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Opinion

On The Court Cases Filed By The “Civil Contract” Party Against Newsam, 24 News, 168 Zham Ltds., And Hayeli Club NGO

Facts

On April 25, 2023, the *Civil Contract Party* filed lawsuits with the Yerevan Civil Court of General Jurisdiction against *NewsAM Ltd.* (Court Case No. ED2/1995/02/23), *Hayeli Club NGO* (ED2/1901/02/23), *24 News Ltd.* (ED2/2000/02/23) and *168 Zham Ltd.* (ED2/2063/02/23). In the lawsuits, the party claimed that these organizations had disseminated defamatory statements tarnishing the party’s authority and reputation through their respective websites: news.am, hayeli.am, 24news.am and 168.am. The plaintiff specifically stated that on March 26, 2023, the day of the early elections to the RA Syunik Marz’s Sisian Community Council of Elders, the defendant organizations had published on their websites a statement issued by the Sisian Community campaign headquarters of the *Citizen’s Decision (CD) Party*, which also participated in the elections. The statement accused the *Civil Contract Party* of violations, which the latter deemed as defamation.

The proceedings for court case No. ED2/1901/02/23 remain ongoing, with the next hearing scheduled for November 5, 2024.

The proceedings for court case No. ED2/2063/02/23 are also ongoing. They have been significantly delayed due to the termination of the judge’s powers and the appointment of a new judge to oversee the case.

On September 25, 2024, in the case No. ED2/2000/02/23, the court issued a ruling, determining that *24 News Ltd.* had tarnished the plaintiff’s reputation, thereby violating Article 1087.1 of the RA Civil Code. The court supported its position by highlighting that despite the defendant’s assertion of having reproduced the statement from the Sisian Community campaign headquarters of the *Citizen’s Decision Party* in good faith, there were substantial differences between the published text and the version of the statement that the media had provided to the court as evidence. The media had published the following text:

“The CC Is Handing out Election Bribes: The Statement by the CD Campaign Headquarters”

“The CD campaign headquarters is receiving real time information regarding the election bribes being handed out to voters on behalf of the “Civil Contract” Party. This was reported by the headquarters.

“People representing the CC Party and employed at community and state institutions have been present in areas near the polling stations for a considerable time, with unclear roles. They are carrying some lists, which possibly contain data on citizens who have received election bribes.

The district electoral commissions have essentially stopped investigating the complaints filed by our proxies, which called for the identification of the individuals in question and the suspension of the actions aimed at instructing voters.

Election bribery is the most disgraceful electoral violation that associates the “Civil Contract” Party with the very political forces many sincere supporters of that party fought against years ago. It is the duty of state bodies, and, first of all, the leaders of the CCP, to put an end to such practices.

The CD SDP campaign headquarters announces that it is suspending any activities aimed at verifying information about the mentioned cases and identifying those responsible for actions with apparent criminal features.

It is the ruling force, which earned the trust of ordinary citizens in 2018, that should think about the reputation of the state and the governing force, above all else,” the statement reads.

Let us recall that the Republican Party of Armenia, the Civil Contract Party and the Citizen’s Decision Social-Democratic Party have entered the race in Sisian Community of Syunik Marz.”

The court determined that the above-mentioned text and the text provided as evidence were not identical, since the headline of the published piece *“The CC Is Handing out Election Bribes: The Statement by the CD Campaign Headquarters”* was an independent formulation created by the defendant media. Added to that, the statement by the CD campaign headquarters did not contain the phrase *“The CC is handing out election bribes”*. The court also noted that the last part of the phrase *“... It is the duty of state bodies, and, first of all, the leaders of the CCP, to put an end to such practices”* in the publication was absent in the original source, and the phrase *“and, first of all, the leaders of the CCP”* had been added by the editorial team. Furthermore, the court highlighted that the phrase *“... The CD SDP election headquarters announces”* differed from the original wording of the statement of the campaign headquarters, which read *“... The CD SDP election headquarters reminds”*. In other words, here the media had replaced the word *“reminds”* with *“announces”*. Additionally, according to the court, in the campaign

headquarters' statement, the phrase *"The RA Police must handle the process"* in the sentence *"The RA Police must handle the process of verifying information about the mentioned cases and identifying those responsible for actions with apparent criminal features,"* had been replaced with the phrase *"is suspending any activities"*, while in the sentence *"It is the ruling force, which earned the trust of ordinary citizens in 2018, that should think about the reputation of the state and the governing force, above all else,"* the term *"RA citizens"* had been replaced with *"ordinary citizens"*.

As a result of the above-mentioned details, the court concluded that the piece published by the defendant was not a bona fide and verbatim reproduction of the statement issued by the CD Party's campaign headquarters. Consequently, the defendant was not entitled to legal protection provided under paragraph 6 of Article 1087.1 of the Civil Code. The court recorded a violation based on this legislative provision, and upheld the defamation lawsuit against the media. The court also upheld the plaintiff's claims for 200,000 drams in compensation and 26,000 drams in state duty for non-pecuniary damage. However, the court reduced the requested attorney's fees from 360,000 to 200,000 drams. This judgment has not yet entered into force.

In contrast to the case above, during the examination of court case No. ED2/1995/02/23 involving the same plaintiff against *NewsAM Ltd.*, the defendant proved that the piece had been published on *News.am* website owned by them exactly as it had originally been distributed by the *Citizen's Decision* faction of the Sisian Council of Elders on March 26, 2023, at 16:29. A review of the publication titled "Urgent Statement by the CD Campaign Headquarters" on the faction's Facebook page revealed that **the text had been later modified**, meaning, the original version matched what was published on *News.am*. As for the headline of the article, although it differed from the original statement's headline, the representative of the media argued that the headline used by the website stemmed directly from the text of the publication and reflected its content.

The court rejected the lawsuit on August 12, 2024, determining that the media had published the statement of the CD campaign headquarters in good faith, without changing the text and had referenced the original source, which was the Facebook page of the *Citizen's Decision* faction of the Sisian Council of Elders. Citing the precedent ruling of the RA Court of Cassation^[1], the court of first instance noted that "a publisher of information, even if they have published the content verbatim or in good faith and referenced the source, cannot be exempted from liability if it is proven that at the time of republication, they were aware or should obviously have been aware that the information was defamatory, thus showing an intent to defame." However, in this case, the court ruled that the plaintiff failed to provide any evidence that the defendant media was aware or should have been aware that the statement of the *Citizen's Decision Party's* campaign headquarters was defamatory. Although the plaintiff *Civil Contract Party* argued that the absence of any judicial act confirming the electoral violations was in itself proof that the campaign headquarters' statement was false, and that the media could not have been unaware of the falsehood of the aforementioned circumstances, the court ruled that the freedom of the press to disseminate information about elections was of such importance that

the absence of a judicial act on electoral violations could not, in itself, serve as grounds for restricting the freedom of the press to report on these violations. Regarding court costs, the court decided to reduce the defendant's claim for attorney's fee from 500,000 to 150,000 drams, which was considered a fair and reasonable amount of compensation under such circumstances.

On October 1, 2024, the *Civil Contract Party* filed an appeal against this decision with the Civil Court of Appeal. On October 21, the appeal was returned for the deficiencies to be eliminated.

Conclusion

Prior to delving into the content of the judicial acts, the Information Disputes Council reiterates its earlier position that political parties should refrain from filing defamation lawsuits, especially against media, non-governmental organizations and other organizations engaged in activities of public importance.^[2] This primarily stems from the belief that citizens should have unfettered opportunities to criticize state and public bodies, which is an important condition for democracy. Meanwhile, when a political party, and especially the ruling force, initiates court cases against media, it may thereby constrain citizens from engaging in such criticism.

The second reason is that the reputation of state bodies and political parties is inherently public, in contrast to private organizations concerned with their business reputation. Thirdly, public bodies possess ample opportunities to defend themselves from criticism, including numerous means of responding swiftly and effectively – political, informational, lobbying capacities and other platforms and resources. Given these opportunities, filing lawsuits by parties, especially the ruling force, represents a misuse of public trust. It should also be taken into account that very often the real goal behind such lawsuits filed by public bodies is not to protect dignity, but to shield these bodies from criticism and silence criticism directed at them. Therefore, such lawsuits are unnecessary in a democratic society.

As for the content of the judicial acts, in case No. ED2/2000/02/23 of *the Civil Contract Party v. 24 News Ltd.*, the IDC disagrees with the court's conclusion that the media failed to publish the statement by the *Citizen's Decision Party's* campaign headquarters in good faith and verbatim. The court failed to uncover that, in fact, on March 26, 2023, two versions of the statement had been disseminated by the headquarters. This is particularly evident from the "View edit history" section of the text posted that day on the Facebook page of the *Citizen's Decision* faction of Sisian Council of Elders, which shows that the initial version of the statement was edited, with four changes made. When comparing these changes with the [statement](#) in question published on 24news.am website, it becomes evident that on March 26, 2023 the media had published the original version of the text distributed by the CD. However, months later, the media presented the already amended text as evidence in court, since the previous version of the statement was no longer publicly

available at the time of the court hearing. The media cannot bear responsibility for any subsequent changes to the text made by the source. What matters is that when publishing the statement, the editorial office reproduced the text verbatim and in good faith, as it appeared at that time, in line with Article 1087.1, paragraph 6 of the Civil Code. Thus, the media disseminated the content of the statement from the CD campaign headquarters in compliance with the procedure set by law.

The only modification in the published text attributed to the media is the phrase “*The CC Is Handing out Election Bribes*” in the headline, which did not appear in either the original or revised versions of the CD campaign headquarters’ statement. It is noteworthy that the editorial office did not present this headline as a quote from the statement and did not enclose it in quotation marks. The use of quotation marks starting only from the second paragraph of the publication, along with the citation of the statement suggest that the headline and the first paragraph are authored by the media. The IDC believes that even if the campaign headquarters’ statement does not express the idea of distributing election bribes as categorically and unambiguously (using the word “possible”) as the headline of the publication, the given headline still corresponds to the content of the statement that comes after it, which, as already pointed out, has been reproduced in good faith and verbatim. Summarizing the above, the IDC concludes that the court’s decision in this case constitutes a disproportionate interference with the media’s editorial freedom.

In contrast to the aforementioned case, in case No. ED2/1995/02/23 (*The CC v. NewsAM Ltd.*), the court compared the statement published on *News.am* with the text published on March 26, 2023 on the original source, i.e. the Facebook page of the CD faction of the Sisian Council of Elders, and another version available in the “View edit history” section of the same Facebook page. The court also examined the copy of the Sisian Council of Elders’ Decision No. 04-A of April 14, 2023, and came to the conclusion that the media had reproduced the controversial piece in good faith and verbatim, publishing the initial version of the disseminated statement without modifications.

The IDC agrees with the court’s conclusion. However, it can be seen as an oversight that the court failed to address the fact that the headlines of the piece published on the website and the statement disseminated by the campaign headquarters were not identical. In this regard, the IDC has already presented its position above, stating that the headline chosen by the editorial office generally aligns with the content of the statement.

A comparison of the judgments in the two previously mentioned similar court cases reveals a contradictory situation, where in one case the court found a violation for publishing the same statement, while in the other case it did not. It is clear that civil proceedings are conducted on an adversarial basis, and the courts make their decisions based on how well the parties manage to substantiate their claims or refute the ones presented by their opponents. In this regard, the judicial act does not indicate that the representative of *24 News Ltd.* demonstrated in court that the statement of the CD campaign headquarters had subsequently been revised. Nevertheless, considering the issue not only in the light of civil proceedings’ specifics, but also freedom of speech and rights of journalists, the IDC finds it

debatable that the founder of *24news.am* was held liable for the publication of a statement, which was revised by its distributor afterward.

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[1] Court of Cassation ruling in civil case No. EKD/2293/02/10 of 27.04.2012, page 11, paragraph 4.

[2] See the IDC [Opinion No. 99](#)