European Court of Human Rights: Case of Petrina v. Romania

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Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

In 1997, during a television programme that focused on the problems with access to administrative documents stored in the archives of the former Romanian State security services, C.I., a journalist with the satirical weekly 'Caţavencu', alleged that a politician, Liviu Petrina, had been active in the secret police Securitate. A few weeks later, the same journalist published an article reiterating his allegations. Similar allegations of collaboration by Petrina with the Securitate under the regime of Ceauşescu were also published by another journalist, M.D. Petrina lodged two sets of criminal proceedings against the journalists, C.I. and M.D., for insult and defamation, but both journalists were acquitted. The Romanian Courts referred to the European Court's case law regarding Article 10 of the Convention, guaranteeing the right of journalists to report on matters of public interest and to criticise politicians, esp. as the allegations expressed by the journalists had been general and indeterminate. A few years later, however, a certificate was issued by the national research council for the archives of the State Security Department Securitate, stating that Petrina was not among the people listed as having collaborated with the Securitate.

Following the acquittal of the two journalists by the Romanian Courts, Petrina complained in Strasbourg that his right to respect for his honour and his good name and reputation had been violated, relying on Article 8 of the Convention (right to respect for private and family life). The Court accepted that the acquittal of the journalists could raise an issue under the positive obligations of the Romanian authorities to help with ensuring respect of Petrina's privacy, including his good name and reputation.

The European Court recognised that the discussion on the collaboration of politicians with the Securitate was a highly sensitive social and moral issue in the Romanian historical context. However, the Court found that, in spite of the satirical character of Caţavencu and in spite of the mediatisation of the debate, the articles in question were intended to offend Petrina, as there was no evidence at all that Petrina had ever belonged to the Securitate. It also found that the allegations were very concrete and direct, not "general and undetermined", and were devoid of irony or humour. The Court did not believe that C.I. and M.D. could invoke, in this case, the right of journalists to exaggerate or provoke, as there was no factual basis at all for the allegations. The journalists' allegations overstepped

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the bounds of acceptability , accusing Petrina of having belonged to a group that used repression and terror to serve the regime of Nikolai Ceauşescu.

Accordingly, the European Court was not convinced that the reasons given by the domestic courts for protecting the journalists' freedom of expression (Article 10) were sufficient to take precedence over Petrina's reputation, as protected under Article 8 of the Convention. The Court found unanimously that there had been a violation of Article 8 of the Convention. Petrina was awarded 5,000 EUR in non-pecuniary, moral damages.

Arrêt de la Cour européenne des Droits de l'Homme (troisième section), affaire Petrina c. Roumanie, requête n°78060/01 du 14 octobre 2008

Judgment by the European Court of Human Rights (Third Section), case of Petrina v. Romania, Application no. 78060/01 of 14 October 2008

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