



Serbian authorities' reaction to an article written about a well-known human rights activist had been disproportionate

In today's **Chamber** judgment¹ in the case of [Milisavljević v. Serbia](#) (application no. 50123/06) the European Court of Human Rights held, unanimously, that there had been:

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

The case concerned a journalist's complaint about her conviction for insult following an article she had written about Nataša Kandić, a well-known human rights activist. The courts held that by failing to put one particular sentence – "Ms Kandić [had] been called a witch and a prostitute" – in quotation marks, the journalist, Ms Milisavljević, had tacitly endorsed the words as her own.

The Court found in particular that it was evident, even without the quotation marks, that that sentence, written by another journalist and previously published in a different magazine, had not been Ms Milisavljević's personal opinion of Ms Kandić, but that she had merely been transmitting how Ms Kandić was perceived by others. Moreover, the domestic courts, limiting their reasoning to the lack of quotation marks, had completely failed to balance Ms Kandić's right to reputation against Ms Milisavljević's freedom of expression and duty, as a journalist, to impart information of general interest.

Principal facts

The applicant, Ljiljana Milisavljević, is a Serbian national who was born in 1966 and lives in Belgrade. She was a journalist for *Politika*, a major Serbian daily newspaper.

The article in question was published in *Politika* in September 2003 at a time when there was a heated public debate on the Serbian authorities' cooperation with the International Criminal Tribunal for the former Yugoslavia (the "ICTY"). There was also a high degree of animosity toward Ms Kandić because of her involvement in investigating crimes committed by the Serbian forces during the armed conflicts in the former Yugoslavia and because she was one of the most vocal advocates for full cooperation with the ICTY.

Following the publication, Ms Kandić started a private prosecution against Ms Milisavljević claiming that it had been written to portray her as a traitor to Serbia. The domestic courts ultimately found that Ms Milisavljević had committed the criminal offence of insult and gave her a judicial warning. The courts notably held that although the sentence, "Ms Kandić [had] been called a witch and a prostitute", had been published previously in an article written by another author in a different magazine, she had failed to put it in quotation marks, meaning that she had tacitly endorsed the words as her own.

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), Ms Milisavljević complained about her criminal conviction, and alleged that it had resulted in her subsequent dismissal from *Politika*.

The application was lodged with the European Court of Human Rights on 13 December 2006.

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

Helena **Jäderblom** (Sweden), *President*,
Branko **Lubarda** (Serbia),
Luis **López Guerra** (Spain),
Helen **Keller** (Switzerland),
Pere **Pastor Vilanova** (Andorra),
Alena **Poláčková** (Slovakia),
Georgios A. **Serghides** (Cyprus),

and also Fatoş **Aracı**, *Deputy Section Registrar*.

Decision of the Court

It was established in the domestic proceedings, and acknowledged by the Government, that Ms Milisavljević had taken the words “Ms Kandić [had] been called a witch and a prostitute” from an article written by another journalist and published in a different magazine. Therefore, it was evident, even without the quotation marks, that this was not Ms Milisavljević’s personal opinion of Ms Kandić, but that she had merely been transmitting how Ms Kandić was perceived by others. The Court reiterated that a general requirement for journalists to systematically and formally distance themselves from the content of a quotation that might insult or provoke others or damage their reputation was not reconcilable with the press’s role of providing information on current events, opinions and ideas.

Furthermore, the domestic courts had completely failed to balance Ms Kandić’s right to reputation against Ms Milisavljević’s freedom of expression and duty, as a journalist, to impart information of general interest. The courts, limiting their findings to the fact that the sentence had not been put in quotation marks, had not referred at all to the overall context of the article or the circumstances in which it had been written. In contrast, Ms Milisavljević had presented the positive and negative in her article, making it clear that opinions on Ms Kandić were divided. Furthermore, she had reported that Ms Kandić had received many awards, some of them prestigious, as well as that she was a campaigner for the truth on war crimes and a lonely voice of reason in Serbia, all of this having also been written without quotation marks.

Lastly, the Court also bore in mind that: Ms Kandić, a human rights activist and public figure, had inevitably and knowingly exposed herself to public scrutiny and therefore had to display a greater degree of tolerance; and her conviction of a criminal offence was likely to deter other journalists from contributing to public discussion on issues affecting the life of the community.

The national authorities’ reaction to Ms Milisavljević’s article had therefore been disproportionate, in violation of Article 10.

[Just satisfaction \(Article 41\)](#)

The Court held that Serbia was to pay Ms Milisavljević 500 euros (EUR) in respect of non-pecuniary damage and EUR 386 for costs and expenses.

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.