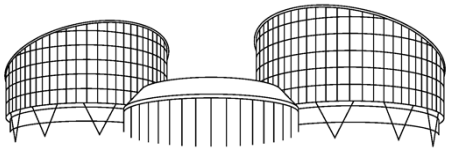

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF MORTENSEN v. DENMARK

(Application no. 16756/24)

JUDGMENT

Art 10 • Freedom of expression • Applicant's criminal conviction of defamation for posting on another private individual's social media account that a named controversial leader of a right-wing national and anti-Islam political party "is allowed to be a Nazi" • Domestic courts' failure to conduct a proper balancing exercise of competing interests • Post concerned the administration of justice in Denmark and the limits of freedom of speech and did not appear irrelevant to the debate at issue • Cumulative sanction of a criminal conviction and payment of a fine and a significant amount of compensation disproportionality severe • Interference not "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

21 October 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Mortensen v. Denmark,

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

Lado Chanturia*, President*,
Faris Vehabović,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Anne Louise Bormann,
Sebastian Răduleţu,
András Jakab*, judges*,
and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 16756/24) against the Kingdom of Denmark lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Danish national, Mr Mathias Friis Mortensen ("the applicant"), on 7 June 2024;

the decision to give notice to the Danish Government ("the Government") of the application;

the parties' observations;

Having deliberated in private on 23 September 2025,

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

INTRODUCTION

1. The case concerns the conviction of the applicant for writing a post on the social media platform then called Twitter, stating that a named controversial leader of a political party "is allowed to be a Nazi ... [whereas another person was convicted for calling a police officer an idiot]". The applicant complained that the High Court's judgment had been in violation of his rights under Article 10 of the Convention.

THE FACTS

2. The applicant was born in 1989 and lives in Kolind. He was represented by Mr Claus Bonnez, a lawyer practising in Aarhus.

3. The Government were represented by their Agent, Ms Vibeke Pasternak Jørgensen, of the Ministry of Foreign Affairs, and their co-Agent, Ms Nina Holst-Christensen, of the Ministry of Justice.

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

5. On 5 May 2021 the applicant, in his capacity as a private individual, wrote the following post on a public thread from another user's Twitter account:

> "Let me get this straight ...
>
> R.P. [see paragraph 6 below] is allowed to be a Nazi, burn Korans and say horrible things about people solely on the basis of their ethnic origin, but [another specific individual] gets arrested for calling a police officer an idiot?"

6. R.P. was the founder and leader of the right-wing national and anti-Islam political party called Stram Kurs. In the general election on 5 June 2019 the party obtained 1.8% of the public vote, which was not sufficient to be elected to the Danish Parliament. According to the website of Stram Kurs, *inter alia*, that the philosophical basis of the party was ethnonationalist utilitarianism and that members of the party had to dissociate themselves from racism, Nazism and fascism to qualify for membership. R.P. attracted attention to himself in the public debate in connection with and prior to the election campaign in 2019 through several anti-Islam protests and public appearances and by becoming involved in several cases concerning the burning of Korans and other manifestations through which he had expressed a critical standpoint on the presence of, in particular, Islam in Denmark. In connection with the 2019 election campaign, R.P.'s viewpoints were often mentioned in the news and other media and it was debated in several printed and televised news media and among professionals and historians whether R.P. should be considered a fascist or a Nazi. In March 2020 the Danish Election Board (*Valgnævnet*) decided to exclude Stram Kurs from the right to continue its collection of voter declarations until September 2022 on account of several instances of fraudulent practices in connection with the party's collection of voter declarations. Subsequently, in the summer of 2020 and in the summer of 2021, R.P. founded two new parties. One of them was the party called Hard Line, which had the same philosophical basis as Stram Kurs, according to the information available. None of those parties managed to collect enough voter declarations to submit an application for registration of the party for the general election in the autumn of 2022. Accordingly, at the time of the applicant's post on 5 May 2021, R.P. was a member of the parties Stram Kurs and Hard Line, neither of which were represented in Parliament or in other representative democratic bodies, nor were candidates nominated by the parties entitled to run in the 2022 general election.

7. R.P. was convicted for defaming a leader of a political party in May 2019 during a debate on television by calling her a "Nazi pig" (*Nazist-svin*). That political leader was convicted for using the words "manifest Nazi" (*åbenlys Nazist*) in respect of R.P. In 2019 and 2021 R.P. was convicted of racist speech under section 266b of the Penal Code.

8. On 4 November 2021 R.P. instituted proceedings before the District Court (*Retten i Randers*), requesting that the applicant be convicted of defamation under Article 267 of the Penal Code, that he be ordered to pay compensation and that the post be declared unfounded and be deleted.

9. By a judgment of 18 November 2022, the District Court convicted the applicant of defamation, holding that the term "Nazi" had been unfounded,

sentenced him to 10 day-fines of 1,000 Danish kroner (DKK) each (equivalent to approximately 1,350 euros (EUR)), and ordered the applicant to delete the post and to pay R.P. DKK 45,000 in compensation (equivalent to approximately EUR 6,000).

10. The applicant appealed against that judgment to the High Court (*Vestre Landsret*), contending, among other things, that there had been a sufficient factual basis for making the statement, since, in particular in 2019, R.P. had made numerous statements which could give the impression that he subscribed to views that closely resembled those subscribed to in Nazism. Moreover, many publicly available sources concerning statements made or conduct exhibited by R.P. had made the impression that he subscribed to views identical or similar to those propagated by Nazism (see also paragraphs 6 and 7 above).

11. On 5 October 2023 the High Court upheld the District Court's judgment, but reduced the compensatory amount to DKK 30,000 (equivalent to approximately EUR 4,000). The High Court gave the following reasoning:

> "Objectively, the statement was likely to damage R.P.'s reputation, under [Article] 267 of the Penal Code, and the High Court is satisfied that [the applicant] had the requisite intent when making the statement on Twitter about the respondent being a Nazi.
>
> Pursuant to [Article] 269 § 1 of the Penal Code, a defamatory statement is exempt from punishment if it was made in a context in which it was reasonably justified. To determine whether that was the case in the matter at hand, an assessment taking into account, *inter alia*, Articles 8 and 10 of the Convention must be made.
>
> On the basis of the content of the statement and the context in which it was made, the High Court finds that the statement must be deemed specifically to be in the nature of a value judgment. When assessing whether the statement must be deemed exempt from punishment, it must be taken into account whether a sufficient factual basis for the defamatory statement has been established and whether the defamatory statement was made or disseminated in good faith and for a meritorious purpose.
>
> The High Court finds that, in combination, the information on file concerning R.P. and his actions and conduct, as well as the presentation of R.P.'s affiliation, views and opinions as reported in various media, do not amount to the requisite sufficient factual basis for the statement in which he was referred to as a Nazi.
>
> As concerns the information referred to in the various media, it is observed that the relevant pieces of information have not been substantiated by further details in the form of source material or the like. Nor does the remaining information on file, including the information about R.P.'s protest at the ceremony in memory of the Night of Broken Glass, provide any specific grounds for the statement to be considered sufficiently substantiated.
>
> The High Court also finds that [the applicant's] post cannot be deemed to have the nature of a contribution to a public debate about a topic of considerable interest to society. Accordingly, [the applicant's] post arose from another user's post about the arrest of a specific person who had called a police officer an 'idiot', and the statement about R.P. and the referral to him as a Nazi did not have the requisite interest to society in the relevant context.

Consequently, [the applicant] is not exempt from punishment under [Article] 269 of the Penal Code.

For the reasons given by the District Court, the High Court upholds the sentence of 10 day-fines of DKK 1,000 each. The alternative sentence is imprisonment for a term of 10 days.

The High Court upholds the finding that the statement is unfounded under [Article] 270 of the Penal Code.

Furthermore, the High Court upholds the decision to order that the post be deleted under [Article] 271 of the Penal Code.

The compensatory amount awarded under section 26(1) of the Danish Liability and Compensation Act is fixed at DKK 30,000 in view of the nature of the defamation and the offence as well as the other facts of the case."

12. On 7 February 2024 the Appeals Permission Board (*Procesbevillingsnævnet*) refused to grant the applicant leave to appeal to the Supreme Court (*Højesteret*).

RELEVANT LEGAL FRAMEWORK

I. THE PENAL CODE

13. The relevant provisions of the Penal Code read as follows:

Article 267:

"1. Any person who issues or disseminates a statement or other communication or who commits an act likely to damage another person's reputation shall be sentenced to a fine or imprisonment for a term not exceeding one year for defamation, although see Articles 268 and 269.

2. Paragraph 1 shall not apply if the defamation concerns a deceased person and the act of defamation was committed more than 20 years after such person's death, unless the act falls under Article 268."

Article 269

"1. An act of defamation shall be exempt from punishment if it was made in a context in which it was reasonably justified.

2. In the assessment under paragraph 1, it shall be taken into account, *inter alia*, whether the truth of the statement of fact has been verified or whether there was a sufficient factual basis for the defamation, and whether the defamatory statement was made or disseminated in good faith and for a meritorious purpose.

3. No evidence shall be produced of a criminal act if the person at whom the statement of fact was directed has been acquitted of the act by a final judgment."

Article 271

"1. A judgment for a violation under Articles 264d, 264e, 267 or 267 in conjunction with Article 268 may also require the deletion of a statement, communication, photograph or other transmission, if possible.

2. A duty under paragraph 1 is incumbent on the person convicted of the offence. If the offender does not have the right of disposal over the statement, communication or picture, an order for its deletion may be issued in respect of the person having such right of disposal."

14. The provisions above were given their current wording in 2018 on the basis of a comprehensive Committee Report. The draft bill was based on, *inter alia*, a thorough review of the case-law of the Court (pages 130-40 of the Report), which included the following general observations on the amendments:

"The Standing Committee on the Penal Code agrees that there is a need for new wording of the provisions on defamation to ensure that they better reflect applicable law in relation to the Convention. This applies in particular to the provisions of Articles 269 to 271 on the submission of evidence of the truth, among other things ... The key issue under the Convention is whether an utterance ought to be protected in the context in which it was made. Assessments under the Convention comprise a large number of elements, whose weights vary depending on the context in which the relevant utterance was made. ..."

15. The 2018 amendment also meant that the amounts of the fines issued in respect of defamation were tripled as compared with the previous level of sanctioning.

16. As opposed to the general rule of the Penal Code, acts of defamation in violation of Article 267 of the Penal Code are generally subject to private prosecution (Article 275 § 1 of the Penal Code).

II. THE LIABILITY AND COMPENSATION ACT

17. The relevant provision of the Liability and Compensation Act (*erstatningsansvarsloven*) reads as follows:

Section 26

"(1) Any person who is liable for unlawful violation of another person's freedom, peace, honour or person shall pay compensation to the victim of the injury to dignity, feelings or self-respect.

(2) In the determination of the amount of compensation, it may be taken into account whether the violation was caused by an offence involving a contravention of the provisions set out in Articles 23 or 24 of the Penal Code, including whether the violation was caused to a person under 18 years of age. The same applies if the violation was caused by an offence involving a contravention of the provisions set out in Article 275 of the Penal Code [in conjunction with Article 267 of the Penal Code]. This shall not apply to the offences mentioned in Articles 266 to 266b of the Penal Code. In the determination of the amount of compensation, it may also be taken into account whether the violation was a sexual cybercrime ..."

18. The second sentence of section 26(2) was inserted by the 2018 amendment mentioned above. According to the explanatory notes to the bill the second sentence of section 26(2) meant that compensatory amounts

awarded for injury to dignity, feelings or self-respect should generally be tripled as compared with the previous level.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

19. The applicant complained that the High Court's judgment of 5 October 2023 had violated his right to freedom of expression as secured by 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. Admissibility

20. The Government submitted that the application should be declared manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

21. The applicant disagreed.

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

B. Merits

1. The parties' submissions

(a) The applicant

23. The applicant submitted in particular that the impugned statement had been a value judgment with a sufficient factual basis. He referred to the substantial material submitted during the domestic proceedings, which in his view had shown that R.P.'s ideology had not differed in any discernible way from those of Nazis or fascists.

24. Moreover, the post had been a response to the fact that one person had been arrested for issuing a minor insult in respect of a police officer, whereas the authorities, in the applicant's opinion, had turned a blind eye to R.P.'s hate speech and oral attacks on ethnic minorities and Muslims. The post had

thus concerned the way justice was administered in Denmark, a topic which clearly enjoyed protection as a contribution to a debate of public interest.

25. It should also be taken into account that R.P. himself had used the term "Nazi" in respect of other persons, thereby spurring a devaluation of the term (see paragraph 7 above).

26. The applicant further submitted that the post had had a very limited readership, and that he had deleted it as soon as he had realised that R.P. would not tolerate it. However, the High Court had failed to examine the size of the readership and how long the post had remained accessible.

27. Lastly, the applicant had been given a criminal sanction which was severe, notably considering that it had comprised 10 days of imprisonment in default and a significant amount of compensation which he had been ordered to pay to R.P.

(b) The Government

28. The Government contended that the interference in issue had been prescribed by law, had had a legitimate aim and had been proportionate. The High Court had struck a fair balance between the conflicting interests under Articles 8 and 10 of the Convention on the basis of principles derived from the Court's case-law. Accordingly, by virtue of the subsidiarity principles, strong reasons would be required for the Court to substitute its view for that of the domestic courts.

29. They argued that the incident triggering the applicant's post had concerned a person who had been arrested for calling a police officer an idiot. It had been unrelated to R.P., his political views, his use of the word "Nazi", his way of communicating or the political line of a party registered for general elections. It had been posted more than one and a half year after the 2019 election. The Government was therefore of the opinion that the applicant's post had not contributed to the debate in a general and substantial manner and that it could therefore not enjoy protection as a contribution to a debate of public interest.

30. Moreover, the applicant had acted as a private individual making his post on another user's account and, at the relevant time, R.P. had not been a leader of a party registered for general elections, nor had he held any political office. The Government did not dispute that R.P., as a controversial and provocative public figure and a person in the public debate, had to tolerate harsh criticism. However, this did not extend to a severe and gratuitous attack consisting of being called a Nazi.

31. The Government reiterated that the High Court had classified the impugned utterance as a value judgment and had found that the information submitted before it about R.P. and his views and conduct had been insufficient as a factual basis for the justification of the term "Nazi" and that it could not substantiate that the applicant had acted in good faith.

32. Furthermore, the post had been disseminated through an open account on a social media platform with millions of users and R.P. had apparently been able to find it easily. In its judgment of 18 November 2022, the District Court had ordered the post deleted. That decision had been upheld by the High Court in its judgment of 5 October 2024, so it could be assumed that the post had remained online for at least 18 months.

33. Lastly, the sanction imposed had neither been excessive nor disproportionate and it fell within the margin of appreciation afforded to the State.

2. The Court's assessment

34. It was not disputed between the parties that the applicant's conviction amounted to an interference with his right to freedom of expression, that it was "prescribed by law", namely Article 267 of the Penal Code (and section 26 of the Liability and Compensation Act), and that it pursued the legitimate aim of protecting the reputation or rights of others, within the meaning of Article 10 § 2, and the Court agrees. Accordingly, the crux of the matter is whether the interference was "necessary in a democratic society".

(a) General principles

35. The general principles for balancing the necessity of an interference with the exercise of freedom of expression were set out in, *inter alia*, *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, §§ 103-13, ECHR 2012; *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 89-95, 7 February 2012; *Pentikäinen v. Finland* ([GC], no. 11882/10, § 87, ECHR 2015); and *Bédat v. Switzerland* ([GC], no. 56925/08, § 48, 29 March 2016).

36. In order to assess the justification of an impugned statement, a distinction needs to be made between statements of fact and value judgments in that, while the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10. The classification of a statement as a fact or as a value judgment is a matter which in the first place falls within the margin of appreciation of the national authorities, in particular the domestic courts. However, even where a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it will be excessive (see, for example, *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 76, ECHR 2004-XI and *Jerusalem v. Austria*, no. 26958/95, § 43, ECHR 2001-II).

37. When called upon to examine the necessity of an interference in a democratic society in the interests of the "protection of the reputation or rights of others", the Court may be required to ascertain whether the domestic

authorities struck a fair balance when protecting two values guaranteed by the Convention which may come into conflict with each other in certain cases, namely, on the one hand, freedom of expression protected by Article 10 and, on the other, the right to respect for private life enshrined in Article 8. In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and be carried out in a manner causing prejudice to personal enjoyment of the right to respect for private life. Where the right to freedom of expression is being balanced against the right to respect for private life, the relevant criteria laid down in the Court's case-law include: (a) contribution to a debate of public interest, (b) how well known the person concerned is, (c) the subject of the publication, (d) the prior conduct of the person concerned, and (e) the content, form and consequences of the publication. Where it examines an application lodged under Article 10, the Court will also examine (f) the way in which the information was obtained and its veracity and (g) the severity of the penalty imposed (see, for example, *Balaskas v. Greece*, no. 73087/17, §§ 37 and 38, 5 November 2020, and the cases cited therein). Where the national authorities have weighed up the interests at stake in compliance with the criteria laid down in the Court's case-law, weighty reasons are required if it is to substitute its view for that of the domestic courts (ibid., § 39).

(b) Application of these principles to the present case

38. The Court notes that the High Court took the relevant provisions of the Penal Code as its legal starting-point and that it examined the case in the light of the criteria to be applied in a conflict of concurring rights, in particular, on the one hand, under Article 10, respect for the applicant's right to freedom of expression, and on the other hand, under Article 8, R.P.'s right to respect for his private life.

39. Having found the impugned statement to be a value judgment, the High Court went on to conclude that the evidentiary material submitted about R.P., his actions and his conduct and the presentation of his affiliation, views and opinions as reported in various media did not provide a sufficient factual basis for calling R.P. a Nazi. Furthermore, the High Court found that in the relevant context the applicant's post did not contribute to a public debate about a topic of considerable interest to society.

40. The Court reiterates that the term "Nazi" does not automatically justify a conviction for defamation on the ground of the special stigma attached to it. The generally offensive expressions "idiot" and "fascist" may be considered acceptable criticism in certain circumstances. Furthermore, calling someone a fascist, a Nazi or a communist cannot in itself be identified with a factual statement of that person's party affiliation (see, for example, ibid., § 54).

41. In the present case the High Court found that the disputed term "Nazi" should be classified as a value judgment. The Court finds no reason to disagree.

42. Although the truth of value judgments is not susceptible of proof, the Court can accept that the use of a highly stigmatising statement such as calling a person a Nazi requires a sufficient factual basis. The national courts are in principle best placed to assess from the context of the statements made and the justification provided by the person making the statement, whether such a factual basis actually exists. In this case, however, the High Court did not provide any reasoning for its conclusion that there was no sufficient factual basis. The High Court simply stated that the information provided concerning R.P. and his actions, conduct, affiliation, views and opinions either did not amount to a sufficient factual basis or had not been sufficiently substantiated by further details in the form of source material or the like.

43. The Court is also not convinced by the High Court's finding to the effect that the post failed to contribute to a topic of public interest or even considerable public interest. The post concerned the administration of justice in Denmark and the limits of freedom of speech, or, more concretely, the implied injustice in that one person had been arrested for insulting a police officer by calling him an idiot, whereas the authorities, in the applicant' opinion, had tolerated the fact that R.P. could "say horrible things about people solely on the basis of their ethnic origin" (see paragraph 5 above). Given that R.P. was well known for testing the limits of freedom of speech, making a reference to his actions does not appear irrelevant to the debate, that the applicant engaged in.

44. The Court reiterates that there is little scope under Article 10 § 2 of the Convention for restrictions on freedom of expression in two fields, namely political speech and matters of public interest. Accordingly, a high level of protection of freedom of expression, with the authorities thus having a particularly narrow margin of appreciation, will normally be accorded where the remarks concern a matter of public interest. A degree of hostility and the potential seriousness of certain remarks do not obviate the right to a high level of protection, given the existence of a matter of public interest (see, among many other authorities, *Morice v. France* [GC], no. 29369/10, § 125, ECHR 2015).

45. It is also noteworthy that the High Court did not address the criterion "how well known the person concerned is and his prior conduct". The Court observes in this connection that although R.P. was not elected to Parliament, he was the founder and leader of the right-wing national and anti-Islam political party called Stram Kurs and at the material time, he was a member of that party and another party called Hard Line. He was a well-known public figure, as he had attracted attention to himself in the public debate in connection with his anti-Islam protests and public appearances involving, in several instances, the burning of Korans and other manifestations through

which he expressed a critical standpoint on the presence of, in particular, Islam in Denmark (see paragraph 6 above). R.P.'s views and behaviour led to various discussions in several printed and televised news media and among professionals and historians as to whether he could be considered a fascist or a Nazi. R.P. had himself been convicted of defamation for calling a leader of another political party a "Nazi pig" during a debate on television. He had also been convicted twice of racist speech (see paragraph 7 above). In these circumstances, in the Court's view, there is no doubt that R.P. was a public figure. The Court reiterates that for public figures, the limits of critical comment are wider as they are inevitably and knowingly exposed to public scrutiny and must therefore display a particularly high degree of tolerance (see, among other authorities, *Balaskas*, cited above, § 47, and the cases cited therein).

46. The applicant, on the other hand, was a private individual who made the post in question on another private person's Twitter account.

47. The High Court did not address the criteria concerning the consequences of the publication. It is unknown how many persons read the post or for how long it remained public. In that connection, the parties have submitted before the Court conflicting estimations (see paragraphs 26 and 32 above) which remain unconfirmed. The High Court could, however, have taken into account that this was a post by a private individual on another private individual's Twitter account, that neither of them were well known to the public, and that there is no indication that the post had been picked up by the media or shared widely in other ways.

48. Lastly, the nature and severity of the penalty imposed are factors to be taken into account when assessing the proportionality of the interference (ibid., § 61, and the cases cited therein). In the instant case, the applicant was sentenced to 10 day-fines of DKK 1,000 each (equivalent to approximately EUR 1,350) and 10 days' imprisonment in default. In that regard, the Court reiterates that while the use of criminal-law sanctions in defamation cases is not in itself disproportionate, a criminal conviction is a serious sanction, having regard to the existence of other means of intervention and rebuttal, particularly through civil remedies (ibid.; see also *Frisk and Jensen v. Denmark*, no. 19657/12, § 77, 5 December 2017). The applicant paid the fine and therefore never risked being imprisoned. However, the applicant was also ordered to pay a significant amount of compensation to R.P. in the amount of DKK 30,000 (equivalent to approximately EUR 4,000). Having regard to that fact, the Court considers that the cumulative sanction, equal to approximately EUR 5,400, was disproportionately severe (compare, for example, *Ludes and Others v. France*, nos. 40899/22 and 2 others, § 117, 3 July 2025).

49. In view of the circumstances above, the Court finds that the national courts did not conduct a proper balancing exercise in accordance with the criteria laid down in the Court's case-law between the applicant's right to

freedom of expression and R.P.'s right to respect for his private life and that the interference in question was not necessary in a democratic society.

50. It follows that there has been a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

51. 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

52. The applicant claimed 40,000 Danish Kroner (DKK –approximately 5,400 euros (EUR)) in respect of pecuniary damage, representing DKK 10,000 for the payment of the fine and DKK 30,000 for the payment of compensation to R.P.

53. The applicant also claimed EUR 10,000 in respect of non-pecuniary damage relating to the alleged violation of Article 10 of the Convention.

54. The Government did not contest the claim in respect of pecuniary damage but submitted that the claim in respect of non-pecuniary damage was excessive.

55. The Court, having regard to the documents before it, awards the applicant EUR 5,400 in respect of pecuniary damage. It also considers it undeniable that the applicant sustained non-pecuniary damage on account of the violation of Article 10 of the Convention. Making its assessment on an equitable basis as required by Article 41 of the Convention, it awards the applicant EUR 4,000 under this head, plus any tax that may be chargeable.

B. Costs and expenses

56. The applicant claimed costs and expenses incurred in the Court proceedings in the amount of DKK 159,656.25, equal to approximately EUR 21,300, including value-added tax, corresponding to legal fees for a total of 65 hours of work carried out by his representative. He also submitted that he had incurred costs relating to his legal representation in the proceedings before the High Court.

57. The Government considered the amount excessive and noted that on 1 April 2025 the applicant had requested legal aid under the Danish Legal Aid Act for the proceedings before the Court (Lov 1999-12-20 nr. 940 *om retshjælp til indgivelse og førelse af klagesager for internationale klageorganer i henhold til menneskerettighedskonventioner*).

58. In the present case, it is uncertain whether the applicant will be granted legal aid under the Danish Legal Aid Act. Therefore, the Court finds it necessary to assess and decide the applicant's claim for costs and expenses.

59. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, the applicant has not submitted any documentation relating to his claimed costs incurred in the domestic proceedings. As regards the proceedings before it, regard being had to the documents in its possession, the above criteria and to awards made in comparable cases against Denmark (see, among other authorities, *Kalkan v. Denmark*, no. 51781/22, § 138, 27 May 2025; *Daugaard Sorensen v. Denmark*, no. 25650/22, § 81, 15 October 2024; *Nguyen v. Denmark*, no. 2116/21, § 49, 9 April 2024; *Sarac v. Denmark*, no. 19866/21, § 48, 9 April 2024; and *El-Asmar v. Denmark*, no. 27753/19, § 88, 3 October 2023), the Court considers it reasonable to award EUR 10,000 covering the costs for the proceedings before it, plus any tax that may be chargeable to the applicant, in so far as these have not already been compensated for under the Danish Legal Aid Act.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 10 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 5,400 (five thousand four hundred euros), plus any tax that may be chargeable, in respect of pecuniary damage;
      (ii) EUR 4,000 (four thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (iii) EUR 10,000 (ten thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 21 October 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski Deputy Registrar	Lado Chanturia President