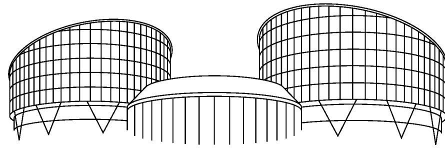

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF ERLA HLYNSDOTTIR v. ICELAND (No. 2)

(Application no. 54125/10)

JUDGMENT

STRASBOURG

21 October 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.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Erla Hlynsdottir v. Iceland (no. 2),

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

Guido Raimondi, *President,*
Işıl Karakaş,
András Sajó,
Nebojša Vučinić,
Egidijus Kūris,
Robert Spano,
Jon Fridrik Kjølbro, *judges,*
and Abel Campos, *Deputy Section Registrar,*

Having deliberated in private on 30 September 2014,

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

PROCEDURE

1. The case originated in an application (no. 54125/10) against the Republic of Iceland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Icelandic national, Ms Erla Hlynsdóttir (“the applicant”), on 17 August 2010.

2. The applicant was represented by Mr Gunnar Ingi Jóhannsson, a lawyer practising in Reykjavik. The Icelandic Government (“the Government”) were represented by their Agent, Ms Ragnhildur Hjaltadóttir, Permanent Secretary of the Ministry of the Interior.

3. The applicant complained, under Article 10 of the Convention, that the Icelandic Supreme Court’s judgment of 18 February 2010 had entailed an interference with her right to freedom of expression that was not “necessary in a democratic society”.

4. On 6 September 2012 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant is an Icelandic national who was born in 1978 and lives in Reykjavik. She is a journalist, working for the newspaper *DV*. In its weekend issue of 31 August to 2 September 2007, *DV* published an article

about a high-profile criminal case which was being investigated at the time, involving Mr Y and his wife, Mrs X. Mr Y was the director of a Christian rehabilitation centre called *Byrgið* (the Shelter), which he had founded in 1996 to help people dealing with drug, alcohol and gambling addictions. Accusations against Mr Y surfaced in December 2006 when a television news programme broadcast a story in which he was accused of sexually abusing several female patients at *Byrgið* and embezzling public funds which had been granted to it. Documents, including sexually explicit video recordings, appearing to substantiate the allegations against Mr Y, were shown on the television programme. After the programme had been aired, three women filed complaints with the police against Mr Y for sexual abuse while they had been patients at *Byrgið*. Mr Y and his wife were both suspects in the criminal investigation.

6. The article published in *DV* contained interviews and comments made by Ms A, one of the women who had pressed charges against Mr Y, and Mr B, the financial manager at *Byrgið* and a close friend of Mr Y and Mrs X. The article was entitled "Satan's attacks" and included, among other things, Ms A's description of how Mrs X had been active in the so-called sex games organised by Mr Y, in which female patients at *Byrgið* had been manipulated and convinced to participate as they had been told that it was part of their healing process. According to Ms A, Mrs X had helped to seduce the women and had even sought sexual encounters with them by herself, without her husband. Ms A criticised the fact that Mrs X was at the time working as a teaching assistant in a school, stating "I am not a psychologist or a psychiatrist but this person is crazy. I cannot see that she has anything to offer as a teaching assistant or in any kind of relief work. I do not know what she is doing in this school. In the light of [Mr Y's] fantasies about primary school girls, I don't think it is appropriate that the one who hunts for him works in a primary school."

7. Mr B also stated that both Mr Y and Mrs X had sexually abused several patients of *Byrgið* and that he found it strange, considering Mrs X's position, that she was allowed to work with children.

8. The article also referred to comments made by the lawyer of Mrs X and Mr Y, who said that the accusations against the couple were absurd. He also said that it was very common that people had the legal status of suspect during an investigation, without later being indicted, so it was not fair to implicate Mrs X in any criminal activity. Moreover, neither of the two had broken the law and he did not think that an indictment would be issued in the case.

9. The article also contained comments made by an officer of the police department dealing with the investigation. He confirmed that Mrs X had the legal status of a suspect during the investigation.

10. On 28 February 2008 Mrs X instituted defamation proceedings against Ms A, Mr B and the applicant before the Reykjavik District Court.

In her writ, in which she made the judicial claims set out below, she argued that the following statements published by *DV* amounted to libel, in breach of Articles 234, 235 and 236 of the Penal Code, and requested that they be declared null and void (*dauð og ómerk*) under Article 241 (1):

Judicial claim no. 1 [statements made and published by the applicant and (allegedly) Ms A]

a. "[Ms A] ... claims to have had sex with the couple."

b. "[Ms A] ... says that [Mrs X] participated in sexual activities with her and [Mr Y]."

c. "[Ms A] says that [Mrs X] was active in her and [Mr Y's] sexual games at first but later on [Mrs X] became very jealous and [Mr Y] no longer wanted her to participate."

d. "She participated in our first times together."

e. "Then she started calling me and sending me messages stating that she wanted to meet me alone."

f. "[Ms A] says that [Mrs X] sought to have sexual encounters with her in private."

g. "He lied to her, too ..."

h. "He also said that he was divorcing his wife."

i. "... this person is crazy. I cannot see that she has anything to offer as a teaching assistant or in any kind of relief work. I do not know what she is doing in this school ... not appropriate that the one who hunts for him works in a primary school."

j. "... had spread ugly stories about her. 'His wife did it too. They would even come up with new stories every day.'"

Judicial claim no. 2 [statements made and published by Mr B and the applicant]

k. "They were being trained to be masters in lesbian sex. According to [Mr B] his wife participated in it."

l. "According to [Mr B] ... she was fully aware of [Mr Y´s] abuse of the patients and she sometimes participated in the sexual games."

m. "They both used tools and devices on them."

n. "[Mr B] finds it odd that a woman in this position is working with children."

11. Mrs X requested that the applicant, Ms A and Mr B be punished. In addition she sought 3,000,000 Icelandic *krónur* (ISK) (corresponding approximately to 30,365 euros (EUR) at the time) plus interest in compensation for damages, an order under Article 241 (2) to pay her ISK 800,000 to cover the costs of publication in the press of the court's reasons and conclusion in the defamation case, plus legal costs.

12. Mrs X argued that the responsibility for the statements lay with Ms A and Mr B, as they had appeared by name as the interviewees, and also with the applicant as the author of the article.

13. In her pleadings before the District Court, the applicant invoked the freedom of expression guaranteed under Article 73 of the Icelandic Constitution. She further relied on section 15 of the Printing Act no. 57/1956, under which the author of a statement was responsible for the publication of its content. The article had indicated the identity of the authors of the disputed statements, which had been quoted directly from Ms A and Mr B. The applicant could therefore not be held responsible as the author of the statements.

14. The applicant further argued that the statements were true and accurate and that she should therefore be acquitted. Mrs X had been a suspect in a criminal investigation of sexual offences. Moreover, Mrs X had failed to substantiate her allegation that the applicant, who still believed the statements to be true, had intentionally acted in breach of the said provisions of the Penal Code.

15. In her written pleadings before the District Court, Ms A denied having made the statements which had been attributed to her. However, when giving oral evidence before that court she stated that she did remember having had a conversation with a journalist from the newspaper *DV* about the *Byrgið* case, but that she could not remember what she had said.

16. By a judgment of 4 December 2008 the District Court found that one statement, which had been attributed to Ms A (see item *i.* above), was defamatory but that it had not been proved that it originated verbatim from her. It therefore ordered only the applicant to pay Mrs X ISK 100,000 (approximately EUR 550 euros) in compensation for non-pecuniary damage. It also declared the statement null and void, but rejected all the other claims.

17. Mrs X and the applicant both appealed against the District Court's judgment to the Supreme Court. In her written submissions to the Supreme Court Ms A argued that she should not be held liable on the ground, among others, that the applicant had not rendered her statements correctly in the article.

18. By a judgment of 18 February 2010 the Supreme Court upheld the decision of the District Court concerning Ms A and Mr B. It also upheld the District Court's finding concerning the applicant's liability, but only in respect of the latter part of the statement ("... not appropriate that the one who hunts for him works in a primary school."). It ordered the applicant to pay Mrs X ISK 300,000 (approximately EUR 1,650) in compensation for non-pecuniary damage and ISK 100,000 for the costs of publishing the judgment, plus interest. Its judgment contained the following reasons:

> "As stated above, the investigation, which gave rise to the statements that are being disputed in this case, ended with the Supreme Court judgment in case no. 334/2008. In that judgment, the conviction of [Mr Y] was based on, among other things, testimonies of witnesses who also testified that [Mrs X] had taken part in sexual

activities with him and the female residents at the treatment centre, in a manner similar to the one that is described in the comments that were quoted from [Mr B] in items k. to m. It follows that it must be considered that those statements have been substantiated and their annulment will therefore not be raised under Article 241, cf. Article 235 of the Penal Code. Moreover, the statement in item n. in [Mrs X′s] claim for annulment contains a value judgment which does not violate the above-mentioned provisions of chapter XXV of the Penal Code. In accordance with the aforementioned, [Mrs X′s] claim for the annulment of those statements, which are quoted from [Mr B] and specified in items k. to n., is rejected.

In her testimony before the District Court, [the applicant] stated that when preparing the article she had had a telephone conversation with [Ms A]. The telephone call had been recorded but the recording had not been preserved. She claimed that the comments attributed to [Ms A] in the article had been correctly quoted. [Ms A] testified before the District Court that she vaguely remembered a conversation with a journalist from *DV*, discussing 'just something about the *Byrgið* case'. However, she did not acknowledge having said what was referred to in items a. to j., but she was asked about each statement. When considering that the statements, which are quoted from [Ms A] in items a., b., c., d. and h., are, according to the District Court′s premises in the aforementioned criminal case, in substance largely in line with her testimony before the police shortly before the article appeared, and that the defendant acknowledged having discussed the *Byrgið* case with a journalist from *DV*, but could not state what she thought she had said to the journalist about the case, it must be considered proved that the statements in these items are attributable to her. The statements in items e., f., g., i. and j. are, on the other hand, not in line with the testimonies given by [Ms A] during the investigation of the case against [Mr Y]. It is therefore not possible to consider that [the applicant] has been able to prove that those statements were quoted from [Ms A].

By the Supreme Court judgment in case no. 334/2008, [Mr Y] was convicted, among other things, of having had sexual relations with [Ms A] while she was a patient at *Byrgið*. However, the testimony given by [Ms A] about [Mrs X′s] participation in their sexual activities did not form the basis for that conviction. Regardless of whether it has been successfully proven that the statements in items a. to d. in respect of this subject are true, it must be considered that the above-mentioned statements quoted from [Mr B], which discussed in general terms [Mrs X′s] involvement in sexual activities with her husband and the female patients of *Byrgið*, were considered proved. In this connection it cannot be found that those statements, which were quoted from [Ms A], were likely to further damage [Mrs X′s] honour. There are therefore no grounds to annul them under Article 241, cf. Article 235 of the Penal Code.

The content of the statements in items e., f., g., h. and j. do not fall within the scope of Article 234 or 235 of the Penal Code and [Mrs X′s] claim for their annulment is therefore rejected. The statement in item i. is twofold. The first part, which states '... this person is crazy. I cannot see that she has anything to offer as a teaching assistant or in any kind of relief work. I do not know what she is doing in this school...', entails a value judgment which does not violate the above-mentioned provisions of chapter XXV of the Penal Code and it will therefore not be annulled. The latter part of the statement in item i., which states the following: '... not appropriate that the one who hunts for him works in a primary school' is a different matter. These words indicated that [Mrs X] was guilty of criminal conduct, which has by no means been proven to be true. [Mrs X′s] claim for annulment is therefore accepted, with reference to Article 241, cf. Article 235 of the Penal Code.

As is stated above it has not been proved that the aforementioned statement in item i. was correctly quoted from [Ms A]. [The applicant] was adequately identified as the author of the article and is therefore liable for its content, under section 15 (1) of Act no. 57/1956. The statement contained a coarse insinuation against [Mrs X] about a criminal act. The statement appeared in a conspicuous manner in a widely-read newspaper and was likely to affect the dignity and professional reputation of [Mrs X]. On the other hand, the effects which the aforementioned criminal case and the discussion about it must already have had in that respect cannot be overlooked. In the light of all this, [Mrs X] is awarded ISK 300,000 in non-pecuniary damages.

[The applicant] shall, with reference to Article 241 (2) of the Penal Code, be ordered to cover the costs of the publication of the judgment. [Mrs X] has not supported her claim for payment of costs with any data. A reasonable amount for the costs is decided to be ISK 100,000."

II. RELEVANT DOMESTIC LAW

19. Article 71 of the Constitution of the Republic of Iceland, Act No. 33/1944, reads as follows:

"Everyone shall enjoy freedom from interference with privacy, home, and family life.

Bodily or personal search or a search of a person´s premises or possessions may only be conducted in accordance with a judicial decision or a statutory law provision. This shall also apply to the examination of documents and mail, communications by telephone and other means, and to any other comparable interference with a person´s right to privacy."

20. Article 73 of the Constitution reads:

Article 73

"Everyone has the right to freedom of opinion and belief.

Everyone shall be free to express his thoughts, but shall also be liable to answer for them in court. The law may never provide for censorship or other similar limitations to freedom of expression.

Freedom of expression may only be restricted by law in the interests of public order or the security of the State, for the protection of health or morals, or for the protection of the rights or reputation of others, if such restrictions are deemed necessary and in agreement with democratic traditions."

21. Chapter XXV of Penal Code No. 19/1940 entitled "Defamation of character and violations of privacy", contained the following relevant provisions:

Article 234

"Any person who harms the reputation of another person by an insult in words or in deed, and any person spreading such insults shall be subject to fines or to imprisonment of up to one year."

Article 235

"If a person makes allegations against another person that might be harmful to his or her honour or spreads such allegations, he shall be subject to fines or to imprisonment of up to one year."

Article 236

"An injurious insinuation made or spread against a person´s better knowledge shall be punishable by imprisonment of up to two years.

An insinuation published or spread in a public manner, even where the person spreading the allegation did not have a probable reason to believe it to be correct, shall be punishable by fines or up to two years' imprisonment."

Article 241

"In a libel action, defamatory remarks may be declared null and void at the request of the injured party.

A person who is found guilty of a defamatory allegation may be ordered to pay the injured person, on the latter's request, a reasonable amount to cover the cost of the publication of a judgment, its main contents or reasoning, as circumstances may warrant in one or more public newspapers or publications."

22. Section 26(1) of the Tort Liability Act No. 50/1993 provided:

"A person who

a. deliberately or through gross negligence causes physical injury or

b. is responsible for causing unlawful harm to the freedom, peace, honour or reputation of another party

may be ordered to pay non-pecuniary damages to the injured party."

23. Section 15 of the Printing Act No. 57/1956 provided:

Section 15

"As regards liability for newspapers or magazines other than those listed in section 14, the following rules shall apply:

The author is subject to criminal liability and liability for damages if he or she is identified and either resident in Iceland when the publication is published or within Icelandic jurisdiction at the time proceedings are initiated.

If no such author is identified, the publisher or editor is liable, thereafter the party selling or distributing the publication, and finally the party responsible for its printing or lettering."

24. The Code of Ethics of the Icelandic Journalists Association includes the following provisions:

Article 1

"A journalist shall endeavour to do nothing that will discredit his or her profession or professional association, paper or newsroom. A journalist shall avoid any actions that could undermine the public opinion of journalists' work or damage the interests of the profession. A journalist shall always exhibit fairness in dealings with colleagues."

Article 2

"A journalist shall be aware of his or her personal responsibility for what he or she writes. He or she shall bear in mind that he or she will generally be regarded as a journalist in his or her writings and speech, even when he or she is acting outside his or her profession. A journalist shall respect the confidentiality of his or her sources."

Article 3

"A journalist shall exercise care in the gathering of material, the use of the material and its presentation to the extent possible, and show due consideration in sensitive matters. A journalist shall avoid any actions which could cause unnecessary distress or dishonour."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

25. The applicant complained that the Icelandic Supreme Court's judgment of 18 February 2010 had entailed an interference with her right to freedom of expression that was not "necessary in a democratic society" and thus violated Article 10 of the Convention, which reads:

"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."

26. The Government contested that argument.

A. Admissibility

27. 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

28. The Court considers that the impugned measure constituted an "interference by [a] public authority" with the applicant's right to freedom of expression as guaranteed under the first paragraph of Article 10.

29. That interference had a legal basis in Articles 235 and 241 (1) of the Penal Code, section 15 (2) of the Printing Act and section 26 (1) of the Tort Liability Act, and was thus "prescribed by law" for the purposes of the second paragraph of Article 10.

30. The Court is further satisfied that the interference pursued the legitimate aim of protecting "the reputation or rights of others".

31. It remains to be considered whether the interference was "necessary in a democratic society".

1. Arguments of the parties

(a) The applicant

32. Firstly, the applicant disputed the Supreme Court's finding that as a journalist she should be held responsible for the opinion of the person she had interviewed. The interviewee, Ms A, was a former patient at *Byrgið* and a victim of the sexual offences committed by Mr Y. She had described to the newspaper how Mrs X had been involved in her husband's abuse of the institute's "protégées". Mrs X had not been indicted but it had been established in the criminal case that she had participated in some of the acts committed by her husband.

33. The applicant further disputed the view that the impugned remark could be interpreted as insinuating that Mrs X was guilty of criminal conduct. In the applicant's view, the Supreme Court judgment lacked reasoning on why the remark was considered defamatory and why the interference was considered necessary in a democratic society. It had not mentioned the kind of criminal conduct the said remark referred to. The applicant argued that the remark was merely a value judgment, reflecting Ms A's opinion about the presence of Mrs X in a primary school.

34. The applicant noted that it had been established that Mrs X had attempted to seduce Ms A for sexual encounters with Mr Y, while she had still been a patient at *Byrgið* and had only been 18 or 19 years of age. She referred to the other remarks in the interview, which the courts had refused to declare null and void on the ground that they had been considered to be true, and in which Ms A had described to the applicant how Mrs X had been active in the so-called "sex games" between Mr Y and patients at *Byrgið* and how Mrs X had frequently called and sent messages to Ms A to seduce her for Mr Y and herself. The applicant noted that the Supreme Court had considered it proven that those remarks had stemmed from Ms A, in particular as they corresponded to the testimony she had previously given

during the criminal investigation. Ms A had therefore had every right, in the applicant's view, to express her opinion that it was inappropriate that Mrs X, who had "hunted" for Mr Y, should work in a primary school.

35. Mr B, who had been an employee at *Byrgið* and a close friend of Mrs X and Mr Y, had made a very similar remark to the applicant, namely that he found it strange that a woman in Mrs X´s position was allowed to work with children. The applicant noted that the Supreme Court had considered that comment to be a value judgment. Consequently, and given that the other thirteen remarks, all of which concerned Mrs X's disgraceful, dishonourable and even illegal activities, were not declared null and void, the applicant strongly disputed that the impugned remark could have damaged Mrs X's honour and reputation.

36. Moreover, the applicant disagreed that the restriction imposed on her as a journalist and as an individual had been necessary in a democratic society. She argued that Mrs X had had no important interests in the case which had needed to be protected in this manner. The newspaper coverage of the criminal case, including the impugned remark, had been dealing with a matter of serious public concern. This had been a high-profile criminal case in Iceland and even though Mr Y, who was a well-known public figure, had been the main actor, Ms A had found it necessary to reveal Mrs X's part as well.

37. Referring to *Jersild v. Denmark* (23 September 1994, Series A no. 298); Observer *and* Guardian *v. the United Kingdom* (26 November 1991, Series A no. 216); and Bergens Tidende *and Others v. Norway* (no. 26132/95, ECHR 2000-IV), the applicant pointed out that it was the well-established case-law of the Court that news reporting based on interviews, edited or not, constituted one of the most important means whereby the press was able to play its vital role of "public watchdog". To punish a journalist for assisting in the dissemination of statements made by another person in an interview seriously hampered the contribution of the press to matters of public interest. In the applicant's opinion, this was applicable in the present case. The case against Mr Y had begun in the media when evidence had been portrayed of how he had abused his "protégés" and used public funds for personal purposes. The interview in *DV* containing the impugned remark had been a part of that media coverage and the discussion of the same story, which had been found to be true and accurate, had continued.

38. The judgments in the present case therefore seriously hampered journalistic freedom and threatened freedom of expression in Iceland. When reporting on cases such as the present one, there had to be room to express views like the one for which the applicant had been convicted. Moreover, the opinion was in accordance with the facts of the case, as noted above, as Mrs X had seduced women for her husband and had participated in sexual activities with him and their "protégées". Ms A had therefore made the fair

comment that Mrs X had "hunted" on behalf of her husband, which was not illegal in itself. Ms A had then merely remarked that she found it inappropriate, in the light of this, that Mrs X was working in a primary school. There were no grounds to consider the comment to be defamatory and the Supreme Court's conclusion therefore entailed a violation of Article 10 of the Convention.

39. In the course of the proceedings before the Court, the applicant further argued that the Supreme Court's conclusion had not been foreseeable. She referred to two previous judgments, of 25 November 1977 and 19 March 1993, in which the Supreme Court had found that journalists could not be held responsible for statements that had been quoted directly from their author, especially when published with the consent of the author, as in the present case.

40. Moreover, relying on *Perna v. Italy* ([GC] no. 48898/99, ECHR 2003-V; and *De Haes and Gijsels v. Belgium* (24 February 1997, *Reports of Judgments and Decisions* 1997-I), the applicant argued that given that the Supreme Court had found the vast majority of the interview, which had concerned a case of great public concern, to be true and accurate and to have a strong factual basis, it had been under a duty to safeguard the principles of freedom of expression by viewing the entire article as a whole and not punishing the applicant for defamation for a small fraction of the statements made.

41. The applicant disputed the Government's observation that the principles found, for instance, in *Prager and Oberschlick v. Austria* (26 April 1995, Series A no. 313), that the rights of the press extended to possible recourse to a degree of exaggeration or even provocation, were not relevant in the present case. She argued that Mrs X could expect to endure a more detailed discussion on that particular issue than would otherwise have been the case, and she should therefore not be entitled to the same level of protection as anyone else taking part in the discussion about the criminal case in which she had played such an important role. Moreover, the impugned statement could not be considered to contain an exaggeration, as it had been established in both the criminal case and the defamation case (see paragraph 18 above) that Mrs X had played an active role in seducing and abusing the female patients at *Byrgið.* In this respect, the applicant referred to *Scharsach and News Verlagsgesellschaft v. Austria* (no. 39394/98, ECHR 2003-XI), in which the Court had reiterated that the degree of precision for establishing the well-foundedness of a criminal charge by a competent court could hardly be compared to that which ought to be observed by a journalist when expressing his or her opinion on a matter of public concern, in particular when expressing it in the form of a value judgment.

42. Lastly, the applicant submitted that the sum she had been ordered to pay with interest had amounted to her salary for three months. It had

therefore not been particularly modest, especially as it had not included her legal expenses. In any event, as the Court had stated in *Jersild* (cited above), the limited nature of a fine was not relevant; what mattered was the fact that the journalist had been convicted.

(b) The Government

43. The Government emphasised at the outset that the Convention was incorporated into Icelandic law and that it was recognised Icelandic legal practice to interpret the provisions of the Icelandic Constitution in accordance with the provisions of the Convention as well as the case-law of the Court.

44. The Government pointed out that only one statement out of fourteen had been declared null and void by the District Court, and only a part of that statement had been declared null and void by the Supreme Court. The domestic courts had carefully assessed each of the fourteen statements on the basis of acknowledged criteria from the case-law of the Court. On the basis of that assessment almost all of Mrs X's claims had been rejected.

45. A clear distinction had been made between value judgments and statements of fact. Some of the statements regarding Mrs X's sexual activities with Mr Y and the patients at *Byrgið* had been proven to be true and had not been found likely to further damage her honour. As to the impugned remark, the Government noted that nothing in the criminal proceedings against Mr Y had supported the suspicion that Mrs X had actively contributed to his sexual offences by "hunting" for victims to be abused by him. No charges had been brought against her and she had not been indicted, despite having been questioned as a suspect in the case. The impugned remark contained a statement of fact indicating that Mrs X was guilty of criminal conduct.

46. Moreover, since the impugned remark had been presented as a statement of fact, the Icelandic courts enjoyed a greater margin of appreciation to restrict the applicant's freedom of expression than if the remark had been a value judgment.

47. Referring to *Björk Eiðsdóttir v. Iceland* (no. 46443/09, § 71, 10 July 2012), the Government emphasised that the article written by the applicant must be viewed as a whole, with particular regard to the words used in the disputed parts of the article, the context in which it had been published and the manner in which it had been prepared. The Supreme Court had done so in the present case, finding the impugned remark to contain "a coarse insinuation against [Mrs X] about a criminal act ... [which had] ... appeared in a conspicuous manner in a widely-read newspaper and was likely to affect [her] dignity and professional reputation ...". The Government noted that her name had been frequently mentioned along with a number of photographs. It was apparent that the aim of the publication had been to portray Mrs X as likely to be hunting for victims for Mr Y at the primary

school where she worked. This had exacerbated the gravity of the allegation.

48. The Government also argued that the present case could be distinguished from *Björk Eiðsdóttir* (cited above) as there was no doubt that the comments for which the applicant in the latter case had been convicted had been correctly quoted from an interviewee. In the present case, the applicant had been adequately identified as the author of the article and had not adduced any evidence in support of the statement that Mrs X had "hunted for victims" for Mr Y. The Government stressed that the applicant's submission to the Court that Ms A had stated that Mrs X had "frequently called [Ms A] and sent her messages in order to seduce her sexually for [Mr Y] and herself" was incorrect and that no such statement was to be found in the article.

49. The Government noted that the sanctions imposed on the applicant did not involve a criminal penalty and that special account had been taken of Mrs X's position and the effects that the criminal case and the discussion about it had already had on her reputation. Also, the penalty for non-pecuniary damage had not been severe and the sanction did not amount to a form of censorship. The judgment and the sanction imposed were not, in the Government's view, likely to deter journalists from contributing to public discussion of issues relating to serious crimes.

50. In the Government's opinion, the impugned restriction on the applicant's freedom of expression in the present case had corresponded to a pressing social need and had been justified by relevant and sufficient reasons. Important individual rights – the protection of professional reputation and honour – were at stake and the State was under a positive obligation to protect those rights. The Supreme Court had exercised its margin of appreciation in finding a balance between the opposing interests in the case, and the interference had been proportionate to the legitimate aim pursued.

2. *Assessment by the Court*

(a) General principles

51. The test of "necessity in a democratic society" requires that the Court determine whether the interference complained of corresponded to a "pressing social need". The Contracting States have a certain margin of appreciation in assessing whether such a need exists, which goes hand in hand with European supervision. 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 (see, among many other authorities, *Perna*, cited above, § 39; *Association Ekin v. France*, no. 39288/98, § 56, ECHR 2001 VIII; and *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 68, ECHR 2004-XI).

52. However, the Court's task is not to take the place of the domestic courts but rather to review under Article 10 the decisions they have taken (see *Fressoz and Roire v. France* [GC], no. 29183/95, § 45, ECHR 1999-I; and *Pedersen and Baadsgaard,* cited above, § 69). This does not mean that the supervision is limited to ascertaining whether the respondent State exercised its discretion reasonably, carefully or in good faith. The Court has to look at the interference complained of in the light of the case as a whole, including the content of the comments held against the applicants and the context in which they made them (see *News Verlags GmbH & Co. KG v. Austria*, no. 31457/96, § 52, ECHR 2000-I; and *Pedersen and Baadsgaard,* cited above).

53. In particular, the Court determines whether the national authorities relied on reasons which were "relevant and sufficient" in justifying the interference and whether the measure taken was "proportionate to the legitimate aims pursued" (see *Chauvy and Others v. France*, no. 64915/01, § 70, ECHR 2004-VI; and *Pedersen and Baadsgaard,* cited above, § 70). 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 (see, among many other authorities, *Zana v. Turkey*, judgment of 25 November 1997, *Reports* 1997-VII, pp. 2547-48, § 5;1; and *Pedersen and Baadsgaard,* cited above)."

54. In assessing the relevance and sufficiency of the national courts' findings, the Court, in accordance with the principle of subsidiarity, thus takes into account the extent to which the former balanced the conflicting rights implicated in the case, in the light of the Court's established case-law in this area. If the reasoning of the national court demonstrates a lack of sufficient engagement with the general principles of the Court under Article 10 of the Convention, the degree of the margin of appreciation afforded to the authorities will necessarily be narrower. Indeed, as the Court has previously held in the Article 10 context, "the quality of ... judicial review of the necessity of the measure is of particular importance in this respect, including the operation of the relevant margin of appreciation" (see, *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, § 108, ECHR 2013 (extracts)).

55. As regards the assessment of the necessity of an interference with the fundamental right under Article 10, in light of the content of the expression in question, the Court has consistently held that freedom of expression is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. As set forth in paragraph 2 of Article 10 of the Convention, this freedom is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly (see, among other authorities,

Jersild, cited above, p. 23-24, § 31; *Janowski v. Poland* [GC], no. 25716/94, § 30, ECHR 1999-I; and *Nilsen and Johnsen v. Norway* [GC], no. 23118/93, § 43, ECHR 1999-VIII; *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 45, ECHR 2007-I; V and *Björk Eiðsdóttir*, cited above, § 63).

56. The Court further reiterates that the right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life (see *Chauvy and Others*, cited above, § 70; *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, §91, ECHR 2004-XI; *Pfeifer v. Austria*, no. 12556/03, § 35, 15 November 2007; *Polanco Torres and Movilla Polanco v. Spain*, no. 34147/06, § 40, 21 September 2010; and *Axel Springer AG v. Germany* ([GC], no. 39954/08, § 83, 7 February 2012). In order for Article 8 to come into play, an attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life (see *Axel Springer AG* and *Björk Eiðsdóttir*, § 64, both cited above; and also *A. v. Norway*, no. 28070/06, § 64, 9 April 2009; and *Sidabras and Džiautas v. Lithuania*, nos. 55480/00 and 59330/00, § 49, ECHR 2004-VIII).

57. The essential function the press fulfils in a democratic society is a central factor for the Court's determination in the present case. The duty of the press is to impart information and ideas, including on all matters of public interest, in accordance with its obligations and responsibilities. However, it must not overstep certain bounds, first and foremost as regards the reputation and rights of others and the need to prevent the disclosure of confidential information. The public also has a right to receive such information and ideas. In addition, the Court is mindful of the fact that journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation. In cases such as the present one the national margin of appreciation is further circumscribed by the interest of democratic society in enabling the press to exercise its vital role of 'public watchdog' in imparting information of serious public concern (see *Von Hannover v. Germany (No. 2)* [GC], nos. 40660/08 and 60641/08, 7 February 2012, § 102, Bladet Tromsø *and Stensaas v. Norway* [GC], no. 21980/93, §§ 59 and 62, ECHR 1999-III; *Tønsbergs Blad A.S. and Haukom v. Norway*, no. 510/04, § 82, 1 March 2007, with further references; and *Björk Eiðsdóttir*, cited above, § 65)."

(b) Application of those principles to the present case

58. The Court observes from the outset that in its judgment of 18 February 2010 the Supreme Court rejected Mrs X's libel action in respect of a series of statements contained in the applicant's article to the effect that Mrs X had taken part in sexual activities along with Mr Y and a number of female patients at *Byrgið.* On the other hand, the Supreme Court

found the applicant liable for defamation in respect of the latter part of the sentence under item i., which she had attributed to Ms A, "... not appropriate that the one who hunts for him works in a primary school."

59. The Supreme Court was of the view that the aforementioned words "which ha[d] by no means been proven to be true, indicated that [Mrs X] was guilty of criminal conduct" and that they "contained a coarse insinuation against [her] about a criminal act." Furthermore, "[t]he statement [had] appeared in a conspicuous manner in a widely-read newspaper and was likely to affect the dignity and professional reputation of [Mrs X]." Moreover, it had not been proven that the statement had been correctly quoted from Ms A and therefore the Supreme Court found the applicant, as the author of the article, liable for its content (Article 235 of the Penal Code and section 15 (1) of the Printing Act) and declared the statement null and void (Article 241 of the Penal Code).

60. The accusations against Mr Y had surfaced when a national television channel broadcast in a news programme a story in which he was accused of, among other things, the sexual offences which were the subject-matter of the impugned newspaper article. Subsequently, a high-profile criminal investigation was opened against Mr Y and Mrs X, who both had the formal status of suspects, which led to Mr Y being indicted but not Mrs X. It was in this context that the applicant's news coverage was published and there can be no doubt that, seen as a whole, it related to an issue of serious public concern in Iceland.

61. The most careful scrutiny on the part of the Court is called for when, as in the present case, the measures taken or sanctions imposed by the national authority are capable of discouraging the participation of the press in debates over matters of legitimate public concern (see *Björk Eiðsdóttir,* § 69; *Jersild*, cited above, § 35; Bergens Tidende *and Others*, cited above, § 52; and *Tønsbergs Blad A.S. and Haukom*, cited above, § 88; compare *MGN Limited v. the United Kingdom*, no. 39401/04, §§ 150 and 155, 18 January 2011; *Von Hannover v. Germany (no. 2)*, cited above, §§ 106-07, 7 February 2012; and *Axel Springer AG*, cited above, §§ 87-88).

62. The protection of the right of journalists to impart information on issues of general interest requires that they should act in good faith and on an accurate factual basis and provide "reliable and precise" information in accordance with the ethics of journalism (see, for example, *Goodwin v. the United Kingdom*, 27 March 1996, § 39, *Reports of Judgments and Decisions* 1996-II; *Fressoz and Roire*, cited above, § 54; *Bladet Tromsø and Stensaas*, cited above, § 65; *McVicar v. the United Kingdom*, no. 46311/99, § 73, ECHR 2002-III; and *Pedersen and Baadsgaard*, cited above, § 78). Under the terms of paragraph 2 of Article 10 of the Convention, freedom of expression carries with it "duties and responsibilities" that also apply to the media, even with respect to matters of serious public concern. Those "duties and responsibilities" are significant when there is a question of attacking the

reputation of a named individual and infringing the "rights of others". Thus, 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 the defamation in question and the extent to which the media can reasonably regard their sources as reliable with respect to the allegations (see, among other authorities, *Björk Eiðsdóttir*, § 70; *McVicar*, § 84; *Bladet Tromsø and Stensaas*, § 66; and *Pedersen and Baadsgaard*, § 78, all cited above).

63. The Court finds that there are no such special grounds in the present case. According to the domestic courts' assessment of the evidence, it had not been proven that the impugned statement stemmed from Ms A. The Court does not question that conclusion as the Supreme Court's findings on this issue cannot be considered manifestly unreasonable.

64. The Court will thus go on to consider the impugned article as a whole and have particular regard to the words used in the disputed part of the article and the context in which it was published, as well as the manner in which it was prepared (see *Sürek v. Turkey (no. 1)* [GC], no. 26682/95, § 62, ECHR 1999-IV). It must examine whether relevant and sufficient grounds were adduced by the national authorities as a basis for finding that the applicant did not act in good faith and in compliance with an ordinary journalistic obligation to verify factual allegations. That obligation required that the factual basis on which she relied be sufficiently accurate and reliable and be considered proportionate to the nature and degree of the allegation, given that the more serious the allegation, the more solid the factual basis has to be (see *Björk Eiðsdóttir*, § 71; and *Pedersen and Baadsgaard,* § 78, both cited above,).

65. In this regard the Court, firstly, observes that the above-mentioned meaning attached to the defamatory sentence, namely that it contained a coarse insinuation about a criminal act, was not derived explicitly from the sentence itself but was the result of an interpretation by the domestic courts. However, the domestic courts did not explain in their judgments how the word "hunt", used in the statement: "the one who *hunts* for him" (emphasis added), would be perceived by the ordinary reader as an innuendo about a criminal act. Indeed, the judgments contained no reference to any legal provision under which the act could be objectively subsumed, nor did they offer any clarification or description of the alleged criminal offence. This was all the more necessary considering that the Supreme Court had already rejected Mrs X's libel action in respect of a series of statements contained in the applicant's article referring to the active participation of Mrs X in sexual activities with a number of female patients at *Byrgið*, including seeking to have sexual encounters with Ms A in private (see item f., referred to in paragraph 10), as well as the allegation that Mrs X was fully aware of Mr Y's abuse of the patients and that she sometimes participated in the

sexual games (see item l., referred to in paragraph 10). The Court is therefore not convinced that the reasons relied on by the domestic courts were relevant to the legitimate aim of protecting the rights and reputation of Mrs X (see *Erla Hlynsdóttir v. Iceland*, no. 43380/10, § 62, 10 July 2012, and Bergens Tidende *and Others*, cited above, § 56).

66. Secondly, in accordance with the Court's case-law, a fundamental distinction should be made between statements that are to be categorized as factual assertions and value judgments. In its contextual examination of the disputed statement as a whole, the Court must carry out its own evaluation of the impugned statement (see, amongst other authorities, *Nikowitz and Verlagsgruppe News GmbH v. Austria*, no. 5266/03, §§ 25-26, 22 February 2007). Furthermore, the Court has acknowledged (see, for example, *Vides Aizsardzības Klubs v. Latvia*, no. 57829/00, § 43, 27 May 2004; and *Katamadze v. Georgia* (dec.), no. 69857/01, 2 February 2001) that the distinction between value-judgments and statements of fact may be blurred, and that the issue may need to be resolved by examining the degree of factual proof.

67. On this basis, the Court observes that the Supreme Court found that the first part of the impugned statement in item i: ("... this person is crazy. I cannot see that she has anything to offer as a teaching assistant or in any kind of relief work. I do not know what she is doing in this school ..."), constituted a value judgment that did not amount to unlawful defamation under the relevant national provisions. This conclusion is supported by the Supreme Court's own finding that the similar statement in item n. (see paragraph 10), to the effect that Mr B found it "odd that a woman in this position [was] working with children" constituted a value judgment. On the other hand, the Supreme Court considered that the latter part ("... not appropriate that the one who hunts for him works in a primary school") was "a different matter", but without specifying in which way (see paragraph 18 above).

68. In light of the above, the Court is of the view that the affirmation that it was "not appropriate" that Mrs X "work[ed] in a primary school" ought to have been regarded as a value judgment. On the other hand, the portrayal of Mrs X as being the "one who hunts for" Mr Y, which was the stated basis for the said value judgment, included a factual element, namely that Mrs X had taken part in sexual activities with Mr Y and female patients at the *Byrgið* rehabilitation center. However, that element was considered an established fact by the Supreme Court, which also noted Mr Y's conviction for his conduct (see paragraph 18 above). The words "hunts for him", when assessed in light of the article as a whole, and in particular the established facts of Mrs X active participation in sexual activities, among other things her seeking to have sexual encounters with Ms A in private and her active participation in sexual games (see paragraph 65 above), may be more readily understood as a value based characterization of established factual

events rather than a pure factual assertion (see, *mutatis mutandis*, *Nilsen and Johnsen*, cited above, § 50).

69. As the Court has previously held, even where a statement amounts to a value judgment, the proportionality of an interference may depend on whether there exists a sufficient factual basis for the impugned statement, since even a value judgment without any factual basis to support it may be excessive (see *Jerusalem v. Austria*, no. 26958/95, § 43, ECHR 2001-II; and *Ferihumer v. Austria*, no. 30547/03, § 24, 1 February 2007; see also *De Haes and Gijsels*, cited above, § 47; and *Oberschlick v. Austria (no. 2)*, 1 July 1997, § 33, *Reports* 1997-IV). The difference between a statement of fact and a value judgment in this regard lies, as noted above (paragraph 66) in the degree of factual proof which has to be established (see *Scharsach and News Verlagsgesellschaft*, cited above, § 40).

70. In the instant case, the applicant interviewed two persons who had been closely involved in the criminal investigation, Ms A, a former patient at the *Byrgið* rehabilitation centre and a presumed victim, and Mr B, a former employee. All the statements quoted from Mr B were found to have been substantiated.

71. As regards the statements attributed to Ms A, the applicant submitted that she had recorded her telephone conversation with her but that the recording had not been preserved (see paragraph 18 above). In her written pleadings before the District Court, Ms A denied having been the source of the statements – including item i. – attributed to her in the article, whereas in her oral pleadings she stated that she remembered having discussed the case with a journalist from the newspaper *DV* but was unable to recall what she had said (see paragraphs 15 and 18 above). Before the Supreme Court she maintained that the applicant had failed to render her statements correctly. However, the Supreme Court accepted that those of the statements which corresponded to Ms A's statements to the police when interviewed in the criminal investigations were attributable to her.

72. In these circumstances, having particular regard to the judicially established fact of Mrs X's participation in the sexual activities in question, the Court is satisfied that there was a sufficient factual basis for the impugned allegation when viewed in the context of the article as a whole and the other statements referring to the nature of Mrs X's activities that the Supreme Court rejected in her libel action (see paragraphs 58 and 65 above).

73. Moreover, the applicant made repeated attempts to interview Mr Y. She did interview his and Mrs X's representative, who stated that he had advised them both not to talk to the media. He further said, among other things, that his clients were innocent of the accusations and, in particular, that it was unfair to implicate Mrs X in any kind of criminal activity. Lastly, the applicant interviewed an officer of the police department that dealt with the investigation, who confirmed that Mrs X had the legal status of a

suspect during the investigation. The applicant must therefore be considered to have sought to achieve a balance in her reporting. It should be recalled that the methods of objective and balanced reporting may vary considerably, depending among other things on the medium in question; it is not for the Court, any more than it is for the national courts, to substitute its own views for those of the press as to what techniques of reporting should be adopted by journalists (see *Jersild*, cited above, §§ 31 and 34, and Bergens Tidende *and Others*, cited above, § 57).

74. The defamation proceedings brought by Mrs X against the applicant, Ms A and Mr B ended in an order declaring the statement null and void and requiring the applicant to pay Mrs X ISK 300,000 (approximately EUR 1,650) in compensation for non-pecuniary damage and ISK 100,000 for the costs of publishing the judgment, plus interest.

75. In light of the above, the Court finds, in the concrete circumstances of the present case, that the Supreme Court did not base its judgment on relevant and sufficient grounds demonstrating convincingly that the applicant acted in bad faith or otherwise inconsistently with the diligence expected of a responsible journalist reporting on a matter of public interest. Moreover, and importantly, the Court reiterates that even assuming that the reasons adduced by the Supreme Court were relevant for the purposes of the interference in question, it has not been shown that the national court balanced the applicant's rights to freedom of expression as a journalist and Mrs X's rights to her reputation, in accordance with the established principles in the Court's case-law, and thus examined thoroughly whether the measure imposed corresponded to a pressing social need. Consequently, the judgment of the Supreme Court was not based on sufficient grounds so as to constitute a proportionate measure under paragraph 2 of Article 10 of the Convention (see, for instance, *Wizerkaniuk v. Poland*, no. 18990/05, § 87, 5 July 2011; and *Erla Hlynsdóttir*, cited above, § 72).

There has accordingly been a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

76. 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. Pecuniary damage

77. The applicant sought compensation for pecuniary damage in respect of amounts totalling 400,000 Icelandic *krónur* (ISK) (corresponding as of March 2013 to approximately 2,500 euros (EUR)) which she had been

ordered by the Supreme Court, in its judgment of 18 February 2010, to pay to Mrs X for non-pecuniary damage (ISK 300,000) and for the publication of the reasons and operative part of the judgment (ISK 100,000). She also claimed interest on the said amount.

78. The Government did not object to the reimbursement of any of the above amounts but noted that the euro exchange rate should be based on the one at the date on which the applicant paid the above amounts.

79. The Court, being satisfied that there was a causal link between the violation found and the pecuniary damage alleged, awards the applicant EUR 2,500 under this head.

B. Non-pecuniary damage

80. The applicant also claimed EUR 5,500, "plus default interest on the amount calculated in [Icelandic krona], equal to the applicable monthly default interest rate published by the Icelandic Central bank, from February 18, 2010 until settlement" in compensation for the non-pecuniary damage she had suffered as a result of the violation of the Convention entailed by the Supreme Court's judgment of 18 February 2010. The proceedings against her had subjected her to a heavy burden as a journalist living on a modest income. She had been referred to as "a convicted journalist" and her honour and reputation had suffered. Moreover, the matter had caused her and her family emotional and psychological pain and suffering.

81. The Government disputed the above claim, considering that a finding of violation by the Court would constitute adequate just satisfaction. In any event, should the Court be minded to make a pecuniary award, the amount requested was excessive and beyond what the Court usually decided in similar cases. EUR 2,000 would be a more appropriate amount in light of the Court's case-law.

82. The Court accepts that the applicant suffered distress and frustration as a result of the violation of the Convention which cannot be adequately compensated for by the finding of a violation. Making an assessment on an equitable basis, and in light of the applicant's claim, the Court awards the applicant EUR 5,500 under this head.

C. Costs and expenses

83. The applicant sought the reimbursement of legal costs and expenses, totalling EUR 20,409 in respect of the following items:

(a) ISK 1,265,440 (approximately EUR 7,909) incurred for her own legal costs before the domestic courts; and

(b) EUR 12,500 for her lawyers' work in the proceedings before the Court.

84. The Government considered the claim to be excessive. As to item (a) it noted that there were no documents in the case file to show that the applicant had paid the costs in question. Item (b) was in their opinion excessive and they asked the Court to reduce it.

85. 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. In the present case, regard being had to the above criteria, the lack of adequate documentation, in particular the fact that none of the claims above were supported by vouchers, the Court rejects the applicant's claims under this head.

D. Default interest

86. The Court has taken note of the applicant's invitation to apply a default interest to its Article 41 award "equal to the monthly applicable interest rate published by the Central Bank of Iceland".

87. However, the Court is of the view that the applicant's interest in the value of the present award being preserved has been sufficiently taken into account in its assessment above and in point 3(b) of the operative part below. In accordance with its standard practice, 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 application admissible;

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, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Icelandic *krónur* at the rate applicable at the date of settlement:
      (i) EUR 2,500 (two thousand five hundred euros), plus any tax that may be chargeable, in respect of pecuniary damage;
      (ii) EUR 5,500 (five thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (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's claim for just satisfaction.

Done in English, and notified in writing on 21 October 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos Deputy Registrar	Guido Raimondi President