

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

FIRST SECTION

CASE OF TRNKA v. SLOVAKIA

(Application no. 2091/22)

JUDGMENT

STRASBOURG

28 May 2026

This judgment is final but it may be subject to editorial revision.



In the case of Trnka v. Slovakia,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Davor Derenčinović*, President*,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 2091/22) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 29 December 2021 by a Slovak national, Mr Rastislav Trnka ("the applicant"), who was born in 1984, lives in Košice and was represented by Mrs I. Rajtáková, a lawyer practising in Košice;

the decision to give notice of the application to the Slovak Government ("the Government"), represented by their Agent, Ms M. Bálintová;

the parties' observations;

Having deliberated in private on 7 May 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns a court order which required the applicant, at the relevant time a member of a local council in a regional capital city, to apologise for statements he had made about another person, who at the relevant time was the mayor of that city and a member of the national parliament, and to pay him 3,000 euros (EUR) in compensation.

2. The statements in question were made on 30 January 2013 at a press conference "The private company's collection of parking fees will cut short [*ukráti*] Košice's profits by EUR 50 million" called by the applicant, which was followed by a press release. They related to contracts under which the municipality had previously let public parking areas to a private party with the aim that that party would operate a paid municipal public parking system in return for paying an annual lump sum to the municipality.

3. Believing that the terms of these contracts had been disadvantageous for the municipality, in the impugned statements the applicant said:

> "At today's press conference, we will present a carefully prepared con trick [*podraz*] on the citizens of Košice and the residents of the Old Town. We will also reveal how the Košice city administration is draining financial resources from the city's budget and income, as well as from the pockets of all citizens...
>
> Such a shady deal [*kšefi*] was probably not successful even during the Sh. era, nor for anyone in Bratislava. Košice is indeed the ECC [European Capital of Culture], but unfortunately also the European Capital of Shady Deals [*Európske hlavné mesto kšeftov*]. The mayor might be schizophrenic because in Bratislava he promotes the nationalisation of private companies, creating monopolies and imposing the theory that

> State ownership is best, but when he travels 400 kilometres to the east, he does the exact opposite...
>
> The current leadership of the city of Košice has secured high profits for a private company, which, according to our calculations, will exceed EUR 50 million over ten years at the stated parking prices, with revenues of around EUR 60 million..."

4. In an action for defamation brought by the mayor, the domestic courts analysed whether the applicant's speech constituted value judgments or statements of fact and considered the opposing interests of the defendant and the claimant. However, the domestic courts emphasised that the applicant had to prove all of his allegations. They held that the applicant had failed to show that his statements were not statements of fact and referred to "untruthful value judgments" which should have been proved. For example, they stated that the applicant had not provided any evidence that the mayor was schizophrenic.

5. In a decision of 15 June 2021 (notified to the applicant on 30 June 2021), the Constitutional Court dismissed a constitutional complaint brought by the applicant, noting the issue of non-exhaustion, in particular that the applicant had not referred in his complaint to the decision of the Supreme Court in his case. The Constitutional Court nevertheless reviewed the substance of his complaint.

6. Before the Court, the applicant complained that his right to freedom of expression under Article 10 of the Convention had been violated.

THE COURT'S ASSESSMENT

7. The applicant argued that his freedom of expression had been violated by the domestic courts' decisions ordering him to pay compensation in respect of non-pecuniary damage to the mayor in the defamation proceedings.

8. The Government submitted that the applicant had failed to duly exhaust domestic remedies, in particular, he had not referred to the decision of the Supreme Court in his constitutional complaint. They further argued that the domestic courts had properly balanced the applicant's freedom of expression against the mayor's right to reputation and had provided valid reasons for their decisions, and that the applicant's reference to the mayor as "schizophrenic" had been completely unacceptable.

9. The Court has frequently emphasised the need to apply the exhaustion rule with some degree of flexibility and without excessive formalism (see *Akdivar and Others v. Turkey*, 16 September 1996, § 69, *Reports of Judgments and Decisions* 1996-IV; *Vučković and Others v. Serbia* (preliminary objection) [GC], no. 17153/11 and 29 other cases, § 76, 25 March 2014; and *Gherghina v. Romania* (dec.) [GC], no. 42219/07, § 87, 9 July 2015). Moreover, the rule of exhaustion is neither absolute nor capable of being applied automatically (see *Akdivar and Others*, cited above, and *Kurić and Others v. Slovenia* [GC], no. 26828/06, § 286, ECHR 2012

(extracts)). In the present case, the applicant raised his complaint in substance before the courts at three levels of jurisdiction and before the Constitutional Court, which also examined the merits of his complaint of the violation of his right to freedom of expression (see paragraph 5 above).

10. It follows that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

11. The general principles concerning freedom of expression in general and statements directed against a political figure in particular have been summarised in, for example, *Mouvement raëlien suisse v. Switzerland* ([GC], no. 16354/06, § 48, ECHR 2012 (extracts)) and *Feldek v. Slovakia* (no. 29032/95, §§ 72-76, ECHR 2001-VIII).

12. The Court notes that the proceedings, leading to an award of compensation in respect of non-pecuniary damage and a court order requiring the applicant to apologise, constituted an interference with the applicant's rights under Article 10 of the Convention. Furthermore, it was not disputed that this interference was prescribed by law and pursued a legitimate aim to protect the reputation or rights of others.

13. Whether the interference was "necessary in a democratic society" will depend on who made the statements, about whom, on what subject matter and in which context they were made, whether they were statements of fact or value judgments, and on the procedural guarantees available in the domestic courts, including the reasoning of decisions and the nature and seriousness of penalties.

14. First, the applicant was at the relevant time a member of the local council. While freedom of expression is important for everybody, it is especially so for an elected representative of the people. He or she represents the electorate, draws attention to their preoccupations and defends their interests. Accordingly, interferences with the freedom of expression in such cases call for the closest scrutiny on the part of the Court (see *Castells v. Spain*, no. 11798/85, § 42, 23 April 1992, and *Jerusalem v. Austria*, no. 26958/95, § 36, 27 February 2001).

15. Second, the applicant's statements concerned a public figure, the mayor, in respect of whom the limits of acceptable criticism are wider than for a private individual. Politicians inevitably and knowingly lay themselves open to close scrutiny of their every word and deed by both journalists and the public at large; they must consequently display a greater degree of tolerance (see *Lingens v. Austria*, 8 July 1986, § 42, Series A no. 103, and *Brasilier v. France*, no. 71343/01, § 42, 11 April 2006).

16. Third, in the present case the issues raised by the applicant were undeniably part of a political debate on a matter of general and public concern which drew some media coverage and attention, that is fair use of public property. The Court reiterates in this connection that its consistent approach

has been to require very strong reasons for justifying restrictions in such cases (see *Feldek*, cited above, § 83).

17. Fourth, as to the applicant's speech in general, the expressions used therein contained value judgments and statements of fact. The domestic courts tried to make a distinction between them but went on to examine as the principal criterion whether the applicant's value judgments were truthful, placing the burden of proof upon the applicant.

18. As regards particular examples of statements, it is sufficient for the Court to note that the applicant's reference to the mayor as "schizophrenic", in the context in which it was made, would likely be understood by the public as an insult rather than as a fact to be taken seriously. Having failed to discharge the burden of proof imposed on him by the domestic courts, the applicant was found liable for making "untruthful value judgments" to the effect that the mayor had not been acting in the public interest and that he was schizophrenic.

19. Although the domestic courts tried to distinguish between statements of fact and value judgments, they *de facto* required proof of the truth of value judgments, taking an indiscriminate approach to the assessment of speech which is *per se* incompatible with freedom of expression (see *Reichman v. France*, no. 50147/11, § 72, 12 July 2016, and also *Ringier Axel Springer Slovakia, a.s. v. Slovakia (no. 3)*, no. 37986/09, § 80, 7 January 2014).

20. The Court has already held that where impugned statements are made in the course of a lively debate at local level, elected officials and journalists should enjoy a wide freedom to criticise the actions of a local authority (see *Lombardo and Others v. Malta,* no. 7333/06, § 60, 24 April 2007).

21. Lastly, as to the sanction imposed on the applicant, the Court notes that he was ordered to apologise and pay EUR 3,000 in respect of non-pecuniary damage. Those sanctions are capable of having a chilling affect and discouraging the participation in debates over matters of legitimate public concern.

22. In the light of the above, the Court finds that the domestic courts failed to strike a fair balance between the relevant interests and to establish a "pressing social need" for putting the protection of the mayor's reputation above the applicant's right to freedom of expression. The Court therefore considers that the domestic courts overstepped the narrow margin of appreciation afforded to them in matters of debate of public interest and that the interference was not "necessary in a democratic society".

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

APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. The applicant claimed 3,873.28 euros (EUR) in respect of pecuniary damage and EUR 5,000 in respect of non-pecuniary damage.

25. The Government submitted that, as regards pecuniary damage, they did not object to awarding the applicant this sum in the event of a finding of a violation, whereas they argued that no award should be made as regards non-pecuniary damage because a finding of a violation would be sufficient.

26. The Court awards the applicant the sums claimed, plus any tax that may be chargeable to the applicant. As he did not claim any costs or expenses, no sum is awarded under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 10 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts:
      (i) EUR 3,873.28 (three thousand eight hundred and seventy-three euros and twenty-eight cents), plus any tax that may be chargeable, in respect of pecuniary damage;
      (ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (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;

Done in English, and notified in writing on 28 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Davor Derenčinović President