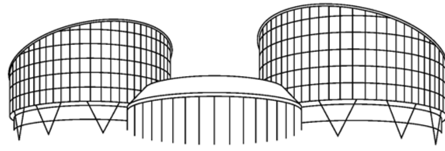

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ANTUNES EMÍDIO AND SOARES GOMES DA CRUZ v. PORTUGAL

(Applications nos. 75637/13 and 8114/14)

JUDGMENT

STRASBOURG

24 September 2019

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Antunes Emídio and Soares Gomes da Cruz v. Portugal,

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

Helen Keller, *President,*
Paulo Pinto de Albuquerque,
María Elósegui, *judges,*
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 3 September 2019,

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

PROCEDURE

1. The case originated in two applications (nos. 75637/13 and 8114/14) against the Portuguese Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Portuguese nationals, Mr Joaquim António Antunes Emídio ("the first applicant") and Mr Luís Manuel Soares Gomes da Cruz ("the second applicant"), on 26 November 2013 and 8 January 2014 respectively.

2. The applicants were represented by Mr J.D.C. Baptista and Mr Ricardo Sá Fernandes respectively, both lawyers practising in Lisbon. The Portuguese Government ("the Government") were represented by their Agent, Ms M.F. da Graça Carvalho, Deputy Attorney General.

3. On 29 November 2017 notice of the complaints concerning Article 10 of the Convention was given to the Government and the remainder of application no. 8114/14 (*Soares Gomes da Cruz v. Portugal*) was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicants were born in 1955 and 1944 respectively. The first applicant lives in Santarém and the second applicant lives in Lisbon.

A. Application no. 75637/13 (*Antunes Emídio v. Portugal*)

5. The first applicant is a journalist. At the relevant time he was also the Director-General of *O Mirante*, a regional weekly newspaper.

6. On 31 March 2011 *O Mirante* published an opinion article written by the first applicant entitled "Only chickens were left", which contained criticism of the Portuguese political class. The article was also published on the newspaper's blog.

7. In the article the applicant made statements about Mr R.B., at the time State Secretary for Agriculture, Forests and Rural Development. The relevant part of the article reads as follows:

> “... His name is [R.B.], he is the most idiotic politician I know and he has been State Secretary for Agriculture and Forests for the last year and a half, in [J.S.’s] government. It is known for certain that one day he will be Minister of Finance, or Education, or Justice of some government, trusting the apparatus of the Socialist Party, where it seems that all the good people have gone on holiday and only the chickens were left ...”

8. Following the publication of the article in question, Mr R.B. lodged a criminal complaint against the first applicant with the Santarém public prosecutor’s office, accusing the applicant of defamation.

9. In a judgment of 20 July 2012 the first applicant was convicted of aggravated defamation by the Santarém Criminal Court pursuant to Articles 180 and 184 of the Portuguese Criminal Code. Balancing the first applicant’s freedom of expression against Mr R.B.’s right to reputation, the court concluded that the applicant’s statements amounted to value judgments which had no connection with Mr R.B.’s conduct as State Secretary. The court also found that the first applicant’s statements had gone beyond what could have been considered objective criticism. The applicant was accordingly convicted of defamation and sentenced to 250 day-fines, totalling 2,500 euros (EUR). He was also ordered to pay compensation of EUR 2,500 to Mr R.B.

10. On an appeal by the first applicant, the Évora Court of Appeal upheld the previous decision in a judgment of 28 May 2013. The court found that the applicant’s statements were subjective assessments which were not accompanied by any examples such as to allow an understanding of the reason behind the use of the word “idiotic”. Regarding the amount the applicant was ordered to pay in compensation for non-pecuniary damage, the Court of Appeal declared the appeal inadmissible because of the low value of the claim.

11. The applicant challenged the judgment of the Court of Appeal, arguing that it should be declared null and void and that a clarification was required. Both requests were dismissed by a judgment of the Évora Court of Appeal, on 1 October 2013.

12. On 20 November 2013 the first applicant paid Mr R.B. the amount of EUR 2,785.21. On 16 January 2014 he also paid the fine of EUR 2,500.

B. Application no. 8114/14 (*Soares Gomes da Cruz v. Portugal*)

1. Background to the case

13. The second applicant is a doctor and managing partner of the oldest company providing occupational health services in the town of Lourinhã, Clinic G.C. THS, Lda (“the clinic”).

14. In 2000 the clinic applied for accreditation with the Authority for Working Conditions (*Autoridade para as Condições do Trabalho* – "the ACT"), which it obtained in 2010. The absence of accreditation did not prevent the effective provision of occupational health services.

15. In 2009 the Lourinhã Town Council decided to set up an occupational health service. For that purpose the Town Council held direct negotiations (*ajuste direto*) with three companies providing occupational health services, E., P. and M. The clinic was not invited to the negotiations.

16. On an unknown date, the mayor of the Lourinhã Town Council, J.C., explained to the second applicant that the clinic had not been invited to the direct negotiations because it was not accredited by the ACT.

17. On 3 September 2009 the local newspaper *Frente Oeste* published an "Open letter to the mayor of the Lourinhã Town Council" written by the second applicant, which referred to the direct negotiations held by the Lourinhã Town Council.

18. The relevant parts of the article read as follows:

> "... We thought it was strange that the clinic Dr G.C. THS, Lda ... was not invited...
>
> The reason for this letter lies in the huge anger (*revolta*) aroused by this total lack of honesty and seriousness and this cowardice on the part of the mayor. ... The Town Council operates like a hunting ground where hunting is only allowed for those whom the mayor wants ... This letter has nothing to do with politics, but with his lack of character and honesty and his cowardice, which I will publicly fight against... The citizens of Lourinhã missed a great opportunity to be happy when they did not elect ... – a true leader, with integrity, not subject to influence-peddling that is harmful for Lourinhã."

19. Around a week and half later, the second applicant distributed a leaflet at the entrance of the town hall, reading as follows:

> "... The mayor is not worthy, nor does he deserve to be the highest representative of the citizens of Lourinhã, since he rarely defends the community's legitimate interests; on the contrary, he invests in local tribal chiefs in exchange for a lentil dish...
>
> It just so happens that the mayor, contrary to what he thinks and is told by his sycophants, is not loved among the serious and honest citizens of Lourinhã, but since most people are humble and poor, unfortunately you can mislead them with five cents' worth of strained honey!
>
> It's time that you were properly reported, unmasked, in a loyal and honest way, for your cowardice and dishonesty which you have displayed throughout your previous terms of office!
>
> But do we deserve such a cruel punishment? To have such an ungrateful and incompetent mayor?"

2. The criminal proceedings against the second applicant

20. Following a criminal complaint lodged by J.C. and the Lourinhã Town Council, criminal proceedings were initiated against the second applicant by the Lourinhã public prosecutor's office.

21. On an unknown date Mr J.C. and the Lourinhã City Council were granted leave to intervene in the proceedings as assistants to the prosecuting authority (*assistentes*). They also lodged civil claims.

22. The proceedings were conducted before the Lourinhã District Court. At the hearing, the applicant explained that he had written the impugned article because he had felt outraged by the exclusion of his company from the negotiations on the ground of its lack of accreditation, since the E. and P. companies also lacked accreditation.

23. By a decision of 22 February 2013 the second applicant was convicted of two offences of libel through the media (*publicidade e calúnia*) under Articles 180, 183 and 184 of the Portuguese Criminal Code regarding the statements directed at Mr J.C., and one offence of insulting a legal entity (*ofensa a organismo, serviço ou pessoa colectiva*) under Article 187 of the Portuguese Criminal Code regarding the statements directed at the Town Council. The Lourinhã District Court sentenced the second applicant to a total of 450 day-fines, amounting to EUR 27,000. It also ordered him to pay EUR 6,000 in damages to Mr J.C.

24. In its judgment, the Lourinhã District Court balanced the second applicant's freedom of expression against Mr J.C.'s right to his honour and reputation. It considered that the second applicant had not stated facts constituting criticism of Mr J.C.'s political conduct, but rather had made a statement of facts whose veracity had not been proved, such as "dishonest" and "coward". The court did not consider it an established fact that J.C. had known that only one of the three companies invited to participate in the direct negotiations was accredited (see paragraph 22 above), that the M. company had already been selected in advance of the opening of the direct negotiations, that the second applicant was convinced that the direct negotiations procedure was not transparent and serious, or that he had acted with the intention of publicly denouncing the procedure. The court also found that the applicant had not proved the truthfulness of the sentence "[t]he Town Council operates like a hunting ground where hunting is only allowed for those whom the mayor wants". Lastly, the court placed emphasis on the fact that the direct negotiations procedure was characterised by the possibility for the authority or service concerned to freely choose the invitees.

25. The second applicant appealed against that decision to the Lisbon Court of Appeal.

26. By a judgment of 3 July 2013 the Lisbon Court of Appeal, referring to the case-law of the European Court of Human Rights, concluded that some of the second applicant's statements, such as that Mr J.C. was "dishonest" and a "coward", had not been made in the context of any political discussion. Regarding the statements directed at the Town Council, the Court of Appeal agreed with the first-instance court that those statements were unfounded and unreasonable. It therefore upheld the second

applicant's conviction, reducing the amount of the fine to EUR 18,000 and the amount to be paid to Mr J.C. to EUR 4,500 plus interest. Its judgment was served on the applicant on 8 July 2013.

27. On 20 June 2014 the applicant was compelled to pay the compensation awarded to Mr J.C. On 20 May 2015 he also finished paying the fine.

II. RELEVANT DOMESTIC LAW AND PRACTICE

28. The relevant domestic law and practice have been summarised in the Court's judgments in *Pinto Pinheiro Marques v. Portugal*, no. 26671/09, §§ 20-22, 22 January 2015; *Almeida Leitão Bento Fernandes v. Portugal*, no. 25790/11, § 29, 12 March 2015; and *Do Carmo de Portugal e Castro Câmara v. Portugal*, no. 53139/11, §§ 16-17, 4 October 2016.

THE LAW

I. JOINDER OF THE APPLICATIONS

29. Having regard to the similar subject matter of the applications, the Court finds it appropriate to order their joinder (Rule 42 § 1 of the Rules of Court).

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

30. The applicants complained that their conviction was in breach of their freedom of expression as provided for in Article 10 of the Convention, which reads as follows:

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

A. Admissibility

31. The Court notes that the applicants' complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The parties' arguments

(a) Application no. 75637/13 (*Antunes Emídio v. Portugal*)

32. The first applicant contended that the article had expressed his view on the way the country was being governed, criticising the privileges enjoyed by some politicians and mentioning R.B. solely as an example.

33. The Government argued that the first applicant's statements reflected personal feelings of mistrust regarding the political class and had no factual basis, thus not contributing to a public debate or being in the general or public interest.

(b) Application no. 8114/14 (*Soares Gomes da Cruz v. Portugal*)

34. The second applicant submitted that there was a public interest in the statements he had published, since he had been drawing attention to a lack of transparency that society had the right to know about. Regarding the direct negotiations procedure, he asserted that it was strange that the clinic had not been invited to take part because it did not have accreditation (see paragraph 16 above), since two of the companies invited had not had the same accreditation either (see paragraph 22 above).

35. The Government emphasised that the second applicant had not proved his statements regarding the direct negotiations procedure to be true. They further argued that direct negotiation was, in itself, a procedure which was characterised by the possibility for the service or authority concerned to freely choose the invitees (see paragraph 24 *in fine* above) and that the case was of no general interest to society. Regarding the amounts of the fine and the compensation that the applicant had been ordered to pay, the Government submitted that they were modest.

2. The Court's assessment

36. The Court notes that the parties did not dispute that the domestic courts' judgments amounted to "interference" with the applicants' exercise of their right to freedom of expression.

37. It remains to be established whether the interference complained of in each case was prescribed by law, pursued a legitimate aim referred to in Article 10 § 2 of the Convention and was "necessary in a democratic society".

(a) General principles

38. The Court refers to its case-law to the effect that the expression "prescribed by law" not only requires that the impugned measure should have some basis in domestic law, but also refers to the quality of the law in

question, requiring that it should be accessible to the person concerned and foreseeable as to its effects (see *Amann v. Switzerland* [GC], no. 27798/95, § 50, ECHR 2000-II, and *Pinto Pinheiro Marques v. Portugal*, no. 26671/09, § 33, 22 January 2015).

39. The general principles for assessing whether an interference with the exercise of the right to freedom of expression is "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention are well settled in the Court's case-law and were summarised, *inter alia*, in *Bédat v. Switzerland* ([GC], no. 56925/08, § 48, ECHR 2016). In view of the circumstances of the case, the Court must also ascertain whether the domestic authorities struck a fair balance between the protection of freedom of expression as enshrined in Article 10 and the right to respect for private life enshrined in Article 8. The criteria for balancing those rights are the following: whether the impugned assertions contributed to a debate of general interest; how well known the person concerned was and the subject of the report; the prior conduct of the person concerned; the method of obtaining the information and its veracity; the content, form and consequences of the publication; and, lastly, the severity of the sanction imposed (see *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 89-95, 7 February 2012, and *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, §§ 108-12, ECHR 2012).

40. The Court also reiterates that, as regards the level of protection, there is little scope under Article 10 § 2 of the Convention for restrictions on political speech or on debate on matters of public interest. Accordingly, a high level of protection of freedom of expression, with the authorities thus having a particularly narrow margin of appreciation, will normally be accorded where the remarks concern a matter of public interest (see *Morice v. France* [GC], no. 29369/10, § 125, 23 April 2015, with further references).

41. In order to assess the justification of a statement which is in issue, a distinction must 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 (see, among many other authorities, *Lingens v. Austria*, 8 July 1986, § 46, Series A no. 103, and *Oberschlick v. Austria (no. 1)*, 23 May 1991, § 63, Series A no. 204).

42. The nature and severity of the sanctions imposed are also factors to be taken into account when assessing the proportionality of the interference, as interference with freedom of expression may have a chilling effect on the exercise of that freedom (see *Morice*, cited above, § 127). In the context of exercising the right enshrined in Article 10, the Court has already acknowledged that any criminal sanction is potentially capable of having a deterrent effect on the person on whom it is imposed (see, among other authorities, *Stoll v. Switzerland* [GC], no. 69698/01, § 160, ECHR 2007-V).

43. Lastly, in cases such as the present ones, which require the right to respect for private life to be balanced against the right to freedom of expression, the Court has considered that the outcome of the application should not, in theory, vary according to whether it has been lodged with the Court under Article 8 of the Convention by the person who was the subject of the article, or under Article 10 by the publisher. Indeed, as a matter of principle these rights deserve equal respect. Accordingly, the margin of appreciation should in theory be the same in both cases. Where the balancing exercise has been undertaken 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 that of the domestic courts (see *Von Hannover v. Germany (no. 2)*, cited above, §§ 106-107, with further references).

(b) Application of the above principles to application no. 75637/13 (*Antunes Emídio v. Portugal*)

44. The Court notes that the interference complained of in the first applicant's case was prescribed by law, namely Articles 180 and 184 of the Portuguese Criminal Code (see paragraph 9 above), and pursued a legitimate aim referred to in Article 10 § 2 of the Convention, namely "the protection of the reputation or rights of others".

45. It remains to be established whether the interference was "necessary in a democratic society".

46. The Court notes that the first applicant was convicted of aggravated defamation on account of the expressions he had used in the article published in the newspaper *O Mirante* and in particular the use of the word "idiotic" when referring to R.B. (see paragraph 7 above).

47. The Court agrees with the domestic courts that the statements made by the first applicant constituted value judgments (see paragraph 9 above). That being so, it finds that their truthfulness was not susceptible of proof. Furthermore, the applicant's statements were made in the context of the political situation at the time of writing, and therefore they were clearly of general and public interest. As such, they should have been accorded a high level of protection by the domestic courts.

48. Moreover, regarding, in particular, the use of the word "idiotic" when referring to R.B., the Court cannot but conclude, contrary to the domestic courts, that it did not constitute a personal attack on R.B., but should rather be read in the context of the political situation and the article itself. In this line of reasoning, it should be reiterated that journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation (see for example *Oberschlick v. Austria (no. 2)*, 1 July 1997, § 33, *Reports of Judgments and Decisions* 1997-IV, in which the word "idiot" was likewise at issue; see also, *mutatis mutandis*, *Lopes Gomes da Silva v. Portugal*, no. 37698/97, § 34, 28 September 2000; *Almeida Azevedo*

v. Portugal, no. 43924/02, § 30, 23 January 2007; and *Roseiro Bento v. Portugal*, no. 29288/02, § 43, 18 April 2006).

49. Lastly, as regards the proportionality of the sanction, the Court observes not only that a criminal sanction was imposed on the first applicant but also that the amount of EUR 2,500 which he was ordered to pay Mr R.B in damages was substantial (see paragraph 9 above).

50. In view of the above, the first applicant's conviction was not reasonably proportionate to the legitimate aim pursued, having regard to the interest of a democratic society in ensuring and maintaining the freedom of the press. Therefore, in the particular circumstances of the first applicant's case, there are strong reasons to substitute the Court's view for that of the domestic courts (see the case-law quoted in paragraph 43 above).

51. It follows that there has been a violation of Article 10 of the Convention in respect of the first applicant.

(c) Application of the above principles to application no. 8114/14 (*Soares Gomes da Cruz v. Portugal*)

52. The Court notes that the second applicant was convicted of two offences of libel through the media under Articles 180, 183 and 184 of the Portuguese Criminal Code and one offence of insulting a legal entity under Article 187 of the Portuguese Criminal Code (see paragraph 23 above).

53. Regarding the offences of libel through the media, there is no doubt that the applicant's conviction was prescribed by law, namely Articles 180, 183 and 184 of the Portuguese Criminal Code, and pursued a legitimate aim referred to in Article 10 § 2 of the Convention, namely "the protection of the reputation or rights of others".

54. The same cannot be said regarding the offence of insulting a legal entity. The applicant was convicted under Article 187 of the Portuguese Criminal Code for stating that "[t]he Town Council operates like a hunting ground where hunting is only allowed for those whom the mayor wants" (see paragraph 24 above).

55. The Court emphasises that according to the case-law of the Portuguese courts, Article 187 of the Criminal Code is only applicable to untrue facts, and not to value judgments (see *Pinto Pinheiro Marques*, cited above, §§ 21 and 22). It follows that for the purposes of the present case, Article 187 cannot be regarded as a "law" within the meaning of Article 10 § 2 of the Convention (see, *mutatis mutandis*, *Pinto Pinheiro Marques*, cited above, § 38).

56. Although the lack of legal basis would in itself be sufficient reason to find a violation of Article 10 of the Convention, at least as far as the offence of insulting a legal entity is concerned, the Court finds it useful to examine whether the other criteria of Article 10 § 2 were observed in the instant case. For this purpose, the Court will examine the three convictions

together – for the two offences of libel through the media and one offence of insulting a legal entity.

57. The Court observes that the second applicant's letter and leaflet were written in the context of the political activities of Mr J.C. and the Town Council, in particular the direct negotiations for the provision of occupational health services; the matter was therefore of legitimate general interest, since it contributed to public debate.

58. The Court further notes that J.C. was a well-known politician, at least in the town of Lourinhã since he was the mayor of the Town Council. He was thus a "public figure" within the meaning of the Court's case-law. In that connection, the Court has stated that the extent to which an individual has a public profile or is well known influences the protection that may be afforded to his or her private life (see *Sousa Goucha v. Portugal*, no. 70434/12, § 48, 22 March 2016).

59. The domestic courts found that J.C.'s personal interest in having his reputation protected outweighed the applicant's right to freedom of expression. They noted in this connection, *inter alia*, that the applicant's expressions constituted statements of fact which were not proved (see paragraphs 24 and 26 above). However, the Court cannot follow their approach.

60. In the Court's view, the second applicant's statements did not concern aspects of J.C.'s private life, but conduct concerning his professional activities as mayor of the town of Lourinhã, as well as the Town Council's activities (see, *mutatis mutandis*, *Ileana Constantinescu v. Romania*, no. 32563/04, § 41, 11 December 2012). The applicant's statements constituted value-laden statements on account of both the context in which they were made, namely a debate of general interest to the town of Lourinhã, and their metaphorical tone, a matter on which the domestic courts failed to comment (see, *mutatis mutandis*, *Tavares de Almeida Fernandes and Almeida Fernandes v. Portugal*, no. 31566/13, § 74, 17 January 2017, and cases cited therein).

61. It thus remains to be examined whether the stated "factual basis" for the applicant's views was sufficient. In this respect, the Court recalls that 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: if there is not, that value judgment may prove excessive (see *Morice*, cited above, § 126, and the cases cited therein)

62. The Court is of the opinion that this condition was fulfilled in the present case. It observes in this connection that the second applicant based his opinion on the explanation given for the failure to invite the clinic to the direct negotiations. Although the Court notes that such negotiations involve a degree of freedom in the choice of the companies to be invited (paragraph 24 above), it agrees with the applicant that it is strange that J.C.'s explanation for not inviting the clinic was its lack of accreditation,

especially as two of the invited companies were also not accredited, a fact which he seemed to ignore (see paragraphs 16, 22 and 24 above).

63. The Court thus considers that the expressions used by the second applicant had a sufficiently close connection with J.C.'s conduct.

64. Lastly, the Court observes that a criminal sanction was imposed on the applicant, namely a fine of EUR 18,000 and compensation to J.C. amounting to EUR 4,500 (see paragraph 26 above). The Court finds those amounts high.

65. The Court therefore considers that the domestic courts have exceeded the margin of appreciation afforded to them regarding limitations on debates on matters of public interest and that there is no reasonable relationship of proportionality between the restriction on the second applicant's right to freedom of expression and the legitimate aim pursued. The balancing exercise had not been undertaken by the national authorities in full conformity with the criteria laid down in the Court's case-law, and, in any event, in the particular circumstances of the second applicant's case, there are strong reasons to substitute the Court's view for that of the domestic courts (see the case-law quoted in paragraph 43 above).

66. It follows that there has been a violation of Article 10 of the Convention in respect of the second applicant.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

67. 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. Application no. 75637/13 (*Antunes Emídio v. Portugal*)*

68. The first applicant claimed 5,285.21 euros (EUR) in respect of pecuniary damage, corresponding to the sums he had had to pay as a fine and in compensation to Mr R.B.

69. The Government submitted that the claim was unfounded as, in their view, there had been no violation of the applicant's rights.

70. The Court considers that the applicant is, in principle, entitled to recover any sums that he has paid in fines and costs, by reason of their direct link with the national court judgments which it has found to be in breach of his right to freedom of expression (see *Yordanova and Toshev v. Bulgaria*, no. 5126/05, § 78, 2 October 2012, and *Stankiewicz and Others v. Poland*, no. 48723/07, § 87, 14 October 2014). The claim made by the applicant falls under the heading of pecuniary damage. Having regard to the

above, the Court awards the first applicant EUR 5,285.21 in respect of pecuniary damage, corresponding to the combined amount of the fine and compensation paid to Mr R.B. (see paragraph 12 above).

71. As the first applicant made no claim in respect of non-pecuniary damage, the Court is not called upon to make any award under that head.

*2. Application no. 8114/14 (*Soares Gomes da Cruz v. Portugal*)*

72. The second applicant claimed EUR 22,500 in respect of pecuniary damage and a minimum of EUR 20,000 in respect of non-pecuniary damage.

73. The Government contested those claims. As far as non-pecuniary damage was concerned, they argued that a finding of a violation would constitute sufficient just satisfaction.

74. In view of the case-law outlined in paragraph 70 above, the Court awards the applicant EUR 22,500 in respect of pecuniary damage, corresponding to the combined amount of the fine and compensation paied Mr J.C. (see paragraphs 26 and 27 above).

75. As regards non-pecuniary damage, the Court considers that the finding of a violation of Article 10 of the Convention constitutes in itself sufficient just satisfaction in respect of any non-pecuniary damage sustained by the second applicant (*Tavares de Almeida Fernandes et Almeida Fernandes, précité,* § 88).

B. Costs and expenses

*1. Application no. 75637/13 (*Antunes Emídio v. Portugal*)*

76. The first applicant also claimed EUR 918 for the costs and expenses incurred before the domestic courts.

77. The Government did not express an opinion on the matter.

78. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the sum of EUR 918 for costs and expenses in the domestic proceedings.

*2. Application no. 8114/14 (*Soares Gomes da Cruz v. Portugal*)*

79. The second applicant also claimed EUR 459 for the costs and expenses incurred before the domestic courts.

80. The Government did not express an opinion on the matter.

81. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the sum of EUR 459 for costs and expenses in the domestic proceedings.

C. Default interest

82. 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. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a violation of Article 10 of the Convention in respect of each applicant;

4. *Holds*
   (a) that the respondent State is to pay, within three months, the following amounts:
      (i) EUR 5,285.21 (five thousand two hundred and eighty-five euros and twenty-one cents) to the first applicant (Mr Joaquim António Antunes Emídio) and EUR 22,500 (twenty-two thousand five hundred euros) to the second applicant (Mr Luís Manuel Soares Gomes da Cruz), plus any tax that may be chargeable, in respect of pecuniary damage;
      (ii) EUR 918 (nine hundred and eighteen euros) to the first applicant (Mr Joaquim António Antunes Emídio) and EUR 459 (four hundred and fifty-nine euros) to the second applicant (Mr Luís Manuel Soares Gomes da Cruz), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the second applicant, Mr Luís Manuel Soares Gomes da Cruz;

6. *Dismisses* the remainder of the claim for just satisfaction of the second applicant, Mr Luís Manuel Soares Gomes da Cruz.

Done in English, and notified in writing on 24 September 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips	Helen Keller
Registrar	President