



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

FOURTH SECTION

**CASE OF FERREIRA E CASTRO DA COSTA LARANJO  
v. PORTUGAL**

*(Applications nos. 33203/20 and 45884/22)*

JUDGMENT

STRASBOURG

5 November 2024

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



**In the case of Ferreira e Castro da Costa Laranjo v. Portugal,**

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

Tim Eicke, *President*,

Ana Maria Guerra Martins,

Mateja Đurović, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the applications against the Portuguese Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Portuguese national, Ms Tania Alexandra Ferreira e Castro da Costa Laranjo (“the applicant”), who was born in 1972, lives in Lisbon and was represented by Ms I. de Oliveira Silva, a lawyer practising in Lisbon;

the decision to give notice of the applications to the Portuguese Government (“the Government”) represented by their Agent, Mr R. Bragança de Matos, Public Prosecutor;

the parties’ observations;

Having deliberated in private on 8 October 2024,

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

## SUBJECT MATTER OF THE CASE

1. The case concerns criminal and civil proceedings instituted against the applicant for having broadcast without authorisation, images and sound of the recording of a hearing by the Central Criminal Department for Investigation and Prosecution (hereinafter the “DCIAP”) of M.M., former Minister of Internal Affairs, in a highly mediatised criminal investigation against the latter. Invoking Article 10 of the Convention, the applicant alleged that her conviction and the order for payment of damages breached her right to freedom of expression and to impart information.

2. The applicant is a journalist for the television news channel *Correio da Manhã TV* (“CMTV”). On 29 November 2015 she broadcast in a news report images and sound of a recording of the hearing by DCIAP of M.M., who, at the time, was being investigated for corruption and abuse of power in the granting of special investment and business visas (golden visas) while he was a Minister in the Government. The applicant had obtained the recording of the aforementioned hearing from another journalist who had had access to it in her capacity as an auxiliary of the Prosecutor (*assistente*) in the criminal investigation at issue.

## I. CRIMINAL PROCEEDINGS (APPLICATION No. 33203/20)

3. Following the applicant's news report, a criminal investigation was opened. On 3 September 2019 the Criminal Court of Lisbon convicted the applicant for disobedience for having broadcast images and sound of the hearing of M.M. without the prior authorisation of the judicial authority and of M.M. The applicant was then sentenced to a total of eighty day-fines, amounting to 880 euros (EUR) pursuant to Article 348 § 1 a) of the Criminal Code and Article 88 § 2 b) of the Code of Criminal Procedure ("CCP").

4. In its reasoning, the Criminal Court of Lisbon, referring to the case-law of the Court, particularly the case *Pinto Coelho v. Portugal* (no. 28439/08, 28 June 2011), considered that the applicant's right to freedom of expression had to be balanced against M.M.'s rights to privacy and to the presumption of innocence, given that the criminal investigation against him was pending at the material time, as well as the general need for a proper administration of justice. It concluded that the latter had to prevail in the circumstances of the case.

5. On 29 January 2020 the Lisbon Court of Appeal confirmed the judgment of the Criminal Court of Lisbon. It noted that the applicant had not requested authorisation from the judicial authority or from M.M. before she broadcast the impugned images and sound of his hearing, as required by Article 88 § 2 b) of the CCP, which ensures the proper administration of justice. It further observed that the applicant could have informed the public about the hearing at issue without showing images and sound thereof, finding that retelling it would have efficiently fulfilled her duty to inform.

## II. CIVIL PROCEEDINGS (APPLICATION No. 45884/22)

6. Subsequent to the criminal proceedings, M.M. lodged liability proceedings against the applicant and company C., the owner of CMTV, claiming compensation for the prejudice caused by the news report in question. On 4 December 2019 the District Court of Lisbon dismissed his claim regarding the applicant and ordered company C. to pay him 55,000 euros (EUR) as compensation for the non-pecuniary loss sustained.

7. On 8 January 2021 the Lisbon Court of Appeal quashed the judgment and ordered the applicant and company C. to pay EUR 35,000 jointly to M.M. for the non-pecuniary damage sustained in accordance with Article 70 § 2 of Law no. 27/2007 of 30 July 2007 (Law of Television), Article 623 of the Code of Civil Procedure and Article 500 of the Civil Code. The Appeal Court found that the applicant should be held responsible together with company C., taking into account that, *inter alia*, she had been convicted and fined for the same facts in the criminal proceedings brought against her (see paragraph 5 above).

8. On 25 May 2022 the Supreme Court confirmed this judgment. It considered that the criminal conviction of the applicant was in support of a clear violation of M.M.'s personal rights, finding that the applicant's alleged right to inform the public had no place in the civil proceedings. The Supreme Court further noted that the compensation she was ordered to pay jointly with company C. was in line with its practice, and therefore not excessive.

9. Relying on Article 10 of the Convention, the applicant alleged that the decisions of both the criminal and civil courts by which she had been fined and ordered to pay EUR 35,000 to M.M. jointly with company C. for having broadcast extracts of his hearing by the DCIAP, had breached her right to freedom of expression and to impart information.

## THE COURT'S ASSESSMENT

10. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

11. The Court notes that the applications are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

12. It is not disputed between the parties that the judgments rendered against the applicant constituted an interference with her right to freedom of expression as guaranteed by Article 10 § 1 of the Convention. The Court sees no reason to hold otherwise. It also observes that the interference was "prescribed by law", as it was based on the relevant provisions of the Criminal Code and the Code of Criminal Procedure, Law 27/2007 of 30 June 2007 (Law of Television), the Civil Code and the Code of Civil Procedure (see paragraphs 3, 5 and 7 above). The Court accepts that the interference pursued the legitimate aims referred to in paragraph 2 of Article 10 of the Convention, namely M.M.'s rights to privacy and to the presumption of innocence. It remains to be ascertained whether the interference complained of was necessary in a democratic society.

13. The general principles of the Court's case-law relevant for the present case have been summarised in *Bédat v. Switzerland* ([GC], no. 56925/08, §§ 48-54, 29 March 2016). The criteria for balancing the applicant's right to freedom of expression under Article 10 against the right to privacy and presumption of innocence of M.M. have been summarised in *Axel Springer AG v. Germany* ([GC], no. 39954/08, §§ 90-95, 7 February 2012) and *Couderc and Hachette Filipacchi Associés v. France* ([GC], no. 40454/07, § 93, ECHR 2015 (extracts)).

14. The domestic courts established, and the Court agrees, that the subject of the impugned broadcast material was a matter of considerable public interest, since it concerned a judicial investigation into corruption and abuse of power by a high-ranking member of the Government in the performance of his duties. As Minister of Internal Affairs at the time, M.M. was an

influential public figure, who was clearly involved in political life and at the highest level of the executive. Accordingly, he inevitably and consciously exposed himself to a heightened level of scrutiny of his actions by both journalists and the general public (compare *Pinto Coelho v. Portugal*, no. 28439/08, § 35, 28 June 2011, and *Campos Dâmaso v. Portugal*, no. 17107/05, § 33, 24 April 2008).

15. In the course of the criminal proceedings, the criminal courts found that the applicant had breached the law because she had failed to obtain a prior authorisation from the competent judicial authority and M.M. for broadcasting excerpts from the hearing at issue (see paragraphs 3 and 5 above). However, it was also established that the applicant had obtained the broadcast material from a colleague who was intervening in the criminal proceedings as an auxiliary of the prosecutor (see paragraph 2 above). Furthermore, there were no objections as to its veracity and authenticity. Whereas the domestic courts held that the impugned broadcasting violated M.M.s rights to privacy and presumption of innocence, they did not provide any reasons for their finding. In particular, they did not explain how the impugned broadcasting exacerbated M.M.'s situation given the considerable media coverage of the criminal investigation against him at the time. They also failed to give reasons why retelling the hearing (without showing in public extracts thereof) would have affected M.M.'s rights to a lesser degree (see paragraph 5 above). Lastly, whereas they referred to the need to ensure proper administration of justice, they failed to show how the impugned broadcasting had affected the contemporaneous criminal investigation against M.M. (see *Pinto Coelho*, cited above, § 37).

16. Regarding the severity of the sanction, it is noted that in the civil proceedings lodged by M.M. against the applicant, the Lisbon Court of Appeal and the Supreme Court, relying on the applicant's criminal conviction for the impugned facts, found that M.M.'s rights to privacy had been violated and that he should be compensated for the non-pecuniary damage sustained (see paragraphs 7 and 8 above), ordering the applicant to pay him EUR 35,000 in damages in solidarity with company C. (see paragraph 9 above). The Court finds that the amount of compensation the applicant was ordered to pay is rather significant, is capable of discouraging the media from discussing matters of legitimate public concern and has a chilling effect on the freedom of expression and of the press (compare *Medipress-Sociedade Jornalística, Lda v. Portugal*, no. 55442/12, § 45, 30 August 2016; *SIC - Sociedade Independente de Comunicação v. Portugal*, no. 29856/13, § 69, 27 July 2021; and, *mutatis mutandis*, *Pais Pires de Lima v. Portugal*, no. 70465/12, § 66, 12 February 2019).

17. Turning to the sanction imposed in the criminal proceeding, the Court observes that the applicant was sentenced to eighty day-fines amounting to a total of 880 EUR, which is disproportionate in view of the particular circumstances of the case (compare *Pinto Coelho*, cited above, §§ 13 and 39).

18. In view of the foregoing, the Court considers that the amount the applicant was ordered to pay in the civil proceedings combined with the fine imposed in the criminal proceedings constituted a disproportionate interference with her right to freedom of expression and that it was therefore not necessary in a democratic society.

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

#### APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. The applicant did not submit a claim for just-satisfaction. Therefore, the Court considers there is no call to award her any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a violation of Article 10 of the Convention.

Done in English, and notified in writing on 5 November 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski  
Deputy Registrar

Tim Eicke  
President