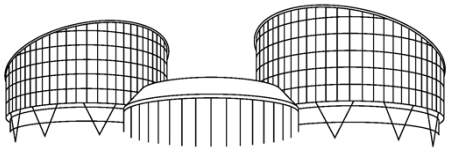

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF DARESKIZB LTD v. ARMENIA

(Application no. 64004/11)

JUDGMENT

STRASBOURG

18 May 2021

This judgment is final but it may be subject to editorial revision.

In the case of Dareskizb Ltd v. Armenia,

The European Court of Human Rights (Fourth Section), sitting as a Committee composed of:

Jolien Schukking, *President,*
Armen Harutyunyan,
Ana Maria Guerra Martins, *judges,*
and Ilse Freiwirth, *Deputy Section Registrar,*

Having regard to:

the application (no. 64004/11) against the Republic of Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Armenian company, Dareskizb Ltd ("the applicant company"), on 2 February 2012;

the decision to give notice to the Armenian Government ("the Government") of the complaint concerning an alleged breach of the applicant company's right to freedom of expression and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 13 April 2021,

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

INTRODUCTION

1. The case concerns the defamation proceedings against the applicant company and raises issues under Article 10 of the Convention.

THE FACTS

2. The applicant company is a private company, which at the material time published *Haykakan Zhamanak* ("Armenian Times"), a daily opposition newspaper, and had its registered office in Yerevan. The applicant company was represented by Mr V. Grigoryan, Mr P. Leach, Mr J. Clifford, Ms K. Levine, Ms J. Gavron, Ms J. Evans and Ms J. Sawyer of the European Human Rights Advocacy Centre (EHRAC) based in London, and Ms L. Hakobyan, a lawyer practising in Yerevan.

3. The Government were represented by their Agent, Mr G. Kostanyan, and subsequently by Mr Y. Kirakosyan, Representative of the Republic of Armenia to the European Court of Human Rights.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. On 14 October 2010 an article was published in issue no. 188 of the newspaper with the headline "Seven out of Eight are in the List". It read as follows:

> "To our knowledge, the National Security Service, the Prosecutor's Office and other law-enforcement bodies of the Russian Federation, in the course of an investigation into a number of criminal cases related mostly to drug and human trafficking and money laundering, have disclosed that [certain] Armenian officials are also involved in these crimes. Russian law-enforcement officials have disclosed that Russian criminal gangs have close ties with various Armenian officials and have compiled a list of Armenian officials, including 32 names linked to various criminal cases and having ties with Russian criminal gangs. To our knowledge, the representatives of the Prosecutor's Office of the Russian Federation have spoken about this list with the President of the Armenian National Club *Miabanutyun*, [Mr S.K.]. The top management of the Prosecutor's Office of the Russian Federation has unofficially shared this list with the Prosecutor General of Armenia, [Mr A.G.], and the Chief of the National Security Service of Armenia, [Mr G.H.]. The Russian side has raised the question of holding the persons mentioned in the list accountable. However, the above-mentioned Armenian officials have replied to their Russian colleagues that they do not have the power to solve the problem. To our knowledge, the first seven names on the list compiled by the Russian law-enforcement officials include Sashik Sargsyan, MP and brother of [President of Armenia] Serzh Sargsyan; Ruben Hayrapetyan (aka Nemets Rubo) and Levon Sargsyan (aka Flourmill Lyovik), MPs; Gagik Khachatryan, Chief of the State Revenue Committee of Armenia; Samvel Aleksanyan (aka Lfik Samo), MP; Hovik Abrahamyan, Speaker of Parliament; and Gagik Tsarukyan, head of the parliamentary faction *Bargavatch Hayastan*. To our knowledge, the Russian law-enforcement officials have not included [President] Serzh Sargsyan's name since they excluded from the very beginning the possibility of raising the question of holding him accountable."

6. On 26 October 2010 three of the above-mentioned members of parliament, Ruben Hayrapetyan, Levon Sargsyan and Samvel Aleksanyan (hereinafter, "the three MPs"), addressed a letter to the applicant company demanding a retraction of the entire article. They argued that the information contained in it did not correspond to reality and had been published without prior verification. Attached to their letter was a text of retraction (see paragraph 12 below).

7. On 1 November 2010 the editor-in-chief of the applicant company declined to issue a retraction on the grounds that the three MPs had failed to specify the alleged factual inaccuracies. Furthermore, he denied that the information in question had been published without prior verification, alleging that it had been confirmed by the president of the Moscow-based Armenian National Club, *Miabanutyun*, Mr S.K. The latter had been informed about the facts contained in the article by the Russian law-enforcement officers who had had a discussion with him in order to have a fuller picture regarding the activities of a number of Armenians. S.K. had seen at first hand the list in question, which had included their names.

8. On 2 November 2010 the applicant company published another article entitled "Moscow is after the 'Serzhs'", which featured an interview with S.K. containing the above allegations and further details. S.K. stated, in particular, that the Armenian National Club had established an anti-corruption centre in Moscow dealing with revelations of corrupt practices among Armenian officials. It had for a long time been studying

corruption and embezzlement in Armenia, as well as various other types of criminal schemes involving Armenian officials, and had occasionally published articles in the Russian press. In this connection, a number of Russian law-enforcement agencies had sought consultations with the Club, during which it had been informed that various criminal cases were pending involving the mentioned officials. Most of that information was confidential and the Club had signed an undertaking to uphold the secrecy of the investigation. S.K. added that the list had initially included thirty-two names, but had later been extended to thirty-six.

9. On 8 November 2010 the three MPs instituted civil proceedings against the applicant company, claiming that the above-mentioned articles contained information that did not correspond to reality and tarnished their honour and dignity, and seeking its retraction and payment of damages for defamation. They argued, *inter alia*, that the applicant company had failed to verify the information before publishing it. Attached to their claim was the text of the requested retraction.

10. On 2 December 2010 the applicant company filed its observations in reply, objecting to the claim and arguing that the articles in question did not in any way violate the plaintiffs' rights.

11. On 7 February 2011 the Kentron and Nork-Marash District Court of Yerevan allowed the claim, ordering the applicant company to publish a retraction and to compensate each plaintiff for non-pecuniary damage in the amount of 2,000,000 Armenian drams (AMD) and court fees in the amount of AMD 44,000.The District Court held that under domestic law statements were considered to be defamatory if they met the following criteria: (a) they tarnished a person's honour, dignity or business reputation; (b) they did not correspond to reality; and (c) they were made publicly. In the present case, the impugned statements contained such concepts as "drug and human trafficking and money laundering" which amounted to acts of a criminal nature dangerous for the society and involvement in which had a tarnishing effect on any person, especially elected officials. The statements had been made publicly. As regards their veracity, pursuant to Article 1087.1 of the Civil Code (CC) the burden of proof was on the applicant company. However, the applicant company had failed to produce any evidence proving that the statements in question corresponded to reality. Moreover, the plaintiffs had produced a letter from the General Prosecutor's Office of Russia dated 19 October 2010, stating that having studied an enquiry submitted by the General Prosecutor's Office of Armenia regarding the investigation into the criminal cases mentioned in the article of 14 October 2010, the General Prosecutor's Office of Russia had found no material confirming the plaintiffs' involvement in criminal acts within the Russian Federation. It followed that the impugned statements were fictitious and did not correspond to reality. The District Court concluded that, in the light of the above, the statements in question amounted to defamation. In

determining the amount of non-pecuniary award the District Court referred to the fact that the plaintiffs, as MPs, were expected to have impeccable behaviour and exemplary standing in the eyes of the society. Therefore, taking into account their status and the fact that the defamatory statements had reached a large segment of the population, it awarded the maximum possible compensation under Article 1087.1 amounting to 2,000 times the minimum wage.

12. The District Court also ordered that the following text of retraction be published by the applicant company:

> "Information was published on the front page of issue no. 188 of 14 October 2010 of the *Haykakan Zhamanak* daily newspaper, under which there were photos of eight persons, including Members of the Armenian Parliament, Samvel Aleksanyan, Ruben Hayrapetyan and Levon Sargsyan. The article concerned the involvement of certain Armenian public officials in criminal cases instituted in the Russian Federation on account of drug trafficking, human trafficking and money laundering. The statements presented in the article do not correspond to reality and were presented without checking their veracity."

13. On 11 April 2011 the applicant company lodged an appeal arguing, *inter alia*, that the judgment of the District Court had breached its right to freedom of expression and a number of principles enshrined in Article 10 of the Convention.

14. On 9 June 2011 the Civil Court of Appeal dismissed the appeal and upheld the judgment of the District Court.

15. On 9 July 2011 the applicant company lodged an appeal on points of law.

16. On 3 August 2011 the Court of Cassation declared the appeal on points of law inadmissible for lack of merit.

17. The applicant company alleged that – the amount of damages that it had been ordered to pay amounting to more than three times its monthly income (about AMD 1,800,000) – it had had to raise funds among its readers in order to meet its judgment obligations. It further alleged that on 28 October 2011 it had made a payment for that purpose in the amount of AMD 6,381,288.

RELEVANT LEGAL FRAMEWORK

18. Article 1087.1 of the CC (1999) provides that a person whose honour, dignity or business reputation has been tarnished through insult or defamation may institute court proceedings against the person who made the insulting or defamatory statement.

19. Insult is a public statement made through words, images, sounds, signs or other means with the aim of tarnishing someone's honour, dignity or business reputation. A public statement may be considered not an insult if

it is based on precise facts (except congenital defects) or pursues a paramount public interest.

20. Defamation is public statements of fact about a person which do not correspond to reality and tarnish his or her honour, dignity or business reputation. In defamation cases the burden of proof as to the existence or absence of the relevant facts is placed on the defendant. This burden will be shifted on the plaintiff if presenting such proof requires the defendant to perform unreasonable actions or efforts, whereas the plaintiff possesses the necessary evidence.

21. Public statements of fact will not constitute defamation if, *inter alia*, they – in a given situation and given their content – pursue a paramount public interest, and if the person who has made the public statements of fact proves that he has taken all reasonable measures to verify their truthfulness and well-foundedness, and has made those statements in a balanced manner and in good faith.

22. A person shall be absolved of liability for defamation or insult if the statements of fact expressed or presented by him are a verbatim or *bona fide* reproduction of information disseminated by a media company, or of information contained in a public speech, official documents, other mass media or any creative work, and if he or she makes a reference to the source (that is to say the author).

23. In case of defamation a person may demand through court proceedings one or more of the following measures: (1) if the defamatory statements of fact are contained in information disseminated by a media outlet, the person may demand a public retraction of such statements and/or a publication of his reply regarding such statements through the same media. The text of the retraction and the reply shall be confirmed by a court; and (2) payment of compensation up to 2,000 times the minimum wage.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

24. The applicant company complained that its right to freedom of expression had been breached. It relied on Article 10 of the Convention, which, in so far as relevant, reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. ...
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or

rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

A. Admissibility

25. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant company

26. The applicant company submitted that the interference with its right to freedom of expression, while being prescribed by law, had not pursued a legitimate aim and had not been necessary in a democratic society.

27. As regards the existence of a legitimate aim, the applicant company submitted that the protection of reputation of Parliament, referred to by the Government, could not be considered a legitimate aim within the meaning of Article 10 § 2 since this provision could not be extended to protect the reputation of State authorities and agencies. Furthermore, while the protection of reputation of the three MPs could be invoked as a legitimate aim, the retraction that it had been ordered to publish had gone beyond that and had included "certain Armenian public officials" who had not lodged a claim against it. There was therefore no legitimate aim justifying an interference with its right to freedom of expression as far as those individuals were concerned.

28. As regards the necessity of the interference, the applicant organisation submitted that given its status of an opposition newspaper and its role of a public watchdog, it should have enjoyed wide protection under Article 10, whereas the persons whom the article had concerned, being elected politicians, should have demonstrated greater tolerance towards criticism. Of importance was also the subject matter of the publication which concerned a matter of utmost public interest. The domestic courts had also failed to examine the fact as to whether the applicant company had acted in good faith, including the fact that it had made a clear reference to the source of the disseminated information. Furthermore, the domestic courts had ordered it to pay a disproportionate amount of compensation which had placed on its excessive burden and had had a chilling effect. The amount in question had been equivalent to its average profit for a period of three and a half months and it had had to appeal to its readers for donations in order to pay that sum. Thus, the courts had failed to provide sufficient reasons for the interference and there was no reasonable relationship of

proportionality between the measures employed and the legitimate aim pursued.

(b) The Government

29. The Government accepted that there had been an interference with the applicant company's right to freedom of expression but argued that the interference had been justified. It had been prescribed by law, including Article 1087.1 of the CC, which was both accessible and foreseeable. The interference had also pursued a legitimate aim, namely the protection of reputation of the three MPs.

30. The Government submitted that the article published by the applicant company had contained statements which were untrue and defamatory. The domestic law made a distinction between "statements of fact" and "value judgments" and the applicant company's publication had been found to contain the former. It was notable in this connection that the applicant company had not argued before the domestic courts or this Court that the statements in question had constituted value judgments as opposed to statements of fact. The statements in question had been presented in strong affirmative terms and had therefore amounted to statements of fact and it was incumbent on the applicant company to prove their veracity. The applicant company, however, had failed to submit any evidence that would directly or indirectly give rise to doubts as to the involvement of the three MPs in any illicit or criminal activity. Since the applicant company had relied on a secondary and hence an unreliable source for its information, namely Mr S.K., and given the seriousness of the accusations, it should have verified the truthfulness of the information in question before imparting it. Instead, it had failed to apply to any of the public bodies referred to in the publication, such as the Prosecutor's Office of Russia and Russian secret service.

31. The Government also argued that since the targets of the applicant company's criticism had been elected representatives, the accusations contained in its publication could have also cast a shadow on the Parliament as a legislative body. The case had also concerned the rights of the plaintiffs protected by Article 8 of the Convention and, faced with the difficult task of choosing between the two competing interests, the domestic courts had managed to strike a fair balance. Lastly, in determining the amount of damages, the courts had taken into account that the plaintiffs had been MPs whose position in the society required them to have impeccable behaviour. The amount had not been excessive in view of the monthly profit made by the applicant company, the fact that its functioning had remained unaffected and that it had it been able to pay the damages within three months.

2. The Court's assessment

32. The Court notes that it is common ground between the parties that the District Court's judgment of 7 February 2011 as upheld by the Civil Court of Appeal on 9 June 2011 (see paragraphs 11 and 14 above) constituted an interference with the applicant company's right to freedom of expression guaranteed by Article 10 § 1 of the Convention. The Court is further satisfied that the interference in question was "prescribed by law", notably by Article 1087.1 of the CC, and "pursued a legitimate aim", that is "the protection of the reputation or rights of others", within the meaning of Article 10 § 2. It notes in respect of the latter that the domestic courts, in determining the plaintiffs' claim, never referred to the protection of reputation of Parliament, as argued by the applicant company. Furthermore, as regards the text of the retraction which the applicant company was ordered to publish, the Court considers that it is more appropriate to examine this question under the necessity of the interference. Thus, what remains to be determined is whether the interference was "necessary in democratic society".

33. The Court emphasises at the outset that the applicant, a media company, was held civilly liable for an article it published in its newspaper. The interference must therefore be seen in the context of the essential role of a free press in ensuring the proper functioning of a democratic society (see, among many other authorities, *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 62, ECHR 2007-IV).

34. The general principles concerning the necessity of an interference with freedom of expression frequently reiterated by the Court have been summarised in *Bédat v. Switzerland* ([GC], no. 56925/08, § 48, ECHR 2016), among many other authorities. The general principles concerning Article 10 and press freedom have recently been summarised in *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* ([GC], no. 931/13, §§ 124-28, 27 June 2017).

35. The Court considers that the following standards established in its case-law − which an interference with the exercise of press freedom must meet in order to satisfy the necessity requirement of Article 10 § 2 of the Convention − are pertinent in the present case.

36. By virtue of the essential function the press fulfils in a democracy (see *Delfi AS v. Estonia* [GC], no. 64569/09, § 132, ECHR 2015), Article 10 of the Convention affords journalists protection, with the proviso that they act in good faith in order to provide accurate and reliable information in accordance with the tenets of responsible journalism (see *Pentikäinen v. Finland* [GC], no. 11882/10, § 90, ECHR 2015). A high level of protection of freedom of expression, with the authorities therefore having a particularly narrow margin of appreciation, is normally accorded where the remarks concern a matter of public interest (see *Bédat*, cited above, § 49). Politicians and civil servants acting in an official capacity are subject to

wider limits of acceptable criticism than private individuals (see *Thoma v. Luxembourg*, no. 38432/97, § 47, ECHR 2001-III, and *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99 , § 80, ECHR 2004-XI). When examining whether there is a need for an interference with freedom of expression in a democratic society in the interests of "protecting the reputation ... of others", domestic authorities must strike a fair balance when protecting two conflicting values that are guaranteed by the Convention, namely, on the one hand, the right to freedom of expression protected by Article 10 and, on the other, the right to respect for private life enshrined in Article 8 (see, among many other authorities, *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, § 77, 27 June 2017).

37. The Court further reiterates that, when analysing an interference with the right to freedom of expression, it must, *inter alia*, determine whether the reasons adduced by the national authorities to justify it were relevant and sufficient. In doing so, the Court has to satisfy itself that these authorities applied standards which were in conformity with the principles embodied in Article 10 and relied on an acceptable assessment of the relevant facts (see *Perinçek v. Switzerland* [GC], no. 27510/08, § 196, ECHR 2015 (extracts)).

38. The Court has already found a violation of Article 10 of the Convention in a number of cases because the domestic courts did not apply standards that were in conformity with the standards of its case-law concerning press freedom (see, for example, *Terentyev v. Russia*, no. 25147/09, §§ 22-24, 26 January 2017; *Skudayeva v. Russia*, no. 24014/07, §§ 36-39, 5 March 2019; and *Margulev v. Russia*, no. 15449/09, §§ 51-54, 8 October 2019). It now has to satisfy itself whether the relevant standards summarised in paragraph 36 above were applied in the defamation proceedings against the applicant company.

39. The Court notes that, similarly to the above-mentioned cases, the domestic courts limited themselves to finding that the impugned publication had tarnished the plaintiffs' honour, dignity and business reputation, and that the applicant company had failed to prove its veracity (see paragraphs 11 and 14 above). They did not take account of the following elements: the applicant company's position as a media company and the presence or absence of good faith on its part; the positions of the plaintiffs as elected officials; the aim pursued by the applicant company in publishing the article; the existence of a matter of public interest or general concern in the impugned article; or the relevance of information regarding the alleged criminal activity of the three MPs. By omitting any analysis of such elements, the domestic courts failed to pay heed to the essential function that the press fulfils in a democratic society.

40. Furthermore, there is no evidence in the domestic judgments that the courts performed a balancing exercise between the need to protect the plaintiffs' reputation and the right of the press to impart information on

issues of general interest. They failed to weigh the two competing interests and confined their analysis to the discussion of the damage to the plaintiffs' reputation, their position apparently being that interests relating to the protection of "the honour and dignity of others", in particular of those vested with public powers, prevail over freedom of expression in all circumstances (see *Romanenko and Others v. Russia*, no. 11751/03, § 42, 8 October 2009; *Skudayeva*, cited above, § 38, 5 March 2019; and *Margulev*, cited above, § 53).

41. The above elements lead the Court to conclude that the reasons that the domestic courts adduced to justify the interference with the applicant company's Article 10 rights were not "relevant and sufficient". The Court is mindful of the fundamentally subsidiary role of the Convention system (see *Dubská and Krejzová v. the Czech Republic* [GC], nos. 28859/11 and 28473/12, § 175, ECHR 2016). Indeed, if the balancing exercise had been carried out by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its view for theirs (see *Perinçek*, cited above, § 198). However, in the absence of such a balancing exercise at national level, it is not incumbent on the Court to perform a full proportionality analysis (see *Margulev*, cited above, § 54). Faced with the domestic courts' failure to provide relevant and sufficient reasons to justify the interference in question, the Court finds that they cannot be said to have "applied standards which were in conformity with the principles embodied in Article 10 of the Convention" or to have "based themselves on an acceptable assessment of the relevant facts" (see, with further references, *Terentyev*, cited above, § 24).

42. The Court further reiterates that the nature and severity of the penalties imposed are factors to be taken into account when assessing the proportionality of an interference with the freedom of expression guaranteed by Article 10 (see *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 114, ECHR 2004-XI). As the Court has previously pointed out, interference with freedom of expression may have a chilling effect on the exercise of that freedom (see *Morice v. France* ([GC], no. 29369/10, § 126, ECHR 2015).

43. In the present case, the applicant company was ordered to publish a retraction and to pay a substantial amount to the plaintiffs, namely a total of AMD 6,132,000. This sum mostly included compensation for non-pecuniary damage which, in each of the three plaintiffs' case, was equivalent to the maximum possible compensation envisaged under domestic law. The domestic courts did not analyse what part of the applicant company's income those amounts represented and whether an excessive burden would thereby be imposed on it. The applicant company submitted evidence, undisputed by the Government, from which it appears that the sanction was equivalent to its income of about three and a half

months and was therefore obviously a severe penalty which can be considered to have had a chilling effect on the exercise by the applicant company of its right to freedom of expression (compare, *Romanenko and Others*, cited above, § 48).

44. Lastly, as regards the retraction, the Court notes that its text not only did not specify which statements in the impugned article concerning the three MPs were considered defamatory, but also gave the impression that all the information contained in that article, including that which concerned other public officials mentioned in the article, was untrue and defamatory. The Court considers that a retraction containing such a broad and indiscriminate wording could not be considered as a proportionate measure.

45. In conclusion, the Court finds that the domestic courts did not adjudicate the defamation claim in compliance with the Convention standards, did not adduce relevant and sufficient reasons for the interference with the applicant company's right to freedom of expression and imposed disproportionate sanctions. The interference complained of was therefore not "necessary in a democratic society".

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

47. 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

48. The applicant company claimed 11,888.74 euros (EUR) in respect of pecuniary damage, which, according to it, was the equivalent of AMD 6,381,288 which it had paid on 28 October 2011 pursuant to the impugned judgment and which was calculated according to the exchange rate of that date. It further claimed EUR 332.6 as the court fee which it had had to pay when lodging its appeal of 11 April 2011 and which was the equivalent of AMD 180,000 calculated according to the exchange rate of that date. As regards non-pecuniary damage, the applicant company submitted that it was entitled to such damage but left the determination of the amount to the Court.

49. The Government at the outset objected to the fact that the applicant company had made its pecuniary claims in euros, taking into account that the payments in question had been made in Armenian drams. In any event, even if the applicant company was entitled to compensation in euros, it

should have used the current exchange rate for calculation of its claims. Furthermore, the cost of the court fee claimed had not been necessarily incurred by the applicant company since that payment had not been imposed on it but rather had been its own free choice. As for the applicant company's claim for non-pecuniary damage, the Government submitted that the finding of a violation would constitute sufficient just satisfaction.

50. The Court notes at the outset that the sum which the applicant company had been ordered to pay by the judgment of 7 February 2011 amounted to AMD 6,132,000 and it is not clear on what basis it claimed the equivalent of AMD 6,381,288. While it submitted a copy of a payment order for that amount, it is not evident from that document that this payment had been made specifically for the purpose of compliance with the judgment of 7 February 2011. As for the amount of the court fee, the Court disagrees with the Government saying that this cost is not subject to compensation. Making its own estimate based on the information available, the Court awards the applicant company EUR 11,230 in respect of pecuniary damage. The Court further awards the applicant company EUR 4,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

51. The applicant company claimed a total of 5,852.65 pounds sterling (GBP) and EUR 433.33 in respect of legal, administrative and translation costs and expenses.

52. The Government submitted that the claim was not properly substantiated and that part of the alleged costs had not been necessarily incurred. Furthermore, the applicant company had hired an excessive number of lawyers.

53. 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, the Court considers that the applicant organisation failed to show that all the costs claimed had been necessarily and reasonably incurred. Regard being had to the documents in its possession and the above criteria, the Court awards the applicant company EUR 2,200 in respect of costs and expenses, plus any tax that may be chargeable to the applicant company, to be paid in GBP into its representatives' bank account in the United Kingdom.

C. Default interest

54. 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 company, within three months, the following amounts:
      (i) EUR 11,230 (eleven thousand two hundred and thirty euros), plus any tax that may be chargeable, in respect of pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
      (ii) EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
      (iii) EUR 2,200 (two thousand two hundred euros), plus any tax that may be chargeable to the applicant company, in respect of costs and expenses, to be converted into pounds sterling at the rate applicable on the date of settlement and to be paid into its representatives' bank account in the United Kingdom;
   (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 18 May 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth Deputy Registrar	Jolien Schukking President