

Press release issued by the Registrar

**CHAMBER JUDGMENT
FLUX v. MOLDOVA (No. 3)**

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Flux v. Moldova (no. 3)* (application no. 32558/03).

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

Under Article 41 (just satisfaction) of the Convention, the Court awarded the applicant 260 euros (EUR) for pecuniary damage, EUR 3,000 for non-pecuniary damage and EUR 1,200 for costs and expenses.

(The judgment is available only in English.)

1. Principal facts

The applicant, *Flux*, is a newspaper based in Chişinău.

During a television broadcast on 27 March 1999, N. A., the Head of Department for Combating Organised Crime and Corruption, accused Valeriu Matei, Vice-President of Parliament and President of one of the political parties at the time, of corruption.

On 30 March 1999 *Flux* published an article entitled “The anti-corruption war: General N.A. versus President Matei. Nicolae Alexei claims that Valeriu Matei is providing political protection to a mafia clan.”. It contained a word-by-word account of the broadcast as well as a commentary.

Valeriu Matei brought proceedings for defamation against *Flux* resulting in a final judgment on 20 February 2003 in which the Court of Appeal found that the statements complained of by Valeriu Matei were not defamatory, because, among other things, *Flux* had simply reproduced N.A.’s statements. However, it did find that the part of the article’s title referring to protection of a mafia clan was defamatory seeing as no such sentence had been pronounced by N.A. during the broadcast and that the newspaper had not shown evidence to prove that Valeriu Matei was a member of a mafia clan. The court ordered the newspaper to

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.

pay Mr Matei 3,600 Moldovan Lei (MDL – EUR 224) and to issue an apology within 15 days.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 13 May 2003.

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

Nicolas **Bratza** (British), *President*,
Josep **Casadevall** (Andorran),
Giovanni **Bonello** (Maltese),
Kristaq **Traja** (Albanian),
Stanislav **Pavlovski** (Moldovan),
Ján **Šikuta** (Slovak),
Päivi **Hirvelä** (Finnish), *judges*,

and also Lawrence **Early**, *Section Registrar*.

3. Summary of the judgment¹

Complaints

Relying on Article 10 (freedom of expression), the applicant complained that the domestic courts' decisions had interfered with its right to freedom of expression. It further complained that the domestic courts' had failed to give reasons in their decisions, in breach of Article 6 § 1 (right to a fair trial).

Decision of the Court

Article 10

It was common ground between the parties, and the Court agreed, that the domestic courts' decisions had amounted to "interference by [a] public authority" with the applicant's right to freedom of expression. It was also undisputed that that interference had been "prescribed by law" and pursued a legitimate aim. The Court decided to establish whether the interference had been "necessary in a democratic society".

The Court noted that the article's title had been found defamatory in the domestic proceedings when Mr Matei had not even made a complaint in that respect. That, in itself, would have been sufficient for the Court to have found a violation.

However, even assuming that that had not been the case, the article's title had amounted to a statement of facts which had appeared to be accurate. Indeed, the parties had not been in dispute about the fact that N.A.'s accusation concerning Mr Matei's protection of a criminal gang had been made.

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

Having considered the language used and the fact that the article's title had been written by a journalist concerning a debate of public interest and that Mr Matei had been a high-ranking politician, the Court concluded that the interference had not corresponded to a pressing social need and that it had therefore not been necessary in a democratic society. Accordingly, there had been a violation of Article 10.

Article 6 § 1

Finding that a separate issue did not arise under Article 6 § 1, the Court held that there was no need to examine the complaint about the unfairness of the proceedings.

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.