



Individual's right to respect for reputation infringed by court judgment on harassment case against local authority

In today's **Chamber judgment**¹ in the case of **Vicent Del Campo v. Spain** (application no. 25527/13) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned a domestic judgement which named Mr Vicent Del Campo as having harassed a work colleague, although the defendant in the case was actually his local authority employer.

The Court found in particular that there had been no good reason to name Mr Vicent Del Campo in the judgment, which had led to him being stigmatised in proceedings to which he was not a party. He had only found out about the judgment from the local press and had had no chance to request that his name not be disclosed in the judgment handed down by the High Court of Justice of Castilla-León.

Principal facts

The applicant, Fernando Vicent Del Campo, is a Spanish national who was born in 1957 and lives in Villavente (Spain).

While working in the León School of Arts and Crafts as a teacher and head of department, Mr Vicent Del Campo was accused of harassment by a colleague. An administrative complaint by the colleague was initially dismissed and she filed a claim for compensation with the Department of Education of the Regional Government of Castilla-León. The authorities did not decide on the issue within the time-limit and the colleague began court proceedings in January 2007.

In November 2011 the High Court of Justice of Castilla-León found against the Regional Administration and ordered it to pay the colleague 14,500 euros. The court concluded that the public administration was liable as the colleague had suffered harassment and the education authority had not done anything to prevent it. The court's judgment included Mr Vicent Del Campo's name several times and said it had established that he had harassed and bullied his colleague.

In December 2011 Mr Vicent Del Campo requested access to the case file and to become a party to the proceedings, stating that he had learnt of the judgment through the local press. The domestic courts refused his request to be a party to the proceedings, stating that in such cases it was the public administration alone which was the defendant, even if a particular public official could be identified and his or her conduct judged. The Constitutional Court rejected a right of fair trial appeal by Mr Vicent Del Campo, finding that it had not duly justified its constitutional significance.

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.

Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair trial), Mr Vicent Del Campo complained that he had not been made a party to the liability proceedings against the public administration, despite him having a direct interest in defending himself against serious allegations of harassment in the workplace.

Relying on Article 8 (right to respect for private life) and Article 13 (right to an effective remedy), Mr Vicent Del Campo complained that the High Court judgment stating that he had committed harassment, in proceedings in which he was not a party, had amounted to an unjustified interference with his right to honour and reputation, and that he had had no effective remedies available to him in that regard.

The application was lodged with the European Court of Human Rights on 2 April 2013.

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

Vincent A. **De Gaetano** (Malta), *President*,
Branko **Lubarda** (Serbia),
Helen **Keller** (Switzerland),
Pere **Pastor Vilanova** (Andorra),
Alena **Poláčková** (Slovakia),
Georgios A. **Serghides** (Cyprus),
María **Elósegui** (Spain),

and also Stephen **Phillips**, *Section Registrar*.

Decision of the Court

Article 8

The Court noted that the concept of private life extended to a person's reputation and honour.

The High Court judgment of November 2011 against the public administration had identified Mr Vicent Del Campo by name and had found his actions to amount to harassment and bullying. However, he had not been aware of the proceedings, which had come after the initial claim by the colleague had been dismissed several years earlier, and was not a party to them. The Court therefore found that identifying Mr Vicent Del Campo in the judgment had amounted to an interference with his right to privacy.

In looking at whether that interference had been justified, the Court observed that there was a public interest in ensuring the transparency of court proceedings and that publishing the reasoning of the domestic court's decision could have aimed at protecting the rights of the colleague by acknowledging the facts of harassment in the workplace.

At the same time, the domestic court had not confined itself to dealing with the strict liability of the public administration, it had also named Mr Vicent Del Campo and described his conduct as repeated psychological harassment. The domestic ruling had thus stigmatised him and was likely to have had a major impact on his professional standing, honour and reputation.

However, naming Mr Vicent Del Campo had not been supported by cogent reasons. The court had had discretion to omit his name or use only his initials and it was not clear why it had not done that. In fact, the Constitutional Court of Spain and the Strasbourg Court itself followed that practice.

Mr Vicent Del Campo had only found out about the judgment from the local press, a discovery which came more than five years after the initial administrative complaint had been dismissed by the education authorities. He had not been summoned, questioned or notified in any other way about the colleague's court claim, meaning that he had had no opportunity to request non-disclosure in

the judgment. The interference with his right to privacy had not been accompanied by sufficient safeguards.

Given the fact that all such judgments were in principle made public and that disclosure was regulated by court registrars rather than the courts themselves, the High Court of Justice should have done more in the first place to protect Mr Vicent Del Campo's privacy rights.

Overall, the Court found that the interference with Mr Vicent Del Campo's right to respect for his private life had not been properly justified and there had been a violation of Article 8.

Other articles

Given its finding under Article 8, the Court saw no need to deal separately with Mr Vicent Del Campo's complaints under Article 6 § 1 and Article 13.

Just satisfaction (Article 41)

The Court held that Spain was to pay the applicant 12,000 euros (EUR) in respect of non-pecuniary damage and EUR 9,268.60 in respect of costs and expenses.

The judgment is available only in English.

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Press contacts

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

Patrick Lannin (tel: + 33 3 90 21 44 18)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Somi Nikol (tel: + 33 3 90 21 64 25)

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.