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

THIRD SECTION

DECISION

Application no. 8385/07
Olga Aleksandrovna ANUROVA
against Russia

The European Court of Human Rights (Third Section), sitting on 26 September 2017 as a Committee composed of:

Branko Lubarda, *President,*
Pere Pastor Vilanova,
Georgios A. Serghides, *judges,*
and Fatoş Aracı, *Deputy Section Registrar*.

Having regard to the above application lodged on 29 December 2006,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Olga Aleksandrovna Anurova, is a Russian national, who was born in 1955 and lives in Moscow.

2. The Russian Government ("the Government") were represented initially by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

A. The circumstances of the case

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

1. Murder of the applicant's brother and related media coverage

4. On 13 October 2003 the applicant's brother, who was four years her senior, was murdered in his home. Two days later the newspaper *Moskovsky Komsomolets* reported on the incident under the headline "Four knifed to death in the middle of a house party":

> On Monday night, a spat between two ex-convicts in Shcherbinka, near Moscow, turned into bloodshed. Two strangers to the town led by a 31-year-old, who had been formerly convicted for breach of the peace, knifed to death their four (!) drinking buddies and almost killed the fifth one.
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> Residents of the house in Novaya Street where the melee had happened reported that the [applicant's] 53-year-old [brother], who had in his time served time for robbery, had often staged noisy parties. Such get-togethers used to be awash with drink. The binges were invariably attended by his 31-year-old pal, [Mr I.], an ex-con who was also resident in Shcherbinka. On that ill-fated evening, the house welcomed an impressive company: the host had invited four drinking buddies. Later, [Mr I.] and two of his outsider pals dropped in. For a while, the boozy conversation remained fairly calm, the men indulging in reminiscences over their wild prison past. But at some point the host offended his pal with an inopportune word utterly insulting in the criminal milieu. The pal flared up, a wrangle ensued. It was at that moment that the [the applicant's brother's] live-in lover, a young lady, came to the flat. Sensing an approaching knife-fight, the woman said that she could not stay in the room because she was pregnant. She burst out of the flat, and ran to her friend's place. The friend suggested that she immediately call the police.
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> After the soon-to-be mother had called the local police station, summoned up her courage, and returned to her lover's house, she was horrified by what she saw. The room was smeared with blood, and [the applicant's brother] and his three pals were already dead from multiple knife wounds. The host's fifth acquaintance had also been stabbed, but medics managed to save his life. Soon, the police arrived, and the statements by the astounded woman allowed the [police] to arrest [Mr I.] and his two friends, new arrivals from Mordovia and Astrakhan region. The felon and company had done away with the host and his four drinking buddies with ordinary kitchen knives.

5. On 6 December 2004 the Moscow Regional Court sentenced two assailants to twenty-year and twenty-six-year jail terms.

2. First round of libel proceedings

6. On 29 August 2005 the applicant sued the newspaper for libel seeking a printed retraction and 300,000[1] Russian roubles (RUB) in damages for emotional distress. She alleged that the journalist, driven by gain, had filled in the gaps in the story with conjecture offensive to her and to her late brother. In particular, she contested that her brother

(a) had been the murderers' "drinking buddy" (*собутыльник*);

(b) "had in his time served time for robbery" (*в своё время отбыл срок за грабёж*);

1. EUR 8,600

(c) had a "wild prison past" (*лихое тюремное прошлое*); and

(d) had friends "in the criminal milieu" (*в среде уголовников*).

7. On 18 November 2005 the Presnenskiy District Court of Moscow dismissed the action because, in sum and substance, the statements at issue did not defame the applicant herself and because she had not proven her own distress.

8. On 11 July 2006 the Moscow City Court upheld that judgment.

9. On 9 August 2007 the Presidium of the Moscow City Court allowed the applicant's application for supervisory review, reversed the two judgments, and remitted the case to the District Court. The Presidium found that the lower courts had ignored Article 150 § 1 of the Civil Code, which entitled heirs to vindicate personal rights of the dead. Furthermore, the District Court had ignored the newspaper's courtroom admission that the applicant's brother had never been convicted of robbery.

3. Second round of libel proceedings

10. After a rehearing, on 17 December 2007 the District Court partly found for the applicant and ordered the newspaper to retract the allegation of the conviction. The court cited Article 152 § 1 of the Civil Code, which provided for the protection of the honour of the dead, and held that the allegation of conviction had been libellous and the other statements non-libellous.

11. On 18 September 2008 the City Court partly reversed the District Court's judgment and awarded the applicant RUB 20,000[2] for the distress caused. The court considered that the publication had injured the applicant personally because she had had to persuade her acquaintances and relatives that the newspaper's assertions had been false.

B. Relevant domestic law

12. The Civil Code, as in force at the material time, stipulated:

Article 150. Intangible assets

1. [P]ersonal non-property rights and other intangible assets belonging to a deceased person may ... be exercised and vindicated by other persons, including the right holder's heirs.

Article 152. Protection of honour, dignity, and business reputation

1. [O]n the application by interested parties, the protection of a citizen's honour and dignity is possible even after his death.

2. EUR 550

COMPLAINT

13. The applicant complained under Articles 6 and 13 of the Convention that the judgments of 18 November 2005 and 11 July 2006 were unlawful and unfair.

THE LAW

14. The Court examined that complaint under Article 8 of the Convention to the extent that that Article might be breached by legal obstacles to defending a late relative's reputation in court. Article 8 reads:

> 1. Everyone has the right to respect for his private and family life, his home and his correspondence.
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> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

A. The parties' pleadings

15. The Government argued that the complaint was inadmissible because the applicant had abused her right of petition and because she had ceased to be a victim of the alleged violation. She had intentionally omitted to update the Court on developments in her case, specifically the second round of litigation that had satisfied her claims. Furthermore, the applicant must have lost interest in the case because she had never claimed the award.

16. The applicant maintained her complaint. Years of litigation had yielded only RUB 20,000. She had refrained from collecting it because she had doubted that the authorities would enforce a judgment against an influential newspaper and because settling would have deprived her of publicity.

B. The Court's assessment

17. The Court considers that the Government's arguments should be first of all examined in terms of Article 35 § 3 (a), which allows the Court to declare inadmissible any individual application that it considers to be "an abuse of the right of individual application". In this connection the Court refers to its case-law on the subject (*Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014).

18. The present application was introduced to the Court on 29 December 2006, that is some five months after the judgment of the Moscow City Court of 11 July 2006. On 22 February 2007 the Registry of the Court acknowledged receipt of the application and advised the applicant's representative of the duty to timely inform the Court of important developments in the case and to place at the Court's disposal copies of new decisions taken by the national authorities. On 9 August 2007 the Presidium of the Moscow City Court allowed the applicant's application for supervisory review and reversed the judicial decisions unfavourable to her. The new round of proceedings ended with the judgment of the Moscow City Court of 18 September 2008, which accepted that the publication had injured the applicant, and made an award of damages. Nevertheless, the applicant failed to inform the Court about these developments in her case which could have affected her status as a victim within the meaning ascribed to that term in Article 34 of the Convention. It was only from the Government's observations on the admissibility and merits of the case that the Court was made aware of the second round of proceedings. In her observations in reply to those by the Government the applicant commented only on the award of damages, which she considered so low as not to be worth collecting. The Court finds that this is not a satisfactory explanation for the applicant's failure to inform the Court of the continued proceedings. It considers that that, by her conduct, the applicant has sought to hinder the proper functioning of the Court and the smooth conduct of proceedings before it.

19. In view of the above, the Court finds it appropriate to reject the application as an abuse of the right of individual application pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 October 2017.

Fatoş Aracı
Deputy Registrar

Branko Lubarda
President