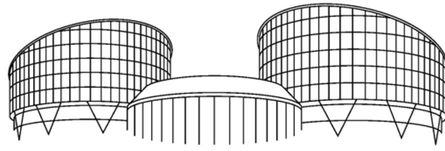

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF AZADLIQ NEWSPAPER v. AZERBAIJAN

(Application no. 12708/13)

JUDGMENT

Art 10 • Freedom of expression • Imposition of monetary sanction on a newspaper for publishing an article found to be defamatory in respect of a public figure • Domestic courts' failure to conduct balancing exercise between competing rights in conformity with criteria laid down in the Court's case-law • Newspaper's failure to comply with due diligence standards and act in good faith in order to provide reliable and precise information • Domestic courts' failure to provide relevant and sufficient reasoning for the severity of the monetary sanction which did not appear proportionate • Interference not "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

25 November 2025

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 Azadlıq Newspaper v. Azerbaijan,

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

Ioannis Ktistakis, *President*,
Peeter Roosma,
Lətif Hüseynov,
Diana Kovatcheva,
Úna Ní Raifeartaigh,
Mateja Đurović,
Canòlic Mingorance Cairat, *judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 12708/13) against the Republic of Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a newspaper published in Azerbaijan, *Azadlıq* ("the applicant newspaper"), on 14 August 2013;

the decision to give notice to the Azerbaijani Government ("the Government") of the complaint under Article 10 of the Convention;

the parties' observations;

Having deliberated in private on 4 November 2025,

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

INTRODUCTION

1. The present case concerns the allegedly disproportionate and unjustified interference with the applicant newspaper's right to freedom of expression under Article 10 of the Convention on account of the domestic courts' judgments which imposed monetary sanctions on it for publishing an article found to be defamatory of T.A., former chief executive of the Baku Metro.

THE FACTS

2. *Azadlıq* was a newspaper that had been in circulation in Azerbaijan since 1989, which stopped publishing its paper version in 2016 allegedly owing to financial difficulties. The applicant newspaper was represented by Mr P. Hughes and Mr R. Hajili, lawyers based in London and Strasbourg respectively.

3. The Government were represented by their Agent, Mr Ç. Əsgərov.

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

I. THE ARTICLE IN ISSUE

5. The Baku Metro is a fully State-owned company which, at the material time, was operating under the control of the Cabinet of Ministers and its then chief executive, Mr T.A., had been appointed by Presidential Decree No. 855 of 27 July 1998 and held that position until 2014.

6. By a decision of 24 November 2011, the Tariff Council of the Republic of Azerbaijan increased the fare for the Baku Metro from 0.15 Azerbaijani manats (AZN) to AZN 0.20 (approximately 0.20 euro (EUR) at the material time).

7. The decision entered into force as of 1 December 2011.

8. In its edition of 8 April 2012, the applicant newspaper published an article entitled "[T.A.] misappropriated five gopiks". The article started by noting that after the increase in the metro fares, AZN 0.05 remained on passengers' metro card balances. The article continued as follows:

> "I am one of those [whose five gopiks remained on the card]. Even though five gopiks is an insignificant amount in itself, out of curiosity, I asked the cashiers at the metro "What will happen to the five gopiks?" They assured me that "[They] will remain on the card balance". In fact, it continued like this for three months. Each time I added one manat to my card, the machine displayed the balance as one manat and five gopiks. Until April. In April one manat did not turn into one manat and five gopiks. Five gopiks had been ... stolen. Hundreds of thousands of citizens have been pickpocketed. This is a new type of fraud.
>
> Millions of residents use the metro. At least one-quarter of those passengers have a metro card. Let's say AZN 0.05 remained on at least 250,000 out of 750,000 cards. That equals twelve thousand five hundred manats. A pensioner receiving a monthly pension in the amount of AZN 85 can live for 12 years on that amount. Look, the chief executive of the Baku Metro, T.A., misappropriated those amounts (*Bax, Metropolitenin rəisi T.Ə. həmən pulları mənimsəyib*). It is not possible to accuse anyone but T.A. in this matter ... He is the one who makes such 'insignificant', 'unnoticed' decisions."

9. The article continued with further allegations concerning the absence of any kind of oversight and supervision of the activities, revenue and expenses of the Baku Metro which "could reveal misappropriation".

10. The article ended with the following:

> "The metro is a profitable sector. But this profit flows into the pocket of the management of the Baku Metro (*Amma bu qazanc metro rəhbərliyinin cibinə axır*). Because no one is calculating its profit. T.A.'s Metro is an impregnable castle."

II. CIVIL DEFAMATION PROCEEDINGS AGAINST THE APPLICANT NEWSPAPER

11. On 7 May 2012 T.A. lodged a civil defamation claim against the applicant newspaper with the Yasamal District Court, arguing that the article in issue accused him of committing the criminal offence of misappropriation by abusing his power and that the false information provided in the article damaged his dignity, discredited his honour and was detrimental to his

professional reputation. In respect of the remaining amounts on the cards, he noted that the unused amounts were to be transferred to new cards when the passengers got one or they could ask for a reimbursement from cashiers at the metro. He asked the court to order the respondent to publish a retraction and to pay him AZN 200,000 (approximately EUR 196,000 at the material time) in respect of non-pecuniary damage.

12. In its objection submitted to the court, the applicant newspaper denied that the article was defamatory of the claimant. In particular, it stated that the purpose of the impugned article was to draw public attention to an issue of general interest. It further stated that since neither the Baku Metro nor the claimant had provided any explanation to the public regarding the whereabouts of the remaining amounts, and as the journalist's efforts to obtain such information from the Baku Metro had been unsuccessful, the author had presented his opinion and value judgments that the amounts remained at disposal of the Baku Metro. He had come to such a conclusion on the basis of his own research and the complaints of passengers addressed to the newspaper.

13. By a judgment of 13 June 2012, the Yasamal District Court upheld the claim in part and ordered the applicant newspaper to publish a retraction and to pay AZN 30,000 (approximately EUR 30,600 at the material time) to T.A. in respect of non-pecuniary damage.

14. The court briefly noted that since the respondent had been unable to provide any proof of the veracity of the information provided in the article, it created a negative public image of T.A., and it therefore should be assessed as information tarnishing his honour, dignity and professional reputation and causing him non-pecuniary damage. In respect of the damages awarded, the court briefly noted that, considering T.A.'s reputation in society and the extent to which the information had been disseminated, the damages should be set at AZN 30,000.

15. The applicant newspaper appealed against the judgment, arguing that the first-instance court had not provided any reasoning for its conclusions and that the court had merely accepted T.A.'s assertions that the article damaged his honour and dignity, without any adequate assessment. The applicant newspaper maintained its previous arguments that the article was of public interest and that the author had based his assertions on the complaints received from individuals and in the absence of any comment from the Baku Metro on the matter. The applicant newspaper further stated that, as a public figure, T.A. should have tolerated a higher level of criticism.

16. As to the non-pecuniary damage, the applicant newspaper stated that T.A. had not provided any evidence that he had sustained any non-pecuniary damage, and that his purpose in lodging the claim had been to prevent the media from criticising his activities. Comparing the present proceedings to another set of civil defamation proceedings brought against the applicant newspaper in which the same judge of the first-instance court had ordered it

to pay AZN 4,000 to that claimant, who was a public figure as well, it additionally submitted that the court had randomly determined the damages awarded, without providing any justification or calculation. At the hearing before the appellate court, the applicant newspaper's representative argued that the amount awarded in respect of non-pecuniary damage was exorbitant.

17. By a judgment of 13 September 2012, the Baku Court of Appeal dismissed the applicant newspaper's appeal, essentially reiterating the first-instance court's reasoning. It omitted to address the applicant newspaper's arguments concerning the amount of damages awarded.

18. The applicant newspaper lodged a cassation appeal. Reiterating its previous arguments, the applicant newspaper additionally stated that it was experiencing financial difficulties which were making it impossible to pay the ordered amount. The applicant newspaper further stated that since it was representing the opposition media, no advertising requests were being made to it meaning that it had no income from advertising. The appellate court therefore should have determined whether the applicant newspaper was able to pay the awarded sum, but it had failed to do so.

19. By a final decision of 14 February 2013, the Supreme Court upheld the lower courts' judgments, essentially endorsing their reasoning. The court additionally noted there was a big difference between criticism and tarnishing someone's honour and dignity. Accusing someone of having committed criminal offences such as misappropriation and abuse of power should be differentiated from criticising his or her professional performance. As with the appellate court, the Supreme Court did not respond to the applicant newspaper's arguments concerning the disproportionate amount awarded by the lower court.

III. FURTHER DEVELOPMENTS

20. On an unspecified date the applicant newspaper published a retraction in one of its editions.

21. In November 2013 an attachment order was issued in respect of the bank account of the applicant newspaper and on 26 December 2013 the amount of AZN 30,500 was withdrawn from the account on the basis of a collection order by the Yasamal District Enforcement Office. It is not clear from the material in the case file why AZN 500 was withdrawn in addition to the award of AZN 30,000 from the applicant newspaper's bank account.

RELEVANT LEGAL FRAMEWORK

22. The relevant parts of Article 23 of the Civil Code of 2000 ("the Civil Code") provided as follows:

Article 23. Protection of honour, dignity and business reputation

> “23.1. An individual is entitled to obtain, by way of a court order, a retraction of information harming his or her honour, dignity or business reputation, disclosing secrets relating to his or her private or family life or breaching his or her personal or family inviolability, provided that the person who disseminated such information fails to prove that the information was true. The same rule shall also apply in cases of incomplete publication of factual information if, as a result, the honour, dignity or business reputation of an individual is harmed ...
>
> 23.2. If information harming the honour, dignity or business reputation of an individual or invading the secrecy of his or her private or family life is disseminated in the mass media, the information shall be retracted in the same mass media source ...
>
> 23.3. If the mass media publish information breaching an individual’s rights and interests protected by law, that individual has the right to publish his or her reply in the same mass media source.
>
> 23.4. In addition to the right to seek a retraction of the information harming his or her honour, dignity or business reputation, the individual has the right to claim compensation for damage caused by the dissemination of such information ...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

23. The applicant newspaper complained that there had been an unjustified and disproportionate interference with its right to freedom of expression on account of the domestic courts finding that the impugned article was defamatory of a public official and imposing excessive damages on it for the publication. Article 10 of the Convention provides as follows:

> “1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

A. Admissibility

24. The Court notes that the 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

25. The applicant newspaper submitted that the domestic courts had failed to demonstrate that the interference with its freedom of expression was justified and to provide any reasoning for the amount it was ordered to pay in damages. In particular, it argued that the domestic courts had unduly placed the applicant newspaper under the onus of proving the veracity of the author's value judgments expressed in the article. It further maintained that the article outlined an important matter of public interest. In that regard, it provided excerpts from different news outlets highlighting the increase in metro fares and the public reaction to that.

26. Moreover, the applicant newspaper submitted that the amount of damages ordered by the domestic courts did not bear a reasonable relationship of proportionality to the dire financial situation that the applicant newspaper was in, because it amounted to one-third of its revenue for the first half of the year, and that the newspaper was already running at a loss as its costs exceeded its income, even before the payment of the damages ordered by the domestic courts. Thus, the payment of such a substantial amount would further exacerbate its financial hardship.

27. The Government submitted that the statements made in the impugned article were factual allegations accusing T.A. of committing the criminal offence of misappropriation, for which the applicant newspaper had failed to provide any supporting evidence. The Government further argued that, taking into account T.A.'s reputation and the extent to which the information had been disseminated, the amount of damages ordered by the domestic courts had been proportionate.

2. The Court's assessment

(a) Whether there was an interference

28. It is undisputed that the judgments of the domestic courts and the sanction imposed on the applicant newspaper amounted to an interference by the State with its right to freedom of expression under Article 10 of the Convention.

29. Such interference will be in breach of the Convention unless it was "prescribed by law", pursued one or more of the legitimate aims referred to in the second paragraph of Article 10 and was "necessary in a democratic society" (see *Sanchez v. France* [GC], no. 45581/15, § 123, 15 May 2023).

(b) Whether the interference was lawful and pursued a legitimate aim

30. The Court accepts that the interference was "prescribed by law", in particular Article 23 of the Civil Code, and that it pursued the legitimate aim of protecting "the reputation and rights of others" – namely T.A.'s reputation

in the present case – within the meaning of Article 10 § 2 of the Convention (see Azadliq *and Zayidov v. Azerbaijan*, no. 20755/08, § 34, 30 June 2022).

31. It remains to be established whether the interference was “necessary in a democratic society”.

(c) Whether the interference was “necessary in a democratic society”

(i) Applicable general principles

32. The general principles concerning the necessity of an interference with freedom of expression have been summarised in, among many other authorities, *Delfi AS v. Estonia* ([GC], no. 64569/09, § 131, ECHR 2015, and the cases cited therein). The general principles applicable to cases in which the right to freedom of expression under Article 10 of the Convention has to be balanced against the right to respect for private life under Article 8 have been summarised in, among many other authorities, *Von Hannover v. Germany (no. 2)* ([GC], nos. 40660/08 and 60641/08, §§ 104-07, ECHR 2012), and *Perinçek v. Switzerland* ([GC], no. 27510/08, § 198, ECHR 2015 (extracts), and the cases cited therein).

33. The press plays an essential role in a democratic society. Although it must not overstep certain bounds, in particular in respect of the reputation and rights of others, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest (see *Bédat v. Switzerland* [GC], no. 56925/08, § 50, 29 March 2016). Article 10 of the Convention does not guarantee a wholly unrestricted freedom of expression even with respect to press coverage of matters of serious public concern and the protection of the right of journalists to impart information on issues of general interest is subject to the proviso that they are acting in good faith and on an accurate factual basis and provide “reliable and precise” information in accordance with the ethics of journalism (see *NIT S.R.L. v. the Republic of Moldova* [GC], no. 28470/12, §§ 179-80, 5 April 2022, and Azadliq *and Zayidov*, cited above, § 36). While the role of the press certainly entails a duty to alert the public where it is informed about presumed misappropriation on the part of local elected representatives and public officials, the fact of directly accusing specific individuals by mentioning their names and positions places the applicants under an obligation to provide a sufficient factual basis for their assertions (see *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 101, ECHR 2004-XI, and *Mahmudov and Agazade v. Azerbaijan*, no. 35877/04, § 45, 18 December 2008). 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 Azadliq *and Zayidov*, cited above, § 36, and the cases cited therein).

34. A distinction needs to be made between statements of fact and value judgments. While the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. Nevertheless, even where a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it will be excessive (see *Almeida Arroja v. Portugal*, no. 47238/19, § 71, 19 March 2024). In order to distinguish between a factual allegation and a value judgment, it is necessary to take account of the circumstances of the case and the general tone of the remarks, bearing in mind that assertions about matters of public interest may, on that basis, constitute value judgments rather than statements of fact (see *Morice v. France* [GC], no. 29369/10, § 126, ECHR 2015).

35. The Court also notes that the nature and severity of the penalties imposed are further factors to be taken into account when assessing the proportionality of an interference (see, for example, *Boronyák v. Hungary*, no. 4110/20, § 49, 20 June 2024). It must be satisfied that the penalty does not amount to a form of censorship intended to discourage the applicants from expressing criticism or to undermine civil society's vital contribution to the administration of public affairs. Likewise, the penalty should not be such that it hampers NGOs, media organisations and journalists in performing their role as independent monitors and "public watchdogs" (see *Kobaliya and Others v. Russia*, nos. 39446/16 and 106 others, § 87, 22 October 2024). In cases where a fair balance must be struck between the rights guaranteed by Articles 8 and 10 of the Convention, the size of the award of damages is a factor to be taken into consideration in assessing whether the right balance has been struck. Under the Convention, an award of damages for defamation must bear a reasonable relationship of proportionality to the injury to reputation suffered, as well as to the incomes and resources of the applicants (see Azadliq *and Zayidov*, cited above, § 39 *in fine*, with further references).

(ii) Application of the above principles to the present case

36. The Court observes that the article in question can hypothetically be divided into two distinct parts. The first part addresses the allegation of an arbitrary and inexplicable deduction of five gopiks from the balance of passengers' metro cards, which had remained there following an increase in metro fares. The second part contains the allegations about the lack of oversight and supervision of the activities and financial management of the Baku Metro.

37. In the Court's view, the statements made in the article, in particular "T.A. misappropriated those amounts", "Hundreds of thousands of citizens have been pickpocketed" and "The profits flow into the pockets of the Baku Metro managers", are serious allegations accusing T.A. – a public figure – of

committing illegal acts. They therefore bring into play his rights under Article 8 of the Convention.

38. In this connection, the Court reiterates that in cases concerning a conflict between the right to reputation and the right to freedom of expression, domestic courts hearing defamation claims are expected to perform a balancing exercise between those two rights, applying the criteria established in the Court's relevant case-law and basing their decisions on relevant and sufficient reasons. Where such a balancing exercise has been undertaken, the Court would require strong reasons to substitute its view for that of the domestic courts (see, for example, *Axel Springer AG v. Germany* [GC], no. 39954/08, § 88, 7 February 2012, and Khural *and Zeynalov v. Azerbaijan,* no. 55069/11, § 52, 6 October 2022).

39. Having regard to the manner in which the domestic courts dealt with the present case, the Court observes that it does not transpire from the domestic courts' judgments that they performed the required balancing exercise between the competing rights, namely the protection of T.A.'s reputation and the applicant newspaper's right to impart information about an issue of public interest. The Court further observes that, except the Supreme Court, which very briefly and in a general manner stated the importance of drawing a distinction between the statements "tarnishing the honour and dignity" and "criticism" (see paragraph 19 above), the domestic courts did not carry out a detailed analysis of the content of the impugned article or particular statements made therein to assess whether they constituted factual information or value judgments. Nor did they address the applicant newspaper's repeated arguments that the article discussed a matter of public interest. The domestic courts assessed the article as a whole, and confined themselves to finding, without any analysis, that it was damaging to T.A.'s reputation and stating that the applicant newspaper had failed to provide evidence to prove the veracity of the information (see paragraphs 14, 17 and 19 above).

40. Since the domestic courts did not apply the criteria laid down in the Court's case-law for balancing freedom of expression with the right to reputation, the Court finds that it must carry out the required balancing exercise itself (see *Mesić v. Croatia*, no. 19362/18, § 93, 5 May 2022, and Khural *and Zeynalov,* cited above, § 54). Considering the particular circumstances of the present case, the Court will examine the following issues for this end: whether the impugned statements contributed to a debate of public interest; the degree of notoriety of the person affected; the content and form of the publication; the way in which the information was obtained and its veracity; and the nature and severity of the penalty imposed.

41. The Court agrees that the subject matter of the impugned article constituted a matter of public interest – the increase in the metro fare – as it concerned a substantial segment of the population who relied on that mode of transport daily. The Court also observes that the materials contained in the

case file indicate that previous increases in metro fares had likewise been the subject of extensive public debate.

42. As to the notoriety of the person affected, the Court notes that the impugned articles referred to the conduct of T.A, who was a well-known public figure, in the exercise of his official duties. In this connection, the Court reiterates that a distinction has to be made between private individuals and individuals acting in a public context. Accordingly, whilst a private individual unknown to the public may claim particular protection of his or her right to private life, the same is not true of public figures in respect of whom limits of critical comment are wider, as they are inevitably and knowingly exposed to public scrutiny and must therefore display a greater degree of tolerance (see Khural *and Zeynalov*, cited above, § 41).

43. As for the content of the article, the Court observes that it did not merely report about the disappearance of the remaining amounts from metro cards, but also contained serious allegations of misconduct by T.A. In this regard, the Court reiterates that there is a distinction to be made between statements of fact and value judgments. The existence of facts can be demonstrated, whereas the truth of value judgments is not susceptible of proof (see *Radio Broadcasting Company B92 AD v. Serbia*, no. 67369/16, § 83, 5 September 2023).

44. The Court notes that the statements made in the article, in particular, “Five gopiks were stolen from the cards”, “Hundreds of thousands of citizens have been pickpocketed”, “T.A. misappropriated those amounts”, “The profits flow into the pockets of the Baku Metro managers” and “He is the one who makes such ‘insignificant’ ... decisions”, suggested to readers that the remaining sums really had been “stolen” from the card balances “by order of T.A.” The Court considers that, to an ordinary and objective reader, the article conveys the impression that T.A. arbitrarily abused his powers to remove the remaining balances from metro cards for his own benefit or that of the Baku Metro. The Court further observes that the author even made some calculations and drew an inference that the overall “misappropriated” amount was equal to AZN 12,500. The Court further notes that at the end of the article, the author metaphorically compared the Baku Metro to an “impregnable castle” which was a “concluding remark” referring to his earlier allegations that the Baku Metro’s activities had never been subject to oversight, which had allegedly created suitable conditions for committing criminal offences, such as misappropriation, corruption and so on.

45. At this point, the Court observes that the relevant domestic law as it stood at the material time did not distinguish between statements of fact and value judgments but referred uniformly to “information” and required that the truth of any such “information” be proved by the respondent party. Such an indiscriminate approach to the assessment of speech has been held by the Court to be *per se* incompatible with freedom of opinion, a fundamental element of Article 10 of the Convention (see Azadliq *and Zayidov*, cited

above, § 46, and *OOO Izdatelskiy Tsentr Kvartirnyy Ryad v. Russia*, no. 39748/05, § 44, 25 April 2017).

46. Nevertheless, taking into account the entire content of the article, the Court finds that, contrary to the applicant newspaper's argument, the article mainly contained factual statements and not value judgments. Even accepting that some parts of the article were value judgments of the author, the Court considers that these were still based on the author's previous factual allegations about the misappropriation by T.A. and the general "unsupervised" management of the Baku Metro. In this connection, the Court reiterates that even where a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it will be excessive (see *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 55, ECHR 2007-IV).

47. As to the source of the information and its veracity, the Court draws attention to the fact that the article lacked any reference to the source of the allegations made therein to demonstrate its factual basis. Later in the court proceedings the representative of the applicant newspaper noted that it had been difficult to obtain information from the Baku Metro about its revenue, costs and why it had been necessary to increase the fares, because it was a "closed entity" to such information requests. Thus, the journalist was not successful in obtaining information from the Baku Metro, and on the basis of his own research and complaints by the individuals addressed to the newspaper, he had assumed that the amounts remained at the Baku Metro's disposal. The Court, however, notes that even though the applicant newspaper maintained before the domestic courts that the author of the article had attempted to obtain information from the Baku Metro about the issue, it had never provided any evidence in that regard to the domestic courts or the Court, such as the information request sent to the Baku Metro, or the content of the complaints allegedly made by some dissatisfied (unnamed) passengers to the newspaper. The Court also observes that the excerpts of news about passenger complaints published in different newspapers or news outlets provided by the applicant newspaper concerned a previous increase in metro fares in 2009 (see paragraph 25 above).

48. Accordingly, the applicant newspaper failed to comply with the relevant standards of due diligence and to act in good faith in order to provide "reliable and precise" information to the public. Such conduct by the applicant newspaper cannot be considered compatible with the tenets of responsible journalism, especially considering the gravity of the factual statements made in the article, which accused a specifically named individual of having committed serious criminal offences. Considering the seriousness of the allegations and their possible damaging effect on T.A.'s reputation, the Court notes that it has not been shown that in the present case there existed any special grounds dispensing the applicant newspaper from attempting to

verify those factual statements (see Azadliq *and Zayidov*, cited above, § 45, and compare *Halldorsson v. Iceland*, no. 44322/13, § 50, 4 July 2017).

49. As regards the severity of penalty, the Court observes that the domestic courts ordered the applicant newspaper to publish a retraction and to pay AZN 30,000 (approximately EUR 30,600 at the material time) in damages to T.A. in respect of non-pecuniary damage. In determining the amount awarded, the domestic courts merely referred to T.A.'s reputation in society and the extent to which the information had been disseminated (see paragraph 14 above), without any further elucidation.

50. In this connection, the Court reiterates that unpredictably large awards in defamation cases are capable of having a chilling effect on the freedom of expression and therefore require the most careful scrutiny on its part and awards of that magnitude will trigger a heightened scrutiny of their proportionality (see *Rashkin v. Russia*, no. 69575/10, §§ 19-20, 7 July 2020, and the cases cited therein).

51. The case file indicates that the applicant newspaper raised arguments before the domestic courts that the damages awarded were excessive and that it was experiencing dire financial distress at that time (see paragraphs 16 and 18 above). The applicant newspaper did not submit any documents either to the domestic courts or to the Court in support of its arguments regarding financial hardship. The Court, however, considers that the applicant newspaper's submissions were sufficiently supported by the relevant arguments, even in the absence of any documents, to show *prima facie* the disproportionality of the amount awarded in the circumstances of the case. In this connection, the Court draws attention to the fact that, despite the applicant newspaper's insistent arguments, the higher courts remained completely silent on that matter. No reasons were provided by the courts in order to substantiate their decisions to award that particular amount to T.A. and it has not been demonstrated that they carried out any adequate assessment whether the award of that particular amount bore a reasonable relationship of proportionality to the injury to reputation suffered by T.A. (see Azadliq *and Zayidov*, cited above, §§ 49-50; and, *mutatis mutandis*, *Rashkin*, cited above, § 20). While it is not possible to conclude that no harm at all was done to the reputation and honour of T.A., the Court finds it difficult to accept, in the absence of any relevant reasoning in support of the amount awarded, that the injury to T.A.'s reputation in the present case was so serious as to justify an award of that size, also considering that it has not been demonstrated that the activities of the Baku Metro or the career of T.A. as its chief executive were affected by the impugned article (see, *mutatis mutandis*, *Almeida Arroja*, cited above, § 89).

52. The Court also considers it relevant to take note of its previous judgments which concerned the separate civil defamation proceedings brought against the applicant newspaper, in which the Court came to similar conclusions regarding the disproportionate nature of the sanctions imposed

owing to the domestic courts' failure to provide relevant reasoning for their decisions, despite the applicant newspaper's arguments concerning the financial hardship it was experiencing (see, for example, Azadliq *and Zayidov,* cited above, § 48, where the domestic courts ordered the applicant newspaper to pay AZN 40,000 (approximately EUR 36,000); Azadliq *and Zayidov v. Azerbaijan*, ([Committee], no. 9028/09, § 28, 16 May 2024) – AZN 10,000 (approximately EUR 7,600 at the material time); and Azadliq *and Jabrayilzade v. Azerbaijan,* ([Committee], no. 10987/14, § 18, 21 November 2024) – AZN 30,000 (approximately EUR 29,400 at the material time)).

53. The foregoing considerations are sufficient to enable the Court to conclude that the domestic courts failed to provide relevant and sufficient reasoning for the severity of the monetary sanction imposed on the applicant newspaper, which did not appear to bear a reasonable relationship of proportionality to the legitimate aim pursued (see Azadliq *and Zayidov*, cited above, § 50). Thus, the interference was not "necessary in a democratic society" within the meaning of Article 10 of the Convention.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

55. 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

1. Parties' submissions

56. The applicant newspaper claimed in total 48,080 Azerbaijani manats (AZN) in respect of pecuniary damage, comprising the principal amount of AZN 30,500 (equivalent of 28,430 euros (EUR) on 26 December 2013 at the time of the withdrawal of that amount from its bank account) and AZN 17,580 (equivalent of EUR 16,385 on 26 December 2013) for the accrued annual interest rate on this amount. Additionally, it claimed EUR 20,000 in respect of non-pecuniary damage. The claims were submitted on 10 January 2022.

57. The Government asked the Court to reject the applicant newspaper's claim in respect of pecuniary damage or, in the alternative, to take into account the changes in rates since the applicant newspaper had submitted its claims. The Government submitted that the claims in respect of non-pecuniary damage were excessive and unsubstantiated.

2. *The Court's assessment*

58. The Court accepts that the applicant newspaper suffered pecuniary damage as a result of the breach of Article 10 found above and some further pecuniary loss as a result of the lapse of time since the sum was withdrawn on 26 December 2013 (see *Handzhiyski v. Bulgaria*, no. 10783/14, § 64, 6 April 2021, with further references).

59. The claims in respect of pecuniary damage in the present case were expressed in Azerbaijani manats and the applicant newspaper also noted the equivalent amount in euros in accordance with the exchange rate applicable on the date of withdrawal (26 December 2013). The same exchange rate applicable on 26 December 2013 was also relied on by the applicant newspaper in respect of the claimed interest accrued during the subsequent years. However, since the national currency has significantly depreciated since the date on which the amount was withdrawn from the applicant newspaper's account, the question arises as to what exchange rate should be applied when assessing the applicant newspaper's claims.

60. The Court reiterates that the applicant newspaper should be placed, as far as possible, in the same situation it would have been in had the violation not occurred. As a general practice, in cases where just satisfaction claims (under various heads) are made in the national currency, the Court has converted them into euros as of the date of submission of the claims (see *Shukurov v. Azerbaijan*, no. 37614/11, § 33, 27 October 2016, with further references, and *Aliyeva and Others v. Azerbaijan*, nos. 66249/16 and 6 others, § 149, 21 September 2021).

61. As a general rule, it is appropriate to follow the above-mentioned approach both in cases where a claim has lost considerable value by the time the Court reaches its decision and where it has remained stable while the case has been pending (see *Shukurov*, cited above, § 34). Accordingly, in the present case, the conversion rate to be used should be the rate applicable on the date on which the claim was submitted, namely 10 January 2022.

62. Moreover, the interest rate applied by the Court is meant to compensate for the loss of value of money over time and should thus reflect national economic conditions, such as the level of inflation and the rates of interest during the relevant period. Domestic rules on the calculation of default interest, which may reflect considerations going over and above *restitutio in integrum* are thus not necessarily an appropriate indication; the Court must rather base its calculation on a rate of interest which best serves the purpose of its award (see *Boyadzhieva and Gloria International Limited EOOD v. Bulgaria*, nos. 41299/09 and 11132/10, § 54, 5 July 2018). In the present case, the Court finds it reasonable to apply a rate equal to the base interest rate of the Central Bank of Azerbaijan during the relevant period (compare *Handzhiyski,* cited above, § 64). The amount of interest calculated, expressed in Azerbaijani manats, should then be converted into euros at the rate applicable at the date of submission of the claim, 10 January 2022.

63. Considering all of the above, the Court awards the applicant newspaper the total amount of EUR 25,000 in respect of pecuniary damage.

64. With regard to non-pecuniary damage, the Court considers that the applicant newspaper has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant newspaper the sum of EUR 3,000 under this head, plus any tax that may be chargeable on this amount.

B. Costs and expenses

1. *Parties' submissions*

65. The applicant newspaper also claimed EUR 5,150 for the costs and expenses incurred before the domestic courts and the Court. The applicant newspaper asked the Court to pay the award of legal costs directly to Mr R. Hajili, its representative. The claims were submitted on 10 January 2022.

66. The Government contested the amount, noting that it was excessive, and that EUR 1,500 would be reasonable under this head.

2. *The Court's assessment*

67. 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 were actually and necessarily incurred and are reasonable as to quantum (see, among many others, *L.B. v. Hungary* [GC], no. 36345/16, § 149, 9 March 2023).

68. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,500 covering costs and expenses in the domestic proceedings and before the Court, plus any tax that may be chargeable to the applicant newspaper, to be paid directly to its representative Mr Hajili.

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 newspaper, 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 the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 25,000 (twenty-five thousand euros), plus any tax that may be chargeable, in respect of pecuniary damage;

(ii) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(iii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicant newspaper, in respect of costs and expenses, to be paid directly to its representative Mr Hajili's bank account;

(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 newspaper's claim for just satisfaction.

Done in English, and notified in writing on 25 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško	Ioannis Ktistakis
Registrar	President