



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

FIRST SECTION

Application no. 15449/09
Andrey Igorevich MARGULEV
against Russia
lodged on 3 March 2009

STATEMENT OF FACTS

The applicant, Mr Andrey Igorevich Margulev, is a Russian national, who was born in 1953 and lives in Moscow.

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

A. The applicant's newspaper interview

At the material time the applicant was the head of a community-based organisation 'Tsaritsino for everyone' (*Царицино для всех*).

On 23 October 2007 the local '*Moskovskiy korrespondent*' newspaper published an article 'Tsaritsino is not going to survive the winter.' The article contained an interview with the applicant who stated the following in respect of the reconstruction works conducted by the Moscow City Administration in the Tsaritsino historical site:

"[...] people have been deprived of their historical and cultural heritage... restoration works in Tsaritsino is a desecration of the historical monument..."

B. Defamation proceedings

In April 2008 the circulation of '*Moskovskiy korrespondent*' was suspended.

On an unspecified date between May and July 2008 the Moscow City Administration brought defamation proceedings against the newspaper alleging that the above-quoted words in the publication of 23 October 2007 damaged its business reputation. They demanded that the newspaper

published a retraction in another newspaper with the same circulation, periodicity and sold on the same territory as the defendant newspaper at its own expense.

The applicant joined the proceedings as a third party.

On 22 July 2008 the Basmani District Court in Moscow granted in full the administration's claim and ordered that the newspaper undertook the required action within ten days of the date when the judgement becomes final. The decision included the following:

“... the analysis of the impugned information provides the court with the basis to conclude that this information contains statements of facts that is statements concerning the actions of the Moscow Government aimed at harming the Tsaritsino historical site, as a result of which the spiritual and material culture of the past had been lost. The mentioning of the article's author of the source of this information such as ‘the head of the organisation ‘Tsaritsino for everyone’ thinks, [or] Mr Margulev believes that’ cannot serve as the sufficient basis to conclude that the article provides an opinion or contains a value judgment...”

The applicant and the defendant appealed to the Moscow City Court stating, in particular, that the impugned sentence represented a value judgment expressing the applicant's opinion on the matter and therefore, was not susceptible to proof.

On 11 September 2008 the Moscow City Court upheld the judgement on appeal leaving the above arguments without examination.

COMPLAINT

The applicant complains under Article 10 of the Convention about a violation of his freedom of expression, in particular, of his right to hold opinion and impart information.

QUESTION TO THE PARTIES

In respect of the publication of 23 October 2007, was there an interference with and a violation of the applicant's freedom of expression, in particular, of the right to hold opinion and impart information?