



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

THIRD SECTION

Application no. 29497/13
Valerian STAN
against Romania
lodged on 25 February 2013

STATEMENT OF FACTS

The applicant, Mr Valerian Stan, is a Romanian national, who was born in 1955 and lives in Bucharest.

A. The circumstances of the case

The facts of the case, as submitted by the applicant, may be summarised as follows.

The applicant is a human rights activist and a columnist for the weekly newspaper *New York Magazin*.

On 9 June 2010 the applicant wrote an article about *inter alia* G.A., a well-known Romanian columnist; writer; journalist; human rights activist and former politician, under the heading “With what right, impostors?!”, listing several reasons advocating why G.A. and other Romanian intellectuals like him did not have the moral standing to challenge the alleged behaviour that other Romanian intellectuals had during the time of the former communist regime. The article contained references to G.A.’s activities in wording such as: “together you have received piles of public funds for your foundations”; “together you have privatized newspapers and publishing houses with approval from those whom you did not bother with almost absolutely anything and by using recipes copied from the gangsters of transition”; “together you have stifled and are trying to discredit the civic organisations’ few critical voices so that afterwards you would be able to transform even the latter into laughable grinders of the most shameful interests”; “alienated”; “hasty and vindictive simpleton”.

The article was printed both in the paper and the electronic versions of the newspaper *New York Magazin* as well as on the applicant's personal website. According to him all those three sources combined are accessed by a maximum number of approximately five hundred readers.

On 9 May 2011 G.A. brought civil proceedings against the applicant seeking non-pecuniary compensation for the moral damage incurred by him as a result of the article. In addition, G.A. also claimed costs and expenses.

By a judgment of 24 January 2012 the Bucharest District Court dismissed G.A.'s action as ill-founded. Relying on the Court's case-law on Article 10 of the Convention it held that the article reported on matters of public concern, regarded a public figure involved in political decisions and did not target G.A.'s private life. Assessing the content of his statements in the context of the general aim pursued by the applicant, the court considered the applicant's statements to be value judgments made in good faith. In addition, the said statements did not lack a factual basis given that G.A. had been involved in the privatization of publishing houses and had worked for State bodies and foundations. Lastly, it found that even a punishment on civil-law grounds would amount to an unjustified interference with the applicant's right to freedom of expression. G.A. appealed on points of law (*recurs*) against the judgment.

By a final judgment of 11 February 2013 the Bucharest County Court allowed G.A.'s appeal on points of law, quashed the judgment of the lower court and ordered the applicant to pay G.A. 10,000 lei (RON) (approximately 2,500 euros (EUR)) for non-pecuniary damage and RON 2,567 (approximately EUR 600) for costs and expenses. It held that G.A. could not be considered a politician for which a higher level of criticism was acceptable, nor was it proved that that status would have had a connection with his direct involvement in the privatisation of a publishing house. In addition, statements like "alienated", "simpleton" and "receiver of piles of public funds for your foundations" could not be considered value judgments which were based on objective elements which could justify them. Consequently, the applicant could not be considered to have acted in good faith at the time he wrote the article as his defamatory statements could not be considered matters of public concern.

B. Relevant domestic law

The relevant provisions of the Romanian Civil Code concerning liability for paying damages, in force at the material time, are described in *Timciuc v. Romania* ((dec.), no. 28999/03, 12 October 2010).

COMPLAINTS

The applicant complains under Article 10 of the Convention that the civil sentence imposed on him amounted to a breach of his freedom of expression.

QUESTION TO THE PARTIES

Has there been a violation of the applicant's right to freedom of expression, in particular his right to impart information, contrary to Article 10 of the Convention?