3 ZhSK] associations and received remuneration for her work, the court finds that S.P. ... has not combined her activity as a municipal civil servant with any other employment.
>
> Accordingly, the statements ... concerning a breach of the prohibition [for a municipal civil servant] on having a second job, that S.P. had other employment as an accountant at Strela-3 ZhSK, as head of Strela ZhSK and so forth, are untrue. ...

> ... the allegations of improper behaviour on the part of S.P. towards visitors to the Public Reception Office, such as raising her voice and being rude, have not been proven in the course of the court hearing. ...
>
> The law does not define the term "financial irregularities". ...
>
> *The Popular Encyclopaedia of Economics* ... defines ... finances as the creation, movement, allocation and reallocation of financial resources. Bookkeeping is a documentary record of all commercial and financial operations, expenses and income.
>
> Therefore, financial irregularities in respect of [residential building associations] should be recognised as ... expenditure which is against the interests of a ZhSK. ...
>
> The court rejects the argument that breaches of the rules of bookkeeping amount to financial irregularities.
>
> ... the court comes to the conclusion that the financial irregularities for which S.P. was allegedly responsible during the time she performed the duties of head of Strela ZhSK ... have not been proven [by the applicant] ...
>
> In determining non-pecuniary damages ..., the court takes into account that ... the published material was based on unverified information and that S.P., being a municipal civil servant ... is particularly deeply affected by articles alleging violations of the law by her, a lack of conscientiousness and unethical behaviour ..."

14. The applicant appealed against the decision to the Moscow Regional Court ("the Regional Court"). She stated, in particular, that the amount of damages was excessive as the Town Court had failed to take into account the small size of her retirement pension and had failed properly to examine the evidence she had submitted to prove the impugned statements.

15. On 22 March 2006 the Regional Court upheld the Town Court's judgment in full, leaving the applicant's arguments without examination.

16. On 17 May 2006 the criminal investigation against S.P. was suspended.

17. On 3 July 2006 the Shchelkovo town prosecutor resumed the investigation against S.P. in case no. 81992.

B. Defamation proceedings instituted by L.K.

18. In issue no. 1 (213) of 12-18 January 2005 of the newspaper, the applicant published an article entitled "The town's black hole and attempted murder". The article was an interview with N., a local businessman standing for mayor of Fryazino. The text of the article included the following statement by N. concerning L.K., the then head of the Fryazino Technical Inventory Bureau (the BTI)[2] and also the wife of U., the incumbent mayor:

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2. *БТИ, Бюро технической инвентаризации* (full name: *Фрязинский филиал ГУП МО МОБТИ*, the Fryazino branch of the State Unitary Enterprise of the Moscow Region "The Moscow Region Technical Inventory Bureau") - a State unitary enterprise under the Russian law in charge of registration of real estate and development deals.

> "... as transpires from a complaint by residents to the Shchelkovo town prosecutor's office, U.'s wife, a certain L.K., in abuse of her position as head of the Fryazino BTI ..., committed forgery by stealing ... the land-use plan for the building at 23 Polevaya Street and replacing it with [another] land-use plan ..."

19. On an unspecified date in 2006 L.K. brought defamation proceedings against the applicant and N., arguing that the article had damaged her honour and dignity and tarnished her business reputation.

20. On 11 May 2006 the Town Court found against the applicant andN., ordered that the newspaper publish a retraction and awarded L.K. RUB 15,000 and RUB 30,000 in non-pecuniary damages from the applicant and N. respectively. The Town Court did not examine whether the interview had concerned matters of public interest or the professional activities of a public figure, nor did it provide any reasons for holding the applicant liable for publishing it. N. and the applicant argued that the impugned statement had in fact been a value judgment which had not been susceptible of proof, which the Town Court dismissed as follows:

> "The argument by N. and his representative that the impugned statement was a value judgment is refuted by the case material. ...
>
> N.'s statement ... has a precise statement of fact that L.K. had committed a crime by stealing and replacing the land-use plan ...
>
> Having analysed the complaint by members of the public to the Shchelkovo town prosecutor regarding L.K., the court concludes that the defendant presented a statement of fact, not a value judgment, in the newspaper article. It can be concluded from the complaint by the public that she had, possibly, forged the land-use plan for the building and plot of land. Accordingly, it concerns an inquiry into [events] reported in the complaint. However, the defendant has distorted the contents of the complaint in the interview ... and its contents are represented as a statement of fact that L.K. committed forgery ... As can easily be verified by examining the text of ... the complaint, it does not include such a statement. ...
>
> A statement of fact that a crime has been committed should be examined in the way established by the Code of Criminal Procedure, therefore N.'s statement cannot be considered by the court as a value judgment or opinion and [its veracity] should be proven by presenting criminal-procedure documents to the court confirming that L.K.'s actions constituted a crime. In breach of Article 152 of the Civil Code, the defendant has not presented the court with such documents. ...
>
> The defendant Ms Cheltsova has not presented the court with any evidence to prove that ... the statement was true or with proof that the truthfulness of the statement was checked [prior to publication]. ...
>
> L.K. has argued before the court that she ... is a civil servant who discharges her duties in good faith and that publication in the media ... of the statement that she had committed a ... crime caused her distress, on the basis of which the court concludes that L.K.'s claims for non-pecuniary damages should be granted."

21. The applicant and N. both appealed. The applicant argued, among other things, that the amount of the award had been excessive considering that her monthly pension was only RUB 2,600.

22. On 20 July 2006 the Regional Court upheld the Town Court's judgment on appeal. In a very succinct judgment, it dismissed the defendants' arguments as follows:

> "Given that the [first-instance] court has correctly determined the legally relevant circumstances and properly assessed the evidence, its judgment is lawful and well-founded.
>
> The arguments [contained in] the statements of appeal are aimed at a reassessment of the evidence and do not contain circumstances that would refute the findings of the [first-instance] court and require additional examination."

C. Defamation proceedings instituted by G.A.

23. N. stood for office as mayor of Fryazino in elections scheduled for 4 September 2005. He paid from his election fund to have an appeal addressed to President Putin published in the newspaper, which was signed "N., a candidate for the office of mayor". The newspaper published the appeal in issue 32 (244) of 17-23 August 2005 under the headline "Approaching the elections. Introducing the candidates for the office of mayor of Fryazino", mentioning specifically that the article had been paid for from N.'s election campaign funds.

24. The article criticised a local entrepreneur, G.A., one of N.'s opponents in the campaign, and suggested that the authorities should investigate his business activities. The article read, in so far as relevant, as follows:

> "... One of the covert heads of the limited liability company Roads of the XXI Century, who is also the head of the Prince Casino, a certain G.A., who is in direct contact with the mayor of Fryazino, U., and connected to him by a dubious financial relationship linked to the construction of housing and commercial car parks in Fryazino, arranged for a criminal case opened against U. to be terminated. Meanwhile, in conversation with me, G.A. was open about the fact that he had personally paid 'werewolves in epaulettes' [corrupt policemen] one million U.S. dollars!!!
>
> In reply to my question as to where he had got such a huge [amount of] money, G.A. said he was a 'person of immense authority' in Fryazino and the Shchelkovo district, who had judges, prosecutors and tax officers 'in his pay'...
>
> In addition, G.A. informed me that in the near future he would be working in the Fryazino town administration as chairman of the Council of Deputies – [that he would be] controlling and distributing the funds belonging to ... Fryazino to 'his own companies', and, first and foremost, to Roads of the XXI Century. ...
>
> ... that very G.A. who paid one million U.S. dollars!!! to 'werewolves in epaulettes' to terminate the criminal case [instituted] against U. under three provisions of the Criminal Code in respect of ten [criminal] episodes and who intends in the near future to control and distribute cash belonging to ... Fryazino to companies loyal to him! ...

> It turned out that, in violation of ... the law on the main guarantees of election rights ..., the campaign material was not paid for from G.A.'s campaign funds, but [from the assets of] the very same company, Roads of the XXI Century!!! ...
>
> ... despite being near to the town administration building, G.A. pounced on me, punched me in the chest, and threatened to kill me and my family and shoot my guards. He also said he regretted the fact that he had not been able to organise that crime properly in December 2004 during an attempt on my life.
>
> On top of that, G.A. told me that he would shoot all businessmen who were out of favour with him and his construction business partner, K. (of Roads of the XXI Century), and [the mayor] U.
>
> G.A.'s promise to shoot businessmen was proved true that day. On the evening of 13 August 2005 Ch., who had had a long-standing dispute with Roads of the XXI Century, G.A. and U., was shot in the head and killed ..."

25. On 22 August 2005 the territorial electoral commission brought a claim in the Town Court against N., alleging that the newspaper article had not complied with election campaign rules and had been an abuse of press freedom.

26. On 27 August 2005 the Town Court found for N. and stated that the impugned publication had been paid campaign material and as such had complied with the relevant regulations.

27. Both N. and G.A. lost the mayoral election.

28. On an unspecified date in 2006 G.A. brought defamation proceedings against the applicant and N. in connection with the publication of N.'s open appeal to President Putin.

29. On 16 May 2006 the Town Court found against the applicant and N. It did not examine whether the impugned information had consisted of statements of fact or value judgments, nor did it provide reasons for holding the applicant liable for publishing the impugned article. The Town Court ordered the newspaper to retract the statements and awarded G.A. non-pecuniary damages, of which RUB 10,000 in particular were to be recovered from the applicant.

30. The applicant appealed arguing, in particular, that the amount of damages was excessive and disproportionate in view of her small pension and that the Town Court had failed to properly examine the evidence she had submitted to prove the impugned information.

31. On 2 August 2006 the Regional Court upheld the first-instance judgment on appeal. It found, in particular, as follows:

> "The [first-instance] court found that N.'s statements in the published material could and should have been checked as to their truthfulness, that ... [they] are not truthful, tarnish G.A.'s honour, dignity and business reputation, which has caused him emotional suffering.
>
> The court also correctly found that the defendants' ... argument that the publication ... had been permissible in the course of an election campaign ... was ill-founded. ... The court lawfully found that there were no grounds to relieve N. and Ms Cheltsova of liability for the dissemination of untruthful statements tarnishing [the reputation of]

G.A. and that the defendants had not proven the truthfulness of the statements they had disseminated, which the appellate court agrees with. The fact of dissemination of harmful statements was established by the court, which took into account the newspaper's circulation of 3,000 copies in the course of the election campaign."

II. RELEVANT DOMESTIC LAW AND PRACTICE

32. Article 29 of the Constitution of the Russian Federation guarantees freedom of thought and expression, and freedom of the media.

33. Article 152 of the Civil Code of the Russian Federation provides that an individual can apply to a court with a request for the correction of statements (*сведения*) that are damaging to his or her honour, dignity or professional reputation if the person who disseminated such statements does not prove their truthfulness. The aggrieved person may also claim compensation for losses and non-pecuniary damage sustained as a result of the dissemination of such statements.

34. Resolution no. 3 of the Plenary Supreme Court of the Russian Federation of 24 February 2005 defines "untruthful statements" as allegations of facts or events which have not taken place in reality by the time of the statements' dissemination. Statements contained in court decisions, decisions by investigative bodies and other official documents amenable to appeal cannot be considered untruthful. Statements alleging that a person has breached the law, committed a dishonest act, behaved unethically or broken rules of business etiquette tarnish that person's honour, dignity and business reputation (section 7). Resolution no. 3 requires courts hearing defamation claims to distinguish between statements of fact, which can be checked for their veracity, and value judgments, opinions and convictions, which are not actionable under Article 152 of the Civil Code since they are an expression of the defendant's subjective opinion and views and cannot be checked for their veracity (section 9).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

35. The applicant complained that the domestic court judgments had unduly restricted her right to freedom of expression guaranteed by Article 10 of the Convention, which reads as follows:

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

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are

prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

A. The parties' submissions

1. The Government

36. The Government contested the applicant's arguments as summarised below and asked the Court to declare the complaint manifestly ill-founded.

(a) Defamation proceedings instituted by S.P.

37. The Government submitted that the impugned article had contained a negative assessment of S.P.'s personality, tarnishing her honour, dignity, and business reputation.

38. The Town Court had rejected Ya.'s witness statement that S.P. had received a salary from Strela ZhSK because the original of the payroll document presented by the witness had not borne a statement to confirm that it was a payroll document. The Town Court had also rejected as evidence a certificate issued by Strela ZhSK that S.P. had received a salary from it. It had agreed with the plaintiff that she had taken petty cash from Strela ZhSK to buy stationery and that she had performed the tasks of a bookkeeper for Strela-3 ZhSK for free as a volunteer. In the absence of contracts of employment between S.P. and Strela ZhSK and Strela-3 ZhSK, the Town Court had correctly concluded that S.P. had not combined her functions as a municipal civil servant with any other employment. Accordingly, the statements concerning S.P.'s combining of employment had been untrue.

39. The Town Court had rejected the statements by people alleging that S.P. had been rude to them and trusted witnesses who had submitted that S.P. had been polite because the first set of witnesses had been unreliable.

40. Russian law contained no definition of "financial irregularities", but the Town Court had correctly concluded that breaches of bookkeeping rules had not amounted to such irregularities. Moreover, the defendant had failed to prove that members of Strela ZhSK had raised the question of alleged financial irregularities before a court. The Town Court had therefore correctly concluded that there was no proof of any financial irregularities imputable to S.P.

41. The interference with the applicant's freedom of expression had been in accordance with Article 152 of the Civil Code and had pursued the legitimate aim of protecting the reputation and rights of others.

42. Statements such as "being rude to visitors", "receipt of a warning from a superior", "having a second job" and "being responsible for financial

irregularities" had undoubtedly been statements of fact, not value judgments. In any event, the applicant had failed to prove that they had had a sufficient factual basis for such value judgments to be permissible.

43. The Town Court had taken account of the fact that S.P. had been a municipal civil servant and had therefore sustained particularly serious non-pecuniary damage on account of the dissemination of the statements concerning allegedly unlawful behaviour by her.

44. In conclusion, the Government submitted that the interference had been proportionate to the legitimate aim sought and had thus been compatible with Article 10 of the Convention.

(b) Defamation proceedings instituted by L.K.

45. The interference had been in accordance with Article 152 of the Civil Code and with Resolution no. 3 of the Plenary Supreme Court. It had pursued the legitimate aim of protecting the reputation and rights of others because the impugned statements had been damaging to L.K.'s reputation.

46. L.K. had not been a "public figure" and thus the principle of a "higher degree of tolerance" established in the Court's case-law could not be applied in the present case.

47. The Town Court had correctly found that the impugned statements had been statements of fact, not value judgments. The complaint by members of the public to the prosecutor had stated that L.K. had probably forged the land-use plan, that is it had been merely an allegation of a crime. The defendant [N.], however, had distorted the complaint by rephrasing it as a factual statement. N.'s lawyer had stated that N. had known the content of the complaint, thus confirming that N. had distorted its true meaning.

48. Allegations of a crime should be proven by criminal case material confirming the commission of a crime. However, the defendants had failed to present such material to the Town Court.

49. As the founder and editor-in-chief of the newspaper, the applicant had been under a duty to ensure the information she provided had been true and had been responsible for a breach of the Media Act of 1991. She had failed to prove to the Town Court that the statements had been true and that she had verified them prior to publication.

50. The Government concluded by stating that the interference had been proportionate to the aim sought.

(c) Defamation proceedings instituted by G.A.

51. The interference had been in accordance with Article 152 of the Civil Code and had pursued the legitimate aim of the protection of the reputation and rights of others. The Town Court's findings had been in full compliance with the requirements of Resolution no. 3 of the Plenary Supreme Court.

52. The defendants had not proven that G.A. had communicated the information contained in the impugned article to N. As confirmed by a letter from the Lyublinskiy inter-district prosecutor's office following an investigation into the circumstances of the attempted murder of N., the authorities had refused to open a criminal investigation into that act because no attempted murder had taken place.

53. As confirmed by letters from the heads of the limited liability companies Roads of the XXI Century and Grand, those companies had had no business dealings and G.A. had not been involved in the activities of Roads of the XXI Century. The Town Court had been correct to reject the defendants' argument that the statements had not been defamatory and that they had been part of the election campaign because the statements had not been related to G.A.'s performance of the duties of a candidate standing for public office.

54. The Town Court had been correct to find that the statements had not been permissible in the context of the election campaign. The law-enforcement agencies had refused to prosecute G.A. on the basis of N.'s allegations. The court had established that G.A. had used his own funds in the course of the campaign. Allegations of injuries inflicted on N. and of threats of injuries had remained unproven. The statements had been statements of fact, not value judgments. There had been no grounds to excuse the defendants from liability for the statements.

55. The impugned article had been damaging to G.A.'s reputation. G.A. had asked the applicant to withdraw the damaging statements but she had refused to do so.

56. The Government concluded that there had been no "pressing social need" to disseminate the statements as there had not been a "sufficient factual basis" to support them. N. and the applicant had abused their rights by disseminating the statements.

2. The applicant

57. The applicant maintained her complaint that the three instances of interference with her right to freedom of expression had been contrary to Article 10 of the Convention.

58. She submitted that the newspaper wrote about corruption and that the impugned articles had been part of that editorial policy. The domestic courts had not given due consideration to the fact that the publications had pertained to legitimate matters of public interest and had not taken into account the vital role of the press as a "public watchdog". Furthermore, the domestic courts had failed to consider the proportionality of the amounts awarded to the plaintiffs in relation to her low level of income as a retired person. Accordingly, the sanctions imposed on her had been excessively severe.

59. As regards the particular circumstances of each set of the defamation proceedings, the applicant argued as follows.

(a) Defamation proceedings instituted by S.P.

60. The applicant submitted that the Town Court had, without reservation, accepted the plaintiff's assertion that in the absence of contracts between her and Strela ZhSK and Strela-3 ZhSK her work for those entities had been a hobby, ignoring the certificate and the witness statement confirming that S.P. had received payments from Strela ZhSK. The Town Court had not ordered any expert examination of the two legal entities' bookkeeping records. Instead, it had based its conclusions regarding the existence of financial violations on *The Popular Encyclopaedia of Economics*, failing to apply the relevant domestic law, such as the Federal Law on Bookkeeping and the Tax Code. Residents of the blocks of flats in question could have testified, if summoned by the Town Court, that they had paid S.P. for her services as head of Strela ZhSK. Furthermore, the Town Court had ignored the fact that on 17 November 2005 a justice of the peace had cited purely procedural grounds for deciding not to examine a statement of claims for damages of RUB 5,243 brought by Strela ZhSK against S.P.

61. In addition, the applicant insisted that there had been a sufficient factual basis for the impugned statements concerning S.P.'s rudeness and impolite behaviour. In essence, those statements had been value judgments because assessing someone's behaviour as rude or polite depended on individual perceptions of a particular situation.

(b) Defamation proceedings instituted by L.K.

62. The applicant submitted that the impugned article had been based on reports to the prosecutor's office by concerned residents of Fryazino regarding allegedly irregular construction permits. Considering that the town administration and the building contractors had had a vested interest in the advancement of the construction project, and that L.K., head of the BTI, and the mayor of Fryazino had been spouses, the issue had been a subject of intense public debate in the town. It had therefore been necessary to check whether the BTI certificate in question had been forged. However, the Town Court had not ordered any expert examination of that document.

63. The amount awarded to L.K. had been four times the applicant's pension, thus imposing an excessive burden on her.

(c) Defamation proceedings instituted by G.A.

64. The applicant submitted that the impugned article had been an interview given in the course of an electoral campaign and had been published in the newspaper as paid campaign material. In accordance with the Moscow Region Elections Act then in force, the editorial offices of

weekly newspapers were under an obligation to publish such paid campaign material for a fee and had no right to edit it in any manner.

65. The Town Court had relied on the letter from the head of Roads of the XXI Century to disprove the existence of an affiliation between that entity and the Grand company, instead of analysing the respective entities' articles of association.

66. The Grand company had been one of the main building contractors employed by the town of Fryazino. On 20 September 2005 a criminal case had been instituted against the mayor of Fryazino on charges of abuse of office and criminal negligence in connection with building contracts. The investigation had eventually been terminated. Nevertheless, the issue of the misuse of public funds in building contracts had been very topical for the residents of Fryazino. The impugned article had therefore been part of a debate on matters of public interest.

67. G.A. had not asked her to publish a retraction immediately after publication as required by the Elections Act, but had waited two months before lodging a statement of claims with the Town Court. He had therefore been seeking to punish the newspaper for its criticism, not trying to get it to withdraw the information.

B. The Court's assessment

1. Admissibility

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

2. Merits

69. The Court notes that it is common ground between the parties that the Town Court's judgments of 14 September 2005, 11 May 2006, and 16 May 2006 (see paragraphs 13, 20 and 29 above), as upheld by the Regional Court on 22 March 2006, 20 July 2006 and 2 August 2006, respectively (see paragraphs 15, 22 and 31 above), each constituted an instance of interference with the applicant's right to freedom of expression guaranteed by Article 10 § 1 of the Convention. The Court is further satisfied that the instances of the interference in question were "prescribed by law", notably by Article 152 of the Civil Code, and "pursued a legitimate aim", that is "the protection of the reputation or rights of others", within the meaning of Article 10 § 2 of the Convention. What remains to be established is whether the acts of interference were "necessary in democratic society".

70. The general principles concerning the necessity of an interference with freedom of expression, which have been frequently reaffirmed by the Court since the case of *Handyside v. the United Kingdom* (7 December 1976, Series A no. 24), were summarised in *Stoll v. Switzerland* ([GC], no. 69698/01, § 101, ECHR 2007-V), and were reiterated more recently in *Morice v. France* [GC], no. 29369/10, § 124, ECHR 2015; *Pentikäinen v. Finland* [GC], no. 11882/10, § 87, ECHR 2015; and *Bédat v. Switzerland* [GC], no. 56925/08, § 48, ECHR 2016):

> "(i) Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no 'democratic society'. As set forth 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 ...
>
> (ii) The adjective 'necessary', within the meaning of Article 10 § 2, implies the existence of a 'pressing social need'. The Contracting States have a certain margin of appreciation in assessing whether such a need exists, but it goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those given by an independent court. The Court is therefore empowered to give the final ruling on whether a 'restriction' is reconcilable with freedom of expression as protected by Article 10.
>
> (iii) The Court's task, in exercising its supervisory jurisdiction, is not to take the place of the competent national authorities but rather to review under Article 10 the decisions they delivered pursuant to their power of appreciation. This does not mean that the supervision is limited to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; what the Court has to do is to look at the interference complained of in the light of the case as a whole and determine whether it was 'proportionate to the legitimate aim pursued' and whether the reasons adduced by the national authorities to justify it are 'relevant and sufficient'. ... In doing so, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they relied on an acceptable assessment of the relevant facts ..."

71. The Court considers the following elements to be relevant for the examination of the particular circumstances of each interference in the present case: the applicant's position, the position of the persons against whom the criticism was directed, the subject matter of the publications, the domestic courts' interpretation of the contested statements, the words used in the publications, and the penalties imposed (see *Krasulya v. Russia*, no. 12365/03, § 35, 22 February 2007, and *OOO Ivpress and Others v. Russia*, nos. 33501/04 and 3 others, § 69, 22 January 2013).

72. The Court observes that the common element in each instance of interference is that the applicant is the editor-in-chief of a newspaper held liable under civil law in defamation proceedings for articles in the

newspaper. It reiterates that although the media must not overstep certain bounds, their duty is nevertheless to impart – in a manner consistent with their obligations and responsibilities – information and ideas on all matters of public interest. Not only do the media have the task of imparting such information and ideas, the public also have a right to receive them (see, with further references, *Pentikäinen*, cited above, § 88). The limits of permissible criticism are narrower in relation to a private citizen than in relation to politicians or governments (see, with further references, *Delfi AS v. Estonia* [GC], no. 64569/09, § 132, ECHR 2015).

73. The Court further reiterates that the safeguard afforded by Article 10 of the Convention to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith and on an accurate factual basis and provide "reliable and precise" information in accordance with the ethics of journalism. Furthermore, Article 10 protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed. Consequently, it is not for this Court, or for the national courts for that matter, to substitute their own views for those of the press as to what reporting technique should be adopted by journalists. Journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation (see, with further references, *Bédat,* cited above, §§ 58-59).

74. In the circumstances of the present case, the Court is satisfied that the impugned instances of interference must therefore be seen in the context of the essential function that the media fulfil in a democratic society.

75. The Court will now consider other relevant elements of each instance of interference separately.

(a) Defamation proceedings instituted by S.P.

76. Regarding the position of S.P. and the subject matter of the article criticising her, "Reporting the details" (see paragraph 11 above), the Court observes the following.

77. S.P. was a municipal civil servant and the impugned article suggested that she had combined her duties in that capacity with employment at two private entities, Strela ZhSK and Strela-3 ZhSK. The Court has consistently held that although it cannot be said that civil servants knowingly lay themselves open to close scrutiny of their every word and deed to the extent politicians do, civil servants acting in an official capacity are, like politicians, subject to wider limits of acceptable criticism than private individuals (see *Thoma v. Luxembourg*, no. 38432/97, § 47, ECHR 2001-III; *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 80, ECHR 2004-XI; and *Dyundin v. Russia*, no. 37406/03, § 26, 14 October 2008).

78. The Court further observes that the article's subject matter was whether S.P.'s behaviour had been in compliance with the rule that

municipal civil servants were not allowed to combine the performance of their official functions with other gainful employment. In the Court's view, that issue, relating to the exercise of the functions of a local official, was a matter of legitimate public interest to the readership of the newspaper, the residents of Fryazino (see, for similar reasoning, *Ziembiński v. Poland (no. 2)*, no. 1799/07, § 42, 5 July 2016). The Court thus considers that the domestic margin of appreciation with regard to the protection of S.P.'s reputation as a civil servant must be circumscribed by the interests of a democratic society in ensuring and maintaining freedom of the press (see *Aleksandr Krutov v. Russia*, no. 15469/04, § 27, 3 December 2009).

79. The Court has consistently held that when examining whether there is a need for an interference with freedom of expression in a democratic society in the interests of the "protection of the reputation ... of others", it may be required to ascertain whether the domestic authorities have struck a fair balance when protecting two values guaranteed by the Convention which may come into conflict with each other in certain cases, 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 (see, among many other authorities, *Annen v. Germany*, no. 3690/10, § 55, 26 November 2015). The Court emphasises that, in order for Article 8 of the Convention to come into play, an attack on a person's reputation must attain a certain level of seriousness and its manner must cause prejudice to personal enjoyment of the right to respect for private life (see *A. v. Norway*, no. 28070/06, § 64, 9 April 2009, and *Axel Springer AG v. Germany* [GC], no. 39954/08, § 83, 7 February 2012). It is not convinced, however, in the circumstances of the present case, that the impugned statements could be considered as an attack reaching the requisite threshold of seriousness and capable of causing prejudice to S.P.'s personal enjoyment of private life. In any event, the Court considers that in the defamation proceedings instituted by S.P. the domestic courts did not perform a balancing exercise between the need to protect the plaintiff's reputation and the Convention standard, which requires very strong reasons for justifying restrictions on debates on questions of public interest, thus failing to recognise that the case before them involved a conflict between the right to freedom of expression and protection of reputation (see, with further references, *Reznik v. Russia*, no. 4977/05, § 43, 4 April 2013).

80. The Court further notes that the domestic courts interpreted all the impugned statements as statements of fact. The Court reiterates in this connection that, in assessing whether there was a "pressing social need" capable of justifying interference with the exercise of freedom of expression, a careful distinction needs to be made between facts and value judgments (see *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 98, ECHR 2004-XI). The existence of facts can be demonstrated, whereas the truth of value judgments is not susceptible of proof. The requirement to

prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10 of the Convention (see *Morice*, cited above, § 126).

81. The Court is prepared to accept the domestic courts' view that the statements relating to S.P.'s concurrent employment as head of Strela ZhSK and as a bookkeeper at Strela-3 ZhSK, as well as the allegation that she "allowed financial irregularities" were indeed allegations of fact susceptible of proof. It would differ, however, with the Town Court's conclusion that the applicant did not provide a justification for such allegations. A witness appeared before the Town Court to confirm that S.P. had indeed worked for Strela ZhSK, although she had not concluded a contract of employment with that entity. In the course of the defamation proceedings, a payroll document from Strela ZhSK confirmed that S.P. had received a salary from that association. When initiating criminal proceedings against S.P., the Shchelkovo town prosecutor's office had considered her as "a person performing managerial functions" at Strela ZhSK (see paragraph 8 above). As noted by the applicant, Strela ZhSK had brought civil proceedings against S.P., which had been ongoing before a justice of the peace at the time the article was published (see paragraph 60 above). In the Court's view, those elements were sufficient to demonstrate that, in so far as the impugned statements concerned statements of fact, the applicant relied on a sufficiently accurate and reliable factual basis proportionate to the nature and degree of factual allegations and thus acted in good faith and complied with the ordinary journalistic obligation to verify a factual allegation (see *Pedersen and Baadsgaard*, cited above, § 78).

82. Nevertheless, the Town Court chose to disregard those elements. Instead it approached Ya.'s statement selectively, focusing on the lack of a contract and ignoring the submission regarding S.P.'s *de facto* employment. The Town Court went on to state that "the original of the document presented by the witness as a payroll document had not borne a statement to confirm that it was a payroll document". Indeed, the Government has raised the same argument before the Court (see paragraph 38 above). Furthermore, the Town Court ignored the fact that at the time of the defamation proceedings a criminal investigation against S.P. in connection with her activities as head of Strela ZhSK had been ongoing (see paragraphs 8 and 16 above). It chose to employ a definition of "financial irregularities" found in an unauthoritative source to label the applicant's statement as "untrue" (see paragraph 13 above). In view of such a selective approach to the circumstances of the defamation case before them, the Court is not satisfied that the domestic courts carried out an acceptable assessment of the relevant facts (see, with further references, *Stoll*, cited above, § 101).

83. Regarding the remaining impugned statements relating to S.P.'s behaviour in the Public Reception Office, the Court is inclined to agree with the applicant's assertion that they amounted to value judgments (see

paragraph 61 above), considering that an assessment of rudeness is indeed an individual matter largely dependent on a listener's perception. It also observes that the value judgments employed in the impugned article had sufficient factual basis (see, among many others, *Axel Springer AG*, cited above, § 105), as confirmed to the Town Court by two visitors to the Public Reception Office (see paragraph 13 above). The Court has on many occasions pinpointed a structural deficiency of the Russian law on defamation whereby no distinction was made between value judgments and statements of fact, referring uniformly to "statements" (*сведения*), and which proceeded from the assumption that any such "statement" was amenable to proof in civil proceedings (see, with further references, *OOO Ivpress and Others*, cited above, § 72). It notes that by the time the Town Court examined S.P.'s allegations, Resolution no. 3 of the Plenary Supreme Court had already entered into force, instructing Russian courts to distinguish statements of fact from value judgments (see paragraph 34 above). Nevertheless, neither the Town Court nor the Regional Court complied with those guidelines in the course of the proceedings under consideration, thus failing to draw a clear distinction between the two (ibid., § 73).

84. The Court also observes that the impugned statements were not strongly worded, could otherwise be considered as offensive, or constituted a gratuitous personal attack. It is not convinced by the Government's argument that S.P. sustained particularly serious emotional suffering simply by virtue of her being a municipal civil servant (see paragraph 43 above). On the contrary, it reiterates its consistent position that the extent of acceptable criticism is narrower as regards private individuals than for civil servants acting in the exercise of their duties (see *Palomo Sánchez and Others v. Spain* [GC], nos. 28955/06 and 2 others, § 71, ECHR 2011).

85. Lastly, the Court observes that the amount the Town Court ordered the applicant to pay S.P. was four times her monthly income (see paragraph 6 above). In the Court's view, it is clear that the award did not bear a reasonable relationship of proportionality to the injury to reputation suffered (see *Tolstoy Miloslavsky v. the United Kingdom*, 13 July 1995, § 49, Series A no. 316-B). The fact that the domestic courts failed to recognise the wider limits of permissible criticism in respect of public officials is also relevant in this context (see *OOO Ivpress and Others*, cited above, § 79).

86. In view of the above considerations, the Court concludes that the domestic courts examined S.P.'s defamation claims against the applicant by applying standards which were not in conformity with the principles embodied in Article 10 of the Convention.

(b) Defamation proceedings instituted by L.K.

87. Regarding L.K.'s position and the subject matter of the impugned article, "The town's black hole and attempted murder" (see paragraph 18 above), the Court observes the following.

88. L.K. was the head of the BTI, a State unitary enterprise tasked with the registration of real estate deals. Taking into account the particular status of unitary enterprises under Russian law (see *Liseytseva and Maslov v. Russia*, nos. 39483/05 and 40527/10, §§ 54-57, 9 October 2014), and in view of the special nature of the BTI's activities, the Court observes that its institutional links with the public administration were particularly strong since it provided public services of vital importance to the population (ibid., § 203). It thus concludes for the purposes of the examination of the present case that, as regards the extent of acceptable criticism, L.K.'s position as a manager of a local branch of a State unitary enterprise could be likened to that of a civil servant (see paragraph 77 above).

89. The impugned statement pertained to the exercise of L.K.'s duties and the issue of the lawful registration of real estate rights in Fryazino, which represented a legitimate matter of public interest for the local community.

90. As to the domestic courts' interpretation of the impugned statement, the Town Court held that the applicant had not provided any evidence to prove that the veracity of the statement had been checked. The Court notes that the impugned statement was not devoid of a factual basis as it reported the contents of a complaint that concerned members of the public had made to the town prosecutor's office. The Town Court did not dispute the fact that the complaint had been lodged. However, it held that N. had distorted the meaning of the complaint by omitting the word "possibly" when reporting its contents. In doing so, the Town Court disregarded the turn of phrase which N. had employed to mark reported speech, "... as transpires from a complaint by residents to the Shchelkovo town prosecutor's office" (see paragraphs 18 and 20 above). The Regional Court, in turn, did not carry out any analysis of the impugned statement and endorsed the Town Court's findings in a summary fashion (see paragraph 22 above).

91. It is noteworthy that the impugned statement was not an expression employed by the applicant herself, but part of N.'s interview. The Court has already had occasion to state that punishing a journalist for assisting in the dissemination of statements made by another person in an interview would seriously hamper the contribution of the press to discussion of matters of public interest and should not be contemplated unless there are particularly strong reasons for doing so (see, with further references, *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, § 142, ECHR 2015 (extracts)). A general requirement for journalists systematically and formally to distance themselves from the content of a quotation that might insult or provoke others or damage their reputation is not reconcilable

with the press's role of providing information on current events, opinions and ideas (see *Thoma*, cited above, § 64). However, the domestic courts dealing with L.K.'s defamation proceedings paid no heed to the fact that the statements did not emanate from the applicant but were clearly identified as someone else's (see *Godlevskiy v. Russia*, no. 14888/03, § 45, 23 October 2008).

92. The Town Court and the Regional Court both failed to acknowledge that the applicant had recorded and accurately represented the words of a third party, having acted in good faith to provide "reliable and precise" information in accordance with the ethics of journalism. In the Court's view, the fact that the domestic courts did not provide "particularly strong reasons" for an interference that seriously hampered a contribution by the press to a discussion of matters of public interest (see *Couderc and Hachette Filipacchi Associés*, cited above, § 142) is sufficient to conclude that they examined Ms L.K.'s defamation claims against the applicant by applying standards which were not in conformity with the principles embodied in Article 10 of the Convention.

93. Lastly, regarding the amount awarded to Ms L.K., the Court notes that it was six times the applicant's monthly income (see paragraph 6 above) and considers that to be disproportionate (see paragraph 85 above).

(c) Defamation proceedings instituted by G.A.

94. Regarding the position of G.A. and the subject matter of the impugned publication, an open letter to President Putin which appeared in the newspaper under the headline "Approaching the elections. Introducing the candidates for the office of mayor of Fryazino" (see paragraph 24 above), the Court observes the following.

95. The publication appeared in the context of an election campaign for the office of mayor of Fryazino. Both G.A. and N. were candidates. The Court reiterates that there is little scope under Article 10 § 2 of the Convention for restrictions on political speech (see *Sürek v. Turkey (no. 1)* [GC], no. 26682/95, § 61, ECHR 1999-IV). It further reiterates that freedom of the press affords the public one of the best means of discovering and forming an opinion about the ideas and attitudes of political leaders. More generally, freedom of political debate is at the very core of the concept of a democratic society which prevails throughout the Convention. The limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must consequently display a greater degree of tolerance. There is no doubt that Article 10 § 2 of the Convention enables the protection of the reputation of others – that is to say, of all individuals – and that that protection extends to politicians too, even when they are not acting in a private capacity. However, in such cases

the requirements of such protection have to be weighed in relation to the interests of open discussion of political issues (see *Lingens v. Austria*, 8 July 1986, § 42, Series A no. 103).

96. The Court further emphasises that free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system (see *Mathieu-Mohin and Clerfayt v. Belgium*, 2 March 1987, § 47, Series A no. 113). The two rights are interrelated and operate to reinforce each other. For that reason, it is particularly important in the period preceding an election that opinions and information of all kinds are permitted to circulate freely (see *Bowman v. the United Kingdom*, 19 February 1998, § 42, *Reports of Judgments and Decisions* 1998-I; *Długołęcki v. Poland*, no. 23806/03, § 40, 24 February 2009; and *Grebneva and Alisimchik v. Russia*, no. 8918/05, § 56, 22 November 2016). That principle applies equally to national and local elections (see *Kwiecień v. Poland*, no. 51744/99, § 48, 9 January 2007).

97. The Court points out that there was no dispute about the fact that all the statements reproduced in the impugned publication were made by N., not the applicant. That was clear to readers given the specific mention that N. had paid for the publication from his election fund. The domestic courts did not dispute that fact either. Nevertheless, they did not consider it when assessing the applicant's liability for the contents of the publication. The Court reiterates in this connection that a newspaper cannot be required to systematically verify the truth of every comment made by one politician about another in the context of a public political debate before publishing such comments (see *Axel Springer AG*, cited above, § 70).

98. It follows that the domestic courts failed to pay due regard to the fact that the impugned statements had not been made by the applicant or to the specific role that the applicant played in the dissemination of the impugned publication – that of the editor-in-chief of a media outlet providing space for a paid publication in the context of an election campaign. Such an omission in itself is sufficient for the Court to conclude that the domestic courts did not perform a balancing exercise of weighing considerations of respect for freedom of the press in the context of an election. It follows that they examined G.A.'s defamation claims against the applicant by applying standards which were not in conformity with the principles embodied in Article 10 of the Convention.

99. Lastly, the Court observes that the amount awarded was four times the applicant's monthly income and finds that such amount is disproportionate (see also paragraphs 85 and 93 above).

(d) Conclusion

100. In view of its findings above (see paragraphs 86, 92 and 98), and faced with the domestic courts' failure to give relevant and sufficient reasons to justify each of the three instances of interference, the Court finds

that the domestic courts cannot be said to have "applied standards which were in conformity with the principles embodied in Article 10 of the Convention" or to have "based themselves on an acceptable assessment of the relevant facts" (see *Terentyev v. Russia*, no. 25147/09, § 24, 26 January 2017, *Ringier Axel Springer Slovakia, a.s. v. Slovakia (no. 2)*, no. 21666/09, § 54, 7 January 2014; *Cumhuriyet Vakfi and Others v. Turkey*, no. 28255/07, §§ 67-69, 8 October 2013; and *OOO Ivpress and Others*, cited above, § 71). The Court thus concludes that the interference with the applicant's right to freedom of expression has not been "necessary in a democratic society".

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

II. OTHER ALLEGED VIOLATION OF THE CONVENTION

102. The applicant complained under Article 6 of the Convention that the defamation proceedings against her had been unfair. Having regard to all the material in its possession and in so far as the complaint falls within the Court's competence, it finds that it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the applications must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

103. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

104. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award her any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 10 of the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 10 of the Convention.

Done in English, and notified in writing on 13 June 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips Registrar	Helena Jäderblom President