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Opinion

On the Court Case of Prime Minister Nikol Pashinyan v. Hraparak Daily Ltd.

Facts

On July 4, 2025, RA Prime Minister Nikol Pashinyan filed a lawsuit with the Civil Court of General Jurisdiction of Yerevan against *Hraparak Daily Ltd.,* demanding to oblige the defendant to publicly refute the defamatory information in an article titled "Is Pashinyan Cheating on His Wife?" published on the company's *hraparak.am* website and on its eponymous Facebook page. The plaintiff additionally requested that the court impose a compensation of 1 million AMD on the media for the damage caused through defamation. The Prime Minister submitted a refutation text bearing the following headline*: "Refutation: Regarding the defamatory information published about RA Prime Minister Nikol Pashinyan in the article titled 'Is Pashinyan Cheating on His Wife?'"*The body of the refutation read: *"On 06.06.2025, we published an article on www.hraparak.am website titled "Is Pashinyan Cheating on His Wife?" We hereby declare that the information in that publication entirely defames RA Prime Minister Nikol Pashinyan and is untrue."*

The plaintiff also requested that the court oblige the defendant to retain the refutation on the website for an unlimited duration. The plaintiff further requested that the refutation be displayed with the same priority to the visitors of the website, page, or online channel as the article containing defamatory information, and that the published text include no additional commentary or notes from the media, but consist solely of a verbatim reproduction of the text of the publication specified in the judgment.

Assigned the case number ED2/6979/02/25, the lawsuit is still pending trial. Prior to filing the lawsuit, Nikol Pashinyan did not reach out to the media to request a refutation or to exercise his right to response.

Conclusion

The Information Disputes Council decided to address the lawfulness of the controversial publication, taking into account the peculiarities of this legal case—namely, that the lawsuit was filed by the head of state against a media outlet. The IDC also considered the article's broader context, conditioned by the Prime Minister's public statements regarding the head of the Armenian Apostolic Church in the preceding months.

According to the plaintiff, the piece in question disseminated data considered defamatory. According to paragraph 3 of Article 1087.1 of the Civil Code, defamation entails the public presentation of factual data about an individual that are untrue and tarnish their honor and dignity. As for the defendant's position, it cannot be ruled out that the media will argue during the trial that the controversial remarks represent value judgments, they cannot be qualified as factual data, and that the burden of proof cannot be placed on them, as doing so would run counter to Article 10 of the European Convention on Human Rights (*Lingens v. Austria,* No. 9815/82, ECHR, 08/07/1986, paragraph 46).

After reviewing the remarks in question, the IDC finds that they largely represent factual data and should be proven. At the same time, when the article is evaluated within a broader context—considering the background in which it was published—it becomes evident that the media attempted to highlight how the the RA Prime Minister's public statements regarding the private life of the Catholicos of All Armenians were equally inappropriate as the controversial remarks about the RA Prime Minister's private life presented in the article. In this regard, the IDC believes that these remarks can be qualified as value judgments about the Prime Minister's public statements. Nevertheless, even in this case, the law requires that value judgments be based on certain facts, whose degree of reliability may be lower than what is required for the publication of strictly factual data. According to the Court of Cassation, an expression cannot be qualified as defamation if it has a certain factual basis and does not pursue the goal of tarnishing an individual's honor, dignity or business reputation, but constitutes an

inference formulated by an individual, relying on specific facts emerged from an analysis of factual circumstances linked to a particular matter.[1]

Thus, when presenting controversial remarks as value judgments, the defendant media must substantiate, firstly, that there was no intent to tarnish an individual's honor and dignity, and secondly, that the remarks have a certain factual basis. The question of to what extent these legal requirements are fulfilled must be determined during the judicial proceedings, based on the arguments and relevant evidence from the parties.

With regard to the plaintiff's position that the remarks contained in the article amount to defamation, under paragraph 4 of Article 1087.1 of the Civil Code, the burden of proof regarding the existence or absence of the necessary factual circumstances in such cases rests with the defendant. Therefore, it is incumbent upon the media to justify the factual basis behind the published remarks. Paragraph 5 (2) of Article 1087.1 provides important grounds for legal protection for defendants. Specifically, the public presentation of factual data is not considered defamation if it is driven by overriding public interest in the particular situation and in terms of its content, and if the individual who publicly shared the factual data is able to prove that they undertook reasonable measures to determine their authenticity and soundness, ensuring also the data was presented in a balanced manner and good faith. In other words, these provisions are means of legal protection for "reasonable publication."

The IDC believes that in this case the content of the article is conditioned by overriding public interest, namely, the public debate between the RA Prime Minister and a number of representatives of the Armenian Apostolic Church over political issues that deeply matter to the public, unfolding in a tense socio-political environment, which has prompted serious concern among the public.

Nevertheless, in relation to the second criterion outlined in the aforementioned subparagraph, the IDC observes that the article in question does not contain any indication that the media took reasonable steps to verify the authenticity of the factual data. This conclusion is further supported by certain expressions used in the text—such as "according to hearsay", "there were rumors"—which cannot reasonably be regarded as reliable sources of information and be credible to the audience. Whether the requirement for verifying factual accuracy has been met

[1] June 10, 2024 Decision of the Court of Cassation in civil case No. ED/36140/02/19 concerning Trdat Sargsyan, page 10. See also Insult and Defamation: A Guide to Legal Protection, Ara Ghazaryan, Davit Asatryan, page 13

is determined at the time the content is published. It is not assessed post factum, for instance, based on evidence obtained later. And if the media relies on a source, according to paragraph 9 of Article 1087.1 of the Code, the source must be referenced at the time of publication. According to the Court of Cassation, *"in terms of content, the source of information must be disclosed simultaneously with the dissemination of the information."*[2] This is explained by the necessity for the recipient of the information to be aware of the source at the moment it is disseminated, which may not be the immediate publisher, but another entity. According to Article 1087.1, paragraph 9, failure to indicate the source of information at the time of publication results in the publisher being held liable for defamation or insult, similarly to cases involving anonymous or fake sources. Even if the publisher later reveals the source, for example, during judicial proceedings, this does not exempt them from liability.[3]

With regard to the plaintiff, the IDC has repeatedly emphasized in its earlier opinions that high-ranking public officials should refrain from bringing defamation and insult lawsuits against media. This is a well-established social and legal concept in European public relations, which has been reflected in multiple legal and political documents of the Council of Europe and the EU.[4] In its Opinion No. 83, the IDC presented three solid reasons why high-ranking officials should refrain from bringing defamation and insult lawsuits against media. The first reason is that criticism of public institutions is a necessary prerequisite for democratic governance, while such lawsuits obstruct free discussion on issues of public concern. This also applies to the practice of filing large financial claims against media. Secondly, while the objective of legislative regulations related to insult and defamation is the protection of personal reputation, the public has a legitimate right to be informed about the private lives of politicians and high-ranking officials—including the head of state—whom they have elected and entrusted with a primary mandate, if the issue concerns their public functions and activities. Thirdly, the authorities have broad capabilities to defend themselves against harsh criticism, and filing lawsuits by state bodies and officials is regarded as a waste of taxpayers' money, as it creates ample opportunities for abuse by authorities intolerant of criticism.

[2] Decision of the Court of Cassation in civil case No. EKD/2293/02/10 of 27/04/2012 regarding "Skizb Media Kentron" Ltd., page 15, paragraph 5

[3] Insult and Defamation: A Guide to Legal Protection, Ara Ghazaryan, David Asatryan, Page 25

[4] Declaration on freedom of political debate in the media: Committee of Ministers of the Council of Europe *(Adopted by the Committee of Ministers on 12 February 2004 at the 872nd meeting of the Ministers' Deputies)*

This, however, does not imply that media have unlimited possibilities to report on the private lives of politicians and the head of state. The private and family lives of high-ranking state officials must also be protected, and such information may be published where it is of direct public concern to the way in which they have carried out or carry out their functions. However, even in these cases, the need to refrain from causing unnecessary harm to third parties must be taken into account.[5]

To sum up the points outlined above, the IDC concludes that the defendant media enjoys the protection under freedom of expression to the extent that it has raised an issue of great public interest, namely, the public statements of the head of state regarding the head of the Armenian Apostolic Holy Church, which have sparked heated public debate and deep concern. However, the article in question does not show that the editorial staff has made sufficient effort to benefit from the legal protection mechanisms of the "reasonable publication" principle. The piece was prepared and disseminated without proper factual basis and without indicating and referencing the source(s) of information. Using formulations like "according to hearsay" and publishing such pieces may not only be considered as an intent to denigrate a person (potentially resulting in legal consequences), but also clearly violates the fundamental principles of journalism.

The IDC also finds that attempts to interfere with the private lives of third parties (whether intentionally or unintentionally) in the context of this dispute are strictly unacceptable.

As regards the RA Prime Minister, he, like any other citizen, has the right to respect for his private and family life, without any special protections arising from his position. Within the framework of open public debate, politicians, and especially the head of state, should demonstrate the highest level of tolerance towards any criticism to ensure that discussions on important issues are unfettered. In any case, political debate, even if accompanied by provocative and offensive remarks, is widely protected by freedom of expression, and the Prime Minister should not, through his actions, hinder the progression of the debate he himself initiated. Yet, the lawsuit he has filed may have precisely the opposite effect.

The demand to recover 1 million drams in compensation from the defendant should also be considered in this light. The plaintiff has failed to substantiate why the dispute cannot be resolved through the publication of a refutation alone, and what the specific reason is for the

[5] See paragraph VII of the above-mentioned Declaration

monetary compensation. In addition, the plaintiff has not clarified what criteria were used to calculate and arrive at the aforementioned amount, which is disproportionately high and may have a chilling effect on the freedom of the media to disseminate information and opinions on pressing public issues. This approach runs counter to the European principles related to the field, including the precedent decisions of the European Court.

Another point of concern is that the RA Prime Minister, prior to turning to the court, did not attempt to resolve the dispute in an out-of-court procedure by submitting a refutation claim or exercising the right to response as prescribed under Article 8 of the RA Law "On Mass Communication". This article also outlines the procedure and conditions for a proper refutation, which the plaintiff failed to observe when filing the relevant lawsuit. In particular, paragraph 3 (3) of Article 8 requires that the refutation be titled "Refutation". Yet, as mentioned earlier, the refutation text submitted in this case was titled as follows: *"Refutation: Regarding the defamatory information published about RA Prime Minister Nikol Pashinyan in the article titled 'Is Pashinyan Cheating on His Wife?'"* This fails to meet the requirement of the law.

In conclusion, the IDC finds that the filing of a lawsuit by the Prime Minister against a media outlet, accompanied by a claim for monetary compensation, is unnecessary in a democratic society.

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