



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

FOURTH SECTION

CASE OF TIMPUL INFO-MAGAZIN AND ANGHEL v. MOLDOVA

(Application no. 42864/05)

JUDGMENT

STRASBOURG

27 November 2007

FINAL

02/06/2008

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 Timpul Info-Magazin and Anghel v. Moldova,

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr G. BONELLO,

Mr K. TRAJA,

Mr L. GARLICKI,

Ms L. MIJOVIĆ,

Mr J. ŠIKUTA, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 6 November 2007,

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

PROCEDURE

1. The case originated in an application (no. 42864/05) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by *Timpul Info-Magazin*, a Moldovan newspaper (“the applicant newspaper”) and a Moldovan national, Ms Alina Anghel (“the second applicant”), on 28 November 2005.

2. The applicants were represented by Mr A. Tănase, a lawyer practising in Chişinău. The Moldovan Government (“the Government”) were represented by their Agent, Mr V. Grosu.

3. The applicants alleged, in particular, that their right to freedom of expression had been violated as a result of judicial decisions in defamation proceedings brought against them.

4. The application was allocated to the Fourth Section of the Court. On 28 November 2006 a Chamber of that Section decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

5. Judge Pavlovski, the judge elected in respect of Moldova, withdrew from sitting in the case (Rule 28 of the Rules of Court) before it had been notified to the Government. On 5 January 2007, the Government, pursuant to Rule 29 § 1 (a), informed the Court that they were content to appoint in his stead another elected judge and left the choice of appointee to the President of the Chamber. On 28 September 2007, the President appointed Judge Šikuta to sit in the case.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant newspaper was registered in Chişinău. The second applicant was born in 1975 and lives in Chişinău.

7. On 16 January 2004 the applicant newspaper published an article titled “Luxury in the Land of Poverty”, signed by the second applicant. The article examined the relationship between the State authorities and a private investment fund, D.H., which had been founded by and was managed by D.P., a private company. The focus was on the Government's practice of purchasing luxury cars without making any details public. It recalled two purchases of cars in 2003, including from D.H., for a total estimated value of 1,250,000 euros (EUR). Only after the press published details was the Government forced to acknowledge that this deal had taken place.

8. The article continued by examining a more recent purchase of 42 new luxury cars from D.H. for an amount exceeding EUR 1 million. The article criticised the deal's lack of transparency, because it had not been published in the Official Gazette. It went on to describe the manner in which the cars had been distributed to the governors of 32 regions of Moldova and raised the issue whether that was a means for the Government to ensure that those governors, 31 of whom were communists as was the President of Moldova, would thereby have a better ability to spread communist propaganda in their regions ahead of the elections which were to be held a year later. The article cited the leader of a political party, who declared that rumours in the Government suggested that the price paid for each car was some EUR 7,000 more than its list price. No explanation was given by the authorities as to why luxury cars were needed if much cheaper new cars could be purchased for a fraction of the price. The article ended with an accusation of corruption at the highest State level, for which no one was going to be punished, and said that if the voters did not mete out justice at the forthcoming elections then only God's justice could be hoped for.

9. On 23 January 2004 D.H. and D.P. brought an action for defamation against the applicants. At the same time, they asked for an injunction against the applicants' publishing any material about the leadership of D.H. and D.P. without their permission and for the sequestration of the applicant newspaper's property to an amount equal to their claim (500,000 United States dollars (USD) and 20,000,000 Moldovan lei (MDL)). The plaintiffs paid court fees of MDL 180. On the same day the Buiucani District Court ordered that the applicant newspaper's assets be frozen as requested.

10. On 6 February 2004 the bailiff enforced the warrant by sequestering the applicant newspaper's office equipment and freezing its bank account.

11. The second applicant received several threatening phone calls and on 23 June 2003 she was attacked outside her house by unidentified persons and suffered a blow from a metal bar to her arm and head. The applicant newspaper and other media linked the attack with two investigations undertaken by the journalist, namely an investigation into a luxury car offered as a gift by the President of D.H. to the Minister of Internal Affairs and the article examined in the present case.

12. In its submissions to the trial court the applicant newspaper relied on the existence of an important public interest in view of the fact that the transaction had been made with public money but had not been carried out through a public tender organised by the National Agency for Public Acquisitions, nor planned in the State Budget for 2003. In addition, both the State authorities and the plaintiffs had refused to disclose any details about the deal, which seemed even more suspicious given that D.H.'s president was a member of the Economic Council assisting the Prime Minister. The applicant newspaper relied on Article 10 of the Convention and claimed that the statements had been value judgments not susceptible of proof, or reproductions of the opinion of a well-known politician and of rumours which it had clearly identified as such and which could not be proved. It added that the plaintiffs had become “public persons” by entering into transactions with the Government and that they should thus tolerate a much higher level of criticism. It finally submitted that the damages sought were disproportionate.

13. On 28 April 2004 the Buiucani District Court partly accepted the plaintiffs' claims. It found that the applicant newspaper had published factual statements. The court cited one fragment of a paragraph from the impugned article, which read:

“...when the communists came to power, Vladimir Voronin wanted to cut the Gordian knot of the investment fund [D.H.], founded on the basis of investment bonds, that is he was picking at it. They say that, in order for this not to happen, someone paid someone else 500,000 dollars...”.

14. The court found that this expression did not “correspond to reality” as the applicants had not proved it. The court found that the expression had caused severe damage to the professional reputation of the plaintiffs. Considering the type and content of the publication, the court awarded the plaintiffs a total of MDL 1,350,000 (EUR 95,725) in compensation for non-pecuniary damage, to be paid jointly by both applicants, and ordered the applicant newspaper to publish an apology. Finally, the court cited Article 10 of the Convention and added that the applicants had “clearly overstepped the limits of constructive criticism tolerable in a democratic society and had distributed in bad faith factual information in which they directly, but unjustifiably, accused the plaintiffs of certain criminal deeds related to bribery”.

15. In its appeal the applicant newspaper stated, *inter alia*, that the court had deliberately taken the fragment of the relevant paragraph out of context, which read as follows:

“Bad and surely ill-informed mouths in Chişinău, say that at the moment when the communists came to power, Vladimir Voronin wanted to cut the Gordian knot of the [D.H.] investment fund created on the basis of investment bonds, that is he was picking at it. They say that, in order for this not to happen, someone paid someone else 500,000 dollars. It is not known whether this is simple speculation and unfounded accusations. The reality is that today D.H. and its Skoda distributor are doing well, prosper and sell the State Chancellery enormous numbers of luxury cars, to the envy of their competitors”.

(“Gurile rele şi, cu siguranţă, prost informate din Chişinău afirmă că în momentul accederii comuniştilor la guvernare, Vladimir Voronin a vrut să „taie” nodul gordian al fondului de investiţii [D.H.], înfiinţat în baza bonurilor de investiţii, adică să-l ia la bani mărunţi. Ca acest lucru să nu se întâmple, se zice că cineva i-a plătit altcuiva 500 mii de dolari. Sunt simple speculaţii şi învinuiri nefondate – nu se ştie. Realitatea e că azi, [D.H.] şi distribuitorul său 'Skoda' sunt bine mersi, prosperă şi vând Cancelariei de Stat loturi uriaşe de automobile de lux, spre ciuda concurenţilor.”)

16. The applicant newspaper emphasised that it had made very clear in the article that the statement was based on rumours which it had called ill-informed and had added that it was not known whether they were true. In addition, Article 10 protected not just “constructive criticism” but also statements that shocked or disturbed.

17. On 22 July 2004 the Chişinău Court of Appeal upheld the judgment of the first-instance court, finding that the applicant newspaper had not proved the truth of the statement cited above. The court also rejected the applicant newspaper's request to lift the restriction on its property since that request had already been rejected and no appeal had been lodged against the relevant decision. The plaintiffs' appeal was also rejected since the amount of compensation had been appropriate.

18. In its appeal on points of law the applicant newspaper invoked reasons similar to those adduced earlier, adding that the case concerned political expression, which enjoyed greater protection.

19. On 14 September 2005 the Supreme Court of Justice partly quashed the lower courts' judgments. The court relied on the same extract as the lower courts. It found that the applicant newspaper had published defamatory information which it could not prove to be truthful, namely that the plaintiffs had paid a bribe and thereby committed a criminal offence. Relying on this Court's jurisprudence, the Supreme Court of Justice rejected the applicant newspaper's argument that legal persons should not be able to claim non-pecuniary damage. However, it considered excessive the amount awarded by the lower courts, finding that a restriction on freedom of expression should not be of such a degree as to put in jeopardy the economic survival of the person sanctioned. Accordingly, the court reduced the award to a total of MDL 130,000 (EUR 8,430).

II. RELEVANT DOMESTIC LAW

20. Article 16 of the Civil Code reads as follows:

“(1) Every person has the right to the respect for his or her honour, dignity and professional reputation.

(2) Every person has the right to request the disclaiming of information which affects his or her honour, dignity and professional reputation if the person circulating such information cannot prove that it corresponds to reality.

.. (4) Where information which affects a person's honour, dignity and professional reputation is circulated in a mass medium, the court shall order it to publish a disclaimer in the same column, page, programme or series of programmes, within a maximum of 15 days of the date of entry into force of the court judgment.

... (7) A person whose rights and lawful interests have been violated by a publication in a mass medium has the right to publish a reply in the medium in question, at the latter's expense.

(8) Every person about whom information has been published violating his or her honour, dignity and professional reputation has the right to request compensation for pecuniary and non-pecuniary damage in addition to the publication of a disclaimer.”

THE LAW

21. The applicants complained under Article 10 of the Convention that the domestic courts' decisions had entailed interference with their right to freedom of expression that could not be regarded as necessary in a democratic society. Article 10 reads:

“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.”

22. In their initial application, both applicants submitted complaints under Article 10 of the Convention. However, in their observations on the admissibility and merits Ms Alina Anghel asked the Court not to proceed with the examination of her complaint.

In view of the clear and unequivocal terms of Ms Anghel's request, and finding that respect for human rights as defined in the Convention and its Protocols does not require it to continue its examination of her complaint, the Court, in accordance with Article 37 § 1(a) of the Convention, decides to strike out the application in so far as it relates to Ms Anghel. Article 29 § 3 of the Convention will accordingly be discontinued in respect of that part of the application.

I. ADMISSIBILITY

23. The Court considers that the applicant newspaper's complaint under Article 10 of the Convention raises questions of fact and law which are sufficiently serious that their determination should depend on an examination of the merits, and that no grounds for declaring it inadmissible have been established. The Court therefore declares the application admissible. In accordance with its decision to apply Article 29 § 3 of the Convention (see paragraph 4 above), the Court will immediately consider the merits of the complaint.

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

A. The arguments of the parties

24. The applicant newspaper complained of a violation of its right to freedom of expression. It relied on the Court's jurisprudence concerning the distinction between facts and value judgments, the special role played by the press in a democratic society and the wider limits of acceptable criticism in respect of the Government and of public figures in so far as they are involved in genuine public-interest acts. It relied on its good faith in informing the public about how public funds were spent, the absence of personal animosity against the plaintiff, the balanced tone of the article as a whole and the serious and accurate investigation undertaken before publishing the article. The applicant newspaper referred to the D.H. president's accompanying the President of Moldova on various trips and D.H.'s sponsoring of one such trip. It finally referred to the seriousness of the penalty imposed by the courts, which resulted in the applicant newspaper's closure. This effect on the applicant newspaper had been largely foreseeable by the domestic courts when they had made their pecuniary awards.

25. The Government conceded that there had been interference with the applicant newspaper's freedom of expression but submitted that it had been provided for by law, had pursued the legitimate aim of protecting the reputation of others and had been "necessary in a democratic society". The

courts had adopted reasoned decisions in which they had taken account of the two competing values, of freedom of expression and the protection of reputation, and had found that there had been a “pressing social need” to impose the fine on the applicant newspaper. The courts found that the applicant newspaper had overstepped the limits of admissible criticism by launching unwarranted attacks on D. H. and by eroding at the same time the principles of fair competition. While acknowledging the special role played by the press in a democratic society, they had relied on the “special duties and responsibilities” attached to that role, notably that of thorough research and verification of materials published. In their observations the Government relied on the same extract as did the domestic courts (see paragraph 13 above).

B. The Court's assessment

26. It is common ground between the parties, and the Court agrees, that the decisions of the domestic courts and the award of damages made against the applicant newspaper amounted to “interference by [a] public authority” with the applicant newspaper's right to freedom of expression under the first paragraph of Article 10. Such interference will entail a violation of Article 10 unless it is “prescribed by law”, has an aim or aims that are legitimate under paragraph 2 of the Article and is “necessary in a democratic society” to achieve such aim or aims.

1. “Prescribed by law”

27. The Court notes that the interference complained of had a legal basis, namely Article 16 of the Civil Code (see paragraph 20 above). The Court considers that this provision is both accessible and foreseeable in its application. Accordingly, the Court concludes that in this case the interference was “prescribed by law” within the meaning of Article 10 § 2.

2. “Legitimate aim”

28. It is not disputed by the parties, and the Court agrees, that the interference served the legitimate aim of protecting D.H.'s reputation. It therefore remains to be examined whether the interference was “necessary in a democratic society”.

3. “Necessary in a democratic society”

29. The relevant general principles have been summarised in *Busuioc v. Moldova* (no. 61513/00, §§ 56-62, 21 December 2004) and in *Savitchi v. Moldova* (no. 11039/02, §§ 43-50, 11 October 2005).

30. In addition, the Court reiterates “that a possible failure of a public figure to observe laws and regulations aimed at protecting serious public

interests, even in the private sphere, may in certain circumstances constitute a matter of legitimate public interest” (see *Fressoz and Roire v. France* [GC], no. 29183/95, § 50, ECHR 1999-I, and *Tønsbergs Blad A.S. and Haukom v. Norway*, no. 510/04, § 87, ECHR 2007-...).

31. The Court notes that the article was written by a journalist and points out the pre-eminent role of the press in a democratic society to impart ideas and opinions on political matters and on other matters of public interest (see *Sunday Times v. the United Kingdom (no. 1)*, judgment of 26 April 1979, Series A no. 30, § 65). Particularly strong reasons must be provided for any measure affecting this role of the press and limiting access to information which the public has the right to receive (see, amongst many authorities, *Oberschlick v. Austria (no. 1)*, judgment of 23 May 1991, Series A no. 204, § 58).

32. While the Government contended that the applicant newspaper had intended to attack D.H.'s reputation and affect fair competition rules, the Court is unable to agree with this argument. The article was clearly aimed at criticising the Government for a non-transparent and wasteful manner of spending public money, which is a genuine public interest matter, rather than at disparaging D.H. The focus was on purchases of cars for the Government and, as the article makes clear, D.H. had been involved in such transactions with the Government on at least two occasions. D.H. did not claim, and the courts did not find, that any other part of the article had been untrue, including the statement that the cars had been overpriced and that no official invitation for bids had been published before the fleet of cars was bought from D.H., a practice which in itself could legitimately raise the applicant newspaper's doubts in respect of fair competition. The Court has therefore no doubts as to the applicant newspaper's good faith in publishing the article.

33. The Court reiterates its finding in *Steel and Morris v. the United Kingdom* (no. 68416/01, § 94, ECHR 2005-II) that

It is true that large public companies inevitably and knowingly lay themselves open to close scrutiny of their acts and, as in the case of the businessmen and women who manage them, the limits of acceptable criticism are wider in the case of such companies (see *Fayed v. the United Kingdom*, judgment of 21 September 1994, Series A no. 294-B, p. 53, § 75). However, in addition to the public interest in open debate about business practices, there is a competing interest in protecting the commercial success and viability of companies, for the benefit of shareholders and employees, but also for the wider economic good. The State therefore enjoys a margin of appreciation as to the means it provides under domestic law to enable a company to challenge the truth, and limit the damage, of allegations which risk harming its reputation (see *Markt Intern Verlag GmbH and Klaus Beermann v. Germany*, judgment of 20 November 1989, Series A no. 165, pp. 19-21, §§ 33-38).

34. The Court is aware that, in the present case, D.H. could not be considered to be a large company similar to that in *Steel and Morris*, cited above. It should therefore enjoy a comparatively increased protection of its

reputation. Nevertheless, the Court considers that when a private company decides to participate in transactions in which considerable public funds are involved, it voluntarily exposes itself to an increased scrutiny by public opinion. In particular, if there are allegations that such transactions were detrimental to public finances, a company must accept criticism by the public (see paragraph 30 above). The Court notes that, in the present case, public opinion could be legitimately interested in the integrity of the transaction since the public authorities had failed to disclose any details concerning the purchase of the cars, the more so as D.H.'s president held an important advisory function within the Government (see paragraph 12 above).

35. The Court also notes that, just as the domestic courts did in their turn, the Government relied on a part of a sentence taken out of context in order to show that the interference with the applicant newspaper's rights had been necessary (see paragraphs 13, 15 and 25 above). In this respect the Court reiterates that it has “to look at the interference complained of in the light of the case as a whole” (see, among many other authorities, *Observer and Guardian v. the United Kingdom*, judgment of 26 November 1991, Series A no. 216, § 59). The part of the sentence relied on by the domestic authorities may indeed have created the impression for the reader that D.H. had given a bribe to the President of Moldova, which is a serious allegation of fact. However, when read in its entirety, the paragraph reveals the rather extensive steps taken by the applicant newspaper to warn the reader about the unreliable character of the rumour on which it was reporting (see paragraph 15 above).

36. In this context, the Court reiterates that, as part of their role of a “public watchdog”, the media's reporting on “‘stories’ or ‘rumours’ – emanating from persons other than the applicant – or ‘public opinion’” is to be protected where they are not completely without foundation (see *Thorgeir Thorgeirson v. Iceland*, judgment of 25 June 1992, Series A no. 239, § 65). The lack of any detailed information about the transaction from either the Government or D.H., despite the applicant newspaper's attempts to obtain such details, and the other uncontested facts raising legitimate doubts about the legitimacy of the deal (see paragraphs 8, 12 and 32 above), could reasonably have prompted the journalist to report on anything that was available, including unconfirmed rumours.

37. Moreover, the Court considers that only one sentence in the fragment relied on by the domestic courts, namely the allegation of bribery, could arguably be considered to be a factual statement. In this respect, the Court reiterates that in its practice it “has distinguished between statements of fact and value judgments. The existence of facts can be demonstrated, whereas 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” (see *Jerusalem v. Austria*, no. 26958/95, § 42, ECHR 2001-II, and *Busuioc v. Moldova*, no. 61513/00, § 61, 21 December 2004). As for the part of the sentence alleging what the President of Moldova had wished or intended and what his attitude towards a private company may have been, it was a value judgment which could not be proved since no one except the President himself could know for certain and he had not expressed any view in public.

38. The Court notes that the article was written in the context of a forthcoming election and that it both discussed the possible political reason for the purchase of the cars and expressly urged the voters to punish, during the election, those in power responsible for State-level corruption (see paragraph 8 above). The article thus included political expression which was critical of the Government, expression in respect of which “the limits of permissible criticism are wider” (see *Castells v. Spain*, judgment of 23 April 1992, Series A no. 236, § 46).

39. The Court notes, finally, that the applicant newspaper was ordered to pay a fine of EUR 8,430, as a result of which the newspaper had to close down (see paragraph 24 above), a fact not contested by the Government. While the seriousness of the fine is irrelevant to the outcome of the present case, the Court takes note of its chilling effect on the applicant newspaper, and that its imposition was capable “of discouraging open discussion of matters of public concern” (see *Thorgeir Thorgeirson*, cited above, § 68, and *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 114, ECHR 2004-XI) by silencing a dissenting voice altogether.

40. In view of the above and taking into account the applicant newspaper's good faith in reporting on an issue of a genuine public interest, the relevant factual background and lack of any detail about the transaction between D.H. and the Government, which give legitimacy to doubts about its lawfulness, and in view of the failure by the domestic courts to consider any of these elements in their judgments, the Court considers that the interference with the applicant newspaper's right to freedom of expression was not “necessary in a democratic society”.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

42. 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

43. The applicant claimed EUR 25,000 for pecuniary and non-pecuniary damage. It referred to the closing of the newspaper following the freezing of its bank account and the award of heavy damages. In support of its claims the applicant newspaper submitted its tax declarations for 2003 and 2004, according to which it had had a turnover of EUR 85,000 and had achieved a profit of EUR 19,499 in 2003. However, it had lost EUR 1,607 in 2004 because money had been taken from its account and because of expenses incurred, despite having had a turnover of EUR 47,895 in the first five months of that year before its activity was paralysed. In addition, during the first five months of 2004 contracts had been signed with third parties which guaranteed the applicant newspaper a further turnover of EUR 7,100. None of the payments due was made, because of the *de facto* discontinuation of the applicant newspaper's activity.

44. The Government submitted that no compensation was due to the applicant newspaper because no violation of its rights guaranteed by the Convention had occurred and because any damage caused to the applicant newspaper had been the result of its own abusive and unprofessional actions. They also disagreed with the amount claimed and argued that the applicant newspaper should not be entitled to recover it in the absence of any evidence of damage. The Government referred to the Court's jurisprudence awarding smaller amounts than that claimed by the applicant newspaper. In particular, in *Kommersant Moldovy v. Moldova* (no. 41827/02, 9 January 2007), EUR 8,000 had been awarded and the penalty imposed on the applicant in that case had been much harsher (the closing of the newspaper) compared to the fine in the present case. The Government asked the Court to reject the applicant newspaper's claim or to declare that a finding of a violation constituted sufficient just satisfaction.

45. The Court notes that while the Government challenged in principle the applicant newspaper's right to damages and the amount claimed, it did not give any detail or argument to show that the calculations made by the applicant were incorrect. The Court notes that the tax declarations give support to the applicant newspaper's hope of obtaining profits exceeding EUR 25,000. However, it considers that the evidence submitted cannot serve to provide a precise quantification of the profits lost, since the

applicant's economic performance could have fluctuated during the four years at issue (see *Kommersant Moldovy*, cited above, § 47).

46. Making an overall assessment on an equitable basis and taking into account the applicant's general claim for non-pecuniary damage, the Court awards the applicant EUR 12,000 (see *Ukrainian Media Group v. Ukraine*, no. 72713/01, § 75, 29 March 2005).

B. Costs and expenses

47. The applicant's lawyer claimed EUR 5,080 for the costs and expenses incurred before the Court, of which EUR 5,000 was legal fees. The applicant newspaper and its lawyer requested that any amount awarded for legal fees be paid directly to the lawyer's account, given the possible difficulties in obtaining the money under the specific circumstances of the present case.

48. The lawyer submitted a detailed time-sheet and a contract according to which the lawyer's hourly rate was EUR 50-100, depending on the activity. He argued that the number of hours spent by him on the case had not been excessive and was justified by its complexity and by the fact that the observations had had to be written in English.

49. As to the hourly fee of EUR 60, the lawyer argued that it was within the limits of the hourly rates recommended by the Moldovan Bar Association, which were EUR 40-150.

50. The Government disagreed with the amount claimed for representation. They said that it was excessive and argued that the amount claimed by the lawyer was not the amount actually paid to him by the applicant newspaper. They disputed the number of hours spent by the applicant's lawyer and the hourly rate charged by him. They also argued that the rates recommended by the Moldovan Bar Association were too high in comparison with the average monthly salary in Moldova and pointed to the not-for-profit nature of the organisation Lawyers for Human Rights.

51. The Court reiterates that in order for costs and expenses to be included in an award under Article 41 of the Convention, it must be established that they were actually and necessarily incurred and were reasonable as to quantum (see, for example, *Amihalachioaie v. Moldova*, no. 60115/00, § 47, ECHR 2004-...).

52. In the present case, regard being had to the itemised list submitted and the complexity of the case, the Court awards the applicant EUR 1,800 for costs and expenses.

C. Default interest

53. The Court considers it appropriate that the default interest 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. *Decides* to strike out of its list of cases the part of the application relating to the complaint lodged by Ms Alina Anghel;
2. *Declares* the application in so far as it relates to the applicant newspaper admissible;
3. *Holds* that there has been a violation of Article 10 of the Convention;
4. *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 12,000 (twelve thousand euros) in respect of pecuniary and non-pecuniary damage;
 - (ii) EUR 1,800 (one thousand eight hundred euros) in respect of costs and expenses;
 - (iii) any tax that may be chargeable on the above amounts;
 - (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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 27 November 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Nicolas BRATZA
President