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

FIFTH SECTION

DECISION

Application no. 22434/14
Valentyna Ivanivna SAMAR
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 25 September 2025 as a Committee composed of:

María Elósegui*, President*,
Andreas Zünd,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 22434/14) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 10 March 2014 by a Ukrainian national, Ms Valentyna Ivanivna Samar ("the applicant"), who was born in 1965, lives in Simferopol and was represented by Ms L. V. Opryshko, a lawyer practising in Kyiv;

the decision to give notice of the application to the Ukrainian Government ("the Government"), represented by their Acting Agent, Ms Olga Davydchuk;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's allegations that the domestic courts wrongly established that the statements that she had made were untrue and ordered a newspaper to publish a retraction (Articles 6 and 10 of the Convention).

2. The applicant lived in Simferopol, Crimea. In May 2013 she published a series of newspaper articles in a national newspaper *Dzerkalo Tuzhdnya* alleging that several companies related to a certain M., a former high-ranking

governmental official, had illegally acquired a land which had previously belonged to a State-owned sanatorium for children.

3. In particular, the articles included the following statements:

> "They say the beach of the sanatorium was also taken. M. took it."
>
> "The mansion of the ex-omnipotent head of the administration of President Kuchma, M., is located between Alupka and Semeiz ... Actually, as we have written more than once, M.'s mansion, which was built on the land after the sanatorium was demolished..."
>
> "Inhabitants of Alupka are sure that the fence... is an attempt by M. to join [the beach] to [his] mansion."
>
> "We will note that the letter signed by A.M. ... with a foreword written by M., has never been received by the editorial board."
>
> "Alienation of the sanatorium, in place of which 'M.'s mansion' was built."
>
> "Today the sanatorium has been replaced by a luxurious villa which the local inhabitants call 'M's mansion'. In summer 2012 M. and his wife welcomed here Putin, the President of Russia."

4. On 30 January 2013 M. instituted judicial proceedings against the applicant and the newspaper before the Pecherskyi District Court of Kyiv, asking the court to declare that the information contained in the statements cited above (see paragraph 3 above) was false and damaging to his dignity. M. also sought to oblige the newspaper to publish a retraction, the text of which had been drafted by M.'s representatives.

5. On 27 February 2013 the court informed the applicant that a hearing in her case was scheduled for 19 April 2013.

6. The applicant hired B., a lawyer practising in Kyiv, to represent her. On 27 March 2013 she transferred to him all the evidence that she wished to adduce before the court. Still on the same day B. broke his leg.

7. On 11 April 2013 B. asked the Pecherskyi District Court of Kyiv to postpone the hearing scheduled for 19 April 2013 because he was on sick leave.

8. On 19 April 2013 the court held a hearing in the presence of M's representative and in the absence of the applicant and her lawyer. The court, relying on Article 277 of the Civil Code[1], held that the applicant had not

[1] 1. An individual whose non-pecuniary rights have been infringed as a result of the dissemination of untrue information … shall have the right to reply and [the right to] the retraction of that information ...
3. Negative information disseminated about a person shall be considered untrue if the person who disseminated it does not prove the contrary.
4. Untrue information shall be retracted by the person who disseminated the information ...
6. An individual whose non-pecuniary rights have been infringed in printed or other mass media shall have the right to … the retraction of the untrue information in the same mass media ...
7. Untrue information shall be retracted in the same manner in which it was disseminated.

adduced any evidence to prove the veracity of the statements of fact which she had made concerning M. in the articles. The court further found that the statements in question depicted M. in a negative light and made readers believe that he had violated legislation and generally accepted ethical rules. The court obliged the newspaper to publish the operative part of its decision, which cited the disputed statements and stated that the information contained in them was untrue, and which noted that the applicant was their author.

9. The applicant and the newspaper appealed. The applicant requested that the Court of Appeal accept and examine the evidence which had not been introduced before the first-instance court because her representative had been ill and his request to postpone the hearing had been denied.

10. The evidence which the applicant sought to introduce before the Court of Appeal included:

(a) copies of court decisions and official records which, according to her, proved that the mansion in question belonged to several companies related to M.;

(b) a videorecording obtained from open sources concerning Putin's visit to the mansion where he had been greeted by M. and his wife;

(c) copies of articles and recordings of TV programmes stating that the mansion had been built on illegally acquired land and belonged to M., in particular, a copy of the article published on the www.nr2.ru website "M.'s palace together with its [illegally] occupied beach costs 5 million dollars";

(d) video-recordings containing statements from Alupka inhabitants concerning a fence and a beach which, according to the article, "was taken by M.";

(e) copies of official decrees and records concerning the reorganisation and liquidation of the sanatorium and transfer of its land and other property to a number of companies which, according to the applicant, were related to M.

11. The applicant stated that the first-instance court had ordered the newspaper to publish the operative part of the decision instead of ordering it to publish the retraction suggested by the claimant. According to the applicant, by doing so the court had gone beyond the limits of the claims lodged by the claimant, which was illegal. She further claimed that the disputed statements constituted value judgments not susceptible of proof.

12. The court of appeal accepted the evidence submitted by the applicant (see paragraph 10 above).

13. On 3 July 2013 the Court of Appeal upheld the first instance court decision. It noted that the applicant could have submitted her evidence to the first-instance court herself when her lawyer had not been able to do so due to his illness. The court noted that the disputed statements did not contain reference to the articles, TV programmes and video recordings to which the applicant had referred in her appeal, consequently the applicant had not been

dispensed from the obligation to prove the veracity of the information contained in her articles[2].

14. The court further noted that:

> "[the court cannot agree] with [the applicant's] arguments that the mansion indirectly belongs to [M.] because they are refuted by the materials in the case file which prove that [the property] belongs to [company S.], ... there are no adequate and admissible evidence proving that the mansion belongs to M."

15. On 11 September 2013 the Higher Specialised Court upheld the decisions of the lower courts.

16. The applicant complained that her rights under Article 10 of the Convention had been violated. She also complained under Article 6 that the courts had not examined the evidence that she had submitted and had not taken it into consideration.

THE COURT'S ASSESSMENT

Alleged violations of articles 10 and 6 § 1 of the Convention

17. The Government's observations were not included in the case file as they were lodged out of time. In their additional observations submitted in reply to those of the applicant, the Government noted that the interference in question had a legal basis, pursued a legitimate aim and was necessary in a democratic society, therefore there had been no violation of the applicant's right. The applicant maintained her complaint.

18. The Court observes that the decisions of the national courts in the present case did not impose any sanctions or obligations on the applicant. They did, however, establish that the statements which she had made were untrue and obliged the newspaper to publish a retraction (see paragraph 8 above). The Court reiterates that in such circumstances the applicant can still claim to be a victim of the alleged violation within the meaning of Article 34 of the Convention (see *Monnat v. Switzerland*, no. 73604/01, § 33, ECHR 2006-X and *a/s Diena and Ozoliņš v. Latvia*, no. 16657/03, §§ 55-60, 12 July 2007).

19. The Court considers that the judicial decisions constituted an interference with the applicant's right to freedom of expression. In order to be compatible with Article 10 of the Convention, such interference must be prescribed by law, pursue one or more legitimate aims in the light of paragraph 2 of Article 10, and be "necessary in a democratic society" (see

[2] According to section 42 of the Printed Media (Press) Act, journalists are not liable for the publication of information that is untrue, defames the honour and dignity of citizens and organisations if the information is a verbatim reproduction of materials published by other printed media which refer to that information.

Karácsony and Others v. Hungary [GC], nos. 42461/13 and 44357/13, § 121, 17 May 2016). The test of necessity requires the Court to determine whether the interference corresponded to a "pressing social need", whether it was proportionate to the legitimate aim pursued and whether the reasons given by the national authorities to justify it were relevant and sufficient. In carrying out its supervisory role the Court's task is not to take the place of the national courts, but rather to review, in the light of the case as a whole, whether the decisions they have taken pursuant to their margin of appreciation are compatible with the provisions of the Convention relied on (see, for example, *Lykin v. Ukraine*, no. 19382/08, § 25, 12 January 2017). The Court reiterates that a distinction must be drawn between the statements of fact, amenable to proof, and value judgments. The existence of facts can be demonstrated, whereas the truth of value judgments is not susceptible to proof. The classification of a statement as a fact or as a value judgment is a matter which in the first place falls within the margin of appreciation of the national authorities, in particular the domestic courts (see, for example, *Eigirdas and VĮ "Demokratijos plėtros fondas" v. Lithuania*, nos. 84048/17 and 84051/17, § 95, 12 September 2023).

20. The Court emphasizes that the reversal of the burden of proof operated by the "presumption of falsity" as set out in Article 277 of the Civil Code makes it particularly important for the courts to examine the evidence adduced by the defendant very carefully, so as not to render it impossible for him or her to reverse it and make out the defence of truth (see *Kasabova v. Bulgaria*, no. 22385/03, § 62, 19 April 2011).

21. The Court accepts that the interference had a legal basis in domestic law, specifically in Article 277 of the Civil Code. It further accepts that the interference pursued the legitimate aim of protecting the reputation or rights of others within the meaning of Article 10 § 2 of the Convention, namely the good name of M.

22. The Court sees no reason to depart from the finding of the domestic courts that the disputed statements constituted statements of fact (see *Peruzzi v. Italy*, no. 39294/09, § 48, 30 June 2015). It accepts that irregularities in privatization of State-owned land is a matter of utmost concern to the public. Not only does the press have the task of imparting such information but the public also has a right to receive it (see *A. v. Norway*, no. 28070/06, § 83, 9 April 2009). However, the Court does not consider that the serious public interest in the subject matter could dispense the applicant from her obligation to prove the statements of fact which she had made. In this connection, the Court discerns no strong reasons which would require it to substitute its view for that of the domestic courts in so far as it concerns a lack of evidence supporting the disputed statements.

23. The Court considers that the degree of interference in the present case is to be categorised as relatively minor. It is noteworthy that the applicant wrote a series of articles covering the same topic, however only five short

statements from those articles were disputed in court. The Court also observes that the proceedings against the applicant were civil in nature and resulted in an order obliging the newspaper to publish the operative part of the judgment. In the Court's view this measure does not appear unreasonable or unduly restrictive of freedom of expression.

24. The Court observes that the applicant was able to adduce evidence to the court of appeal which had full jurisdiction over the case. Based on the materials in the case file, the Court cannot conclude that the court of appeal had failed to address any important evidence or arguments advanced by the applicant. In the light of these considerations, the Court considers that the applicant's complaint under Article 10 is manifestly ill-founded pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

25. Having regard to the link between the applicant's Article 10 complaint and her complaint under Article 6 about the alleged procedural shortcomings in the proceedings leading to the interference with her right to freedom of expression, the Court arrives at the same conclusion in respect of the latter complaint.

26. It follows that the application must be declared inadmissible in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 23 October 2025.

Martina Keller Deputy Registrar	María Elósegui President