



A university's right to reputation under the European Convention is more limited than that of an individual's

In today's **Chamber** judgment¹ in the case of [Kharlamov v. Russia](#) (application no. 27447/07) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 10 (right to freedom of expression) of the European Convention on Human Rights.

The case concerned a civil action in defamation brought against Mr Kharlamov, a university professor, by his employer, Orel State Technical University, after he expressed the view that the University's governing body could not be considered legitimate due to shortcomings in the election procedure.

The Court found that the domestic courts, in their decisions against Mr Kharlamov, had notably failed to take into account the specific features of academic relations. In particular, the protection of a university's authority or reputation under the Convention could not be equated to that of an individual's. Focusing their attention entirely on Mr Kharlamov's description of the elected senate as illegitimate, the domestic courts had therefore failed to strike a fair balance between the need to protect the University's reputation and Mr Kharlamov's freedom to express his opinion on the organisation of academic life.

Principal facts

The applicant, Vladimir Fedorovich Kharlamov, is a Russian national who was born in 1948 and lives in Orel (Russia).

The case concerns a civil action in defamation brought against Mr Kharlamov, by his employer, the Orel State Technical University, for criticising the manner in which its governing body had been elected.

On 26 December 2006 Mr Kharlamov, a university professor in physics, took the floor at a university-wide conference for the election of the university's academic senate; that is its standing governing body. Bringing his colleagues' attention to shortcomings in the election procedure, he argued in particular that the heads of department had failed to initiate any public discussion.

The Orel University subsequently sued Mr Kharlamov for defamation, claiming that his speech had undermined the professional reputation of the university and of its academic senate. Ultimately, in April 2007 the domestic courts found Mr Kharlamov liable for defamation because he had described the elected senate as "illegitimate" and because, on the strength of the available evidence, the academic senate elections had been run in full compliance with the applicable regulations.

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 10 (freedom of expression) of the Convention, Mr Kharlamov complained that the defamation proceedings brought against him had breached his right to freedom of expression.

The application was lodged with the European Court of Human Rights on 7 May 2007.

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

András **Sajó** (Hungary), *President*,
Elisabeth **Steiner** (Austria),
Khanlar **Hajiyev** (Azerbaijan),
Paulo **Pinto de Albuquerque** (Portugal),
Linos-Alexandre **Sicilianos** (Greece),
Erik **Møse** (Norway),
Dmitry **Dedov** (Russia),

and also André **Wampach**, *Deputy Section Registrar*.

Decision of the Court

[Article 10 \(freedom of expression\)](#)

It was agreed by the parties that the judgment in the defamation proceedings had constituted an interference with Mr Kharlamov's right to freedom of expression. The Court held that that interference had been in accordance with law, namely Article 152 of the Civil Code.

The Court reiterated that a measure forbidding statements criticising the acts or omissions of an elected body could be justified by the need to protect the body's reputation only in exceptional circumstances. Similarly, restrictions on debate on questions of public interest had to have very strong reasons to justify them.

Mr Kharlamov had expressed his views at an academic assembly open to all university staff and had brought to light a matter of professional concern regarding the lack of transparency in election proceedings of the academic senate. Before the domestic courts, Mr Kharlamov had backed up his opinion with evidence, namely statements of four fellow professors, who corroborated his claim that no meetings had been held in the University Departments and that no candidates had been nominated by an open majority vote.

The domestic courts on the other hand, focusing their attention on Mr Kharlamov's description of the elected senate as illegitimate and confining their analysis to the discussion of whether the University's reputation had been damaged, had considered his appraisal of the election procedure to be a factual accusation that had not been true and that had not been backed up by proof.

The courts had thus failed to take into account the nature of the remarks made by Mr Kharlamov, namely a value judgment with a sufficient factual grounding, or the specific features of academic relations. In particular, the Court considered that the protection of a university's authority or reputation under the Convention could not be equated to that of an individual's. Nor had they indeed even recognised that the case involved a conflict between the right to freedom of expression and the protection of reputation.

In this case, the Court therefore held that the domestic courts had failed to strike a fair balance between the need to protect the University's reputation and Mr Kharlamov's academic freedom to express his opinion about the institution or system in which he worked. The interference with Mr Kharlamov's right to freedom of expression had not therefore been "necessary in a democratic society", in violation of Article 10.

Article 41 (just satisfaction)

The Court held that Russia was to pay Mr Kharlamov 7,500 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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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.