



## Judgments of 8 September 2020

The European Court of Human Rights has today notified in writing five judgments<sup>1</sup>, three Chamber judgments are summarised below; two Committee judgments, concerning issues which have already been submitted to the Court, can be consulted on [Hudoc](#) and do not appear in this press release. *The judgments summarised below are available only in English.*

### OOO Regnum v. Russia (application no. 22649/08)

The applicant company, OOO Regnum, is an electronic news outlet based in Moscow.

The case concerned defamation proceedings brought against the applicant company for reporting a case of mercury poisoning following consumption of a branded soft drink.

In November 2005 the applicant company posted three news items on its website about a 37 year old woman from the Ukhta District, the Komi Republic, being hospitalised with mercury poisoning after drinking a “Lyubimyy Sad” juice. The applicant company based its report on information released by the local police and the State consumer protection agency.

In March 2006 one of the legal entities that produced soft drinks under the “Lyubimyy Sad” brand brought a defamation claim against the applicant company.

The lower commercial courts dismissed the claim, but in October 2007 the commercial court that heard a cassation appeal ruled against the applicant company, finding that the news items contained untruthful statements which had tarnished the claimant’s business reputation. It awarded the claimant 1,000,000 Russian roubles (at the time the equivalent of 28,425 euros) in compensation.

Relying on Article 10 (freedom of expression) of the European Convention on Human Rights, the applicant company alleged that the October 2007 ruling had amounted to a disproportionate interference with its right to freedom of expression. It argued in particular that the courts had failed to balance the claimant’s right to reputation against its right to report on and the public’s right to be informed about a potential health hazard.

### Violation of Article 10

**Just satisfaction:** 26,996 euros (EUR) (pecuniary damage), and EUR 10,000 (non-pecuniary damage)

<sup>1</sup> Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment’s delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

## Timakov and OOO ID Rubezh and Timakov v. Russia (nos. 46232/10 and 74770/10)

The applicants are Vladimir Viktorovich Timakov, a Russian national, and an editorial and publishing house in which he has shares, OO ID Rubezh, based in Tula (the Russian Federation). The applicant company edited and published a local newspaper, Za Sechnyy Rubezh.

The case concerned two sets of defamation proceedings brought against the applicants by the former Governor of the Tula Region in response to news items expressing the view that he was corrupt.

In the first set of proceedings, the governor complained about the publication of an article in May 2009 written by Mr Timakov in Za Sechnyy Rubezh, alleging corruption in the office of the Governor.

The Governor brought a second set of proceedings with regard to a post in April 2009 on the local news website Tul'skiye Novosti quoting Mr Timakov as saying that the Governor deserved the highest mark for corruption.

The domestic courts ruled against the applicants in both sets of proceedings. Emphasising the importance of the Governor's status as the "highest official of the Tula Region", they found that the statements in the article and the interview with Mr Timakov were untrue and discredited the Governor.

The courts awarded the Governor 2,000,000 Russian roubles (approximately 50,000 euros) in damages. The applicant company was dissolved and the bailiffs' service decided to seize Mr Timakov's household items during the ensuing enforcement proceedings because they did not have sufficient funds to pay the awards.

In parallel, the Governor brought criminal proceedings against Mr Timakov for libel in connection with the statements that had been found defamatory in the second set of civil proceedings. They were ultimately terminated in 2010 for lack of elements showing that a crime had been committed.

The Governor was dismissed from office amid allegations of bribery in 2011. He was found guilty of accepting bribes and sentenced to nine years and six months' imprisonment in 2013.

Relying on Article 10 (freedom of expression) of the European Convention, the applicants complained about the domestic court judgments against them, alleging that they had given heightened protection to the Governor's reputation, without taking into account Mr Timakov's position as a journalist and member of the regional legislature who was commenting on a matter of public interest.

Also relying on Article 6 § 1 (right to a fair hearing), the applicants complained that the first-instance court had held the first set of defamation proceedings in camera.

### Violation of Article 10

### Violation of Article 6 § 1

**Just satisfaction:** EUR 1,542 to Mr Timakov in respect of pecuniary damage, EUR 9,750 to Mr Timakov and EUR 2,925 to Mr Leonov in respect of non-pecuniary damage, and EUR 5,410 to Mr Timakov, in respect of costs and expenses.

## Pervane v. Turkey (no. 74553/11)

The applicant, Fırat Pervane, is a Turkish national who was born in 1979. He is currently serving a life sentence in Diyarbakır prison for his involvement in an armed clash with the security forces.

The case concerned an allegation of criminal proceedings being prejudiced because of a lack of access to a lawyer.

On 12 November 1999 an armed clash broke out between the PKK (the Workers' Party of Kurdistan, an illegal armed organisation) and the security forces in Kurtalan. Mr Pervane was amongst the injured PKK members and was arrested in possession of a Kalashnikov rifle.

While in custody, he made statements to the police and the public prosecutor explaining how he had joined the PKK. Throughout the rest of the proceedings he continued to admit to being a member of the PKK and carrying a weapon, but denied that he had used the rifle during the clash.

He was found guilty in 2009 of seeking to destroy the unity of the Turkish State and remove part of the country from the State's control. The courts concluded that he had committed an armed act, he having been captured with his rifle with other PKK members.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial/right to legal assistance of own choosing), Mr Pervane alleged that the proceedings against him had been unfair because he was not assisted by a lawyer during the pre-trial stage and that the statements thus taken had been used by the trial court to convict him.

### No violation of Article 6 §§ 1 and 3

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.