

Press release issued by the Registrar

**CHAMBER JUDGMENT
FILIPOVIĆ v. SERBIA**

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Filipović v. Serbia* (application no. 27935/05).

The Court held unanimously that there had been a **violation of Article 10** (freedom of expression) of the European Convention on Human Rights.

Mr Filipović's claim under Article 41 (just satisfaction) of the Convention was dismissed because it had been submitted after the deadline. (The judgment is available only in English.)

1. Principal facts

The applicant, Zoran Filipović, is a Serbian national who was born in 1960 and lives in Babušnica (Serbia). At the relevant time, he was a tax inspector and Vice President of a local branch of the Demo-Christian political party.

The case concerned proceedings against Mr Filipović for defamation of the Mayor of Babušnica.

On 8 March 2001 Mr Filipović attended a public gathering, attended by municipal councillors and other leading local figures, at which the Deputy Prime Minister, stating that the purpose of the meeting was to "assess the functioning of the municipality", invited those present to openly share their views. During that meeting, the applicant stated that Mr P.J., the Mayor of Babušnica, "was not the right person for the job" and had "embezzled 500,000 German Marks". He added that, as a tax inspector, he had found "numerous irregularities" concerning *Lisca*, a major State-run company directed by the Mayor and, as a result, had filed a criminal complaint in June 1996.

In a judgment of 21 October 2002 Babušnica Municipal Court, concluding that those statements were "untrue" and could "damage the reputation and honour" of the Mayor, convicted the applicant of defamation.

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

Subsequently, the Mayor filed a separate civil claim for compensation. On 23 September 2004 the courts found that the Mayor had been caused mental anguish as a result of the harm done to his reputation and ordered the applicant to pay 120,000 Serbian Dinars. At that time, that sum was the equivalent of 2,077 Euros or six months of the applicant's salary, net.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 22 July 2005.

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

Françoise **Tulkens** (Belgian), *President*,
András **Baka** (Hungarian),
Ireneu **Cabral Barreto** (Portuguese),
Riza **Türmen** (Turkish),
Vladimiro **Zagrebelsky** (Italian),
Antonella **Mularoni** (San Marinese),
Dragoljub **Popović** (Serbian), *judges*,

and also Françoise **Elens-Passos**, *Deputy Section Registrar*.

3. Summary of the judgment¹

Complaints

Relying on Article 10 (freedom of expression) and Article 6 § 1 (right to a fair hearing), Mr Filipović complained about the civil proceedings against him for compensation resulting from his conviction for defamation.

Decision of the Court

Article 10

The Court found that the judgment of 23 September 2004 had constituted an interference with the applicant's right to freedom of expression. That interference had been "prescribed by law" since it had been based on the Obligations Act, which stated that, anyone who suffered mental anguish as a consequence of his or her honour being damaged, might sue for compensation before the civil courts. Furthermore, that judgment served the legitimate aim of protecting the reputation of the Mayor of Babušnica.

What remained to be decided was whether that interference had been "necessary in a democratic society".

The Court recalled the right to impart information on matters of public interest and emphasised that the limits of acceptable criticism were wider when the object of criticism was a politician. Indeed, freedom of expression was particularly important for political parties and their members.

¹ This summary by the Registry does not bind the Court.

In that connection, the Court noted that the applicant was a politician who had discussed a matter of public interest at a political meeting where all participants had been encouraged by the Deputy Prime Minister to share their views regarding the functioning of the municipality. Furthermore, the object of the applicant's criticism had been a public figure, Mr P.J., a mayor and director of a major State-owned company.

Moreover, given the criminal complaint of 1996, the applicant had clearly had a legitimate reason to believe that the Mayor might have been involved in tax evasion. Although the applicant's statements had contained serious allegations, he had not made a gratuitous personal attack on the Mayor.

Given those findings, and bearing in mind the amount of compensation the applicant had had to pay, a substantial sum when compared to his income, the Court concluded that the interference with the applicant's freedom of expression had not been necessary in a democratic society. Accordingly, there had been a violation of Article 10.

Article 6 § 1

The Court held that it was not necessary to examine separately the complaint under Article 6.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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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.