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

Press Release
issued by the Registrar of the Court

no. 351
19.04.2011

Journalists reporting on irregularities in the admission procedure for Bulgarian elite schools were sanctioned wrongly

In today's two Chamber judgments in the cases **Kasabova v. Bulgaria** (application no. 22385/03) and **Bozhkov v. Bulgaria** (application no. 3316/04), which are not final[1], the European Court of Human Rights held, unanimously, that there had been:

A violation of Article 10 (freedom of expression and information) of the European Convention on Human Rights in both cases.

The cases concerned the complaints of two journalists that they were found guilty of defamation and were made to pay huge sums in compensation for their statements made in articles published in the Bulgarian press and concerning irregularities in the admission procedure to specialiased secondary schools.

Principal facts

The applicants, Katya Kasabova and Bozhidar Bozhkov, are two Bulgarian nationals who were born in 1964 and 1968 respecitvely and live and work in Bourgas (Bulgaria). Both applicants are journalists.

In the summer of 2000, they learned that 14 parents of children, who sought entry into specialised secondary schools in the town of Burgas, complained to the Ministry of Education and Science in connection with the selection procedure. In particular, the parents claimed that about 157 other children had obtained a place in such schools in their town on the basis of a reported medical condition (that being the exception) and not through a competitive examination (that being the norm) which their children had been obliged to sit. In addition, the parents alleged that some of the children admitted as an exception to the rule had been perfectly healthy and had been boasting about gaining a place in the schools in exchange for money.

Ms Kasabova and Mr Bozhkov learned about that story and reported on it in several separate articles published in September and early October 2000 in the newspapers for which they were working at the time: "Compass" as regards Ms Kasabova, and "Sega" as regards Mr Bozhkov.

The articles informed, among other things, that four experts from the Burgas inspectorate of the Ministry of Education and Science, would be fired for corruption, if the Minister accepted the findings made by his representatives after an inquiry following a bribe-taking alert. The experts were members of the admissions commission set up to draw a list of students to be accepted in the schools on medical grounds. In addition, Ms Kasabova spoke in her articles of concrete numbers of children who had been allegedly

1 Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its 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.

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

admitted wrongfully and how much each of them had paid for that, although she could not have that information confirmed, as she claimed, because those who had paid the money would not want to be exposed.

Following the publication of the articles, the experts in question brought criminal complaints against both Ms Kasabova and Mr Bozhkov and asked for compensation for being falsely accused of an offence and for suffering damage to their reputation as a result of the articles.

The Bulgarian courts found against Ms Kasabova and Mr Bozhkov, replaced their criminal liability with administrative fines, and ordered them to pay in total respectively around 3,797 Euros (EUR) and EUR 3,221 as fines, damages and costs. Both journalists struggled for years to pay those amounts as the first one equalled almost 70 minimum monthly salaries (and more than 35 monthly salaries of Ms Kasabova), and the second one – more than 57 minimum monthly salaries.

Complaints, procedure and composition of the Court

Relying mainly on Article 10, the applicants complained about their conviction and punishment about writing the articles in question.

The applications were lodged with the European Court of Human Rights respectively on 16 July 2003 and22 January 2004.

Judgment was given by a Chamber of seven, composed as follows:

Nicolas **Bratza** (the United Kingdom), *President*,
Lech **Garlicki** (Poland),
Ljiljana **Mijović** (Bosnia and Herzegovina),
Sverre Erik **Jebens** (Norway),
Zdravka **Kalaydjieva** (Bulgaria),
Nebojša **Vučinić** (Montenegro),
Vincent A. **de Gaetano** (Malta)*, Judges*,

and also Lawrence **Early**, *Section Registrar.*

Decision of the Court

Freedom of expression and information

The Court recalled that the Convention did not guarantee absolutely unrestricted freedom of expression even if the press reported on questions of serious public concern and relating to politicians or public officials. The freedom to express oneself carried duties and responsibilities which also applied to the media and media professionals such as journalists, especially in cases where the reputation and rights of others were attacked or risked being undermined.

However, the nature of the allegations in the articles of Ms Kasabova and Mr Bozhkov, namely that some children had been admitted to elite schools as the result of bribes, had been difficult, if not impossible to prove. In both cases, the articles had referred to a possible dismissal of the four experts, which had been an uncertain event, as it was in the future and was not confirmed officially at the time, because the relevant Ministry had not released any information on the results of the internal inspection it had carried out into the allegations. While Mr Bozhkov could have used a more careful language making clear that the actual disciplinary punishments to be imposed on the experts and the exact reasons for that were uncertain, and Ms Kasabova could have researched better in

support of her hard-hitting allegations, the Court found that Mr Bozhkov had acted as a responsible journalist and did not consider necessary to take a decision on that question in respect of Ms Kasabova.

Instead, the Court emphasised that if the national courts applied an overly rigorous approach when examining the professional conduct of journalists, they could be unduly deterred from discharging their function of keeping the public informed. The courts had, therefore, to take into account the likely impact of their rulings not only on the individual cases before them but also on the media in general.

Having considered the circumstances of each case, the Court concluded that the sanctions imposed on Ms Kasabova and Mr Bozhkov had been excessive, disproportionate when compared to the damage caused by the articles to the reputation of the four experts, and had had a huge potential chilling effect on the applicants and other journalists alike.

Accordingly, there had been a violation of Article 10 in both cases.

Other articles

The Court held that, in view of its findings under Article 10, it was not necessary to examine Ms Kasabova's complaints under other Convention Articles.

Article 41 (just satisfaction)

Under Article 41, the Court held that Bulgaria was to pay to Ms Kasabova and Mr Bozhkov respectively 2,800 and 9,851 Bulgarian leva (BGN) as regards pecuniary damage, 2,000 euros (EUR) and EUR 5,000 in respect of non-pecuniary damage, and BGN 5,000 and EUR 3,500 for costs and expenses.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on its Internet site. To receive the Court's press releases, please subscribe to the Court's RSS feeds.

Press contacts
echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Kristina Pencheva-Malinowski (tel: + 33 3 88 41 35 70)
Emma Hellyer (tel: + 33 3 90 21 42 15)
Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Frédéric Dolt (tel: + 33 3 90 21 53 39)
Nina Salomon (tel: + 33 3 90 21 49 79)

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.