



Large defamation award against opposition activist Limonov in favour of mayor of Moscow violated the Convention

In its committee judgment in the case of [Savenko \(Limonov\) v. Russia](#) (application no. 29088/08) the European Court of Human Rights unanimously held that there had been:

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

The case concerned defamation proceedings against the applicant instituted by the former mayor of Moscow, Yuri Luzhkov.

The Court found in particular that the domestic courts had found against the applicant without taking account of the fact that his comments had been made in the course of a debate on matters of public interest and that politicians had to accept a high level of criticism. In fact, the domestic courts had ruled that the mayor deserved more protection than ordinary citizens.

The amount of the defamation award, 500,000 Russian roubles (about 14,000 euros), was also found to have been excessive.

The judgment is final.

Principal facts

The applicant, Eduard Savenko, is a Russian national who was born in 1943 and lives in Moscow. He is an opposition politician and author who writes under the *nom de plume* Eduard Limonov.

Mr Savenko took part in a live radio debate in 2007 on Radio Free Europe/Radio Liberty (RFE/RL), which focussed on a court decision upholding a refusal by the Moscow authorities to authorise a rally, known as the Dissenters' March. Mr Savenko, one of the leaders of a broad coalition of opposition groups involved in organising such rallies, expressed the view that the Moscow courts were controlled by the mayor of Moscow.

The mayor lodged a defamation claim against Mr Savenko, which a district court in Moscow granted in full. The court found that his statement had implied that the courts were not independent because they had never found against the mayor.

This judgment was upheld on appeal in 2008 by the Moscow City Court, which further found that Mr Savenko's statement had undermined public confidence in the authorities, and that it had caused particular moral suffering to the mayor, who was not an ordinary citizen but an elected head of the executive.

The court awarded the mayor the full amount of damages that he had claimed, ordering Mr Savenko and the radio station to each pay 500,000 roubles (approximately 14,000 euros) to him.

The courts subsequently denied Mr Savenko's request to pay the award in instalments and then, in 2009, permanently restricted his right to leave Russia as he had failed to pay the amount in full.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 2 June 2008.

Relying in particular on Article 10 (freedom of expression), Mr Savenko complained about the judgments in the defamation claim against him, alleging in particular that the fine had been excessive.

Judgment was given by a Committee of three judges, composed as follows:

Paulo Pinto de Albuquerque (Portugal), *President*,
Helen Keller (Switzerland),
María Elósegui (Spain),

and also Stephen Phillips, *Registrar*.

Decision of the Court

The Court found that there had been an interference with Mr Savenko's right to freedom of expression. It noted the applicant's position as the leader of a broad coalition of opposition groups and that his comments had been made during a radio debate on the courts' approval of a ban on a march. His statement had touched on issues – the exercise of political rights and the functioning of the judiciary – which were matters of public interest and which had a high level of protection under Article 10. States had only narrow leeway to suppress such speech.

Although the statement had focussed on the courts, it had been the mayor of Moscow who had taken issue with it and had sued Mr Savenko. However, the level of acceptable criticism should be higher in respect of politicians than it is for private individuals.

The live debate which the applicant was taking part in had allowed for a greater degree of exaggeration and spoken words could not be held to the same standard of accuracy as written assertions. The statement had conveyed his indignation at what he had seen as another rejection of a lawful demand against the Moscow government, based both on his own experience and that of others who had lost cases involving the Moscow mayor.

The Court also took account of submissions from the Government, which showed that the courts had not found against the mayor in any previous cases, lending a certain factual basis to Mr Savenko's strong reaction. The Court found that the domestic courts had thus failed to abide by the requirements of Article 10 to balance the interests of the parties in the case.

It also observed that unpredictably large awards of damages in defamation cases could have a chilling effect on freedom of expression and required careful scrutiny. The award against Mr Savenko was high in absolute terms and when compared with other Russian defamation cases the Court had dealt with.

The Court disagreed with the City Court's assessment on appeal that the suffering of the elected head of an executive had a greater value than that of an ordinary citizen. Such a finding was not compatible with the Convention approach that figures like the Moscow mayor should accept strongly worded criticism and could not claim the same level protection as a private individual who was not known to the public, especially when a statement did not concern their private life.

Furthermore, the impact of the award had been shown by the fact that the applicant had struggled to pay it, which had led to a permanent restriction on his right to leave Russia.

The Court concluded by finding a violation of the applicant's rights protected by Article 10 owing to the courts' failure to apply the principles embodied in that provision and to the excessive award.

Just satisfaction (Article 41)

The Court held that Russia was to pay the applicant 11,700 euros (EUR) in respect of pecuniary damage and EUR 7,800 in respect of non-pecuniary damage.

The judgment is available in English only.

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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.