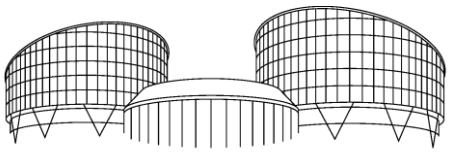

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF RINGIER AXEL SPRINGER SLOVAKIA, A.S. v. SLOVAKIA (No. 2)

(Application no. 21666/09)

JUDGMENT

STRASBOURG

7 January 2014

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 Ringier Axel Springer Slovakia, a.s. v. Slovakia (no. 2),

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

Alvina Gyulumyan, *President,*
Corneliu Bîrsan,
Ján Šikuta,
Luis López Guerra,
Kristina Pardalos,
Johannes Silvis,
Valeriu Griţco, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having deliberated in private on 3 December 2013,

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

PROCEDURE

1. The case originated in an application (no. 21666/09) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 14 April 2009 by a joint-stock company established under the laws of Slovakia, the name of which is now Ringier Axel Springer Slovakia, a.s. ("the applicant company"), and which was then called RINGIER SLOVAKIA a.s..

2. The applicant company was represented by Mr J. Havlát, a lawyer practising in Bratislava.

The Government of the Slovak Republic ("the Government") were represented by Ms M. Pirošíková, their Agent.

3. The applicant company alleged a violation of its rights under Article 10 of the Convention, on the ground that the outcome of a libel action brought against its legal predecessor at the domestic level was arbitrary because the tribunals had focused solely on the protection of the claimant's privacy and had completely disrespected its right to freedom of expression.

4. On 18 October 2012 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. The applicant company

5. The applicant company is a multimedia publishing house which was established under the laws of Slovakia in 1999. It is constituted as a joint-stock company and its head office is in Bratislava.

6. Its legal predecessor in respect of the events giving rise to the present application was a limited-liability company established under the laws of Slovakia in 1994 and registered in Bratislava. The latter company was the publisher of a popular daily newspaper, *Nový Čas*, which has national coverage and was later acknowledged by the courts to be one of the most widely read newspapers in Slovakia.

7. In the course of the proceedings described below, in 2004, the applicant company's legal predecessor was merged with the applicant company. Hereinafter "the applicant company" includes the applicant company's legal predecessor.

B. Accident

8. In the evening of an unspecified day in 2001 an accident happened in a car park in a district capital in north-eastern Slovakia. It involved a collision between a car, driven by A., and a pedestrian, B.

9. Shortly after the accident B. succumbed to his injuries and A. was arrested and detained on charges related to the accident.

10. B.'s father, C., was a chief prosecutor with the District Office of the Public Prosecution Service ("the PPS") in the same district. In this capacity, his full name is accessible to the public via the official Internet site of the PPS.

11. Following the accident, a reporter with *Nový Čas*, D., contacted C. and asked him for a comment. C. gave him a short statement. The question of disclosure of his and his son's identity was not discussed.

C. Published article

12. On 24 October 2001 the applicant company published an article in *Nový Čas*, written by D., concerning the accident. The title of the article was:

> 'The [PPS] and the courts violate the human rights of a driver who is being prosecuted for running over a son of the [chief] District Prosecutor of [a town].'

The article also had a subtitle, which read:

'The investigation file travels around the region like a hot potato'.

13. The article referred to B. and C. by their full names, while A. was referred to by his first name and the initial of his surname. In its first part, the article described the accident.

14. The subsequent part, referring to the handling of the case file concerning the accident and giving the positions of those concerned, with contextual explanations, contains, *inter alia*, the following passages:

"... The case in north-eastern Slovakia has become the centre of an unprecedented merry-go-round of files being pushed around from the [PPS] to the courts and back ...

'My wife and I, we have lost the meaning of our lives', the district prosecutor [C.], devastated by the loss of his son' said in a short interview for our daily ...."

15. The third and final part of the article deals with the circumstances of the investigation and A.'s detention, in the following terms:

"[A.] has been charged by an investigator and remanded in custody by a judge of the [a city] District Court. If he is found guilty, he risks being jailed for up to five years.

After one month the defence lawyer for A. requested that he be released on bail. Then the transferring of the file from one institution to another started. From the regional prosecutor to the [a town] District Court, and from there to [a town] and back to the prosecutor. The judges of the [a town] District Court pronounced themselves biased and the case was transferred to the [a town] Regional Court. The latter assigned it to the [a town] District Court last Thursday.

We are not advocating the release of the accused from detention, but we point out the disproportionate time it is taking to determine the request.

Towards the end of last week our daily notified the suspicion of a human-rights violation to the Minister of Justice. On the basis of a written reply of the Minister we conclude that none of his co-workers has obtained detailed information about the case. The Minister [name] has also been addressed by the girlfriend of [A.]. 'I have not received any answer from the Minister, not even a few lines', the young lady told our daily. 'Only after the [daily] started taking interest in the case did I receive an answer from the Justice Ministry, which told me to approach the Office of the Prosecutor General', added the young lady.

When examining complaints, the European Court of Human Rights emphasises that in dealing with requests for release from pre-trial detention the courts must act promptly. It is known that in similar cases a period of several months has been considered by Strasbourg to be a violation of the citizens' rights."

D. Libel action

16. On an unspecified date, presumably in 2003, C. sued the applicant company for libel. He submitted that, more than two months after the death of B., at a time when he and his wife were slowly recovering from the tragedy, he had been visited at home by D. The latter had asked C. and his

wife for their comments. C. had been unable to speak and had limited himself to three sentences. There had been no talk of disclosing the full names of B. and C. He considered the affair to be a highly private matter. Moreover, after the article was published, acquaintances of C., who had not been aware of the tragedy, had started calling C. with condolences and thus reopening an old wound.

17. In terms of redress, C. sought an order for publication of an apology, specifically for the disclosure of the full names of B. and himself, and the equivalent of some 4,800 euros (EUR) by way of damages.

18. In its defence, the applicant company submitted that the aim of the article had been to criticise the actions of the courts and the PPS in the region concerned, because they had constituted a violation of the human rights of A. Furthermore, it argued that both B. and C. were to be considered public personalities in terms of law, and that as such a higher degree of interference with their personal integrity was acceptable. As regards the public status of B., relying on legal texts, the applicant company submitted that it stemmed from the mere fact of being a victim of a crime. For C. public status stemmed from his being a public official.

19. When questioned as a witness, D. submitted that the article was not directed against C., although he had originally wanted to suggest in the article that the state of affairs might have been indirectly influenced by C. As C. was a lawyer and had a university degree, D. had assumed that the question of disclosing the full names was clear and pointed out that neither during the short interview nor after it, nor at any time before the publication of the article, did C. present any objections in that respect. As C. was a public official, in D.'s opinion he had to accept a higher degree of interference with his personal integrity. In D.'s view it was common for the daily to write about public officials and their children and to disclose their full names without receiving any complaints.

20. On 2 February 2005 a District Court (*Okresný súd*) in the given district allowed the action by ordering an apology and a payment of 100,000 Slovak korunas (SKK) in damages. Converted at the rate applicable on that day, this amount is equivalent to some 2,600 euros (EUR). The applicant company was also ordered to pay costs. The remainder of the claim for damages was dismissed.

21. The District Court acknowledged that C. was a public official and that as such he had to accept a higher degree of interference with his privacy. However, the accident had no link to his public functions and was therefore exempted from that rule.

The crux of the case was precisely the giving away of the full names of the plaintiff and his son, which was reflected in the language of the apology to be published by the applicant company, as ordered by the District Court.

As regards the extent of the wrongful interference with the claimant's personal integrity, the District Court observed that the article related to a great tragedy in the claimant's family, that it had been published around the time when the family had begun dealing with their grief; and that following the appearance of the article acquaintances of C. who had not known about the tragedy had started contacting the claimant with condolences, which had reopened the wound.

22. The applicant company appealed (*odvolanie*), arguing, *inter alia*, that the District Court had taken no position as to its claim that B. too had become a public figure by the mere fact of being a victim of a crime and that the District Court had focused solely on one side of the affair – the protection of the claimant's personal integrity – completely ignoring the other side – the applicant company's right to freedom of expression. The press could not be denied the right to report on criminal proceedings and it could not be ruled out that, in the specific circumstances of the present case, the delays in the criminal proceedings discussed in the impugned article had something to do with the position of the claimant. In addition, it should have been taken into account that, as he was a Chief District Prosecutor, the claimant's name was publicly accessible on the official Internet page of the PPS (see paragraph 10 above).

The applicant company supported its line of argument with detailed references to the Court's case-law.

23. On 17 January 2007 a Regional Court (*Krajský súd*) in the given region determined the appeal by upholding the District Court's judgment in respect of the order for an apology. At the same time, it overturned the contested judgment in respect of the order for the payment of damages.

24. The Regional Court concurred with the District Court's conclusions as to the pivotal point of the case, that is to say the question of interference with the claimant's personal integrity. It took as established that the aim of the article had been to point out a violation of the human rights of A.

However, the description of the circumstances of the accident and the disclosure of the full names of the claimant and his late son without the former's authorisation, together constituted an unlawful interference with the claimant's personal integrity.

The Regional Court also held that, although not relevant to the question of the lawfulness of the interference with the claimant's personal integrity as such, his public function had to be taken into account in connection with the scope of the relief to be granted.

Bearing this in mind, the Regional Court found that an order for an apology was sufficient and there was no call for payment of damages.

E. Final decision on apology

25. While the ruling on damages was contested in a separate procedure described below, the ruling on an apology became final and binding.

26. Nevertheless, on 10 May 2007 the applicant company challenged it by way of a complaint to the Constitutional Court (*Ústavný súd*) under Article 127 of the Constitution. In it, the applicant company cited, *inter alia*, Articles 6 and 10 of the Convention, and reiterated and developed its previous arguments, focusing on the contention that the courts' conclusions as to the interference with the claimant's personal integrity had been made without taking into account any considerations of proportionality, that these conclusions had not therefore been based on an acceptable assessment of the relevant facts, and that the applicant company's arguments in that respect had been completely ignored.

27. The disclosure of the names of B. and C. could not in itself be considered as concerning their personal lives, all the more so as they had been affected by actions that were investigated as a criminal offence, and that in the proceedings concerning that offence there had been a suspicion of a violation of another individual's fundamental rights.

In that respect, connections and solidarity among the prosecuting authorities were not to be underestimated. It was therefore necessary, in the given circumstances, and in the interest of providing complete and objective information, to disclose the names of B. and C.

28. It was not relevant whether C. had in fact interfered with the prosecuting authorities. The press, as a public watchdog, had the right to express publicly doubts as to the impartial exercise of public power and to report on matters giving rise to such doubts.

29. The procedural conduct of C. in the context of his libel action suggested that if his and B.'s full names had not been disclosed no action in libel would have been brought. C.'s name was in the public domain in any case (see paragraph 10 above).

30. On 18 September 2008 the Constitutional Court declared the complaint inadmissible. It found no constitutionally relevant arbitrariness, unlawfulness, deficiency or irregularity in the courts' reasoning, and reiterated its established case-law, pursuant to which a general court could not bear "secondary liability" for a violation of fundamental rights and freedoms of a substantive nature, unless there had been a violation of procedural rules. As no violation of any procedural rule had been established, there could not have been a violation of any substantive right either.

The decision was served on the applicant company on 15 October 2008.

F. Further examination of the claim for damages

31. On 26 September 2007, following an appeal on points of law (*dovolanie*) by C., the Supreme Court (*Najvyšší súd*) quashed the Regional Court's ruling of 17 January 2007 concerning damages (see paragraph 23 above), on the ground that the Regional Court had failed to support it with adequate reasoning.

32. The applicant company's appeal against the ruling on damages thus fell to be determined by the Regional Court once again.

33. On 19 May 2008 the Regional Court ruled on the claim for damages anew, upholding the District Court's order (see paragraph 20 above).

It considered the amount of the damages appropriate, noting that the article concerned a great tragedy in the claimant's family, the fact that by disclosing the full names of B. and C. the article had allowed for total identification of the claimant, and the fact that the paper was one of the most widely read papers in Slovakia. Without providing any details, the Regional Court also took into account the consequences of the article.

34. The applicant company challenged the judgment of 19 May 2008 by way of an appeal on points of law of its own. It argued that the Regional Court had failed adequately to address a great part of the applicant company's relevant arguments. In particular, the Regional Court had failed to take into account that the published information was true, that the applicant company's *bona fides* had not been disputed, that there was no suggestion that C. had been involved in any wrongdoing, that the published information concerned a matter of public interest, and that the amount of the awarded damages was as high as one-third of the maximum amount of indemnity payable by the State to victims of violent criminal offences under the relevant legislation. In other words, the Regional Court had completely failed to weigh the rights and justified interests of the applicant company in exercising its freedom of expression against the rights and interests of the claimant in having his privacy protected. Furthermore, the Regional Court's conclusions lacked an evidence basis.

The applicant company argued that as a result it had been "prevented from acting before the court", which constituted an admissibility ground for its appeal under Article 237 (f) of the Code of Civil Procedure (Law no. 99/1963 Coll., as amended).

35. On 24 February 2009 the Supreme Court declared the appeal inadmissible, observing that such an appeal was an extraordinary remedy against rulings that – after the exhaustion of an ordinary appeal – had become final and binding. The applicant company's right to have the contested ruling properly reasoned had thus to be weighed against the general interest in legal certainty. From that perspective, and considering the Regional Court's judgment as a whole, there was nothing to suggest that the

applicant company had in fact been prevented from acting before the court in terms of the admissibility ground concerned.

No further appeal was available.

G. Final decision on damages

36. Meanwhile, and in parallel to its above-mentioned appeal on points of law, the applicant company had also lodged another constitutional complaint. It relied again, *inter alia*, on Articles 6 and 10 of the Convention and challenged the ruling on the damages, as contained in the judgments of 2 February 2005 and 19 May 2008 (see paragraphs 20, 21 and 33 above). It reiterated its previous arguments, and contended that none of the courts involved had given an adequate answer to them.

37. On 9 April 2009 the Constitutional Court declared the complaint inadmissible. It observed that on the present complaint it could only examine the rulings and the reasons behind them as far as the damages were concerned. From that perspective the judgments of 2 February 2005 and 19 May 2008 had to be taken together and, as such, displayed no constitutionally relevant deficiency.

II. RELEVANT DOMESTIC LAW AND PRACTICE

38. The relevant domestic law has been summarised in, for example, *Ringier Axel Springer Slovakia, a.s. v. Slovakia* (no. 41262/05, §§ 53 et seq., 26 July 2011), and *Ringier Axel Springer Slovakia, a.s. v. Slovakia* ((dec.), no. 35090/07, 4 October 2011).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

39. The applicant company complained that the outcome of the proceedings in the libel action by C. had been contrary to its rights under 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. This Article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are

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

A. Admissibility

40. 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.

B. Merits

1. Arguments of the parties

41. The applicant company contended that the outcome of the proceedings in the libel action against it had been arbitrary, disproportionate and based on a one-sided assessment of the facts, focusing exclusively on the protection of the privacy of the claimant and completely disrespecting its right to freedom of expression.

42. In reply, the Government recapitulated on the domestic proceedings, referred to the conclusions of the domestic courts, and quoted their judgments.

43. In particular, the Government emphasised that the impugned article had no connection with the claimant's official capacity, but purely concerned the private and indeed personal sphere of his life and those of his relatives. No special standard of broader scope of acceptable interference therefore applied. The events reported on concerned a tragic accident and they were reported on two months after the accident in one of the most widely read papers in the country, with a detailed description and disclosure of the full names of both B. and C., without the latter's consent.

In the Government's submission, the applicant company had failed to establish that it was necessary to publish the full names of B. and C. and to dwell on the details of the tragedy. In their view, this could have been avoided without impairing the treatment of the topic.

The Government were of the view that, therefore, the impugned article was an instance of scandal-oriented journalism contrary to the standard of "duties and responsibilities" of Article 10.

In closing, the Government also submitted that the amount of damages awarded was adequate and common in the given circumstances.

44. The applicant company rejoined contending that the domestic courts had failed carefully to assess the presence and relevance of any public

interest in having the contested information published. Despite the applicant company's detailed argumentation on this point at the national level, they had completely omitted to examine whether the disclosure of the identity of B. and C. had contributed to any public debate.

The applicant company emphasised that the impugned article contained no critique and no photographs. It further contended that it contained no information on the private lives of those involved other than information concerning the accident, which was being investigated as a criminal offence committed against B., and in the investigation of which there was a suspicion of a violation of the fundamental rights of A.

In the applicant company's submission, the full names of B. and C. did not constitute personal information and, as explained at the domestic level, they were both public personalities in the given context. All these and many other substantive arguments had been completely ignored by the domestic courts.

Finally, in the applicant company's view, there had been no reason not to publish the full names of B. and C., and it should not be overlooked that the investigation of the accident had been within the jurisdiction of the PPS and courts in the district where C. was the Chief District Prosecutor.

2. The Court's assessment

(a) Interference, legality and legitimate aim

45. The Court finds, and it has not been disputed between the parties, that the outcome of the proceedings in the action by C. against the applicant company for the protection of his personal integrity constituted an interference with the applicant company's right to freedom of expression as guaranteed by Article 10 § 1 of the Convention.

46. Furthermore, the Court finds, and it has likewise not been disputed by the parties, that the interference complained of was prescribed by law, namely Articles 11 et seq. of the Civil Code, and that it pursued the legitimate aim of protecting the reputation and rights of others.

Thus the only point in issue is whether the interference was "necessary" in a "democratic society".

(b) Necessity

(i) General principles

47. The Court notes that the present case raises specific issues of press freedom similar to those dealt with in previous cases, namely the duties and responsibilities of the press when publishing allegations about third parties.

48. The Court's established case-law on the matter (see *Ringier Axel Springer Slovakia, a.s.* (no. 41262/05), cited above, §§ 94-100, with further references) may be summarised as follows:

- The freedom of expression constitutes one of the essential foundations of a democratic society and the safeguards to be afforded to the press are of particular importance. Whilst the press must not overstep the bounds set, *inter alia*, in the interest of "the protection of the reputation or rights of others", it is nevertheless incumbent on it to impart information and ideas of public interest. Not only does the press have the task of imparting such information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of "public watchdog".

- The right to 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 the State or any section of the community. In addition, journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation.

- There is a distinction between statements of fact and value judgments. While the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof.

- Article 10 of the Convention however does not guarantee a wholly unrestricted freedom of expression even with respect to press coverage of matters of serious public concern. Under the terms of paragraph 2 of the Article the exercise of this freedom carries with it "duties and responsibilities", which also apply to the press. By reason of the "duties and responsibilities" inherent in the exercise of the freedom of expression, the safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism. Furthermore, special grounds are 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 defamation in question and the extent to which the media can reasonably regard their sources as reliable with respect to the allegations.

- The test of "necessity in a democratic society" requires the Court to determine whether the interference complained of corresponded to a "pressing social need". In assessing whether such a "need" exists and what measures should be adopted to deal with it, the national authorities are left a certain margin of appreciation. This power of appreciation is not, however, unlimited but goes hand in hand with a European supervision by

the Court, whose task it is to give a final ruling on whether a restriction is reconcilable with freedom of expression as protected by Article 10.

- 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 10 the decisions they have taken 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 or in good faith; what the Court has to do is to look at the interference complained of in the light of the case as a whole. In particular, the Court must determine whether the reasons adduced by the national authorities to justify the interference were relevant and sufficient and whether the measure taken was proportionate to the legitimate aims pursued. In doing so, the Court has to satisfy itself that the national authorities, basing themselves on an acceptable assessment of the relevant facts, applied standards which were in conformity with the principles embodied in Article 10. The Court must also ascertain whether the domestic authorities struck a fair balance between the protection of freedom of expression as enshrined in Article 10 and the protection of the reputation of those against whom allegations have been made, a right which, as an aspect of private life, is protected by Article 8 of the Convention.

(ii) Application of the general principles in the present case

49. On the facts of this case, the Court observes that the applicant company published an article bearing on the traffic accident which had claimed the life of B. and on the circumstances of the ensuing investigation and pre-trial detention of A., suggesting that in the course of it the latter's fundamental rights might have been breached. The article identified B. and C. with their full names, citing, *inter alia,* a short statement by C. and indicating that he was the Chief District Prosecutor.

50. C. then sued the applicant company for libel and, as can be seen from his submissions in the domestic proceedings, as well as from the domestic courts' conclusions, it has been precisely the disclosure of the full names of B. and C. which lay at the heart of his claim and of the courts' rulings ordering an apology and payment of damages by the applicant company.

51. The Court notes that the conclusions of the domestic courts stemmed specifically from the facts that the accident constituted a tragedy for the family of C., and that the disclosure of his and his late son's identity without the former's consent and in parallel with a description of the accident had revived the family's suffering.

52. Conversely, the Court observes that the domestic courts do not appear to have taken full judicial notice of the context and overall content of the impugned article, that is to say not only the part of it which concerned

the circumstances of the accident but, and arguably more importantly, the circumstances of the ensuing investigation and detention of A.

53. The Court notes specifically that the applicant company's detailed factual and legal argumentation was summarily dismissed by the Constitutional Court in its decision of 18 September 2008 on the ground that a general court could not be held liable for a violation of fundamental rights and freedoms of a substantive nature unless there had been a violation of procedural rules (see paragraph 30 above) and by the Supreme Court in its decision of 24 February 2009 on the ground that the applicant company's right to have the contested rulings properly reasoned was superseded by the general interest in legal certainty (see paragraph 35 above). No attention appears to have been given by the domestic courts to the presence or absence of good faith on the part of the applicant company, the aim pursued by it in publishing the article or the public interest at stake in correlation with the status of B. and C. and the necessity of disclosing their identity.

54. Therefore, the Court is of the view that by failing to examine the elements of the case necessary for the assessment of the applicant company's compliance with its "duties and responsibilities" under Article 10 of the Convention, the domestic courts cannot be said to have "applied standards which were in conformity with the principles embodied in [that provision]" or to have "based themselves on an acceptable assessment of the relevant facts" (see *Kommersant Moldovy v. Moldova*, no. 41827/02, § 38, 9 January 2007).

55. The foregoing considerations are sufficient to enable the Court to conclude that the legal protection received by the applicant company at the domestic level was not compatible with the requirements of Article 10 of the Convention. There has accordingly been a violation of that provision.

II. OTHER ALLEGED VIOLATION OF THE CONVENTION

56. The applicant company also complained under Article 6 § 1 of the Convention that the domestic courts had failed to support their judgments by adequate reasoning.

57. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence and may raise any issues other than those already addressed under Article 10 of the Convention, the Court finds that they do not disclose any appearance of a violation of the applicant company's rights under the provision cited.

It follows that the remainder of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. Article 41 of the Convention provides:

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

A. Damage

59. The applicant company claimed EUR 6,191.76 in compensation for the damages and court costs that it had paid to C. under the contested judgments.

The applicant company also claimed EUR 10,000 in compensation for non-pecuniary damage.

60. The Government submitted no specific comment on the former claim and contested the latter as excessive.

61. The Court considers that the claim for compensation in respect of the damages paid and costs reimbursed under the contested judgments falls to be examined under the heading of pecuniary damage. Being satisfied that there was a causal link between the pecuniary damage claimed and the violation of the Convention found (see, for example, *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, §§ 75-7, ECHR 1999 III), it awards the applicant company totality of the sum sought under this head, that is EUR 6,191.76, plus any tax that may be chargeable.

62. At the same time, ruling on an equitable basis, the Court awards the applicant company EUR 5,850, plus any tax that may be chargeable, in respect of non-pecuniary damage.

B. Costs and expenses

63. The applicant company also claimed EUR 1,795.44 for legal fees at the national level and before the Court, as well as EUR 4,265.64 for court fees incurred before the domestic courts, and enforcement fees and interest for late payment of costs it had been ordered to reimburse to C.

In support of the former claim, the applicant company submitted a declaration by its lawyer that the legal service at the domestic level and before the Court had actually been provided and paid for.

As for the amount of the claim in respect of the legal fees, it had been calculated on the basis of the number of "acts of legal assistance" rendered and reward for every such "act" established under the calculation formula applicable at the national level.

The latter claim has been supported by respective court and enforcement orders as well as bank money transfer statements.

64. The Government submitted that no costs and expenses should be compensated for in so far as they were incurred in the proceedings before the ordinary courts. As regards the legal fees incurred before the Constitutional Court and the Court, they pointed out that the applicant company had submitted no evidence showing that it was under an obligation to pay these fees or that it had actually paid them.

65. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum (see, for example, *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI).

66. Regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 2,000 covering costs under all heads.

C. Default interest

67. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the 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;

3. *Holds*

(a) that the respondent State is to pay the applicant company, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:

(i) EUR 6,191.76 (six thousand one hundred and nighty-one euros and seventy-six cents), plus any tax that may be chargeable, in respect of pecuniary damage;

(ii) EUR 5,850 (five thousand eight hundred and fifty euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(iii) EUR 2,000 (two thousand euros), plus any tax that may be chargeable to the applicant company, in respect of costs and expenses;

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

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

Done in English, and notified in writing on 7 January 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli
Deputy Registrar

Alvina Gyulumyan
President