

July 31, 2013

Yerevan

OPINION

On the complaint filed by “Investigative Journalists” NGO vs the verdict made by Shirak Region’s Court of General Jurisdiction

1. The FACTS

On 07/11/2012 a civil case was filed by the Head of Centre for Food Safety in Gyumri Hambardzum Matevosyan vs 4 citizens, for information published in “Azg” daily. The daily was involved as a third party by the General Jurisdiction Court of Shirak region, as the verdict addressed the legal interests of the media outlet. At a court session of 21 January 2013 the parties concluded a conciliation agreement. According to the agreement the respondents assumed the obligation to publish refutation in the daily within one week following publication of the verdict and in case the daily does not work, to publish refutation “*in another newspaper having similar circulation, as well as in an internet website – Hetq website*”. The Investigative Journalists NGO appealed the verdict with the Civil Court of Appeals reasoning that the NGO is the founder of the website and the conciliation agreement implies that the organization assumes certain responsibility whereas the organization was not involved in the court procedure as a party and thus was deprived of a possibility for legal protection. The organization expressed its bewilderment as to how the court could have defined responsibility for a legal person which is not a party in the court procedure. The Court of Appeals rejected the complaint with the justification that what was mentioned in the conciliation agreement was not a responsibility defined by court towards the website but it was a responsibility assumed by respondents. The organization has submitted another complaint to the Court of Cassation but the latter returned the application.

2. CONCLUSION

As enshrined in Article 18 of the RA Constitution, everyone has a right for the legal protection of his/her rights. According to Article 6 of the European Convention on Human Rights, everyone, when his/her civil rights and responsibilities are being defined, has a right to court procedure. In this particular case the court has endorsed an agreement which was defining a responsibility for the media outlet, i.e. publication of a refutation text of others. Thus the afore-mentioned court hearing was deciding over the issue of the media's outlet's responsibility. In light of such circumstance it was necessary to ensure possibility for the media outlet to use its right to court procedure by involving it as a party in court procedure. As long as no possibility was provided to use this right, the courts had no right to endorse a conciliation agreement since in light of part 4 of Article 33 of the RA Civil Code, the Court shall not endorse a conciliation agreement if it violates other persons' rights and legal interests. The Court of Appeals and First Instance Court have actually deprived the media outlet from a possibility for legal protection, defined under Article 18 of the Constitution.

Information Disputes Council

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of Information Centre of Armenia;

Manana Aslamazyan - Director of Alternative Resources in Media program;

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