



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

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FIRST SECTION

Application no. 38680/23
Henrik Nils John EVERTSSON and Linus ANDERSSON
against Sweden
lodged on 19 October 2023
communicated on 20 February 2026

SUBJECT MATTER OF THE CASE

The case concerns whether the applicants' criminal convictions violated Article 10 of the Convention.

In 2019, as part of the research for a documentary, the applicants used a remote-controlled diving robot to film the exterior of the wreck of the passenger ship MS Estonia, which had sunk in the Baltic Sea in 1994. The documentary was subsequently broadcast and revealed previously undocumented holes in the starboard side of the ship, which prompted renewed investigations by the authorities.

In September 2022 the Gothenburg District Court (*Göteborgs tingsätt*) convicted the applicants for violating the Swedish Act on the Protection of the Peace of the Grave at the Wreck of the Passenger Ship Estonia (*lagen om skydd för gravfriden vid vraket efter passagerarfartyget Estonia*, 1995:732, “the Estonia Act”). The Act was enacted pursuant to an agreement between Estonia, Finland and Sweden and prohibits diving and other underwater activities in the wreck and within a designated surrounding area. The Court of Appeal for Western Sweden (*Hovrätten för Västra Sverige*) upheld the convictions and set the penalty to 80 day-fines each. On 19 June 2023 the Supreme Court (*Högsta domstolen*) denied the applicants leave to appeal.

The courts recognised a legitimate journalistic interest in investigating the MS Estonia shipwreck but found that the objectives underlying the Estonia Act outweighed the journalistic interest, noting, *inter alia*, that it had been

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enacted to safeguard the grave sanctity of numerous victims of a major maritime disaster and reflected a commitment to Estonia and Finland to criminalise such activities. Accordingly, the principles of freedom of expression and information did not preclude criminal liability. However, the courts took the applicants' journalistic intent and other mitigating factors into account when fixing the sentence.

The applicants complained that their convictions had violated Article 10 of the Convention, as they had not corresponded to a pressing social need, had not been proportionate to any legitimate aim pursued and thus had not been necessary in a democratic society.

QUESTIONS TO THE PARTIES

Has there been an interference with the applicants' freedom of expression, within the meaning of Article 10 § 1 of the Convention?

If so, was that interference prescribed by law and necessary in terms of Article 10 § 2 (see, for example, *Pentikäinen v. Finland* [GC], no. 11882/10, §§ 87-94 and 106-14, ECHR 2015; *Erdtmann v. Germany* (dec.), no. 56328/10, §§ 18-27, 5 January 2016; and *Salihu and Others v. Sweden* (dec.), no. 33628/15, §§ 51-60, 10 May 2016)?

In particular, to what extent are the rights, duties and responsibilities inherent in the applicants' profession relevant to their claim and the State's margin of appreciation in this field?