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Date: 12/09/2024

**DH-DD(2024)1039**

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Meeting: 1507<sup>th</sup> meeting (September 2024) (DH)

Item reference: Action Plan (11/09/2024)

Communication from Portugal concerning the case of Almeida Arroja v. Portugal (Application No. 47238/19)

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Réunion : 1507<sup>e</sup> réunion (septembre 2024) (DH)

Référence du point : Plan d'action (11/09/2024)

Communication du Portugal concernant l'affaire Almeida Arroja c. Portugal (requête n° 47238/19) (**anglais uniquement**)

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AGENTE DO GOVERNO PORTUGUÊS JUNTO DO TRIBUNAL EUROPEU DOS DIREITOS HUMANOS

DGI

11 SEP. 2024

SERVICE DE L'EXECUTION  
DES ARRÊTS DE LA CEDH

## EXECUTION OF JUDGMENT Action Plan

### I. IDENTIFICATION

**Date of Judgment:** 19 March 2024

**Application number:** 47238/19

**Applicant's name:** José Pedro Almeida Arroja

### II. THE JUDGMENT

In this case the Court found that the criminal conviction of the applicant for causing offence to a legal person (the law firm C.) and aggravated defamation of a public figure (P.R.) constituted a disproportionate interference with his right to freedom of expression. Although the Court did not reach a final conclusion as to the question of whether the applicant's conviction for causing offence to a legal person was "prescribed by law" (for it would be contrary to Article 187 of the Criminal Code), it was undisputed that his conviction for aggravated defamation of P.R. was an interference with the applicant's right to respect for his freedom of expression which was "prescribed by law", within the meaning of Article 10 § 2 of the Convention.

Also, regarding the legitimate aim pursued, the Court noted that domestic courts have ruled with the aim of protecting "the reputation or rights of others" within the meaning of Article 10 § 2 of the Convention, specifically the prestige, reputation and honour of P.R., as enshrined in Article 8 of the Convention.

As to the "necessity" of such an interference the Court found that according to the criteria identified as relevant for balancing the competing rights (such as: contribution to a debate of public interest; how well known the person affected was; the subject of the news report; the prior conduct of the person concerned; the content and method of obtaining the information and its veracity; and the form and consequences of the publication) which the Court applied in analysing this specific case, taking also into consideration the nature and severity of the sanctions imposed, the interference with the applicant's right to freedom of expression was not supported by relevant and sufficient reasons. The domestic courts have exceeded the margin of appreciation afforded to them regarding limitations on debates of public interest, and there was no reasonable relationship of proportionality between, on the one hand, the restriction of the applicant's right to freedom of expression and, on the other hand, the legitimate aim pursued.



AGENTE DO GOVERNO PORTUGUÊS JUNTO DO TRIBUNAL EUROPEU DOS DIREITOS HUMANOS

The Court thus found there has been a violation of Article 10 of the Convention.

### III. INDIVIDUAL MEASURES:

#### 1. Payment of the sum awarded by way of just satisfaction:

**Date:** 22/082024 (see appendix 1).

**Amount:** EUR 15,000.00 euros.

#### 2. Other:

According to the information gathered, the applicant has not submitted a request to review (reopening) of the criminal proceedings.

### IV. GENERAL MESURES:

#### 1. Publication, communication and diffusion:

- a) The judgment was publicized online on the official website of the Prosecutor's General Office (Procuradoria-Geral da República);
- b) The judgment was transmitted to the Superior Council of the Judiciary (Conselho Superior da Magistratura) in view of its dissemination among judges and public prosecutors and transmitted to the Centre for Judicial Studies (Centro de Estudos Judiciários) so that it can be included in the training courses for magistrates.

#### 2. Other:

The Centre for Judicial Studies (Centro de Estudos Judiciários) has organised a number of training activities for judges and prosecutors in recent years, focusing on the area of freedom of expression (the programmes, some supporting material and the video webcasts are available at <https://cej.justica.gov.pt/Forma%C3%A7%C3%A3o/Forma%C3%A7%C3%A3o-Cont%C3%ADnua/Hist%C3%B3rico-Forma%C3%A7%C3%A3o-Cont%C3%ADnua-Outras-tem%C3%A1ticas>):

- “Magistratura, dever de reserva, liberdade de expressão e redes sociais” [“The Judiciary, Duty of Discretion, Freedom of Expression and Social Media”];
- “Magistrados e jornalistas em diálogo: Removendo obstáculos e construindo pontes de comunicação, para reforço do Estado de Direito”



AGENTE DO GOVERNO PORTUGUÊS JUNTO DO TRIBUNAL EUROPEU DOS DIREITOS HUMANOS

- [“Magistrates and Journalists in Dialogue: Removing Barriers and Building Bridges of Communication to Strengthen the Rule of Law”];
- “Humor, Direito e Liberdade de Expressão” [“Humour, Law and Freedom of Expression”].

At the suggestion of the Department for the Execution of Judgments, a proposal has been made to the Centre for Judicial Studies (Centro de Estudos Judiciários) to include in the training plan for judges and prosecutors a specific activity devoted to the right to freedom of expression and to the European Court’s case-law on this matter, with the participation of lawyers from the Department and/or from the Court and with the participation of judges from the Court, particularly in the framework of its confrontation with the protection of individual reputation and honour (in the context of exercising the right to information, among others).

With regard to other general measures, please refer to the general information in the action plan concerning the case *Medipress Sociedade Jornalística, Lda* (application no. 55442/12).

## **V. APPENDICES**

**Appendix 1:** just satisfaction form and proof of payment.

Lisboa, 11 September 2024