



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

GRAND CHAMBER

**CASE OF COUDERC AND HACHETTE FILIPACCHI ASSOCIÉS  
v. FRANCE**

*(Application no. 40454/07)*

JUDGMENT

STRASBOURG

10 November 2015

*This judgment is final.*



**In the case of Couderc and Hachette Filipacchi Associés v. France,**

The European Court of Human Rights, sitting as a Grand Chamber composed of:

Dean Spielmann, *President*,  
Josep Casadevall,  
Işıl Karakaş,  
Khanlar Hajiyeu,  
Päivi Hirvelä,  
Mirjana Lazarova Trajkovska,  
Ledi Bianku,  
Julia Laffranque,  
Paulo Pinto de Albuquerque,  
Erik Møse,  
Helen Keller,  
André Potocki,  
Aleš Pejchal  
Johannes Silvis,  
Valeriu Griţco,  
Robert Spano,  
Branko Lubarda, *judges*,

and Søren Prebensen, *Deputy Grand Chamber Registrar*,

Having deliberated in private on 15 April 2015 and 19 October 2015,

Delivers the following judgment, which was adopted on the last-mentioned date:

## PROCEDURE

1. The case originated in an application (no. 40454/07) against the French Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Ms Anne-Marie Couderc, a French national, and Hachette Filipacchi Associés, a company incorporated under French law (“the applicants”), on 24 August 2007.

2. The applicants were represented by Ms M.-C. de Percin, of the Paris Bar. The French Government (“the Government”) were represented by their Co-Agent, Mr G. de Bergues, Deputy Director of Legal Affairs at the Ministry of Foreign Affairs and International Development.

3. The applicants alleged that there had been an unjustified breach of their right to freedom of expression (Article 10 of the Convention).

4. The application was allocated to the Fifth Section of the Court (Rule 52 § 1 of the Rules of Court). On 13 May 2014, a Chamber of that Section composed of Mark Villiger, Angelika Nußberger, Boštjan M.

Zupančič, Ann Power-Forde, André Potocki, Paul Lemmens and Helena Jäderblom, judges, and Claudia Westerdiek, Section Registrar, declared the application admissible and delivered a judgment. On 11 September 2014 the Government requested, in accordance with Article 43 of the Convention, that the case be referred to the Grand Chamber. On 13 October 2014 a panel of the Grand Chamber granted that request.

5. The composition of the Grand Chamber was determined according to the provisions of Article 26 §§ 4 and 5 of the Convention and Rule 24.

6. The applicants and the Government each filed further observations on the merits (Rule 59 § 1). In addition, third-party comments were received from the Government of Monaco and from the non-governmental organisation (NGO) Media Legal Defence Initiative, which had been given leave by the President of the Grand Chamber to take part in the proceedings (Article 36 § 2 of the Convention and Rule 44 § 3).

7. A hearing took place in public in the Human Rights Building, Strasbourg, on 15 April 2015 (Rule 59 § 3).

There appeared before the Court:

(a) *for the Government*

Mr G. DE BERGUES Deputy Director of Legal Affairs at the Ministry of Foreign Affairs and International Development,	<i>Co-Agent,</i>
Ms E. JUNG,	
Ms P. ROUAULT-CHALIER,	
Ms C. FABRE,	
Ms T. JEWCSUK,	<i>Advisers;</i>

(b) *for the applicants*

Ms M.-C. DE PERCIN, of the Paris Bar,	<i>Counsel.</i>
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The Court heard addresses by Ms de Percin and Mr de Bergues.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

8. The applicants are the publication director and the publishing company, respectively, of the weekly magazine *Paris Match*. Ms Anne-Marie Couderc was born in 1950 and lives in Levallois-Perret. The company Hachette Filipacchi Associés has its registered office in Levallois-Perret.

### A. Factual background to the case

9. On 3 May 2005 the British newspaper the *Daily Mail* published an article headlined “Is this boy the heir to Monaco?”, describing the disclosures by a woman, Ms Coste, who claimed that her son’s father was Albert Grimaldi, who had become reigning prince of Monaco (“the Prince”) following the death of his father on 6 April 2005. The article mentioned a forthcoming publication in *Paris Match*, and set out its core elements. It was accompanied by three photographs, one of which showed the Prince holding the child in his arms and was captioned “His successor to the throne? Prince Albert with Alexandre”.

10. On the same day, having been informed that an article was about to appear in *Paris Match*, Prince Albert served notice on the applicants to refrain from publishing it.

11. On 4 May 2005 the German weekly magazine *Bunte* published the interview with Ms Coste. The front cover of the magazine was headlined “*Prinz Albert ist der Vater meines Kindes*” (“Prince Albert is the father of my child”). It was illustrated by two photographs of the Prince: in one of them he was pictured alongside Ms Coste, and in the other he held the child in his arms.

12. On the same day various Internet sites relayed the news. In France, information from the forthcoming *Paris Match* article was included in an article on the RTL radio station’s Internet site entitled “*Le prince Albert II aurait un fils, silence au Rocher*” (“Prince Albert II alleged to have a son, no comment from Monaco”). For its part, the LCI channel published an article headlined “*Albert : la rumeur d’un fils*” (“Albert: rumours about a son”) on its Internet site. The news also appeared on the Internet site of the MEDEF (French Business Confederation), as follows: “*L’enfant caché du prince Albert de Monaco : selon certains journaux britanniques et allemands, Albert de Monaco serait le papa d’un petit garçon de 19 mois*” (“Prince Albert of Monaco’s secret son: according to certain British and German newspapers, Albert of Monaco is the father of a 19-month-old boy”).

13. On 5 May 2005, in spite of the Prince’s notice to refrain, the weekly magazine *Paris Match* published an article in its edition no. 2920, referred to on the magazine’s front cover under the headline “Albert of Monaco: Alexandre, the secret child” (“*Albert de Monaco: Alexandre, l’enfant secret*”), and illustrated by a small photograph showing the Prince with the child in his arms. The article, published on pages 50 to 59 of the magazine, consisted of an interview with Ms Coste, who replied to questions put by a journalist and stated that the father of her son Alexandre, born on 24 August 2003, was the Prince. In particular, the interview described the circumstances in which Ms Coste had met the Prince, their intimate relationship, their feelings, and the manner in which the Prince had reacted

to the news of Ms Coste's pregnancy and had behaved towards the child at his birth and subsequently.

14. The relevant passages of this interview were the following.

*“Paris Match* (P.M.): When did you meet Albert of Monaco?

Nicole Coste (N.C.): Eight years ago, on a Nice to Paris flight ... Before landing he asked for my telephone number. Two weeks later I had a message on my mobile ...

... He wanted to invite me to Monaco ... I went there the following weekend ... We spent a very tender night next to each other, it was very romantic! After that weekend he called me to say that he had had a very pleasant time and that he wanted to see me again.

...

As the months went by, I fell very much in love. I spent weekends in Monaco. He took me everywhere with him when he didn't have official duties ...

...

I had the impression that something was happening. He didn't speak about his feelings, but I heard his heart beating. There are signs that can't be mistaken when you're in someone's arms ... He didn't say anything to me and I didn't ask him anything. But he had tender looks and gestures towards me, even in public, and even in front of other young women. I think that he appreciated my affection. He told his friends that I was very very loving, and that he liked my maternal side. For my part, I found him touching.

P.M. Did you meet up often?

N.C. For the first five years I went to Monaco about once a month ... Sometimes he took me along to official events, such as the World Music Awards or tennis tournaments ...

P.M. Did you ever meet his father, Prince Rainier?

N.C. Yes. At a dinner with about twenty guests; Albert told me that we couldn't go along together, since his father [would be] there. In the afternoon, he indirectly made me his loveliest declaration of love, by saying to a friend in front of everyone 'Take good care of Nicole. I am very fond of her.' And he kissed me ...

P.M. What did he tell you about his talk with his father?

N.C. We spoke about it the next day. I found him strange. I became worried. 'I've been thinking', he said. 'I believe it's better if we stay friends.'

P.M. How did you react?

N.C. ... I was crying. I telephoned him to find out if it was really over. 'If you were in my situation, what would you do?' He answered 'I would wait. Not for long, but I would wait ...' ...

P.M. One has the feeling that Albert's discussion with his father was a turning point in your relationship.

N.C. It's true, the relationship deteriorated after that. At the same time, however, he seemed to be afraid of taking a decision; he hesitated, taking one step forward and two steps back ...

... Albert is not someone who expresses his feelings or who argues. He has a good sense of humour. I had the impression that he still had feelings. We saw each other with more or less the same frequency, but for less time, one day instead of three. I had the impression that he was afraid of becoming too attached. In December 2002 I wanted us to celebrate my ... birthday together. He suggested that I come to Monaco ... we went [out] for a drink. There were lots of young women coming up to him, and I let him know that I wasn't happy about that. On returning to the flat, we became lovers again, something that I didn't want that night. The evening had annoyed me.

P.M. Was it then that you became pregnant?

N.C. Yes. Neither he nor I had planned it. I was taking precautions ... When I saw Albert on 11 December I had sore breasts. I said to him 'If I'm pregnant, what are we going to do?' He replied 'If you're pregnant, you must keep it'. He said it from the heart. He immediately began thinking of boys' names, and I was coming up with girls' names, since I already had two boys. He said 'I'm trying to think of boys' names – that's all you know how to make!' ...

...

Shortly afterwards, I had a positive pregnancy test ... I wanted him to take a decision very quickly ... I was well aware of what a child represented for Albert, given his position. In my opinion, it was for him to decide ... He said to me 'Keep it. I'll look after things. You won't lack for anything. I don't promise to marry you, but keep him and don't worry: I'll bring him into the family little by little. I'd like us to keep the news to ourselves for the moment. The only person I must tell is my adviser and childhood friend, whom you know well.'

P.M. Did he contact you for news during your pregnancy?

N.C. From time to time. He spoke to me very kindly. Then one day he came to see me in Paris with his adviser ... I was three months' pregnant. He seemed to have changed his mind, but as far as I was concerned it was too late. The adviser said to me 'Do you realise that if it's a boy, they'll use that to prevent Albert acceding to the throne, and the child will be able to claim the throne'. I was surprised that he was going into things that were only details for me. I wasn't even thinking about these questions ... it is clear to me that a child born outside marriage cannot accede to the throne.

P.M. What happened next?

N.C. I learned that I was expecting a boy. I was very worried ... I asked him if it would make things difficult if it was a boy ... 'No, no more than if it were a girl.' He put his hand on my stomach and we discussed names again ...

...

When I was five-and-a-half months' pregnant, I called him. He didn't behave the way he usually did with me, I understood that something had happened and that he wanted to end the relationship. He said 'I've thought it through. I've asked for advice. The child is impossible'.

...

I went to see a lawyer, who alerted Albert's lawyer. Albert called me immediately, and was very annoyed: 'You've trapped me...' He spoke to me as though he had been brainwashed. I was eight months' pregnant, and had become pregnant six years after our first meeting. I would have had multiple opportunities to become pregnant.

P.M. How was the birth?

N.C. 24 August 2003 is not my happiest memory. I was very alone. On the day I left hospital ... I was visited by a French laboratory, approved by the Swiss Forensic Institute, for a DNA swab from my son. That was organised by his adviser.

...

My two older children still didn't know who their little brother's father was ... Alexandre was sleeping in my bedroom, in a crib ... He suffered from asthma and was hospitalised for six weeks ... I had to deal with this alone, with no one to confide in.

...

P.M. When did he see Alexandre for the first time?

N.C. Two and a half months after his birth ... the most important thing for me was that Alexandre be recognised. It was out of the question that my child would not have a father. That is how I explained it to them. For me, non-recognition would have been the only basis for taking things to court. It was up to Albert to organise things so that this little baby had a more or less normal life, even if, at the very beginning, it had been necessary to hide him. But I didn't want him to grow up like Mazarine, for example. I thought only about that, and not for a second about the fact that he represented a potential heir. Meanwhile, Albert was paying me a sum every three months that I still receive.

P.M. What happened subsequently?

N.C. As I didn't really trust my lawyer any longer, I contacted another one, to whom I explained that the only thing that counted was that Albert recognise his son. In my opinion, non-recognition of a child amounts to denying him his roots ...

...

P.M. Did Albert realise how important it was for you that he recognise this child?

N.C. Ultimately, yes, to my great joy: on 15 December 2003 he arranged to meet me at a notary's office, with his adviser ...

P.M. What happened during the meeting at the notary's office?

N.C. Albert signed the deed of recognition. He did it out of respect for me, while giving instructions that this deed was not to be transcribed in the official register until after his father's death.

P.M. Do you have a copy of this deed of recognition?

N.C. I wasn't given any papers, I only have the registration number of the deed. I asked the notary several times for a certificate stating that he had a document concerning my son. I was told 'Later'. After Rainier's funeral I contacted the notary again, asking that Albert's undertaking be upheld, and that the official recognition of our son's paternity be entered in the register of births and deaths. Again, the notary told me that it could wait ... I again asked for a copy of the deed. He refused ...

P.M. What about your flat? Did you finally move?

N.C. ... I found a house in April 2004, and work is currently being carried out on it.

P.M. To whom does it belong?

N.C. To a property investment company (an SCI). 50% of the shares are in Alexandre's name ...



P.M. What contact have you had with Albert since seeing him at the notary's office to sign the deed recognising your son?

N.C. I wanted him to see his son regularly, and also to call for news of him. He has done that ... During one of his visits, I said 'Just because we've had a child, that doesn't mean that everything has to end between us'. He replied 'For the moment, I prefer that we end things, because if we continue we'll end up with a second child!'

...

P.M. Why have you decided to speak out?

N.C. I've already given you some reasons. I want Alexandre to grow up normally, with a father. I want the lies to stop. For my part, I'm fed up with lying, hiding and passing for the mistress of his friends. On account of this silence, I no longer have an identity and I live almost like an outlaw. I'm afraid for my son's psychological health. I should like to have him baptised as soon as possible, with a correctly drawn up birth certificate. In addition, I understand that there are rumours going around about this child, and I want the truth to be re-established, so that his two older brothers have a dignified image of their mother.

..."

15. This interview was illustrated by five photographs of the Prince with the child and three of the Prince with Ms Coste. In particular, a double-page spread (pages 50 and 51) consisted in a photograph of the Prince holding the child in his arms, headlined "Alexandre 'is Albert's son' says his mother", followed by this text:

"A little boy who knows how to say only two words: daddy and mummy. A little boy who does not seem troubled by the huge gulf between the two cultures from which he comes. His name is Alexandre, a conqueror's name, an emperor's name. He was born in Paris on 24 August 2003. His mother asks that he does not grow up clandestinely, 'like Mazarine'. For that reason, she is now disclosing his existence, which poses no threat to any republic or any dynasty. Because in Togo, the country of his maternal family, all children, whether or not they are born to lawfully married couples, are entitled to an official father. For the moment, the little boy with black curls isn't interested in knowing whether he is a prince or not. His mother just has to lean towards him and he is happy. There's already a king in the house... him."

The photograph was also accompanied by the following captions:

"The 47-year-old new sovereign of Monaco had not been known to have any long-term relationship. Today Nicole Coste, an air hostess whom he met eight years ago, claims that they have had a son."

"He's never been seen smiling like this before: Prince Albert succumbs to Alexandre's charm."

16. Four photographs of the Prince holding the child in his arms were published on pages 52, 53, 56 and 57, and were also accompanied by captions and/or subheadings. In particular, the caption on page 52 reads "Gentleness, tenderness and patience, key words for a prince who loves children", and on page 53, "The Prince has always had a soft spot for children" and "Albert, President of the Monegasque Olympic Committee, wearing an Olympics shirt, with Alexandre in his arms". The following

subheading appeared on pages 56 and 57: “Alexandre at 6 months. He is already trying to stand up. This is one of his very first meetings with Albert. He sleeps in his mother’s bedroom. Nicole and her three sons have already moved into a flat in the 16th *arrondissement* of Paris.”

Lastly, three photographs of the Prince with Ms Coste were published on pages 58 and 59. The photograph on page 58 was captioned as follows:

“They met on a Nice to Paris flight, Nicole was an air hostess. She had left Lomé, in Togo, eight years previously, aged 17. ‘In my country, a father would have obliged his son to recognise his child’”.

The photographs on page 59 were subtitled as follows:

“Nicole also attended official events. In May 2001 she was on the Prince’s right as he received the singer Yannick at the Monte Carlo Music Awards. In 2002 (left) she can be seen in the Royal box at the Grand Prix.”

17. On 10 May 2005 Ms Coste issued a statement indicating that she had agreed to give an interview to *Paris Match*, for publication in the edition of 5 May 2005, had carefully reread its wording, and had herself handed over the photographs showing the Prince with Alexandre. She specified that she had taken those photographs, and that she had taken them with the Prince’s full consent. She issued a further statement indicating that she had handed these photographs over to the media for publication without charge. She added that her son had been recognised before a notary, that the notarial deed had been signed on 15 December 2003 and that it had been agreed on that date that the deed would be sent to the district hall of the 14th *arrondissement* of Paris immediately after Prince Rainier’s death. She stated that she had attempted, by all amicable means, to find a compromise with the Prince’s lawyer, and that it was the fact that the Prince had failed to honour his undertaking which had induced her to bring the matter to the public’s attention. With regard to the media, she stated: “they have merely helped my son and myself to have Alexandre officially recognised.”

## **B. The proceedings before the French courts**

18. On 19 May 2005, considering that the publication of the article in *Paris Match* interfered with his rights to private life and to protection of his own image, the Prince brought fixed-date proceedings against the applicants, on the basis of Article 8 of the Convention and Articles 9 and 1382 of the Civil Code, seeking damages from the publishing company and an order that it publish the court’s ruling on the front cover of the magazine, and requested that the court’s decision be immediately enforceable.

19. On 29 June 2005 the Nanterre *tribunal de grande instance* (“the TGI”) ordered the company Hachette Filipacchi Associés to pay the Prince 50,000 euros (EUR) in non-pecuniary damages. It also ordered that details

of the judgment be printed on the magazine's entire front cover, at the publishing company's expense and on pain of a daily fine, under the headline "Court order against *Paris Match* at the request of Prince Albert II of Monaco". The judgment was immediately enforceable.

20. The TGI noted, in particular, that from the front page onwards, the magazine had disclosed the Prince's paternity outside marriage, under the headline "Albert of Monaco: Alexandre, the secret child", accompanied by a photograph showing him holding the child. It also noted that the article dealt with the issue of the Prince having fathered the child over ten pages inside the magazine, by means of an interview in which the questions led Ms Coste to discuss her relationship with the Prince, the couple's feelings, the Prince's private life and reactions and the child's recognition before a notary. It emphasised that the magazine had deliberately chosen numerous photographs, taken in the context of the intimacy of the protagonists' private life, to illustrate and lend support to the disclosure, and that these photographs were accompanied by the magazine's own captions, which also referred to the Prince's love life and the circumstances in which he met the interviewee, analysing his conduct and his reactions to the young woman and the child, and speculating as to his feelings with regard to this secret child.

21. The TGI held that the entire article, including the accompanying photographs, fell within the most intimate sphere of love and family life and that it did not concern any debate of general interest. It added:

"... the claimant's accession to the throne of the Principality of Monaco did not deprive him of the right to respect for his private life, nor of his right to protection of his own image in the face of mere rumours concerning the civil status of a child, which could not in any event serve as a legitimate pretext for providing information to a prying and curious public about the lives of public figures, their feelings and their private conduct, with a view to media coverage in the columns of a newspaper which cannot in all seriousness claim to take the place of the courtroom, which is where the rights of children are legally defended, without prejudice to those of women;

The disputed article, which treats rumours in a sensational manner, both in its wording and through the accompanying pictures – which are completely irrelevant in that they contribute to the impugned interference with private life – amounts to a serious and wilful breach of the claimant's fundamental personality rights, the latter having specifically served notice by extrajudicial process on the publishing company to respect those rights on 3 May 2005 ..."

22. The applicants appealed against that judgment.

23. In a press release of 6 July 2005, the Prince publicly acknowledged that he was the father of Alexandre.

24. On 13 July 2005 the Versailles Court of Appeal suspended the immediate enforcement of the TGI's judgment with regard to the order to publish the court's judgment.

25. On 24 November 2005 the Versailles Court of Appeal gave judgment. It noted that, through the interview with Ms Coste, the impugned

article focused on disclosing the birth of the child, who was presented as having been born from the intimate relationship between the interviewee and the Prince from 1997 onwards. It also noted that although the latter might already have made a statement recognising the child in a notary's office – that is, in deliberately chosen conditions of confidentiality – by the time that the article was published, this statement had not given rise to a note in the margin of the child's birth certificate, with the result that his birth and his father's identity remained unknown to the public.

26. The Court of Appeal also stated that a person's affections, love life or family life and issues of paternity and maternity came within the sphere of private life and were protected by Article 9 of the Civil Code and Article 8 of the Convention, and that those provisions made no distinction between anonymous persons and public figures, whatever their civil, political or religious functions. It noted, however, that this principle allowed for an exception whenever the facts disclosed could give rise to a debate on account of their potential impact or consequences given the status or function of the persons concerned, in which case the duty to provide information took precedence over respect for private life.

27. It reasoned as follows.

“Given that the fact of Albert Grimaldi's fatherhood had never been publicly recognised, that the Monegasque Constitution makes it impossible for a child born out of wedlock to accede to the throne and that Albert Grimaldi had not consented to the disclosure of his possible paternity of Ms Coste's child, since on 3 May 2005 he had indicated to Hachette Filippachi Associés his opposition to the publication of those facts, it follows that Hachette Filipacchi Associés deliberately breached the provisions of Article 9 of the Civil Code and of Article 8 of the European Convention on Human Rights, without being able to justify this offence on the in-existent requirements of current-affairs reporting, the legitimacy of the information or its readers' right to information, which did not include Albert Grimaldi's secret paternity, even if he had become the reigning Prince of the Principality on his father's death in April 2005;

This interference in his private sphere, in that the article did not merely disclose the existence of a 'secret' child but also contained numerous digressions derived from Ms Coste's confessions concerning the circumstances of their meeting, the respondent's feelings, his most intimate reactions in response to the news of Ms Coste's pregnancy and his attitude towards the child during private encounters in her flat, could not be justified by the concomitant publication of these facts in the magazine *Bunte*, or by the media impact caused by the content of the article, or by the fact that other publications had subsequently repeated these reports (which had become common knowledge through the fault of the publishing company), or by the alleged legitimacy of such a disclosure, given that the child had no official status which would have rendered his birth and the disclosure of the father's identity a subject which the media and specifically the company Hachette Filipacchi Associés were required as part of their duty to provide information to bring to the public's attention, or by the fact that Albert Grimaldi, faced – against his will – with the media impact of the disclosure of information about his private life that he had intended to keep secret if not confidential, has been obliged to provide a public explanation, or by the tone of the article, which, as Hachette Filipacchi Associés irrelevantly specifies, was intended to show the respondent in a particularly positive light;

Although the photographs showing the child with the respondent which accompany the article were taken by Ms Coste with Albert Grimaldi's consent, and although Ms Coste, the only person having parental responsibility for the child, handed them over to *Paris Match* for publication, it remains the case that Albert Grimaldi did not consent to their being published in support of an article which constitutes an invasion of his privacy, with the result that their publication is wrongful ...”

28. The Court of Appeal concluded that the publication in question had caused the Prince irreversible damage in that the fact of his paternity, which he had wished to keep secret and which had remained so from the child's birth until publication of the impugned article, had suddenly, and against his will, become public knowledge. It considered that the non-pecuniary damage thus caused justified an order for publication of the court ruling as supplementary compensation, and that, in view of the nature of the breach and the seriousness of its consequences, such a measure was not disproportionate to the competing interests involved and, on the contrary, represented the most adequate redress in the particular circumstances of the case. It therefore upheld the judgment under appeal, except with regard to the conditions of publication of the court ruling, which was no longer to appear under a headline and was to take up only one third of the front cover. Thus, the Court of Appeal ordered that the lower third of the front cover of the first issue of *Paris Match* to be published in the week following service of the judgment was to display a white box containing the following text, printed in red letters, failing which the applicant company would be fined EUR 15,000 per issue after expiry of that deadline:

“By a judgment of the Versailles Court of Appeal upholding the judgment delivered by the Nanterre *tribunal de grande instance*, the company Hachette Filipacchi Associés has been held liable for infringing the privacy and the right to his own image of Albert II of Monaco in issue no. 2920 of the *Paris Match* newspaper, dated 5 May 2005, in an article entitled ‘Albert of Monaco: Alexandre. The secret child’.”

29. This statement was published on the front cover of edition no. 2955 of the magazine, dated 5 January 2006, under a photograph of the Prince. The cover bore the headline “Albert of Monaco. The truth has been punished”, which was accompanied by the following commentary:

“*Paris Match* disclosed the existence of his son, Alexandre. The courts have punished freedom to impart information. We have received support from the international press in reaction to this.”

30. In addition, the applicants lodged an appeal on points of law against the Court of Appeal's judgment. In their grounds of appeal, they developed the following arguments: the disclosure of a ruling sovereign prince's paternity was a news event relating to public life, given the functions held by the individual in question and the hereditary nature of the transmission of power in the Principality of Monaco; disclosure of this information was necessary in order to inform the public; the publication of observations and digressions alongside the announcement of a news event such as the fact of

a sovereign prince's fatherhood was lawful, provided that these were innocuous and merely served to put the information into perspective; and the publication of photographs taken within the family, illustrating the news event described in the article, was not such as to interfere with respect for privacy and private life.

31. Relying on Article 10 of the Convention and citing the Court's case-law, the applicants also argued that the public had the right to be informed, and that this right extended to information concerning the private life of certain public figures. They considered, in particular, that the Court's decision in *Von Hannover v. Germany* (no. 59320/00, §§ 62 and 76, ECHR 2004-VI) would have been the reverse had the relevant member of the royal family been, as in the present case, the Prince himself, Head of the State of Monaco. In support of this argument, they cited *Krone Verlag GmbH & Co KG v. Austria* (no. 34315/96, 26 February 2002) which, they submitted, showed that the fact of being a politician brought an individual exercising that role into the sphere of public life, with the attendant consequences. They further argued that the Court of Cassation also recognised the public's right to information, including with regard to facts concerning private life, even where the individual concerned held no public office. Lastly, they submitted that the primacy of the right to inform and the right to be informed had been established in similar circumstances, even where a person's right to their own image was in issue.

32. The applicants argued, in particular, that in a hereditary monarchy the Prince's lack of known issue was already a matter of discussion, and that the existence of a child was such as to contribute to that discussion. They also submitted that the child was a potential heir to the Monegasque throne, since his father could legitimise him at any time. They considered that, even if improbable, this scenario remained legally possible, and could therefore become the subject of a general debate regarding the future of the Monegasque monarchy, and that, in addition, the fact that the child was of Togolese origin could contribute to a debate of general interest which had the potential to change the image of a particularly conservative principality.

33. The applicants also pleaded the very strong ties which, they alleged, bound the Principality of Monaco to France. They further submitted that the worldwide impact of the contested material, including in the most serious and most prestigious newspapers, proved that the information disclosed by *Paris Match* was such as to contribute to a debate of general interest, and that this was not simply an article written to provide entertainment.

34. They further argued that the photographs accompanying the article, showing the Prince with the child or with Ms Coste, illustrated a news event, and that they entailed no breach of respect for human dignity, since the Prince was presented in a positive light. They asserted that these photographs had not been taken without the Prince's knowledge, but by

Ms Coste herself, and specified that she had handed them over to *Paris Match* for publication voluntarily and without charge.

35. Lastly, they emphasised that the magazine *Bunte* had published an almost identical article in Germany on 4 May 2005, prior to publication of the impugned article, and that the German courts had dismissed the Prince's action against that newspaper.

36. By a judgment of 27 February 2007, the Court of Cassation dismissed the appeal on points of law on, *inter alia*, the following grounds.

“... every person, whatever his rank, birth, fortune or present or future functions, is entitled to respect for his private life; ... the judgment notes firstly that, on the date on which the article was published, the child's existence and his descent were unknown to the public, and secondly that the Principality's Constitution rules out the possibility of his accession to the throne, since he was born out of wedlock, a situation that, moreover, the company's pleadings did not claim to be a subject of debate in French or Monegasque society or of examination in the impugned publication, and, lastly, [that] the article contained multiple digressions on the circumstances in which Ms Coste and Prince Albert met and about their relationship, the Prince's reactions to the news of the pregnancy and his subsequent attitude towards the child; ... in the light of these findings and considerations, the Court of Appeal correctly noted the lack of any topical news item or any debate on a matter of public interest which would have justified its being reported at the time of the impugned publication on the grounds of legitimate imparting of information to the public; ... moreover, the publication of photographs of a person to illustrate subsequent content which amounts to an invasion of his privacy necessarily infringes his right to control of his own image ...”

### C. The proceedings before the German courts

37. On 12 May 2005, after publication of the initial article on 4 May 2005 (see paragraph 11 above), the weekly magazine *Bunte* published another article about the disclosure of the Prince's paternity, this time accompanied by several photographs showing the Prince and the child.

38. The Prince brought urgent proceedings against the magazine in order to prevent any further publication, but his case was dismissed on 19 July 2005 by a judgment of the Freiburg Regional Court (*Landgericht*), upheld on 18 November 2005 by the Karlsruhe Court of Appeal (*Oberlandesgericht*).

39. The Freiburg Regional Court noted, in particular, that, as a figure of contemporary history *par excellence*, the Prince had to tolerate the impugned encroachment on his private life, given the information value of the report. It noted that the veracity of the information published by the magazine with regard to the statements by the child's mother and to the claimant's paternity had not been disputed on any specific point. It considered that the publication was not unacceptable in terms of the protection of a person's intimate sphere, since the disclosures did not relate to that sphere but to the sphere of private life, which was less protected. It held that the public's right to information resulted from the claimant's

position in society, and that the pressure that he might have experienced as a result of those disclosures, aimed at obliging him to recognise his child, did not prohibit publication but was merely an inevitable consequence of it, which he was required to tolerate. It noted that the published photographs had been taken with the claimant's agreement, in his private sphere, and had been made available to the press by a person who had just as much right to do so as the claimant. It held that the protection of the claimant's private sphere and his right to his own image had to yield to the freedom of the press, on account of the importance of communicating to the public information concerning the claimant's son born out of wedlock and about the child's mother. Lastly, it considered that it was for the mother rather than for the Prince, who had not recognised the child, to decide whether the disclosure of the latter's existence fell within the protected private sphere.

40. Following the appeal by the Prince, the Court of Appeal ordered the magazine not to republish or allow to be published a photograph which had appeared in the 4 May 2005 issue of *Bunte*, showing the claimant in a moment of intimacy with Ms Coste. However, it considered that the issue of a male heir to the prince of Monaco – a constitutional hereditary monarchy – was of decisive importance, and that the interest taken in this question not only by the citizens of Monaco but also by many persons who lived outside the Principality deserved protection and ought not to be superseded by the claimant's interest in securing protection of his private sphere, on the ground that the current legal situation allowed only legitimate children to accede to the throne.

## II. RELEVANT FRENCH AND MONEGASQUE LAW AND EUROPEAN TEXTS

### A. Relevant domestic law

41. The relevant provisions of the Civil Code are worded as follows:

#### Article 9

“Everyone has the right to respect for his private life.

Judges may, without prejudice to a right to compensation for the damage sustained, order any measures, such as seizure, attachment and others, capable of preventing or causing to cease an interference with a person's privacy; in the event of urgency such measures may be ordered in urgent proceedings.”

#### Article 1382

“Any act that causes damage to another shall render the person through whose fault the damage was caused liable to make reparation for it.”



## B. The Constitution of the Principality of Monaco

42. The relevant passages of Article 10 of the Constitution of 17 December 1962 of the Principality of Monaco (amended by Law no. 1.249 of 2 April 2002) provide:

“The succession to the Throne, opened by death or abdication, takes place by the direct and legitimate issue of the reigning prince, by order of primogeniture, with priority given to males within the same degree of kinship.

In the absence of direct legitimate issue, the succession passes to the brothers and sisters of the reigning prince and their direct legitimate descendants, by order of primogeniture, with priority given to males within the same degree of kinship.

If the heir who would have acceded by virtue of the preceding paragraphs is deceased or renounced the Throne before the succession became open, the succession passes to His own direct legitimate descendants by order of primogeniture, with priority given to males within the same degree of kinship.

If the application of the preceding paragraphs does not fill the vacancy of the Throne, the succession passes to a collateral heir appointed by the Crown Council upon same advice of the Regency Council. The powers of the prince are temporarily held by the Regency Council.

The Throne can only pass to a person holding Monegasque citizenship on the day the succession opens.

...”

## C. Relevant European texts

### *1. Resolution 1165 (1998) of the Parliamentary Assembly of the Council of Europe*

43. The relevant passages of Resolution 1165 (1998) on the right to privacy, adopted by the Parliamentary Assembly of the Council of Europe on 26 June 1998, read as follows:

“1. The Assembly recalls the current affairs debate it held on the right to privacy during its September 1997 session, a few weeks after the accident which cost the Princess of Wales her life.

2. On that occasion, some people called for the protection of privacy, and in particular that of public figures, to be reinforced at the European level by means of a convention, while others believed that privacy was sufficiently protected by national legislation and the European Convention on Human Rights, and that freedom of expression should not be jeopardised.

3. In order to explore the matter further, the Committee on Legal Affairs and Human Rights organised a hearing in Paris on 16 December 1997 with the participation of public figures or their representatives and the media.

4. The right to privacy, guaranteed by Article 8 of the European Convention on Human Rights, has already been defined by the Assembly in the declaration on mass communication media and human rights, contained within Resolution 428 (1970), as ‘the right to live one’s own life with a minimum of interference’.

5. In view of the new communication technologies which make it possible to store and use personal data, the right to control one's own data should be added to this definition.

6. The Assembly is aware that personal privacy is often invaded, even in countries with specific legislation to protect it, as people's private lives have become a highly lucrative commodity for certain sectors of the media. The victims are essentially public figures, since details of their private lives serve as a stimulus to sales.

At the same time, public figures must recognise that the position they occupy in society – in many cases by choice – automatically entails increased pressure on their privacy.

7. Public figures are persons holding public office and/or using public resources and, more broadly speaking, all those who play a role in public life, whether in politics, the economy, the arts, the social sphere, sport or in any other domain.

8. It is often in the name of a one-sided interpretation of the right to freedom of expression, which is guaranteed in Article 10 of the European Convention on Human Rights, that the media invade people's privacy, claiming that their readers are entitled to know everything about public figures.

9. Certain facts relating to the private lives of public figures, particularly politicians, may indeed be of interest to citizens, and it may therefore be legitimate for readers, who are also voters, to be informed of those facts.

10. It is therefore necessary to find a way of balancing the exercise of two fundamental rights, both of which are guaranteed in the European Convention on Human Rights: the right to respect for one's private life and the right to freedom of expression.

11. The Assembly reaffirms the importance of every person's right to privacy, and of the right to freedom of expression, as fundamental to a democratic society. These rights are neither absolute nor in any hierarchical order, since they are of equal value.

12. However, the Assembly points out that the right to privacy afforded by Article 8 of the European Convention on Human Rights should not only protect an individual against interference by public authorities, but also against interference by private persons or institutions, including the mass media.

13. The Assembly believes that, since all member states have now ratified the European Convention on Human Rights, and since many systems of national legislation comprise provisions guaranteeing this protection, there is no need to propose that a new convention guaranteeing the right to privacy should be adopted.

14. ...”

## 2. *The Declaration of the Rights and Duties of Journalists*

44. The Declaration of the Rights and Duties of Journalists, adopted in Munich on 24 and 25 November 1971 by the trade unions of journalists from the Member States of the European Community, was endorsed by the International Federation of Journalists at the Istanbul Congress in 1972. It reads, *inter alia*, as follows:

**“Preamble**

The right to information, to freedom of expression and criticism is one of the fundamental rights of man.

All rights and duties of a journalist originate from this right of the public to be informed on events and opinions.

The journalist’s responsibility towards the public excels any other responsibility, particularly towards employers and public authorities.

The mission of information necessarily includes restrictions which journalists spontaneously impose on themselves. This is the object of the declaration of duties formulated below.

A journalist however, can respect these duties while exercising his profession only if conditions of independence and professional dignity effectively exist. This is the object of the following declaration of rights.

**Declaration of duties**

The essential obligations of a journalist engaged in gathering, editing and commenting news are:

1. To respect truth whatever be the consequence to himself, because of the right of the public to know the truth;
2. To defend freedom of information, comment and criticism;
3. To report only on facts of which he knows the origin; not to suppress essential information nor alter texts and documents;
4. Not to use unfair methods to obtain news, photographs or documents;
5. To restrict himself to the respect of privacy;
6. To rectify any published information which is found to be inaccurate;
7. To observe professional secrecy and not to divulge the source of information obtained in confidence;
8. To regard as grave professional offences the following: plagiarism, calumny, slander, libel and unfounded accusations, the acceptance of bribe in any form in consideration of either publication or suppression of news;
9. Never to confuse the profession of a journalist with that of advertisements salesman or a propagandist and to refuse any direct or indirect orders from advertisers.
10. To resist every pressure and to accept editorial orders only from the responsible persons of the editorial staff.

Every journalist worthy of that name deems it his duty faithfully to observe the principles stated above. Within the general law of each country, the journalist recognises, in professional matters, the jurisdiction of his colleagues only; he excludes every kind of interference by governments or others.

**Declaration of rights**

1. Journalists claim free access to all information sources, and the right to freely inquire on all events conditioning public life. Therefore, secret of public or private affairs may be opposed only to journalists in exceptional cases and for clearly expressed motives;

2. The journalist has the right to refuse subordination to anything contrary to the general policy of the information organ to which he collaborates such as it has been laid down by writing and incorporated in his contract of employment, as well as any subordination not clearly implicated by this general policy ;

3. A journalist cannot be compelled to perform a professional act or to express an opinion contrary to his convictions or his conscience;

...”

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

45. The applicants alleged that the judgment against them amounted to unjustified interference in the exercise of their right to freedom of information. They relied on Article 10 of the Convention, which reads as follows:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

#### **A. The Chamber judgment**

46. The Chamber noted that the judgment against the applicants made no distinction between information which formed part of a debate on a matter of public interest and that which merely concerned details of the Prince’s private life. Accordingly, in spite of the margin of appreciation left to States in this matter, it held that there was no reasonable relationship of proportionality between, on the one hand, the restrictions imposed by the courts on the applicants’ right to freedom of expression and, on the other, the legitimate aim pursued. It therefore concluded that there had been a violation of Article 10 of the Convention (see the Chamber judgment, §§ 51-75).

## **B. The parties' submissions to the Grand Chamber**

### *1. The applicants' submissions*

47. The applicants submitted that the judgment against a news magazine for having published information that had already been disclosed in other media and for illustrating it with related photographs amounted to an interference in its freedom to impart information of public interest. They considered that this judgment was extremely serious and unprecedented, and that it had to be regarded as an excessive interference with its freedom of expression and information, with a clearly chilling effect.

48. The applicants did not dispute that the interference in question had had a lawful basis, namely Article 9 of the Civil Code, nor that it pursued a legitimate aim, namely "protection of the rights of others" with regard to the Prince's right to private life and to his own image. Nonetheless, they expressed a reservation in this respect, and alleged that the domestic courts had interpreted in too broad a manner the concept of private life within the meaning of Article 9 of the Civil Code and Article 8 of the Convention.

49. The applicants considered that the right to respect for private life did admittedly have to be upheld, but that it was not absolute, especially when it clashed with the right to freedom of expression and information, and the rights of the other people concerned by the publication. They criticised the domestic courts for failing to balance the Prince's rights against other rights which, they submitted, were of equal value: the rights of the mother, which they considered to be no less legitimate in a democratic society; the child's right to be officially recognised; and the magazine's right to impart information of public interest which was no longer confidential at the date of publication.

50. The applicants also considered that the impugned decisions had failed to make any distinction between ordinary citizens and public figures (*a fortiori* politicians and Heads of State, who were inevitably exposed to media interest), thus going against the Court's case-law and current French case-law. In support of this argument, they submitted that the case-law developed by the domestic courts acknowledged the public's right to information about facts relating to private life, and they cited by way of example several cases in which the domestic courts had reached their decisions on that basis.

51. The applicants further submitted, with regard to the necessity of the impugned interference, that any exception to a fundamental freedom must be interpreted restrictively, and that exceptions to freedom of expression could not therefore be punished disproportionately. They alleged that the right to respect for private life was not absolute, and argued that the decisions by the domestic courts in the present case did not correspond to a pressing social need, in that the courts had not carried out a thorough

balancing exercise in respect of the conflicting rights in issue or taken account of the criteria established in the Court's case-law.

52. In this connection they argued, *inter alia*, that, in a hereditary monarchy, information about the existence of an heir, born out of wedlock, who had not yet been officially recognised by his father, was a matter of public interest with regard both to the future of the monarchy and to the attitude of the Prince, a public figure. The question of his paternity concerned not only his own civil status – it was not without importance to know whether or not he had an illegitimate son and if so whether he had recognised him – but also the order of heirs or even possible successors to the throne, in view of the hereditary nature of the monarchy in Monaco and in the absence, at the relevant time, of any known heir. The applicants emphasised in this regard that the provisions of the Monegasque Constitution had been amended shortly before Prince Rainier's death and that further amendments could not be ruled out. The information in question was also likely to enlighten the Prince's subjects regarding his ethical conduct and his personal respect for the fundamental rights which he claimed for himself and which he advocated publicly and politically.

53. The applicants also argued that the Prince made use of public resources, some of which were allocated to providing for the future and the education of his son, which was a matter that directly affected Monegasque and French taxpayers. They also claimed that the German courts, called upon to examine a substantially similar dispute, had held that the information in question justified a debate on a matter of public interest. They further asserted that communication of the news to the public was all the more legitimate in that the Prince had ultimately recognised his son, in the context of a large-scale media operation. They added that by making a statement about the succession to the throne he had acknowledged that the news in issue was a matter of public concern.

54. The applicants further stated that the public profile of the Prince, head of the Monegasque State, was beyond doubt. As to the content of the report, they considered that it went beyond the sphere of the Prince's private life, and extended to the private life of the child's mother, who was free to express herself, and that of the child, who was entitled to official recognition. In this connection, they submitted that in a democratic society the wishes of one person, even a sovereign, could not confer privileges to the extent that they trespassed on the rights of others and, in particular acted as a "bar to the claims of his son seeking to assert his existence and have his identity recognised".

55. The applicants further emphasised that it was not contested that the article comprised information and photographs supplied by the child's mother, who had herself contacted *Paris Match* with a view to obtaining official recognition for her son. They claimed that the impugned photographs had all been taken in a flat, with the full consent of the Prince,

and they considered that they contained no intimate details or unflattering portrayals of any of the protagonists. The photographs showing the Prince in Ms Coste's company had, they submitted, been taken in the context of official events, so the magazine could not be criticised for publishing them. Only photographs handed over by the child's mother had been published, with a view to lending credence to her statements. Moreover, neither the veracity of the published information nor the conditions in which that information and the accompanying photographs had been given to the magazine had been challenged. The Nanterre TGI had therefore been wrong to describe the information as "mere rumours".

56. The applicants also claimed that the principle of the free choice of the means of imparting information – the corollary of freedom to impart information – could not be contested without emptying that freedom of its substance. In that connection, they alleged that they had been free to illustrate the impugned article with relevant photographs. This had indeed been the case for the published photographs. With regard to the consequences of the article, the applicants denied that it could have disclosed anything that had not already been revealed to the public by the British, American, German and French press and audio-visual media and on the Internet. They therefore urged that the impact of the article be placed in perspective. They also argued that after the contested publication the Prince had officially acknowledged his paternity in a large-scale media operation, at the same time acknowledging the existence of another child.

57. The applicants thus argued that they had experienced an interference with their right to freedom of expression which, firstly, had not been "necessary", in that it had not corresponded to a "pressing social need", and which, secondly, had been disproportionate in its consequences to the legitimate aim pursued. They considered that only the Prince's right to private life had been taken into account in assessing the alleged violation and the resulting damage. In addition, they considered that the penalties imposed had been very severe: in their view, a court-ordered publication was equivalent to expropriating a newspaper and eliminating a space used to exercise freedom of expression, and had the weight and effect of a public reprimand designed to discredit the magazine.

58. Lastly, the applicants argued that when the Court of Appeal and the Court of Cassation ruled on the case, the Prince had already confirmed the existence of a son born outside marriage, by means of an official statement and numerous press interviews. They criticised the domestic courts for failing to take account of that fact in assessing the extent of the alleged damage. They concluded that the publication in issue had been manifestly legitimate and that, in consequence, there had been no reasonable relationship of proportionality between the severe court judgments against them, together with the insertion of a court-ordered statement on the front cover of the magazine, and the aim pursued.

## 2. *The Government's submissions*

59. After recapitulating the Court of Cassation's case-law with regard to the protection of private life, the Government submitted, firstly, that an individual's personal or family relations or their love life, pregnancy, illness, surgical operations, religious convictions, home and also right to control his or her own image had been considered as falling within the scope of private life. They also specified that only information relevant to the public's right to be informed could be disclosed. Where the alleged interference concerned persons whose life or status as public figures made them well known, the case-law made a distinction on the basis of the type of information in question.

60. The Government emphasised in this respect that although the Court of Cassation had held that "every person, whatever his rank, birth, fortune or present or future functions, [was] entitled to respect for his private life", it had nonetheless also validated the disclosure of information when this was necessary as a matter of public debate.

61. Having set out this domestic legal context, the Government did not dispute that the court judgment against the applicants amounted to interference in the exercise of their right to freedom of expression. They claimed, however, that this interference had been prescribed by law – a fact that the applicants, as professionals in the press field, could not, in the Government's view, have failed to be aware of – and that it pursued a legitimate aim, namely protection of the Prince's right to privacy and to protection of his image.

62. The Government also submitted that the domestic courts had complied with the Court's case-law. In this connection, they argued that the impugned comments were to be examined in the light of the case as a whole and account taken of the content of the terms used and the context in which they were made. Referring to the margin of appreciation granted to the States in this area, they argued that in the area of freedom of expression, which implied a subjective approach, the national courts were best placed to classify the facts of a case, and that the Court's supervision should not seek to substitute a new assessment of the facts for that of the national courts. In the present case, the domestic courts had carried out a careful analysis and sought to strike a balance between the protection of private life and that of freedom of expression. There was therefore nothing to justify a departure from the Court of Cassation's assessment.

63. Before the Grand Chamber, the Government also submitted that in assessing the circumstances of the case it was unnecessary to take account of Ms Coste's wish to publicise the identity of her child's father in order to have the child recognised. In their opinion, if *Paris Match* wished to use Ms Coste's interests in its defence, it ought to have summoned her to appear in the case before the domestic courts. The present case thus concerned solely a classic conflict between the rights and interests of an organ of the



press relying on its right of expression and those of a person who had been the subject of a news article and who complained of a violation of his right to respect for his private life.

64. The Government considered that, in this case, there had been a pressing need to protect the Prince. They submitted that the impugned publication had not concerned a subject of public interest. They acknowledged that certain information concerning the Prince could be made public on account of his functions, but considered that the impugned disclosures, quite apart from the fact that they were particularly intimate, in no way affected the organisation of the Monegasque State.

65. The Government also considered that the Chamber had wrongly interpreted the concept of a contribution to a debate of public interest, and had opened the way for considerable legal uncertainty. In this regard, they argued that too wide an interpretation of this concept would reduce to almost nothing the scope of the Convention principle of protection of the private and family lives of public figures, and would open the way to repeated invasions of privacy and infringements of the right of public figures to control their own image, for exclusively commercial purposes.

66. Before the Grand Chamber, they submitted that the Court, in its judgment in *Von Hannover v. Germany (no. 2)* ([GC], nos. 40660/08 and 60641/08, ECHR 2012), had accepted a particularly wide definition of the concept of a debate of public interest. As legal commentators had also pointed out, that definition departed from the first *Von Hannover* judgment (cited above), and opened the way for publication of photographs and articles which breached the privacy of public figures, with a fleeting reference to a debate of public interest then appearing sufficient to justify such publications. In the Government's opinion, were that interpretation to prevail, the concept of a debate of public interest, which, they argued, was intended to guarantee respect for the private life of public figures, would be reduced to an empty shell.

67. The Government considered that the fact that the Chamber had found that the article contained elements which related to the Prince's private, or even intimate, life ought to lead the Grand Chamber to consider that the court judgment against the applicants had been justified. They claimed that the elements of private life set out in the article ought to take precedence and that the main, if not exclusive, purpose of the publication had been to satisfy the curiosity of a particular readership regarding details of the Prince's private life.

68. Before the Grand Chamber, they also argued that the Chamber had wrongly held that the possible succession to the throne of the Principality of a son born outside marriage was "the core message of the article": in fact, it had contained only two references to that matter, or eight lines out of the five hundred lines of text, covering four pages and accompanied by six pages of photographs, in addition to the photograph on the front cover. The

Government reaffirmed that the fact that the Prince had a son born outside marriage, who had no official status, did not contribute to a debate of public interest.

69. Furthermore, while acknowledging that the German courts had dismissed the Prince's claim when he brought proceedings against the weekly magazine *Bunte* for an article comparable to that published in *Paris Match*, the Government argued that the States Parties had different traditions in the area of respect by the media for private life, especially with regard to the private life of public figures. Thus, in France, the legislation and case-law were, they submitted, more protective of private life than in Germany or the United Kingdom. That being noted, the purpose of the Convention was not to harmonise national laws. The French courts had therefore been entitled to find, in contrast to the German courts, that the birth of the Prince's son did not contribute to a debate of public interest: this was a reasonable position in reconciling the competing interests at stake.

70. The Government added that, even supposing that the Grand Chamber were to find that the birth in question involved a debate on a matter of public concern, the fact that the impugned article contained multiple intimate details of his life nonetheless justified that, in the instant case, protection of privacy took precedence over freedom of expression.

71. They considered that the publication of the article and of several photographs showing the Prince with his son had been particularly intrusive with regard to the Prince's private life. Moreover, the article had contained disclosures concerning the most intimate details of the Prince's life. Furthermore, the Prince had consented to photographs being taken of him with his son for private use, and not for publication. In this regard, the Government criticised the applicants for failing to filter the information provided by Ms Coste in order to exclude the intimate details concerning the Prince, choosing instead to publish those intimate details and thus failing in their duties and responsibilities.

72. The Government further stated that, in using the photographs and captions, the magazine had given this "scoop" a sensationalist spin. They added that the applicants could not rely on events which had occurred after publication, namely the Prince's statement on the matter, in order to evade their responsibility.

73. Lastly, they explained that *Paris Match* was a profit-making newspaper which frequently exploited individuals' private lives in order to satisfy the curiosity of its readers, and that this commercial exploitation was linked to the more or less scandalous nature of its disclosures. In the present case, more than a million copies of the issue of *Paris Match* in question had been printed. In consequence, the Government considered that the interference in issue in the present case had been necessary and complied with the obligation of proportionality arising from the Court's case-law, and

that the amount of damages awarded ought, in their view, to be set against the magazine's revenues.

### C. Third-party observations

#### 1. *Observations of the Government of Monaco*

74. The Government of Monaco considered that the Chamber judgment raised a serious issue regarding the interpretation and application of Articles 8 and 10 of the Convention. In this connection, they submitted that, in practice, the criterion of “contribution to a debate of public interest”, however pertinent, guaranteed the requisite balance between freedom of expression and the protection of private life only when it was correctly applied and not subverted. In the present case, the considerations relating to the paternity of a child who was clearly excluded from succession to the throne could not fall within the scope of a debate of public interest. According to the Monegasque Government, the main – if not the sole – purpose of the article had been to satisfy the curiosity of a certain readership with regard to the private life of public figures. Moreover, it was to be feared that the approach taken in the Chamber judgment would result in future in too broad an interpretation of the justification of a contribution to a debate of public interest, which would seriously undermine the protection of private life which public figures were legitimately entitled to expect, particularly those exercising political functions.

75. The Government of Monaco also submitted that the category of “public figures” included a very particular sub-group of “political figures”, who were even more strongly exposed to media interest. They argued that it was important to ensure that press articles about “political figures” did not, in practice, come to enjoy the virtually irrebuttable presumption that they contributed *per se* to a debate of public interest. Yet the Chamber judgment created a grave risk in this regard, namely that the protection afforded to political figures' private lives would henceforth be severely restricted, or indeed reduced to nought. It was all the more important to address this problem in view of the fact that the interpretation proposed by the Court would be expected to serve as a reference for each High Contracting Party.

#### 2. *Observations of Media Legal Defence Initiative (“MLDI”)*

76. The NGO MLDI considered that the issue of succession to the throne in a hereditary monarchy was a matter of public concern. It subscribed to the Chamber's interpretation of this concept. Noting that a broad approach to the concept of a debate of public interest already existed in Germany and Belgium, it argued that a degree of latitude ought to be awarded to journalists and editors in exercising their professional judgment with regard to the details to be included in putting forward the essence of a

message, especially where it was clear that it dealt with a matter of public interest. Indeed, such latitude was recognised in the United Kingdom and in other member States of the Council of Europe.

77. MLDI submitted that in a constitutional monarchy the Head of State carried out a fundamental representative role and exercised powers that could include making public comments or expressing views privately to politicians on a wide range of matters. Moreover, in a constitutional monarchy questions of succession were matters of legitimate public scrutiny, and this had implications for the latitude which must be afforded to the press to report on such matters and the right of the public to be informed, where appropriate, in respect of them.

78. MLDI also considered that the sanction imposed in the present case had been particularly severe. In the NGO's view, the obligation to publish a statement had the potential not only to harm the reputation of the magazine, but also to impact substantially on its future sales. Furthermore, and in the light of the Court's case-law, it considered that the amount of damages awarded had to be regarded as a form of censure.

#### **D. The Court's assessment**

79. The Court notes that it is common ground between the parties that the impugned court judgment constituted an interference with the applicants' exercise of their right to freedom of expression, protected by Article 10 of the Convention. Nor is it contested that the interference was prescribed by law, in that it was based on Articles 9 and 1382 of the Civil Code, and pursued a legitimate aim, namely, the protection of the rights of others within the meaning of Article 10 § 2 of the Convention – in the present case the Prince's right to private life and to protection of his own image. The Court agrees with this assessment.

80. However, the applicants expressed reservations concerning the lawfulness and legitimacy of the interference in question, considering that the national courts' interpretation of the concept of private life was too broad, and complained that there had been no thorough weighing up of the competing interests involved (see paragraphs 48-50 above). That being stated, the Court considers that these arguments concern the assessment of whether the interference was necessary, and are not such as to call into question its lawfulness or the legitimate aim.

81. The dispute in the instant case therefore relates to the question whether the interference was "necessary in a democratic society".

##### *1. The general principles established in the Court's case-law*

82. Having been required on numerous occasions to consider disputes requiring an examination of the fair balance to be struck between the right to respect for private life and the right to freedom of expression, the Court

has developed abundant case-law in this area. Having regard to the circumstances of the present case, it considers it useful to reiterate the general principles relating to each of the rights in question, and then to set out the criteria for balancing those rights.

**(a) General principles concerning the right to respect for private life**

83. The Court reiterates that the notion of private life is a broad concept, not susceptible to exhaustive definition. It extends to aspects relating to personal identity, such as a person's name, photograph, or physical and moral integrity. This concept also includes the right to live privately, away from unwanted attention (see *Smirnova v. Russia*, nos. 46133/99 and 48183/99, § 95, ECHR 2003-IX). The guarantee afforded by Article 8 of the Convention in this regard is primarily intended to ensure the development, without outside interference, of the personality of each individual in his or her relations with other human beings. There is thus a zone of interaction of a person with others, even in a public context, which may fall within the scope of private life.

84. Moreover, 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 (see *Minelli v. Switzerland* (dec.), no. 14991/02, 14 June 2005). Nevertheless, in certain circumstances, even where a person is known to the general public, he or she may rely on a "legitimate expectation" of protection of and respect for his or her private life (see, *inter alia*, *Von Hannover* (no. 2), cited above, § 97).

85. Publication of a photograph may thus interfere with a person's private life even where that person is a public figure (*ibid.*, § 95). The Court has held on numerous occasions that a photograph may contain very personal or even intimate "information" about an individual or his or her family (*ibid.*, § 103). It has therefore recognised every person's right to protection of his or her own image, emphasising that a person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics and distinguishes the person from his or her peers. The right to the protection of one's image is thus one of the essential components of personal development. It mainly presupposes the individual's right to control the use of that image, including the right to refuse publication thereof (*ibid.*, § 96).

86. In determining whether or not the publication of a photograph interferes with an applicant's right to respect for his or her private life, the Court takes account of the manner in which the information or photograph was obtained. In particular, it stresses the importance of obtaining the consent of the persons concerned, and the more or less strong sense of intrusion caused by a photograph (see *Von Hannover v. Germany*, no. 59320/00, ECHR 2004-VI, § 59; *Gurgenidze v. Georgia*, no. 71678/01, §§ 55-60, 17 October 2006; and *Hachette Filipacchi Associés v. France*,

no. 71111/01, § 48, 14 June 2007). In this connection, the Court has had occasion to note that photographs appearing in the “sensationalist” press or in “romance” magazines, which generally aim to satisfy the public’s curiosity regarding the details of a person’s strictly private life (see *Société Prisma Presse v. France* (dec.), no. 66910/01, 1 July 2003; *Société Prisma Presse v. France* (dec.), no. 71612/01, 1 July 2003; and *Hachette Filipacchi Associés v. France* (ICI PARIS), no. 12268/03, § 40, 23 July 2009), are often obtained in a climate of continual harassment which may induce in the person concerned a very strong sense of intrusion into their private life or even of persecution (see *Von Hannover*, cited above, § 59). Another factor in the Court’s assessment is the purpose for which a photograph was used and how it could be used subsequently (see *Reklos and Davourlis v. Greece*, no. 1234/05, § 42, 15 January 2009, and *Hachette Filipacchi Associés* (ICI PARIS), cited above, § 52).

87. However, these considerations are not exhaustive. Other criteria may be taken into account depending on the particular circumstances of a given case. Here, the Court emphasises the importance of assessing the seriousness of the intrusion into private life and the consequences of publication of the photograph for the person concerned (see *Gurgenidze*, cited above, § 41).

**(b) General principles concerning the right to freedom of expression**

88. Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual’s self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no “democratic society”. As enshrined in Article 10, freedom of expression is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly (see *Handyside v. the United Kingdom*, 7 December 1976, § 49, Series A no. 24, and, among other authorities, *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 45, ECHR 2007-IV, and *Von Hannover* (no. 2), cited above, § 101).

89. Although the press must not overstep certain bounds, regarding in particular protection of the reputation and rights of others, its task is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest. Thus, the task of imparting information necessarily includes “duties and responsibilities”, as well as limits which the press must impose on itself spontaneously (see *Mater v. Turkey*, no. 54997/08, § 55, 16 July 2013). Not only does the press have the task of imparting such information and ideas;

the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of “public watchdog” (see *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, §§ 59 and 62, ECHR 1999-III; *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 71, ECHR 2004-XI; and *Von Hannover (no. 2)*, cited above, § 102). Furthermore, it is not for the Court, any more than it is for the national courts, to substitute its own views for those of the press as to what techniques of reporting should be adopted in a particular case (see *Jersild v. Denmark*, 23 September 1994, § 31, Series A no. 298, and *Stoll v. Switzerland* [GC], no. 69698/01, § 146, ECHR 2007-V). Freedom of expression includes the publication of photographs. This is nonetheless an area in which the protection of the rights and reputation of others takes on particular importance, as the photographs may contain very personal or even intimate information about an individual or his or her family (see *Von Hannover (no. 2)*, cited above, § 103). Lastly, although the publication of news about the private life of public figures is generally for the purposes of entertainment rather than education, it contributes to the variety of information available to the public and undoubtedly benefits from the protection of Article 10 of the Convention. However, such protection may cede to the requirements of Article 8 where the information at stake is of a private and intimate nature and there is no public interest in its dissemination (see *Mosley v. the United Kingdom*, no. 48009/08, § 131, 10 May 2011).

**(c) General principles concerning the margin of appreciation and balancing of rights**

90. The choice of the means calculated to secure compliance with Article 8 of the Convention in the sphere of the relations of individuals between themselves is in principle a matter that falls within the Contracting States’ margin of appreciation, whether the obligations on the State are positive or negative (see *Von Hannover (no. 2)*, cited above, § 104, with further references). Likewise, under Article 10 of the Convention, the Contracting States have a certain margin of appreciation in assessing whether and to what extent an interference with the freedom of expression protected by this provision is necessary (*ibid.*). However, this margin goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those delivered by an independent court. In exercising its supervisory function, the Court’s task is not to take the place of the national courts, but rather to review, in the light of the case as a whole, whether the decisions they have taken pursuant to their power of appreciation are compatible with the provisions of the Convention relied on (*ibid.*, § 105, with further references).

91. In cases which require the right to respect for private life to be balanced against the right to freedom of expression, the Court considers 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 news report, or under Article 10 by the publisher. Indeed, as a matter of principle these rights deserve equal respect (*ibid.*, § 106). Accordingly, the margin of appreciation should in theory be the same in both cases.

92. According to the Court's established case-law, the test of "necessity in a democratic society" requires the Court to determine whether the interference complained of corresponded to a "pressing social need", whether it was proportionate to the legitimate aim pursued and whether the reasons given by the national authorities to justify it are relevant and sufficient (see *The Sunday Times v. the United Kingdom (no. 1)*, 26 April 1979, § 62, Series A no. 30). The margin of appreciation left to the national authorities in assessing whether such a "need" exists and what measures should be adopted to deal with it is not, however, unlimited but goes hand in hand with European supervision by the Court, whose task it is to give a final ruling on whether a restriction is reconcilable with freedom of expression as protected by Article 10. 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 (no. 2)*, cited above, § 107).

93. The Court has already had occasion to lay down the relevant principles which must guide its assessment in this area. It has thus identified a number of criteria in the context of balancing the competing rights (see *Von Hannover (no. 2)*, cited above, §§ 109-13, and *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 90-95, 7 February 2012). The relevant criteria thus defined are: contribution to a debate of public interest, the degree of notoriety of the person affected, the subject of the news report, the prior conduct of the person concerned, the content, form and consequences of the publication, and, where appropriate, the circumstances in which the photographs were taken. Where it examines an application lodged under Article 10, the Court will also examine the way in which the information was obtained and its veracity, and the gravity of the penalty imposed on the journalists or publishers (*ibid.*). The Court considers that the criteria thus defined may be transposed to the present case.

## 2. *Application of these principles to the present case*

94. The Court notes that the impugned article consisted of an interview with Ms Coste, who disclosed that the Prince was the father of her son. The article also provided details about the circumstances in which she had met the Prince, their intimate relationship, their mutual feelings, his reaction to



the news of her pregnancy and the manner in which he behaved with the child. It was illustrated by photographs of the Prince holding the child or accompanied by Ms Coste, in both private and public contexts (see paragraphs 14-16 above).

95. In this regard and in view of the parties' submissions (see paragraphs 53 and 69 above) concerning the conclusions reached by the German courts in respect of substantially similar articles that had been published in *Bunte*, the Court finds it appropriate to make the preliminary observation that its role in this case consists primarily in verifying whether the domestic courts whose decisions are contested by the applicants struck a fair balance between the rights at stake and ruled in accordance with the criteria established by it for that purpose (criteria which have been reiterated in paragraph 93 above). Thus, its assessment of the circumstances of the present case cannot be based on a comparative examination of the decisions reached by the French and German courts respectively with regard to the information disclosed.

**(a) The issue of the contribution to a debate of public interest**

96. The Court reiterates that there is little scope under Article 10 § 2 of the Convention for restrictions on freedom of expression when a matter of public interest is at stake (see, *inter alia*, *Wingrove v. the United Kingdom*, 25 November 1996, § 58, *Reports of Judgments and Decisions* 1996-V). The margin of appreciation of States is reduced where a debate on a matter of public interest is concerned (see *Editions Plon v. France*, no. 58148/00, § 44, ECHR 2004-IV). In the circumstances of the present case, it is therefore essential to determine at the outset whether the content of the interview disclosing the Prince's fatherhood could be understood as constituting information such as to "contribute to a debate on a matter of public interest".

*(i) The concept of "contribution to a debate of public interest"*

97. The Government argued that too wide an interpretation of this concept would be liable to nullify any protection of the private life of public figures (see paragraphs 65-66 above). In this regard, the Court emphasises that the definition of what might constitute a subject of public interest will depend on the circumstances of each case (see *Von Hannover (no. 2)*, cited above, § 109, and *Axel Springer AG*, cited above, § 90).

98. It also reiterates that it has already had occasion to rule on different situations and has concluded that, although related to private life, they could legitimately be brought to the public's attention. In those cases, it took into account a number of factors in ascertaining whether a publication disclosing elements of private life also concerned a question of public interest. Relevant factors include the importance of the question for the public and the nature of the information disclosed (see *Von Hannover (no. 2)*, cited

above, § 109, and, in the context of the right to reputation, *Axel Springer AG*, cited above, § 90, with further references).

99. In particular, it has accepted in the past that aspects of private life may be disclosed on account of the interest that the public may have in being informed about certain personality traits of the public figure concerned (see *Ojala and Etukeno Oy v. Finland*, no. 69939/10, §§ 54-55, 14 January 2014, and *Ruusunen v. Finland*, no. 73579/10, §§ 49-50, 14 January 2014 in which the Court held that the date and the manner in which a former Finnish prime minister had entered a romantic relationship and the speed with which it had developed could be of public interest, in that it raised the question of whether he had been dishonest and lacked judgment in that regard). It remains the case, however, that a person's romantic relationships are, in principle, a strictly private matter. It follows that, in general, details concerning a couple's sex life or intimate relations should only be permitted to be brought to the public's knowledge without prior consent in exceptional circumstances.

100. The Court has also emphasised on numerous occasions that, although the public has a right to be informed, and this is an essential right in a democratic society which, in certain special circumstances, can even extend to aspects of the private life of public figures, articles aimed solely at satisfying the curiosity of a particular readership regarding the details of a person's private life, however well known that person might be, cannot be deemed to contribute to any debate of general interest to society (see *Von Hannover*, cited above, § 65; *MGN Limited v. the United Kingdom*, no. 39401/04, § 143, 18 January 2011; and *Alkaya v. Turkey*, no. 42811/06, § 35, 9 October 2012).

101. Thus, an article about the alleged extramarital relationships of high-profile public figures who were senior State officials contributed only to the propagation of rumours, serving merely to satisfy the curiosity of a certain readership (see *Standard Verlags GmbH v. Austria (no. 2)*, no. 21277/05, § 52, 4 June 2009). Equally, the publication of photographs showing scenes from the daily life of a princess who exercised no official functions was aimed merely at satisfying the curiosity of a particular readership (see *Von Hannover*, cited above, § 65, with further references). The Court reiterates in this connection that the public interest cannot be reduced to the public's thirst for information about the private life of others, or to the reader's wish for sensationalism or even voyeurism.

102. In order to ascertain whether a publication concerning an individual's private life is not intended purely to satisfy the curiosity of a certain readership, but also relates to a subject of general importance, it is necessary to assess the publication as a whole and to examine whether, having regard to the context in which it appears (see *Tønsbergs Blad A.S. and Haukom v. Norway*, no. 510/04, § 87, 1 March 2007; *Björk Eiðsdóttir v.*

*Iceland*, no. 46443/09, § 67, 10 July 2012; and *Erla Hlynsdóttir v. Iceland*, no. 43380/10, § 64, 10 July 2012), it relates to a question of public interest.

103. In this connection, the Court specifies that the public interest relates to matters which affect the public to such an extent that it may legitimately take an interest in them, which attract its attention or which concern it to a significant degree (see *The Sunday Times*, cited above, § 66), especially in that they affect the well-being of citizens or the life of the community (see *Barthold v. Germany*, 25 March 1985, § 58, Series A no. 90). This is also the case with regard to matters which are capable of giving rise to considerable controversy, which concern an important social issue (see, for example, *Erla Hlynsdóttir*, cited above, § 64), or which involve a problem that the public would have an interest in being informed about (see *Tønsbergs Blad A.S. and Haukom*, cited above, § 87).

(ii) *Contribution of the impugned article to a debate of public interest*

104. In the present case, the domestic courts found a “lack of any topical news item” and “any debate on a matter of public interest” in the impugned publication, given that the child was barred from succession to the throne, a situation that “the company’s pleadings did not claim to be a subject of debate in French or Monegasque society or of examination in the article”. They thus held that the impugned article amounted to an invasion of the Prince’s private life, which could not in any way be justified by the “requirements of current-affairs reporting”, which they held to be “inexistent” (see paragraphs 27 and 36 above).

105. For its part, the Court considers that, in order to determine whether the content of the interview disclosing the Prince’s fatherhood could be understood as constituting information on a question of public interest, it is necessary to assess the article as a whole, as well as the substance of the information that is disclosed in it. In this connection and having regard to the observations of the domestic courts (see paragraphs 20, 27 and 36 above) and of the Government (see paragraph 70 above), the Court accepts that the interview with Ms Coste contained numerous details about the Prince’s private life and his real or supposed feelings which, in the circumstances of the case, are not directly related to a debate of public interest.

106. Nonetheless, the Court considers that the subject of the article cannot be regarded as disclosing only the relationship between Ms Coste and the Prince, unless the scope of the concept of public interest is greatly restricted. There is no doubt that the publication, taken as a whole and in context, and analysed in the light of the above-mentioned case-law precedents (see paragraphs 98-103 above), also concerned a matter of public interest.

107. In this regard, the Court considers it useful at the outset to point out that although a birth is an event of an intimate nature, it does not come

solely within the private sphere of the persons concerned by it, but also falls within the public sphere, since it is in principle accompanied by a public statement (the civil-status document) and the establishment of a legal parent-child relationship. Thus, the purely private and family interest represented by a person's descent is supplemented by a public aspect, related to the social and legal structure of kinship. A news report about a birth cannot therefore be considered, in itself, as a disclosure concerning exclusively the details of the private life of others, intended merely to satisfy the public's curiosity.

108. Further, having regard to the specific features of the Principality of Monaco, in which “the links between the sovereign and the Monegasque Family are very close” and “the monarchy ... is based on the union between the Prince and the national community”<sup>1</sup>, the Court considers that there is an undeniable public-interest value – at least for the subjects of the Principality – in the existence of a child (particularly a son) of the Prince, who was known at the relevant time as being single and childless. The fact that the Prince's son was born out of wedlock is irrelevant in this regard. At the material time this child's birth was not without possible dynastic and financial implications: the Prince was still unmarried and the question of legitimation by marriage could be raised, even if such an outcome was improbable.

109. Indeed, the consequences of the birth on the succession were mentioned in the article, which related the warning attributed to the Prince's adviser, who allegedly said: “Do you realise that, if it's a boy, they'll use that to prevent Albert acceding to the throne, and the child will be able to claim the throne.” They were also evident in Ms Coste's remarks when she stated: “I didn't want him to grow up like Mazarine ... I thought only about that, and not for a second about the fact that he represented a potential heir.” Thus, reference was also made to the reasons which may have incited the Prince to refuse to recognise his paternity officially and to prefer to keep it secret. In addition, through Ms Coste's comments stating that she was “afraid for [her] son's psychological health” and wished him “to grow up normally, with a father”, the article also touched on the child's best interests in having the father-child relationship, an important aspect of his personal identity, officially established.

110. At this stage, the Court reiterates, having regard to the Government's argument that the article contained only a few lines on the issue of the child's status as a potential heir (see paragraph 68 above), that the only decisive question is whether a news report is capable of contributing to a debate of public interest, and not whether it achieves this objective in full (see *Haldimann and Others v. Switzerland*, no. 21830/09,

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1. Opinion on the balance of powers in the Constitution and the legislation of the Principality of Monaco, adopted on 14-15 June 2013 by the European Commission for Democracy through Law (Venice Commission).

§ 57, ECHR 2015). It notes that, for an article to contribute to a debate of public interest, it is not necessary that it be devoted entirely to that; it may be enough for the article to be concerned with that debate and to contain one or several elements for that purpose (see *Lillo-Stenberg and Sæther v. Norway*, no. 13258/09, § 37, 16 January 2014; *Ojala and Etukeno Oy*, cited above, § 54; and *Ruusunen*, cited above, § 49).

111. In the present case, the impugned information was not without political import, and could arouse the interest of the public with regard to the rules of succession in force in the Principality (which prevented children born outside marriage from succeeding to the throne). Likewise, the attitude of the Prince, who wished to keep his paternity a secret and refused to acknowledge it publicly (see paragraphs 25 and 27 above), could, in a hereditary monarchy whose future is intrinsically linked to the existence of descendants, also be of concern to the public. This was equally true with regard to his behaviour in respect of the child's mother – who was unable to obtain either the notarial deed of recognition of her son, or its transcription into the register of births, marriages and deaths (see paragraph 17 above) – and the child himself: this information could provide insights into the Prince's personality, particularly with regard to the way in which he approached and assumed his responsibilities.

112. In this context, it is important to reiterate the symbolic role of a hereditary monarchy. In such a monarchy, the Prince embodies the unity of the nation. It follows that certain events affecting the members of the ruling family, while they are part of the latter's private lives, are also part of contemporary history. This was the Court's conclusion, in particular, with regard to the illness of Prince Rainier III (see *Von Hannover (no. 2)*, cited above, §§ 38 and 117). In the Court's opinion, this is also the case with regard to the birth of a child, even one born out of wedlock, especially since, at the date of the impugned events, the child in question appeared to be the Prince's only descendant. In a constitutional hereditary monarchy, the person of the Prince and his direct line are also representative of the continuity of the State.

113. Consequently, the Court considers that, although the impugned article admittedly contained numerous details which concerned solely private or even intimate details of the Prince's life, it was also intended to contribute to a debate on a matter of public interest (see paragraphs 105-12 above), as submitted by the applicants both before the domestic courts and before the Court (see paragraphs 30-33 and 52-53 above).

114. Having regard to the domestic courts' conclusions in this regard (see paragraph 104 above), the Court considers it useful to emphasise that the press's contribution to a debate of public interest cannot be limited merely to current events or pre-existing debates. Admittedly, the press is a vector for disseminating debates on matters of public interest, but it also has the role of revealing and bringing to the public's attention information

capable of eliciting such interest and of giving rise to such a debate within society. Moreover, in view of the articles published in the *Daily Mail* and in *Bunte* (see paragraphs 9 and 11 above), the Court notes that the child's status as a potential heir was already a matter of public discussion.

115. Accordingly, it considers that the national courts ought to have assessed the publication as a whole in order to determine its subject matter accurately, rather than examining the remarks concerning the Prince's private life out of their context. In the event, however, they refused to take into consideration the interest that the article's central message – namely the existence of a child who had been fathered by the Prince – could have for the public, and instead concentrated on the details provided by Ms Coste about the couple's intimate relationship. In so doing, they deprived the public-interest justification relied upon by the applicants of any effectiveness.

116. In this case, however, having regard to the nature of the information in issue, the Court finds no reason to doubt that, in publishing Ms Coste's account, the applicants could be understood as having contributed to the coverage of a subject of public interest.

**(b) How well known is the person concerned and what is the subject of the news report?**

*(i) Consequences of the classification as a "public figure"*

117. The Court reiterates that the role or function of the person concerned and the nature of the activities that are the subject of the news report and/or photograph constitute another important criterion to be taken into consideration (see *Von Hannover (no. 2)*, cited above, § 110, and *Axel Springer AG*, cited above, § 91). 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. Thus, the Court has acknowledged on numerous occasions that the public was entitled to be informed about certain aspects of the private life of public figures (see, *inter alia*, *Karhuvaara and Iltalehti v. Finland*, no. 53678/00, § 45, ECHR 2004-X).

118. It is therefore necessary to distinguish between private individuals and persons acting in a public context, as political figures or public figures. A fundamental distinction needs to be made between reporting details of the private life of an individual and reporting facts capable of contributing to a debate in a democratic society, relating to politicians in the exercise of their official functions for example (see *Von Hannover*, cited above, § 63, and *Standard Verlags GmbH and Krawagna-Pfeifer v. Austria*, no. 19710/02, § 47, 2 November 2006).

119. Thus, depending on whether or not he or she is vested with official functions, an individual will enjoy a more or less restricted right to his or her intimacy: in this regard, the right of public figures to keep their private

life secret is, in principle, wider where they do not hold any official functions (even if, as members of a ruling family, they represent that family at certain events; see *Von Hannover*, cited above, §§ 76-77) and is more restricted where they do hold such a function (see, for example, *Lingens v. Austria*, 8 July 1986, § 42, Series A no. 103, and *Ojala and Etukeno Oy*, cited above, § 52).

120. The fact of exercising a public function or of aspiring to political office necessarily exposes an individual to the attention of his or her fellow citizens, including in areas that come within one's private life. Accordingly, certain private actions by public figures cannot be regarded as such, given their potential impact in view of the role played by those persons on the political or social scene and the public's resultant interest in being informed of them. The Court subscribes to the analysis of the Parliamentary Assembly of the Council of Europe, finding that "public figures must recognise that the position they occupy in society – in many cases by choice – automatically entails increased pressure on their privacy" (point 6 of Resolution 1165 (1998), see paragraph 43 above).

121. Thus, the Court has found in particular that politicians inevitably and knowingly lay themselves open to close scrutiny of their every word and deed by both journalists and the public at large (see, *inter alia*, *Lingens*, cited above, § 42). Furthermore, this principle applies not only to politicians, but to every person who is part of the public sphere, whether through their actions (see, to this effect, *Krone Verlag GmbH & Co KG v. Austria*, no. 34315/96, § 37, 26 February 2002, and *News Verlags GmbH & Co.KG v. Austria*, no. 31457/96, § 54, ECHR 2000-I) or their position (see *Verlagsgruppe News GmbH v. Austria (no. 2)*, no. 10520/02, § 36, 14 December 2006).

122. Nevertheless, in certain circumstances, even where a person is known to the general public, he or she may rely on a "legitimate expectation" of protection of and respect for his or her private life (see, *inter alia*, *Von Hannover (no. 2)*, cited above, § 97). Thus, the fact that an individual belongs to the category of public figures cannot in any way, even in the case of persons exercising official functions, authorise the media to violate the professional and ethical principles which must govern their actions, or legitimise intrusions into private life.

123. It follows that an individual's celebrity or functions cannot under any circumstances justify hounding by the media or the publication of photographs obtained through fraudulent or clandestine operations (see, with regard to photographs taken using a telephoto lens and without the knowledge of the persons concerned, *Von Hannover*, cited above, § 68) or those portraying details of an individual's private life and representing an intrusion into their intimacy (see, with regard to the publication of photographs relating to an alleged adulterous relationship, *Campmany and Lopez Galiacho Perona v. Spain (dec.)*, no. 54224/00, ECHR 2000-XII).

124. In the present case, the Court notes that the Prince is a person who, through his birth as a member of a ruling family and his public functions, both political and representative, as Head of State, is undeniably a prominent public figure. The domestic courts ought therefore to have considered the extent to which this prominence and those public functions were capable of influencing the protection which could be afforded to his private life. Yet they refrained from including this circumstance in their assessment of the facts submitted for their examination. Thus, although it reiterated that an exception could be made to the principle of protection of private life whenever the facts disclosed could give rise to a debate on account of their impact given the status or function of the person concerned (see paragraph 26 above), the Versailles Court of Appeal drew no conclusion from that consideration in the present case. Equally, the Court of Cassation merely stated, in a general manner, that “every person, whatever his rank, birth, fortune or present or future functions, [was] entitled to respect for his private life” (see paragraph 36 above).

125. Indeed, given that the expectation of protection of private life may be reduced on account of the public functions exercised, the Court considers that, in order to ensure a fair balancing of the interests at stake, the domestic courts, in assessing the facts submitted for their examination, ought to have taken into account the potential impact of the Prince’s status as Head of State, and to have attempted, in that context, to determine the parts of the impugned article that belonged to the strictly private domain and what fell within the public sphere.

*(ii) The subject of the publication*

126. The Court observes at the outset that the impugned publication admittedly concerned the sphere of the Prince’s private life, in that it described his love life and his relationship with his son. Nonetheless, referring to its previous findings (see paragraphs 106-14 above), it considers that the essential element of the information contained in the article – the child’s existence – went beyond the private sphere, given the hereditary nature of the Prince’s functions as the Monegasque Head of State. Further, given that the Prince had appeared on several occasions in public alongside Ms Coste (see paragraphs 14 and 16 above), the Court considers that the existence of his relationship with her was no longer purely a matter concerning his private life.

127. The Court would then emphasise that the Prince’s private life was not the sole subject of the article, but that it also concerned the private life of Ms Coste and her son, over whom Ms Coste alone had parental responsibility. Thus, it also contained details about the interviewee’s pregnancy, her own feelings, the birth of her son, a health problem suffered by the child and their life together (see paragraph 14 above). These were elements relating to Ms Coste’s private life, in respect of which she was



certainly not bound to silence and was free to communicate. In this regard, the Court cannot ignore the fact that the disputed article was a means of expression for the interviewee and her son.

128. In addition, in securing the impugned publication, Ms Coste was motivated by a personal interest, namely obtaining official recognition for her son, as is clearly reflected in the article (see paragraphs 14 and 15 above). The interview thus raised a question of public interest, but also concerned competing private interests: that of Ms Coste in securing recognition for her son, which was why she had contacted the media (see paragraph 17 above), that of the child in having his paternity established and that of the Prince in keeping that paternity secret.

129. The Court nonetheless agrees that, as the Government have submitted (see paragraph 63 above), Ms Coste's right to freedom of expression for herself and her son is not directly in issue in the present case, given that Ms Coste was not a party to the proceedings before the domestic courts and is not a party to the proceedings before the Court. It emphasises, however, that the combination of elements relating to Ms Coste's private life and to that of the Prince had to be taken into account in assessing the protection due to him.

**(c) Prior conduct of the person concerned**

130. The Court notes that neither the domestic courts nor the parties commented on the Prince's prior conduct. In the circumstances of the case, it considers that, short of speculating, the material in the case file is not in itself sufficient to enable it to take cognisance of or examine the Prince's previous conduct with regard to the media. Moreover, the mere fact of having cooperated with the press on previous occasions cannot serve as an argument for depriving a person discussed in an article of all protection (see *Egeland and Hanseid v. Norway*, no. 34438/04, § 62, 16 April 2009). An individual's alleged or real previous tolerance or accommodation with regard to publications touching on his or her private life does not necessarily deprive the person concerned of the right to privacy.

**(d) Method of obtaining the information and its veracity**

131. The Court emphasises at the outset the importance that it attaches to journalists' assumption of their duties and responsibilities, and to the ethical principles governing their profession. In this connection, it reiterates that Article 10 protects journalists' right to divulge information on issues of general interest subject to the proviso that they are acting in good faith and on an accurate factual basis and that they provide "reliable and precise" information in accordance with the ethics of journalism (see *Fressoz and Roire v. France* [GC], no. 29183/95, § 54, ECHR 1999-I).

132. The fairness of the means used to obtain information and reproduce it for the public and the respect shown for the person who is the subject of

the news report (see *Egeland and Hanseid*, cited above, § 61) are also essential criteria to be taken into account. The reductive and truncated nature of an article, where it is liable to mislead the reader, is therefore likely to detract considerably from the importance of the said article's contribution to a debate of public interest (see *Stoll*, cited above, § 152).

133. Further, the Court would point out the particular circumstances of the present case compared with other cases examined by it in which the press had exposed the private life of public figures, including members of the Monegasque ruling family: in a decision which appears to have been personal, deliberate and informed, Ms Coste herself contacted *Paris Match* (see paragraph 17 above).

134. The veracity of Ms Coste's statements with regard to the Prince's paternity has not been contested by him, and he himself publicly acknowledged it shortly after the impugned article was published. In this connection, the Court reiterates the essential nature of the veracity of the disseminated information: respect for this principle is fundamental to the protection of the reputation of others.

135. As to the photographs which illustrate the interview, they were handed over voluntarily – as noted by the Versailles Court of Appeal (see paragraph 27 above) – and without charge to *Paris Match* by Ms Coste (see paragraph 17 above). In addition, the photographs showing the Prince with his child were not taken without his knowledge (contrast *Von Hannover*, cited above, § 68), or in circumstances showing him in an unfavourable light (compare *Von Hannover (no. 2)*, cited above, §§ 121-23). Admittedly, and in common with the domestic courts, the Court notes that the photographs showed the Prince in a private context and were published without his consent. However, they certainly did not present him in a light which might undermine his public standing from the reader's perspective. Nor did they present a distorted image of him, and above all they lent support to the content of the interview, illustrating the veracity of the information contained in it.

136. As to the photographs showing the Prince with Ms Coste, it is not disputed that these were taken in public places at events which were themselves public, so their publication raises no particular issues in the circumstances of the present case.

**(e) Content, form and consequences of the impugned article**

137. The Government criticised the applicants for having given the published information a sensationalist spin and for failing to filter Ms Coste's disclosures with a view to excluding those which concerned the intimate details of the Prince's life (see paragraphs 71-72 above). For their part, the domestic courts noted that the impugned publication contained multiple digressions about the circumstances of Ms Coste's meeting with the Prince, the Prince's reaction to the announcement of Ms Coste's

pregnancy and his subsequent conduct towards the child (see paragraphs 27 and 36 above).

138. In this regard, the Court notes firstly that, in exercising their profession, journalists make decisions on a daily basis through which they determine the dividing line between the public's right to information and the rights of others to respect for their private lives. They thus have primary responsibility for protecting individuals, including public figures, from any intrusion into their private life. The choices that they make in this regard must be based on their profession's ethical rules and codes of conduct.

139. Secondly, the Court reiterates that the approach used to cover a subject is a matter of journalistic freedom. It is not for it, nor for the national courts, to substitute their own views for those of the press in this area (see *Jersild*, cited above, § 31). Article 10 of the Convention also leaves it for journalists to decide what details ought to be published to ensure an article's credibility (see *Fressoz and Roire*, cited above, § 54). In addition, journalists enjoy the freedom to choose, from the news items that come to them, which they will deal with and how they will do so. This freedom, however, is not devoid of responsibilities (see paragraphs 131-32 above).

140. Wherever information bringing into play the private life of another person is in issue, journalists are required to take into account, in so far as possible, the impact of the information and pictures to be published prior to their dissemination. In particular, certain events relating to private and family life enjoy particularly attentive protection under Article 8 of the Convention and must therefore lead journalists to show prudence and caution when covering them (see *Editions Plon*, cited above, §§ 47 and 53, and *Hachette Filipacchi Associés*, cited above, §§ 46-49).

141. In the present case, the impugned publication was presented as an interview made up of questions and answers, reproducing Ms Coste's statements without any journalistic commentary. Moreover, the tone of the interview appeared to be measured and non-sensationalist. Ms Coste's remarks are recognisable as quotations and her motives are also clearly set out for the readers. Equally, readers can easily distinguish between what is factual material and what concerns the interviewee's perception of the events, her opinions or her personal feelings (see paragraph 14 above).

142. The Court has already had occasion to state that punishing a journalist for assisting in the dissemination of statements made by another person in an interview would seriously hamper the contribution of the press to discussion of matters of public interest and should not be envisaged unless there are particularly strong reasons for doing so (see *Jersild*, cited above, § 35, and *Polanco Torres and Movilla Polanco v. Spain*, no. 34147/06, §§ 47-48, 21 September 2010). It considers that the same approach should prevail in the circumstances of the present case, given that, over and above the Prince's private life, the impugned publication concerned a matter of public interest, especially since the details provided

by Ms Coste about her relationship with the Prince were not such as to undermine his reputation or arouse contempt towards him (contrast *Ojala and Etukeno Oy*, cited above, § 56, and *Ruusunen*, cited above, § 51). Indeed, it is not disputed that Ms Coste's account of her life and her personal relationship with the Prince was sincere and that it was faithfully reported by the applicants. In addition, there is no cause to doubt that, in publishing this account, the applicants' intention was to communicate to the public news that was of general interest (see paragraph 116 above).

143. Moreover, it was for the domestic courts to assess the impugned interview in such a way as to differentiate and weigh up what, in Ms Coste's personal remarks, was likely to fall within the core area of the Prince's private life (compare *Ojala and Etukeno Oy*, cited above, § 56, and *Ruusunen*, cited above, § 51) and what could be of legitimate interest to the public. Yet they failed to do so, denying that there was any "topical" value to the news about the existence of the Prince's son and finding that it did not form part of "any debate on a matter of public interest which would have justified its being reported ... on the grounds of legitimate imparting of information to the public" (see paragraph 36 above).

144. Admittedly, the interview was placed in a narrative setting accompanied by graphic effects and headlines which were intended to attract the reader's attention and provoke a reaction (see paragraphs 15-16 above). Having regard to the Government's criticisms on this point (see paragraph 72 above), the Court emphasises that the presentation of a press article and the style used in it are a matter of editorial decision, on which it is not in principle for it, or for the domestic courts, to pass judgment. Nonetheless, it also reiterates that journalistic freedom is not unlimited and that the press must not overstep certain bounds in this connection, in particular "the protection ... of the rights of others" (see, *inter alia*, *Mosley*, cited above, § 113, and *MGN Limited*, cited above, § 141). In the present case, it considers that, viewed as a whole, this narrative presentation, created through the addition of headlines, photographs and captions, does not distort the content of the information and does not deform it, but must be considered as its transposition or illustration.

145. Moreover, the use of certain expressions (see paragraphs 15-16 above) which, to all intents and purposes, were designed to attract the public's attention cannot in itself raise an issue under the Court's case-law (see *Tănăsoaica v. Romania*, no. 3490/03, § 41, 19 June 2012): the magazine cannot be criticised for enhancing the article and striving to present it attractively, provided that this does not distort or deform the information published and is not such as to mislead the reader.

146. With regard to the photographs illustrating the article which show the Prince holding the child, the Court reiterates first of all that, in essence, Article 10 leaves it for journalists to decide whether or not it is necessary to reproduce such documents to ensure credibility (see, in particular, *Fressoz*

and *Roire*, cited above, § 54, and *Pinto Coelho v. Portugal*, no. 28439/08, § 38, 28 June 2011).

147. It further notes that the Court of Cassation held that “the publication of photographs of a person to illustrate subsequent content which amount[ed] to an invasion of his privacy necessarily infringe[d] his right to control of his own image” (see paragraph 36 above).

148. The Court considers that, while there is no doubt in the present case that these photographs fell within the realm of the Prince’s private life and that he had not consented to their publication, their link with the impugned article was not tenuous, artificial or arbitrary (see *Von Hannover v. Germany (no. 3)*, no. 8772/10, §§ 50 and 52, 19 September 2013). Their publication could be justified by the fact that they added credibility to the account of events. At the time of their publication, given that Ms Coste had been unable to obtain the notarial deed recognising her son (see paragraphs 14 and 17 above), she had at her disposal no other evidence which would have enabled her to substantiate her account and enable the applicants to forgo publication of the photographs. In consequence, although publication of these photographs had the effect of exposing the Prince’s private life to the public, the Court considers that they supported the account given in the article, which has already been found to have contributed to a debate of public interest (see paragraph 113 above).

149. Furthermore, taken alone or in conjunction with the accompanying text (be this the headlines, subheadings and captions, or the interview itself), these photographs were not defamatory, pejorative or derogatory for the Prince’s image (contrast *Egeland and Hanseid*, cited above, § 61); indeed, the latter did not allege that there had been damage to his reputation.

150. Lastly, with regard to the consequences of the disputed article, the Court notes that shortly after the article was published, the Prince publicly acknowledged his paternity. The Versailles Court of Appeal held in this connection that he had been “obliged” to provide a public explanation about a matter relating to his private life (see paragraph 27 above). For its part, the Court considers that the consequences of the publication must be put into perspective, in the light of the articles which had previously appeared in the *Daily Mail* and in *Bunte*. However, in the present case the domestic courts do not appear to have evaluated the consequences in the wider context of the international media coverage already given to the events described in the article. Thus, they attached no weight to the fact that the secrecy surrounding the Prince’s paternity had already been undermined by the previous articles in other media (see paragraphs 9 and 11 above).

**(f) The severity of the sanction**

151. The Court reiterates that in the context of assessing proportionality, irrespective of whether or not the sanction imposed was a minor one, what matters is the very fact of judgment being given against the person

concerned, including where such a ruling is solely civil in nature (see, *mutatis mutandis*, *Roseiro Bento v. Portugal*, no. 29288/02, § 45, 18 April 2006). Any undue restriction on freedom of expression effectively entails a risk of obstructing or paralysing future media coverage of similar questions.

152. In the present case, the applicant company was ordered to pay EUR 50,000 in damages and to publish a statement detailing the judgment. The Court cannot consider those penalties to be insignificant.

**(g) Conclusion**

153. In the light of all of the above-mentioned considerations, the Court considers that the arguments advanced by the Government with regard to the protection of the Prince's private life and of his right to his own image, although relevant, cannot be regarded as sufficient to justify the interference in issue. In assessing the circumstances submitted for their appreciation, the domestic courts did not give due consideration to the principles and criteria as laid down by the Court's case-law for balancing the right to respect for private life and the right to freedom of expression (see paragraphs 142-43 above). They thus exceeded the margin of appreciation afforded to them and failed to strike a reasonable balance of proportionality between the measures restricting the applicants' right to freedom of expression, imposed by them, and the legitimate aim pursued.

The Court therefore concludes that there has been a violation of Article 10 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

154. 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

155. The applicants stated that they hoped to obtain just satisfaction which would compensate for the cost of the damages awarded and of the compulsory publication order imposed by the domestic courts. However, they did not quantify their claims under this head.

156. The Government did not comment on those claims before the Grand Chamber.

157. The Court reiterates that under Rule 60 § 2 of the Rules of Court itemised particulars of any claim made under Article 41 of the Convention must be submitted, together with the relevant supporting documents or vouchers, failing which the claim may be rejected in whole or in part. In the

present case, the applicants have not submitted particulars of their claims in respect of the damage sustained, nor provided the necessary supporting documents. It follows that the Court cannot allow their claim for compensation.

### **B. Costs and expenses**

158. The applicants claimed the sum of EUR 38,463.61 as reimbursement of the costs incurred by them in the proceedings before the national courts. They submitted fee notes and invoices in support of their claim.

159. The Government did not comment on those claims before the Grand Chamber.

160. The Court reiterates that costs and expenses will not be reimbursed under Article 41 unless it is established that they were actually incurred, were necessarily incurred and were also reasonable as to quantum. It also reiterates that it may award the applicant not only the costs and expenses incurred before it but also those incurred before the national courts for prevention and redress of the violation (see *Elsholz v. Germany* [GC], no. 25735/94, § 73, ECHR 2000-VIII).

161. In the present case, taking account of the documents in its possession and the above-mentioned criteria, the Grand Chamber finds it reasonable to award the applicants jointly EUR 15,000 under this head.

### **C. Default interest**

162. 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. *Holds* that there has been a violation of Article 10 of the Convention;
2. *Holds*
  - (a) that the respondent State is to pay the applicants, jointly, within three months, EUR 15,000 (fifteen thousand euros) in respect of costs and expenses, plus any tax that may be chargeable to them;

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

3. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 10 November 2015.

Søren Prebensen  
Deputy Registrar

Dean Spielmann  
President