

Slander conviction in employment dispute a breach of rights

In today's **Chamber judgment**¹ in the case of [Matalas v. Greece](#) (application no. 1864/18) 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 the applicant's conviction for slanderous defamation for comments he had made in his capacity as CEO of a company about the company's former legal adviser, in particular concerning her work, in the course of an employment dispute involving them.

The Court found in particular that the domestic courts, in convicting the applicant, had failed to provide proper reasons, failed to take into account the situation, and overall failed to assess the relevant facts, in violation of the applicant's rights.

Principal facts

The applicant, Theodoros Matalas, is a Greek national who was born in 1968 and lives in Kifissia (Greece).

In 2007 the applicant was appointed CEO of AGROGI A.E. He asked all employees to provide him with information concerning their professional activities. L.P., a lawyer, informed the applicant orally of the legal cases pending against the company. The applicant, questioning the accuracy of this information, had L.P. removed from her position and took other related measures, including demanding the return of legal files. Having allegedly not been fully informed about the pending legal cases against the company, the applicant sent an official document to her stating, among other things, the following:

"We condemn the unprofessional and contrary-to-ethics behaviour that you have shown towards our company ... [showing] malicious intention on your part to harm the company's interests ... [T]he information that you have so far provided to us is incomplete and erroneous."

On 22 April 2008 L.P. lodged a criminal complaint against the applicant, alleging slanderous defamation. He was found guilty at first instance, and on appeal. The Court of Cassation, in the main, dismissed an appeal on points of law by the applicant. The applicant ultimately received a five-month suspended prison sentence.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression) of the European Convention on Human Rights, the applicant complained that his criminal conviction for slanderous defamation had violated his rights.

The application was lodged with the European Court of Human Rights on 4 January 2018.

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.

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

Ksenija **Turković** (Croatia), *President*,
Krzysztof **Wojtyczek** (Poland),
Linos-Alexandre **Sicilianos** (Greece),
Alena **Poláčková** (Slovakia),
Péter **Paczolay** (Hungary),
Raffaele **Sabato** (Italy),
Lorraine **Schembri Orland** (Malta),

and also Renata **Degener**, *Deputy Section Registrar*.

Decision of the Court

The Court considered that the applicant's conviction had amounted to "interference by public authority" with his right to freedom of expression. It found that the interference had been prescribed by law, leaving the question of whether it had been "necessary in a democratic society".

The Court found that accusing L.P. of unprofessional and unethical behaviour could have harmed her reputation and career. The Court had to balance her right to respect for her reputation with the applicant's right to freedom of expression.

The Court noted that the criticisms of L.P. had been classified as "facts" by the domestic courts without providing convincing reasoning. The Court found that these statements had been "value judgments", and that other statements of fact had supported those value judgments. The applicant's arguments in that connection had not been addressed by the domestic courts. The Court noted that the language used had been moderate and not insulting. In addition, the official document had been sent privately, and the applicant had not published or otherwise made his allegations available to the outside world and thus, his allegations could only have had a limited impact on L.P.'s reputation. The Court also noted that the domestic courts had failed to take into account the context – an ongoing dispute involving the applicant – in which the comments had been made and had failed to assess any damage to L.P.'s reputation.

Overall, the Court found that the nature and context of the impugned text should not have resulted in a prison sentence, even a suspended one, as that sanction had inevitably had a chilling effect on free speech.

The Court found that there had been a violation of the applicant's right to freedom of expression.

Just satisfaction (Article 41)

The Court held that Greece was to pay the applicant 9,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,200 in respect of 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.