

EUROPEAN COURT OF HUMAN RIGHTS

13
9.1.2007

Press release issued by the Registrar

CHAMBER JUDGMENT KOMMERSANT MOLDOVY v. MOLDOVA

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Kommersant Moldovy v. Moldova* (application no. 41827/02).

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 8,000 euros (EUR) in respect of pecuniary damage and EUR 1,500 for costs and expenses. (The judgment is available only in English.)

1. Principal facts

The applicant, Kommersant Moldovy, is a company registered in Moldova.

Between June and September 2001 the applicant published a series of articles criticising the authorities of Moldova for their actions in respect of the Transnistrian region and reproducing harsh criticism of the Moldovan Government by certain leaders of the Transnistrian region and Russian leaders.

In November 2001 the Economic Court of Moldova ordered the closure of the newspaper. The court considered that the articles had: “exceeded the limits of publicity set out in Article 4 of the Press Act and endangered the territorial integrity of Moldova, national security and public safety and created the potential for disorder and crime, violating Article 32 of the Constitution”. It also stated that systematic violations of the Press Act could be sanctioned by the closure of a newspaper under Article 7 of the same Act.

The court did not specify which expression or phrase constituted a threat. It maintained, however, that the articles did not represent a fair summary of public statements by public authorities and were therefore liable under Article 27 of the Press Act. The applicant was ordered to pay court fees of 180 Moldovan lei. The judgment was upheld on appeal.

The newspaper was subsequently re-registered under the name “Kommersant-Plus”.

¹ Under Article 43 of the European Convention on Human Rights, 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.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 17 October 2002.

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

Nicolas **Bratza** (British), *President*,
Josep **Casadevall** (Andorran),
Giovanni **Bonello** (Maltese),
Matti **Pellonpää** (Finnish),
Kristaq **Traja** (Albanian),
Stanislav **Pavlovschi** (Moldovan),
Ján **Šikuta** (Slovakian), *judges*,

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

3. Summary of the judgment¹

Complaints

The applicant company complained that by ordering the closure of its newspaper the domestic courts had violated its right to freedom of expression. It relied on Article 10 and Article 1 of Protocol No. 1 (protection of property).

Decision of the Court

Article 10

The Court observed that in their decisions the domestic courts did not discuss the necessity of the interference to the applicant's rights they imposed. It noted, in particular, that they did not specify which elements of the applicant's articles were problematic and in what way they endangered national security and the territorial integrity of the country or defamed the President and the country. The only analysis made was limited to the issue of whether the articles could be considered as reproductions in good faith of public statements for which the applicant could not be held responsible in accordance with domestic law.

The Court considered that the domestic courts did not give relevant and sufficient reasons to justify the interference in question and was not satisfied that they "applied standards which were in conformity with the principles embodied in Article 10" or that they "based themselves on an acceptable assessment of the relevant facts". It therefore found unanimously that there had been a violation of Article 10.

Article 1 of Protocol No. 1

The Court held that there was no separate issue to be examined under Article 1 of Protocol No. 1

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

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

Press contacts

Emma Hellyer (telephone: 00 33 (0)3 90 21 42 15)

Stéphanie Klein (telephone: 00 33 (0)3 88 41 21 54)

Beverley Jacobs (telephone: 00 33 (0)3 90 21 54 21)

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.