

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

THIRD SECTION

DECISION

Application no. 38504/04
Vasile-Sorin OZON and Ștefan CANDEA
against Romania

The European Court of Human Rights (Third Section), sitting on 15 April 2014 as a Chamber composed of:

Josep Casadevall, *President,*
Alvina Gyulumyan,
Dragoljub Popović,
Kristina Pardalos,
Johannes Silvis,
Valeriu Griţco,
Iulia Antoanella Motoc, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 4 October 2004,

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

Having deliberated, decides as follows:

THE FACTS

1. The applicants, Mr Vasile-Sorin Ozon and Mr Ștefan Candea, are Romanian nationals, who were born in 1969 and 1979 respectively and live in Timișoara and Bucharest respectively. The applicants were represented by Mr D. Costea, a lawyer practising in Bucharest. The Romanian Government ("the Government") were represented by their Agent, Mr Răzvan-Horaţiu Radu.

A. The circumstances of the case

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

1. Content of the articles

3. The applicants, both investigative journalists, wrote a series of articles on the activities in Romania of certain individuals allegedly belonging to the Italian Mafia. The articles were edited by company E. and carried the headline "Italian Mafia – high-level connections in Romania" (*Mafia italiană – legături la vârf în România*).

4. The articles referred especially to P.B., who was alleged to have connections with the Italian Mafia and the Romanian political world. A Member of Parliament, C.N., was cited among the Romanian personalities mentioned as having connections with P.B.

5. One of the articles was published on 30 January 2002 in the national newspaper *Evenimentul zilei.* It was signed by the applicants and was worded as follows:

> "We had always said that in our country there were active groups belonging to international mafia organisations, but until now nothing had been proved by the national authorities. *Evenimentul zilei* reveals for the first time the high-level connections between an Italian criminal organisation and Romania, connections worthy of a gangster film. There is, on the one side, the organisation Cosa Nostra and on the other side the Romanian politicians and civil servants. In the middle there is a mysterious person, P.B. He is connected to persons with important positions in Cosa Nostra and in our country; he has connections at the highest level ...
>
> The investigations carried out by the Romanian and Italian police, as well as our own research, have revealed that P.B. has many connections, including former and current high and local officials and businessmen: ... C.N., former export manager at R.B. before the 1990s and former manager of the Predeal State Protocol, and B.T.T., a current Member of Parliament ... and well-known businessman who owns four companies and is a shareholder in two other companies ...
>
> We spoke with those who, according to our information, have connections with P.B., asking them questions about their trips to Italy and their relationship with P.B. ...
>
> C.N.: I have not seen *M.B. [P.B.] since 1995-96, when he came to see me. I know that there were discussions about going to Italy, but I did not participate. We were supposed to go to visit a certain plant, but I did not go. I did not get involved with M.B. in any business. We just talked. I met him in Braşov through an intermediary of the director of the newspaper* Gazeta de Transilvania*, H. He was, in general, on good terms with M. and P. and those from Braşov. They should know more. I saw him once or twice in Braşov and once in Bucharest. He knew many businessmen from Braşov. I know that he had a closer relationship with H., who was also a shareholder in bank A. B. was on good terms with the group that invested in bank A.*
>
> P.B.: *I was not really involved with the parliamentarian C.N.*"

6. That article was accompanied by a diagram showing the organisation and functioning of the Sicilian Mafia. The name P.B. was in the middle, surrounded by the names of those alleged to have connections with him. The name C.N. appeared at the perimeter.

7. On 13 February 2002, another article headlined "Deputy has businesses worth sixteen billion lei" was published in the same newspaper.

It was signed with the initials "C.O. & S.C." and carried the subheading "C.N., a rich parliamentarian". It was worded as follows:

> "C.N., someone that knew P.B. who is associated with the Mafia, has a prosperous life. Exactly two weeks ago, *Evenimentul zilei* started writing every day about the infiltration of the Italian Mafia in Romania and its high-level connections. With the exception of the Romanian police, who started meticulously investigating certain companies but without releasing any information in that respect, nobody has done anything to bring this scandal to light. The activity of Cosa Nostra in Italy is probably not of interest to Romanians. Nevertheless, the activity of the members of this organisation and their contacts in Romania are of major interest. For this reason it is necessary to reveal P.B.'s connections in Romania.
>
> *Evenimentul zilei* has shown that B. [P.B.], who helped members of Cosa Nostra with money-laundering activities in Romania, had connections with important persons in Romania, the most important being ... G.F. There were also other important persons on the list with P.B. about whom we will inform you later. We refer to R.M. ..., C.N. ..., H.F. and C.C. .... We will later reveal two of the most senior figures that know P.B. They are in important positions and one of them has businesses worth a great deal ...".

2. Criminal proceedings against the applicants

8. On 15 February 2002 C.N. lodged a criminal complaint of defamation with the Braşov District Court against the applicants and the company E. that had published the articles. He alleged that the newspaper *Evenimentul zilei* had launched a press campaign seeking to denigrate him and that the articles contained unfounded accusations about his activities. He joined to the proceedings a civil claim for compensation in respect of non-pecuniary damage, amounting to 5,000,000,000 lei Romanian lei (ROL) (about 160,000 euros (EUR)).

9. At the public hearing of 5 September 2003, C.N. gave a statement to the court. He acknowledged that he had been interviewed by the journalists and that the quotations in the newspaper articles corresponded to his statements. However, he considered that the inclusion of his name in the organisational diagram was detrimental to his interests.

10. On 17 October 2003 the witnesses for the prosecution, C.V. and T.M., gave testimony in the presence of the applicants' lawyer.

11. On 7 November 2003 the applicants' lawyer submitted his written observations on the merits of the case.

12. By a judgment of 14 November 2003, the firstinstance court acquitted the applicants. It held that the intent to denigrate had not been proved in respect of the article of 30 January 2002. The court made reference to Article 10 of the Convention and held that the newspaper article concerned aspects of general interest. It also considered that the applicants had done their own investigation and interviewed all the persons involved, including C.N., and had faithfully reproduced their statements. It noted that C.N. had even stated before the court that the details presented in the articles were true.

13. The court held that the applicants' statements had a factual basis. They were based on reliable sources of information and their purpose had not been to damage the reputation of C.N. It also held that the applicants had acted in good faith. After reiterating that a journalist's work involved a certain degree of exaggeration, the court stressed that the applicants had been more critical in their analysis of C.N.'s behaviour in society and connections than they would have been in the case of a simple citizen, given that C.N. was a politician.

14. The court also held that an element of exaggeration had been used in the organisational diagram bringing together P.B.'s contacts in Romania.

15. With respect to the article of 13 February 2002, the court held that C.N. had not proved that the applicants had written the article. It acquitted the applicants on the ground that they had not committed the offence in question.

16. The court dismissed the civil claim lodged by C.N. on the ground that the applicants did not meet the requirements to be deemed to have civil liability.

17. C.N. lodged an appeal on points of law before the Braşov County Court on the ground that the investigation carried out by the applicants had been incomplete and that the published articles had tarnished his public image and reputation.

18. The applicants did not show any interest in the proceedings before the appellate court. Even if they had been duly summoned, they were absent from the proceedings and did not appoint a lawyer to represent them before the court. No new pieces of evidence were adduced before the appellate court.

19. By a final decision of 7 April 2004, the County Court upheld the applicants' acquittal and allowed the appeal on points of law only with respect to the civil claim. It reiterated that the articles contained information of general interest and that the applicants had carried out their own investigation, obtaining information from competent authorities and C.N. It confirmed that the applicants' intent had not been to defame the civil party. However, with respect to the civil claim, the appellate court considered that by publishing the organisational diagram of 30 January 2002, which had made it appear as if C.N. had connections with P.B., the applicants had exaggerated to a degree that had damaged the reputation of the civil party. C.N. was a public person and the publication of the articles had tarnished his image and reputation. The court observed as follows:

> "... after the publication of the impugned articles, many persons (including parliamentarians, senators, members of the Chamber of Deputies and the Senate) discussed the civil party's connection with the Italian Mafia.
>
> This had multiple consequences: at local level, many colleagues in his political party did not want to speak to him, opposition Members of Parliament criticised him for his

supposed connection with the Mafia, and discussions also took place on this topic within his own family.

In conclusion, it is obvious that the publication of these articles has tarnished the public image, honour and dignity of the injured party, as the articles generated suspicions that he had connections with the Italian Mafia. The allegations are particularly damaging because he is a Member of the Romanian Parliament.

The defendants did not intend to defame the injured party but they should have anticipated the result of their actions, namely the political scandal that was generated. However, they believed their reasoning based on presumptions to be correct, even though their investigation had not proven beyond doubt that the injured party had connections with the Italian Mafia.

Under Article 999 of the Civil Code, each person is responsible for damage he or she causes, not only with intent but also by negligence or carelessness. In conclusion, the defendants' actions met the conditions of civil responsibility."

20. In accordance with Article 346 § 2 of the Code of Criminal Procedure and Articles 999, 1000 and 1003 of the Civil Code, the appellate court ordered the applicants and the company that had published the newspaper to jointly pay the victim ROL 100,000,000 (about EUR 2,600).

B. Relevant domestic law

21. The relevant provisions of the Code of Criminal Procedure, as in force at the relevant time, read as follows:

Article 10

(1) Criminal proceedings cannot be instituted, or continued if they have already been instituted, in the following situations:

...

(c) if the offence was not committed by the defendant;

(d) if the offence lacks one of the constitutive elements of a crime.

...

Article 11

(1) If one of the situations described in Article 10 applies:

...

(2) During the trial the court shall decide:

(a) to acquit, in the situations described in Article 10, subparagraphs (a) to (e).

Article 22

The final decision of the criminal court has the status of *res judicata* in the civil court that decides the joined civil action, as far as the existence of the act, the person who has committed it and his or her guilt are concerned.

Article 346

(1) In the case of conviction, acquittal or discontinuance of the criminal trial, the court shall also decide on the civil action.

(2) When an acquittal has been pronounced for the reason given under Article 10 subparagraph (1)(b) or because the court has uncovered evidence that removes the criminal nature of the affair, or because one of the constituent elements of the offence is missing, the court can award compensation for pecuniary and non-pecuniary damage in accordance with the civil law.

(3) Civil damages cannot be paid in the event of an acquittal where the offence was either not committed or was not committed by the defendant."

22. The relevant provisions of the Civil and Criminal Codes concerning defamation and liability for paying damages in force at the material time are described in *Stângu and Scutelnicu v. Romania* (no. 53899/00, §§ 30-31, 31 January 2006) and *Barb v. Romania* (no. 5945/03, §§ 19-20, 7 October 2008).

COMPLAINTS

23. The applicants complained, under Article 10 of the Convention, that the appellate court had infringed their right to freedom of expression.

24. Relying on Article 6 § 2 of the Convention, the applicants complained that their right to presumption of innocence had been infringed because the domestic appellate court had ordered them to pay compensation in respect of non-pecuniary damage despite the fact that they had been acquitted in connection with the publication of the article of 13 February 2002.

THE LAW

A. Alleged violation of Article 10 of the Convention

25. The applicants complained that by concluding that they had committed defamation and by ordering them to pay compensation for non-pecuniary damage, the Brașov County Court had infringed their right to freedom of expression. They relied on Article 10 of the Convention, which provides:

"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."

1. The parties' submissions

26. The Government argued that the interference with the applicants' freedom of expression had been prescribed by law and pursued a legitimate aim. They submitted that the journalists had overstepped the limits of acceptable criticism with respect to high officials by stating that C.N. had connections with persons presumed to be members of the Italian Mafia. With respect to the proportionality of the applied penalty, they pointed out that the applicants had been acquitted and that the amount to be paid in compensation was moderate (about EUR 2,600). They added that there was no evidence that the applicants had paid the damages (they referred to *Stângu v. Romania* (dec.), no. 57551/00, 9 November 2004, and *Stângu and Scutelnicu*, cited above).

27. The applicants maintained their initial complaint without submitting further written observations on the merits of their application.

2. The Court's assessment

(a) Whether there was an interference

28. The Court notes that it is not disputed between the parties that, in the case at hand, the decision of the Brașov County Court of 7 April 2004 constituted an interference with the applicants' right to freedom of expression. Accordingly, it agrees that the applicants' obligation to pay C.N. compensation amounting to ROL 100,000,000 constituted an interference with their right to freedom of expression, as guaranteed by Article 10 § 1 of the Convention.

(b) Whether it was prescribed by law and pursued a legitimate aim

29. The interference was "prescribed by law" (under Article 206 of the Criminal Code and Articles 998-99 of the Civil Code, as in force at the material time) and served a legitimate aim, namely to protect the rights and reputation of others. It remains to be ascertained whether the interference was "necessary in a democratic society".

(c) Whether the interference was necessary in a democratic society

30. According to the Court's well-established case-law, freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and each individual's

self-fulfilment. Subject to paragraph 2 of Article 10 of the Convention, it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness, without which there is no "democratic society". This freedom is subject to the exceptions set out in Article 10 § 2, which must, however, be strictly construed. The need for any restrictions must be established convincingly (see, for example, *Lingens v. Austria*, 8 July 1986, § 41, Series A no. 103, and *Nilsen and Johnsen v. Norway* [GC], no. 23118/93, § 43, ECHR 1999-VIII).

31. The Court's task in exercising its supervision is not to take the place of national authorities but rather to review under Article 10, in the light of the case as a whole, the decisions they have taken pursuant to their power of appreciation (see, among many other authorities, *Fressoz and Roire v. France* [GC], no. 29183/95, § 45, ECHR 1999-I).

32. In exercising its supervisory jurisdiction, the Court must look at the impugned interference in the light of the case as a whole, including the content of the remarks made by the applicants and the context in which they made them. In particular, it must determine whether the interference at issue was "proportionate to the legitimate aims pursued" and whether the reasons adduced by the national authorities to justify it were "relevant and sufficient" (see *Sunday Times v. the United Kingdom (no. 1)*, 26 April 1979, § 62, Series A no. 30; and *News Verlags GmbH & Co.KG v. Austria*, no. 31457/96, § 52, ECHR 2000-I).

33. The Court further emphasises the essential function the press fulfils in a democratic society. Although the press must not overstep certain bounds, particularly as regards the reputation and rights of others and the need to prevent the disclosure of confidential information, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest (see *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, § 58, ECHR 1999-III).

34. The safeguard afforded by Article 10 to journalists reporting on issues of general interest is subject to the proviso that they act in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism (see *Bladet Tromsø and Stensaas*, cited above, § 65). The Court is mindful of the fact that journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation (see *Prager and Oberschlick v. Austria*, 26 April 1995, § 38, Series A no. 313).

35. The limits of permissible criticism are wider as regards a politician than as regards a private individual. Unlike the latter, the former inevitably and knowingly lay themselves open to close scrutiny of their words and deeds by journalists and the public at large, and they must consequently display a greater degree of tolerance (see, for example, *Lingens*, cited

above, § 42; *Incal v. Turkey*, 9 June 1998, § 54, *Reports of Judgments and Decisions* 1998-IV; and *Castells v. Spain*, 23 April 1992, § 46, Series A no. 236).

36. The Court has recently set out the relevant principles to be applied when examining the necessity of an instance of interference with the right to freedom of expression in the interests of the "protection of the reputation or rights of others". It noted that in such cases it may be required to verify whether the domestic authorities struck a fair balance when protecting two values guaranteed by the Convention which may come into conflict with each other in certain cases, namely, on the one hand, freedom of expression protected by Article 10 and, on the other, the right to respect for private life enshrined in Article 8 (see *Axel Springer AG v. Germany* [GC], no. 39954/08, § 84, 7 February 2012; *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 100, ECHR 2012; and *MGN Limited v. the United Kingdom, no. 39401/04,* § 142, 18 January 2011).

37. Turning to the facts of the present case, the Court notes that the articles written by the applicants dealt with the connections between the Italian Mafia and the Romanian political class. There is no doubt that such an inquiry constituted a matter of significant public interest.

38. Moreover, the Court notes that at the time of publication of the articles, C.N. was a Member of Parliament. The information was specifically related to his public life and was a matter of public concern, in particular with regard to the relevance for society as a whole of connections between the Italian Mafia and Romanian high officials. The Court reiterates that unlike private individuals, politicians inevitably and knowingly lay themselves open to close scrutiny of every word and deed by both journalists and the public at large, and they must consequently display a greater degree of tolerance (see paragraph 35 above).

39. Whilst in the present case the applicants considered that it was their duty to alert the public to an important issue of general interest, the fact that the articles concerned a politician did not exempt the applicants from the obligation to provide a sufficient factual basis for their allegations.

40. The first-instance court heard evidence from several witnesses proposed by the applicants and the claimant. The Court notes that the applicants did not manage to prove that their decision to include C.N.'s name on the diagram showing the organisation and functioning of the Sicilian Mafia (see paragraph 6) was based on more than on simple presumptions. Moreover, the fact that new evidence or the evidence reviewed by the first-instance court had not been presented before the County Court could not be imputed to the court in view of the fact that the applicants had displayed a total lack of interest in the appeal proceedings. Not only were they not present at the hearings but they did not appoint a lawyer to represent them.

41. Therefore, the applicants could not argue that the courts had refused to gather evidence which they considered to be relevant for the outcome of the case. The Court is therefore satisfied that the Romanian courts gave the applicants ample opportunity to demonstrate that their allegations had a sufficient factual basis (contrast *Sabou and Pircalab v. Romania*, no. 46572/99, § 15, 28 September 2004; see also *Wołek, Kasprów and Łęski v. Poland* (dec.) no. 20953/06, 21 October 2008).

42. In order to assess whether the "necessity" of restricting the exercise of freedom of expression has been established convincingly, the Court must examine the issue essentially from the standpoint of the relevance and sufficiency of the reasons given by the domestic court of last resort for ordering the applicants to pay non-pecuniary damage to C.N. The Court must determine whether the decision of the County Court of 7 April 2004 struck a fair balance between the public interest and C.N.'s interests, and whether the standards applied were in conformity with the principles embodied in Article 10.

43. The Court notes that the domestic court of last resort criticised the applicants for including C.N.'s name on the organisational diagram of Romanian high officials with connections with members of the Italian Mafia. It held that in order to arrive at the conclusion that the purpose of discussions between C.N. and P.B. had been to do with the activities of the Italian Mafia, the applicants had based their reasoning on simple presumptions and had exaggerated to a certain degree. The County Court stressed that although the applicants had not intended to defame the injured party, they should have anticipated the political scandal they would generate, especially given that their investigation had not proved that C.N. had connections with the Italian Mafia (see paragraph 19 above).

44. The Court finds the reasoning of the County Court acceptable. The restriction of the exercise of the applicants' freedom of expression was established convincingly by the County Court, taking into account the Court's case-law. According to its recent case-law the Court would require, in such circumstances, strong reasons to substitute its view for that of the domestic courts (see *Von Hannover*, cited above, § 107, and *Axel Springer AG*, cited above, § 88).

45. The last question to be considered by the Court is whether the sanction imposed on the applicants was proportionate to the legitimate aim pursued. In this respect, the Court notes that the applicants were acquitted in the criminal proceedings instituted against them by the prosecution authorities. The Court also notes that the domestic court of last resort considered that their actions met the conditions of civil responsibility and ordered them to jointly pay with the company that had published the articles EUR 2,600 in non-pecuniary damages to the injured party. The Court does not find the sanction imposed unreasonable.

46. Having regard to all the foregoing factors, and taking into account the margin of appreciation afforded to the State in this area, the Court considers that the domestic courts struck a fair balance between the competing interests at stake.

47. Accordingly, the Court finds that the applicants' complaint under Article 10 of the Convention does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

48. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

B. Alleged violation of Article 6 § 2 of the Convention

49. The applicants alleged that the decision of 4 April 2004, ordering them to pay C.N. compensation despite being acquitted of defamation in connection with the publication of the article of 13 February 2002 on the ground that it had not been proved that they wrote it, entailed a violation of their right to be presumed innocent until proven guilty of the commission of an offence. They relied on Article 6 § 2 of the Convention, which provides:

> "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

1. The parties' submissions

50. The Government disputed the applicants' contention that they had been "charged with a criminal offence" in the civil compensation proceedings. They requested that the Court distinguish this case from the cases of *Sekanina v. Austria* (no. 13126/87, 25 August 1993) and *Rushiti v. Austria* (no. 28389/95, 21 March 2000) and hold that Article 6 § 2 had not been violated.

51. The applicants maintained their initial submissions without submitting further written observations on the merits of their application.

2. The Court's assessment

52. The Court reiterates that the voicing of suspicions regarding an accused's innocence is conceivable as long as the conclusion of criminal proceedings has not resulted in a decision on the merits of the accusation. However, it is no longer admissible to rely on such suspicions once an acquittal has become final (see *Sekanina*, cited above, § 30).

53. In the present case, by a judgment of 14 November 2003 the first-instance court acquitted the applicants in respect of the articles of 30 January and 13 February 2002 on different legal grounds. Concerning the article published on 30 January 2002, the applicants were acquitted based on Article 10 (d) of the Code of Criminal Procedure on the ground that one of the elements of the offence of defamation was missing, namely,

the intent to harm C.N.'s reputation. Concerning the article published on 13 February 2002, the applicants were acquitted based on Article 10 (c) of the Code of Criminal Procedure on the ground that it had not been proved that they wrote the article. In its final decision of 4 April 2004, the appellate court upheld the judgment with respect to the criminal complaint but allowed the joined civil action, ordering the applicants to pay C.N. compensation.

54. The applicants complained that their right to presumption of innocence had been infringed in that they had been ordered to pay non-pecuniary damages despite having been acquitted of any wrongdoing in connection with the article published on 13 February 2002 on the ground that they had not committed the offence in question.

55. In his criminal complaint lodged with the first-instance court, C.N. mainly complained that his name had been mentioned in the organisational diagram listing Romanian officials with connections with the Italian Mafia. The diagram was published together with the article on 30 January 2002. In its reasoning, the appellate court mainly focused on the harm that the diagram had done to C.N.'s reputation.

56. The applicants' main argument was that they had been ordered to pay C.N. compensation for writing not only the article of 30 January 2002 but also the article of 13 February 2002, because the appellate court had referred in its reasoning to "articles" and not to "the article" or "the article of 30 January 2002" that had harmed the reputation of C.N.

57. The Court considers that although the appellate court had repeatedly referred to "articles" instead of "article" (see paragraph 19), it is not enough to draw the conclusion that the compensation was to be paid for writing the article of 13 February 2002.

58. Moreover, the Court notes that the appellate court indicated in the operative part of its decision that the legal basis for awarding C.N. compensation for non-pecuniary damage was Article 346 § 2 of the Code of Criminal Procedure in conjunction with Articles 999, 1000 § 3 and 1003 of the Civil Code (see paragraph 21). Article 346 § 2 of the Code of Criminal Procedure provides for damages to be awarded if an acquittal was pronounced because one of the elements of the offence was missing. The Court notes that the applicants were acquitted on the ground that one of the elements of the offence of defamation was missing only with respect to the writing of the article of 30 January 2002. If the appellate court had intended that the applicants were to pay C.N. damages for having written the article of 13 February 2002, the Article indicated in the operative part should have been Article 346 § 3 of the Code of Criminal Procedure. It provides that damages cannot be awarded if the acquittal was pronounced on the ground that the defendants did not commit the offence in question.

59. Consequently, the Court is not convinced that the County Court awarded C.N. damages on account of the article published on 13 February 2002.

60. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Other alleged violations of the Convention

61. The applicants alleged that they had not benefitted from a fair trial in the proceedings before the County Court, as guaranteed by Article 6 § 1 of the Convention. They maintained that the court had not exercised its duty to find out the truth.

62. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

63. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Marialena Tsirli	Josep Casadevall
Deputy Registrar	President