***COURT CASES AGAINST JOURNALISTS AND MEDIA (2022-2023)* Report Based on Monitoring Data**

******

***Project Director: Ashot Melikyan
Lawyer: David Asatryan
Media Expert: Hasmik Budaghyan***

***INTRODUCTION***

From August 1 to December 31, 2023, the Committee to Protect Freedom of Expression (CPFE) conducted a monitoring of court cases against media and journalists. The monitoring covered the lawsuits filed with courts, the objections raised, the course of case proceedings, as well as the rendered verdicts and decisions. Based on the findings, including statistical data, the CPFE carried out an analysis and prepared the current Report. This is the CPFE’s fourth study of a similar nature. This time, the monitoring focused on the insult and defamation court cases initiated against media and journalists in the years 2022 and 2023.[[1]](#footnote-1) The monitoring also covered the lawsuits accepted for proceedings in 2021, with verdicts issued in 2023.

The continuity of the monitoring is crucial for identifying the ongoing trends in judicial practice and assessing the impact of extensive judicial reforms announced by the government in recent years on court cases involving journalists and media.

In he course of the current study, the CPFE identified the extent of the courts’ adherence to the legal framework regulating the media, international conventions, as well as the rulings of the European Court of Human Rights, the RA Constitutional Court and the RA Court of Cassation when examining insult and defamation disputes and issuing judgments in their regard. Recognizing the uniform legal interpretation of cases with similar factual data as one of the key indicators of predictable justice, the monitoring team also gave attention to this aspect: the CPFE identified cases where the provisions of the same law were interpreted in different ways by the courts.

The independence of media and journalists is crucial for a democratic society, therefore this study delves into whether the courts take into account their mission, the standards of freedom of speech and its public interest. When analyzing some cases, reference was made to the judgments and opinions of the Information Disputes Council professional initiative.

In the course of monitoring, the analysis of the court cases was conducted using the following criteria related to their content and judicial aspects:

* defamatory nature of information
* distinguishing between facts and value judgments
* pecuniary and non-pecuniary compensation
* challenge of identifying the proper defendant
* reasoning in judicial acts
* application of a measure to secure the claim
* litigation costs (amount of state duty, attorney's fee, etc.).

The monitoring of court cases against journalists and media holds substantial importance, primarily to assess the legality and proportionality of potential restrictions on freedom of speech. It seeks to pinpoint the existing problems, proposing solutions and enhancing judicial practices. The study, whose findings are presented below, specifically aimed to achieve this objective.

**MONITORING RESULTS**

The study included court cases filed against media and journalists in 2022 and 2023. Throughout this two-year period, a total of 71 new lawsuits were filed, with 35 in 2022 and 36 in 2023. Out of these, 56 were accepted for proceedings - 25 in 2022 and 31 in 2023.

In 32 out of the 56 cases (11 in 2022 and 21 in 2023) the plaintiffs were current or former officials, politicians or state institutions, in 14 cases (6 and 8, respectively) they were businessmen or business companies, in 5 cases (4 and 1, respectively) - natural persons, in 1 case (1 and 0, respectively) - a representative of a civil society organization, in 4 cases (3 and 1, respectively) - media.

Taking into consideration that in 2023 judgments were rendered for the cases initiated in 2021, the monitoring team incorporated them into the study as well. There are 10 such cases. The lawsuits in 5 additional cases analyzed were filed in 2022. Thus, the monitoring analyzed a total of 15 cases where at least one judicial act was issued. It is noteworthy that the judgments for 7 cases have already entered into force, indicating that the disputes were resolved. As for the remaining 8 cases, 1 or more acts were issued, but the court proceedings were ongoing at the time of publication of the study.

During the 2022 and 2023 period under consideration, 1 reconciliation agreement was reached in a 2022 case, which led to the termination of that particular case. The lawsuits were returned and not accepted for further proceedings (thereby the court cases were completed) in 10 cases, of which 7 in 2022, and 3 in 2023. The number of cases dismissed on the grounds of withdrawal of the lawsuit amounts to 3, all occurring in 2022.

3 cases were identified in which lawsuits were filed in violation of the one-month statute of limitations, which were rejected by the courts based on the defendants’ motions. Conflicting judicial acts were issued in the case of *Armenian National Interests Fund (ANIF) CJSC v. 168 Zham Ltd.* (No. ED/21745/02/21), where 3 of the total 5 judges who heard the case concluded that the period commenced from the date of the article’s publication, whereas two judges from the Court of Appeal argued that the starting point should be calculated from the day following the publication.

As it was mentioned in the Introduction, the overwhelming majority of court cases accepted for proceedings are on the grounds of insult and/or defamation in media publications. In 2022, there were a total of **22** such cases, in 2023 - **29**. The number of other cases filed against media and accepted for proceedings amounts to **3** in 2022, and **2** in 2023 (see Figure 1).

Figure 1

In **5** out of the total **51** insult and defamation cases accepted for proceedings, media founders were involved not as defendants, but as a third party, with **4** occurring in 2022 and **1** in 2023.

Through a comparison with previous studies, one can observe that insult and defamation lawsuits increased in 2021, reaching the same level as in 2019, and dropped sharply in 2022, marking the lowest point in the past 4 years. In 2023, however, a certain increase was recorded (see Figure 2). As years of the CPFE observations have shown, this is mainly conditioned by the socio-political climate in the country: in times of heightened tension, complaints and pressures on the media increase as well, including in the form of lawsuits. Presented below is the quantitative data on insult and defamation lawsuits since 2010, when these legal violations were decriminalized.

Figure 2

The number of these cases could obviously be minimized if there were established mechanisms of out-of-court settlement of information disputes, as well as media self-regulation system in the country, and if the overall level of professional capacities and legal knowledge among journalists were higher.

In 2023, draft proposals[[2]](#footnote-2) for amendments and supplements to the Law “On Mass Communication” and the Civil Code were introduced. These proposed changes, among other things, recommend incorporating out-of-court mechanisms in dealing with insult and defamation cases. Previously, many individuals refrained from resorting to these mechanisms also due to concerns about time consumption and potential statute of limitations violations. However, the proposed modification in Article 1087.1 of the Civil Code aims to activate the one-month statute of limitations from the moment an individual receives a decision on their application from the self-regulatory body or when the deadline for that decision expires. These bills are still in the process of being reviewed.

Similar to previous studies, violations of the reasonable timeframe for judicial examinations were recorded once again. Notably, the case of *Arman Martirosyan v. Exclusive Media Holding Ltd.* extended for around 20 months, which is not reasonable, especially when there was no response or objection submitted, indicating the absence of the classic stage where facts are contested in a court case. Various observations point to information disputes lasting for 3, 5 and even 10 years. The prolonged duration of the judicial examination also affects the execution of the final verdict, echoing the perspective of the European Court of Human Rights, which underscores that justice delayed is justice denied.

As for the practice of reviewing court cases related to insult and defamation, the monitoring findings indicate the existence of problematic approaches and oversights that impede the delivery of legitimate and well-grounded judgments. The subsequent analysis will delve into these issues based on the criteria, providing specific examples from the observed court cases.

**Facts and Value Judgments**
In 4 of the cases examined, the monitoring identified a problem of improper distinction between facts and value judgments by the courts, which in many cases leads to incorrect resolution of disputes. Meanwhile, the Decision DCC-997[[3]](#footnote-3) of the RA Constitutional Court underscores the necessity of applying a uniform approach and making a distinction between value judgments and factual data in such court cases right from the beginning.

That distinction between value judgments and factual data is important as the legal procedures and consequences associated with them are different. Very often, the courts fail to address this issue during case examination, only clarifying in their judgments whether expressions constitute factual data or value judgments. Meanwhile, establishing this distinction from the beginning would enable trial participants to properly organize their tactics and present valid evidence and arguments.

In 8 out of 15 analyzed cases, the issue of distinguishing between value judgments from factual data was raised, indicating that nearly in every second such court dispute this aspect is overlooked. This oversight has the potential to result in illegitimate and contentious court rulings. This implies that there is a lack of uniformity in judicial practices, which leads to the violation of fair trial principles.

Thus, in the case of *Serob Sargsyan v. journalist Liana Sargsyan* (No. ARD1/0156/02/22), the court classified the expressions “scoundrel” and “you should spit in this creature's face” as value judgments. However, through these words the defendant called for a specific action against the plaintiff, surpassing the boundaries of legality and tolerance.

*We believe that the legislative body has the capability to mandate a specific requirement for defamation and insult cases. This requirement should involve responses to crucial questions integral to the court examination, including a substantiation of whether the statements constitute value judgments or factual data.*

**Defamatory Nature of Statements and Intent Behind Them**

In its precedent ruling[[4]](#footnote-4), the Court of Cassation outlined the criteria for deeming expressions defamatory, stating that: “The author of the statement must, from the beginning, have the objective of tarnishing the other person's honor, dignity or business reputation. In essence, he/she must have the intention to tarnish the other person's reputation and subject them to humiliation through the statement in question.”

*Courts also employ inconsistent approach and legal interpretations when examining the issue of whether expressions are defamatory and carry an intent. At times, the defamation threshold set by courts is so low that it could virtually make it impossible to exercise the right to freedom of speech. Conversely, in certain cases, the threshold is raised to an extent where the defamation of an individual's honor and dignity is interpreted as legitimate.*

For example, in the case of *Mariam Hovsepyan v. International Media Holding Ltd.* (No. ED/43787/02/22), the court qualified the expression “(...) her attacks on social media” as defamation, whereas “attacking” a certain individual on social media cannot be considered a condemnable action, misdemeanor, or offense unless the person goes beyond the boundaries of free speech. That action does not reach a level of slanderous nature qualifying as defamation. Moreover, in this case, despite acknowledging that the word “attack” was not of slanderous nature, the court, nevertheless, classified it as defamation.

*The slanderous nature of expressions is still not sufficient to record that there is defamation committed with intent. It should be justified. Throughout the study, there were not identified cases where the courts provided the presence or absence of intent in detail and with reasoning. The courts often recognize the intentionality, failing to provide the facts based on which the relevant conclusion was drawn.* In particular, in the case of *Hakob Arshakyan v. ArmdayAM Ltd. and International Media Holding Ltd.* (No. ED/29999/02/22), the court determined there was an intent to defame the plaintiff. However, throughout the examination of the court case, we found no evidence supporting such a conclusion. At the very least, the court did not provide any rationale for that assertion.

**Challenge of Identifying the Proper Defendant**

*The data collected through monitoring indicate that the courts also face the challenge of improper defendants, when a lawsuit is initially filed against someone who is either non-existent or is not a real defendant in the case. In judicial practice, this problem is manifested mainly in 2 ways: firstly, when the media itself is implicated as defendant instead of the authentic entity that runs it (such as Ltd., CJSC, NGO, etc.), and secondly, when an allegedly defamatory article is published in any media with the signature of an unidentified person.*

Paragraph 9 of Article 1087.1 of the RA Civil Code establishes that if the source of the information was not mentioned in the insult or defamation or if the person is not known, the responsibility for compensation falls on the entity who published it—specifically, the media represented by its owner.

Throughout the monitoring, the above-mentioned issue was recorded, in particular, in the court case of the *Armenia National Interests Fund CJSC v. Hraparak Daily Ltd. and Suzan Simonyan* (No. ED/33821/02/21)*.* The lawsuit was filed against Suzan Simonyan, whose real name turned out to be Susanna Simonyan. Later, the plaintiff corrected the error; however, by the time of the correction, the statute of limitations had expired, leading to the court rejecting the lawsuit without addressing the claims presented therein.

Meanwhile, in another court case *(Armenia National Interests Fund CJSC v. Hraparak Daily Ltd. and Hrant Bagratyan (No. ED/47388/02/21)),* the very Suzan Simonyan was identified as the author of the article. In this case, in relation to the claim against the media, the court pointed out that both in the introductory and conclusive sections of the article there were references to the information source, namely, author Suzan Simonyan. This circumstance served as grounds for exempting the media from liability for insult or defamation in accordance with Paragraph 6 of Article 1087.1 of the RA Civil Code.

Thus, based on the above-mentioned court cases, it is evident that in one case, the lawsuit filed against Suzan Simonyan was inaccurate, as the actual author was Susanna Simonyan. In another case, the lawsuit against the media was illegitimate, as the piece was authored by Suzan Simonyan herself. *These contradictions point to the courts' failure to adequately review the case.*

And in the case of *Karen Melik-Tangyan v. Social Media Ltd. and Armen Khachatryan* (No. ED/55488/02/21), the lawsuit was filed against the owner of the media and Armen Khachatryan, under the presumption that the latter was the author of the article. However, the court rejected the claim against Armen Khachatryan, citing that he was an improper defendant in the case, and there was insufficient evidence to establish him as the author of the publication.

**Pecuniary and Non-Pecuniary Compensation**

In matters of pecuniary and non-pecuniary compensation claims too, the Armenian judicial practice exhibits a lack of uniformity. The study’s findings indicate that the courts have increased the limits for pecuniary compensation for insult and defamation. While previous studies typicaly noted a standard compensation in the amount of 200 thousand drams, the current monitoring highlights instances where 500 thousand drams were applied twice, and in one case, 50 thousand drams each for insult and defamation. Moreover, the problem of the courts lacking a unified approach in this matter has been previously raised in similar studies, yet no positive changes have been observed to date.

**It is noteworthy that the courts predominantly awarded pecuniary compensation in cases where the plaintiffs were public officials, as evident in the lawsuits filed by Yerevan State University Rector Hovhannes Hovhannisyan and National Assembly Vice President Hakob Arshakyan. In one case with citizen Mariam Hovsepyan as the plaintiff, 50 thousand drams each for insult and defamation were established. Pecuniary compensation was rejected in cases where the plaintiffs did not hold official positions, as demonstrated by the example of businessman Arman Martirosyan.**

The observations above give reasons to conclude that the courts in Armenia are still not fully independent and in certain cases display unjustifiable favoritism towards officials, which is not in accordance with the democratic principle of the rule of law. This is a vicious phenomenon that poses significant challenges in terms of justice and public trust in it.

The RA Constitutional Court’s November 15, 2011 Decision No. DCC-997 outlined its stance on the application of pecuniary compensation measures for insult, emphasizing the need for caution. It should also be borne in mind that the European Court of Human Rights has repeatedly stated that tolerance and open-mindedness are the basis of democracy, with the right to freedom of expression protecting not only acceptable speech, but also those expressions that may be considered shocking, offensive or upsetting by some. Additionally, when awarding pecuniary compensation, it is necessary to take into account its possible restrictive effect on freedom of expression, as well as other available lawful means of protecting one’s reputation. The CC further highlighted the non-pecuniary forms of compensation as the first remedy for the damage caused by defamatory statements.

In the RA Court of Cassation’s precedent ruling on case No. EKD/​​1320/02/14 of December 2, 2016, it was highlighted that if a person claims only non-pecuniary measure of compensation for insult or defamation, the court must confine itself to the application of that measure alone. And in cases where both pecuniary and non-pecuniary compensation is claimed, the non-pecuniary measure shall be applied first, and only in case it is found to be insufficient, can the court apply the measure of pecuniary compensation. The Court of Cassation also emphasized that non-pecuniary compensation, as a rule, ensures the proportionality of the compensation to the damage incurred, as in that case (when making a pubic apology or publishing a refutation) the person causing the damage suffers certain non-pecuniary damage, in particular by admitting one’s own unlawful conduct. This is especially important for an aggrieved party whose honor, dignity, or business reputation have been publicly tarnished.

These key decisions above have underscored the criteria that should guide courts in determining pecuniary compensation. However, in 3 cases, they were not included in the reasoning of judicial acts.

Thus, out of **15** court cases analyzed, **5** lawsuits were upheld. Within these **5**, compensation claims were dismissed in **2** cases and granted in **3**. Notably, monetary claims were absent altogether in only 2 out of the 15 cases. The amounts awarded as compensation (in AMD), are presented below in Figure 3.

Figure 3

The data in Figure 3 reveal a threefold increase in the awarded compensation amounts compared to 2022. It is worth noting that there are three upheld cases in both years. This stands out especially in light of the amendments to Article 1087.1 of the Civil Code that entered into force on October 23, 2021, which tripled the upper thresholds of pecuniary compensation for insult and defamation, from 1 million to 3 million AMD, and from 2 million to 6 million AMD, respectively. In fact, these legislative changes have had an obvious negative impact on judicial practice.

*The study findings have revealed that plaintiffs do not appeal against the amount of pecuniary compensation, when the sums set by courts are lower than what was initially claimed. This can be attributed to the fact that when setting a maximum amount in their claims, the plaintiffs, on the one hand, do not take into consideration the established judicial practice and the factual context of the case, and on the other hand, pecuniary compensation in reality is not the primary objective for most plaintiffs. However, they often tend to view this measure as an additional leverage to influence the media and their employees, and when this strategy fails, the plaintiffs opt to accept the court’s ruling rather than continue the battle with an uncertain perspective.*

**Importance of Reasoning in Judicial Acts**

The 2019-2020, 2021-2022 and 2022-2023 monitoring data showed that the judicial acts issued on insult and defamation cases often lack proper reasoning. The European Court of Human Rights has noted that according to Article 6 (1) of the European Convention, the judgments of the courts must contain sound reasoning to demonstrate that the parties have been heard and to ensure public scrutiny of the administration of justice*.* Accordingly, the question whether a court has failed to fulfil its obligation to state reasons can only be determined in the light of the circumstances of the particular case[[5]](#footnote-5).

The RA Constitutional Court Decision No. DCC-690 of April 9, 2007 emphasized the significance of the normative requirement of providing adequate reasoning in judicial acts to ensure both the accessibility of justice and the efficient legal protection of individuals’ constitutional rights[[6]](#footnote-6).
Nevertheless, the monitoring of judicial acts revealed that not in all cases the courts follow the above-mentioned principles. In the case of *Hakob Arshakyan v. ArmdayAM Ltd. and International Media Holding Ltd.* (No. ED/29999/02/22), for instance, the court, in partially upholding the claim for a pecuniary compensation and setting it at 500 thousand AMD, actually did not invoke the mentioned principles. Additionally, it did not provide an explanation regarding the factual basis it used to conclude that non-pecuniary compensation was insufficient for restoring the incurred damage. A similar approach was observed in the examination of case No. ED/37855/02/21 involving *Hovhannes Hovhannisyan v. Media Plus Ltd. and Free Speech Platform NGO*.

In some cases, the courts, acknowledging the slanderous nature of certain expressions, oblige defendants to refute them or the entire article without providing reasons and clarifying the grounds for deeming them slanderous. An example is the case of *Karen Melik-Tangyan v. Social Media Ltd. and Armen Khachatryan* (No. ED/55488/02/21), where the court ordered to refute the expression “Under ‘divide to conquer' principle, he is doing everything to set the museum's employees against each other and make them quarrel.” The court superficially addressed this part of the publication in question, without conducting an analysis and clarifying why that expression was slanderous. A similar approach was also displayed in *Arman Martirosyan v. Exclusive Media Holding Ltd.* case No. ED/48087/02/21.

*The rule of properly presenting reasoning in judicial acts is not an end in itself: it aims to clearly explain to the parties the reason behind the court’s decision, and additionally, it helps to prevent arbitrariness. The reasoning behind judicial acts also helps superior courts to conduct a comprehensive assessment of the legitimacy of judgments and decisions.*

**Measure to Secure the Claim**

The 2022-2023 monitoring data indicate that in court disputes related to insult and defamation in the media, the submission of motions to secure the claims is a rarity, with even fewer instances of granting such motions. In **3** analyzed cases such a claim was submitted, of which **1** was granted. Thus, in court case No. ED/47388/02/21, *Armenian National Interests Fund CJSC v. Hraparak Daily Ltd. and Hrant Bagratyan*, a lien was placed on the media's property (excluding financial resources), as well as on the property owned by Hrant Bagratyan. This cannot be considered legitimate. The application of such a measure in defamation and insult cases without substantial arguments is unfounded.

*Some plaintiffs, in fact, are trying to use the motions to secure claims as a means of punishment against the media and journalists. It is crucial for courts to counter these intentions through their rulings. In 2022-2023, a total of 39 million AMD claims were submitted, of which 1 million was granted. This proves that the submission of pecuniary claims fails to serve its purpose.*

**Litigation Costs (Amount of State Duty, Attorney’s Fee, etc.)**

In the studied cases, the problems related to litigation costs mainly arose when calculating the amount of state duty (in 1 case) and when determining the amount of reasonable remuneration for an attorney (in 5 cases).

In the court case No. ED/39374/02/22, *Armenian National Interests Fund CJSC v. Pastinfo Ltd.,* the defendant presented a claim of 4,313,600 AMD as an attorney’s fee, while the court set the fee of 200,000 AMD to be paid. Despite the court making reference to the criteria for determining the attorney remuneration, it failed to present any analysis or reasoning related to their actual implementation in its verdict. Thus, neither the amount claimed by the defendant nor the amount of the attorney's fee set by the court correspond to the average price standard approved by the Council of the RA Chamber of Advocates.

*The monitoring findings indicate that courts almost never comply with the average pricelist[[7]](#footnote-7) of attorney's fees defined by Article 6, Paragraph 5[[8]](#footnote-8) of the RA Law “On Advocacy”, occasionally making references to it.*

As for the issue of calculating the amount of state duty, it can be observed in the case of *Artur Vanetsyan v. Gurgen Melkonyan and Public Television Company of Armenia CJSC* (No. ED/36336/02/21), where the plaintiff provided a receipt indicating the payment 60 thousand AMD state duty, and the case involved two non-pecuniary claims and a pecuniary claim totaling 2 million AMD.

Hence, the amount of the state study should have been 48 thousand AMD. Article 9 of the RA Law “On State Duties” specifies the payments applicable for filing a lawsuit: 4 thousand AMD for each non-pecuniary claim, and 2 percent of the claim value for pecuniary claims, (in this case, 8 thousand and 40 thousand drams, respectively).

The court should have addressed this inconsistency during the lawsuit acceptance stage or in the final proceedings. Notably, the concluding part of the judgment mandated 18,000 AMD confiscation from the defendant in favor of the plaintiff, representing the pre-paid state duty amount. The approval of the non-pecuniary claim and partial award (in the amount of 500 thousand AMD) for the pecuniary claim imply that the amount of state duty was subject to recalculation and a partial reimbursement to the plaintiff.

*Thus, there are inaccuracies in the calculation, determination and payment of the state duty, which the court should not tolerate.*

\*\*\*

**Below we provide an analysis of court cases brought against journalists and media in chronological order.**

**Vahe Enfiajyan v. Social Media Ltd.**

**(Court Case No.** [**ED/15587/02/21**](http://datalex.am/?app=AppCaseSearch&case_id=45880421204141081)**)**

**Background of the Case**

On April 16, 2021, Vahe Enfiajyan, former deputy of the RA National Assembly, filed a lawsuit against *Social Media Ltd.* (founder of *Mamul.am* news website) with the Court of General Jurisdiction of Yerevan, demanding to oblige the media to publicly refute the defamation. The lawsuit was caused by an article[[9]](#footnote-9) entitled “Vahe Enfiajyan's Assistant Offers Payment in Exchange for Writing Complimentary Remarks about Tsarukyan and Discrediting Pashinyan,” published on *Mamul.am* on December 9, 2020. On April 28, 2021, the lawsuit was accepted for proceedings; three court hearings were held on July 20, November 30, 2021, and February 21, 2022. On March 9, 2022, the court ruled to oblige the defendant to publicly refute the information defaming the plaintiff on their *Mamul.am* website.

On April 22, 2022, the defendant filed an appeal, which was upheld on June 22: the ruling was overturned, the lawsuit was sent for a new examination and was accepted for new proceedings on September 27. Four court hearings were held on November 3, December 21, 2022, and on April 11 and July 6, 2023. On July 21, the court ruled to entirely reject the lawsuit and confiscate 30,000 AMD from the plaintiff in favor of the defendant as a state duty.

The judicial act was not appealed and entered into legal force.

**Defamatory Nature of Information**

The plaintiff highlighted that the following part of the aforementioned article raised concerns: “A communication between Liana Manukyan, assistant to PAP Deputy Vahe Enfiajyan, president of PAP Student Council, and a Facebook user has been circulated on the Internet. The messages revealed that Enfiajyan's assistant offered payment to a Facebook user in exchange for disseminating positive content about PAP and Gagik Tsarukyan. In Manukyan’s words, this involved “writing complimentary remarks about PAP and criticisms about Pashinyan and his team.” When the user declined the offer, Liana Manukyan responded: “The choice is yours, we're not seeking favors. There are thousands of unemployed, hungry people. Good luck.”

The court referred to the ruling[[10]](#footnote-10) of the RA Court of Cassation in the civil case No. EKD/2293/02/10, outlining the criteria to determine whether an expression qualifies as defamation. It specifically underlines that for an expression to be qualified as defamation it must involve the presentation of actual defamatory information about an individual, and such information must be untrue.

According to the court, by presenting Liana Manukyan as Vahe Enfiajyan's assistant, an attempt was made to attribute the condemnable act to the plaintiff, who was most likely the main target of the article’s author.

The plaintiff's suggestion to resolve the matter out of court and publish a refutation on the website was rejected by the editorial team.

On June 7, 2021, the founder of the media submitted a response to the lawsuit, contesting the presented demands. The founder contended that the published piece adhered to Article 9, Part 2, Paragraph 3 of the RA Law “On Mass Communication,” which stipulates that: “The person carrying out media activities shall be exempt from liability for disseminating information if it constitutes… a literal or bona fide reproduction of the information from public statements, official documents of state bodies, other media products or works of authorship and includes a reference to the original source.” In addition, the defendant argued that the publication did not refer to the plaintiff, but rather focused on Liana Manukyan.

The court acknowledged that even though the piece detailed Liana Manukyan's actions, she was presented as an assistant to the plaintiff, and the actions ascribed to her were directly related to her supervisor, deputy Vahe Enfiajyan, were condemnable in nature and could cast a shadow on the latter's reputation, tarnishing his good reputation. As a result, the court concluded that the disputed piece was directly associated with the plaintiff. At the same time, the court highlighted that the authenticity of the fact that Liana Manukyan served as the plaintiff's assistant remained unproven, a requirement the defendant was obliged to fulfil.

In their appeal, the defendant stated that the court had overlooked the media’s evidence, which indicated Liana Manukyan’s employment within the plaintiff's staff. In response to the complaint, the plaintiff, in his turn, argued that the evidence had been submitted to the court in violation of the deadlines, and furthermore, no valid reason had been provided. Consequently, in the plaintiff’s view, it was evidence presented in violation of the procedural regulations.

In this regard, the Civil Court of Appeal concluded that the court of first instance, by failing to address whether Liana Manukyan indeed served as an assistant and omitting it from the subject of proof, had deprived the defendant of the chance to provide evidence on this fact, resulting in adverse consequences for the defendant. In light of these circumstances, the appellate court deemed the lower court’s actions as not aligned with the legal framework outlined in Article 60, Paragraph 1[[11]](#footnote-11) of the RA Civil Procedure Code and made a decision to overturn the verdict, sending the case for a new examination.

Following a new examination, the court of first instance found that the plaintiff had not been deprived of the chance to submit a relevant motion and present evidence. Nevertheless, the plaintiff failed to furnish any evidence supporting the assertion that Liana Manukyan was not Vahe Enfiajyan's assistant. Conversely, the evidence presented by the defendant substantiated that at the time of the publication of the piece, Liana Manukyan was a paid assistant to NA deputy Vahe Enfiajyan.

In fact, the evidence presented by the defendant disproved plaintiff Vahe Enfiajyan's assertion that Liana Manukyan was not part of his staff and did not serve as his assistant. Given this factual context, the court ruled to entirely reject the lawsuit.

**Conclusion**

First of all, it is noteworthy that following the decision of the Court of Appeal, the course of the dispute took a distinctive way, diverging from standard procedures typically associated with cases involving insult and defamation. In particular, such cases usually involve discussions about the slanderous nature of remarks, the intent behind them, whether they were directed at the plaintiff and other similar issues. However, within the frames of this case, the examination revolved around verifying the factual information on whether Liana Manukyan was employed by the plaintiff.

Noteworthy is the statement within the article, claiming that a specific individual offered payment in exchange for disseminating positive content about a particular politician and party while criticizing RA Prime Minister Nikol Pashinyan and his team. These expressions were made against the backdrop of certain political developments in Armenia, contributing to an increased negative sentiment towards the subjects of the article. Therefore, it was essential for the court to examine the degree to which these expressions were perceived as tarnishing the honor and dignity of a person.

We believe that publishing materials with positive or negative content about politicians for payment may not be deemed an illegal action. To a certain extent, there could be some complications if it were confirmed that Liana Manukyan had been engaged in other activities instead of performing her duties. However, in this case as well, not all the elements are present to categorize the expressions as defamation. Moreover, even if we momentarily assume it to be an unlawful act, the article, however, makes it clear that the plaintiff was not the party involved, and the arguments claiming a violation of his rights appear weak.

It is apparent that with the aim of ensuring the intensity of the piece, the media underscored the workplace of the person allegedly involved in a certain act, creating an impression among readers that the plaintiff was the mastermind behind the said act. Nevertheless, there is no explicit mentioning of it in the article.

Essentially, the pivotal factor for the settlement of this dispute is not whether Liana Manukyan was employed at the specified location, but whether the statements in question were defamatory and were directed at the plaintiff. Moreover, assumptions do not hold legal weight unless there is direct communication addressed to the plaintiff. Meanwhile, in this particular case, these matters were not addressed in the final judicial decision, and the court failed to draw any conclusions on them.

Thus, given the absence of any expressions directed at the plaintiff in the contested article, the outcome of the litigation, namely, the rejection of the claim in this regard is justified. However, the subject matter and scope of the examination do not correspond to the procedures typically employed in insult and defamation cases. In such circumstances, the approaches of the trial participants’ representatives, specifically the attorneys, become particularly significant, since they can guide the court through procedural tools to address essential facts in resolving the dispute.

**Armenian National Interests Fund CJSC v. 168 Zham Ltd.**

**(Court Case No. ED**[**/21745/02/21**](https://datalex.am/?app=AppCaseSearch&case_id=45880421204153992)**)**

**Background of the Case**

On May 13, 2021, Armenian National Interests Fund (ANIF) CJSC, filed a lawsuit against *168 Zham Ltd.* with the Court of General Jurisdiction of Yerevan, demanding to oblige the media to refute the information tarnishing their business reputation and pay 2 million AMD in compensation. The lawsuit was caused by an article[[12]](#footnote-12) titled “In Anticipation of Investments,” published on *168.am* on April 12, 2021.

On May 27, 2021, the court returned the lawsuit due to deficiencies in the documents. It was refiled on June 23 and accepted for proceedings on July 6. The court rejected the plaintiff’s motion to secure the claim by putting a lien on the media's property and funds.

Four court hearings were held for the case on September 27, October 19, November 11 and December 2, 2021. During the last hearing, the court granted the defendant's motion to apply the statute of limitations and rejected the lawsuit. The court set 50,000 AMD as remuneration for the defendant's attorney, imposing the obligation on the plaintiff to cover this amount.

On January 18, 2022, the plaintiff filed an appeal, which was returned due to a missing signature and subsequently refiled. Expressing disagreement with the attorney’s remuneration amount, the defendant also filed a complaint against the verdict. The appellate court accepted for proceedings both parties’ complaints. On May 12, the court upheld the plaintiff's complaint, overturning the ruling and remanding the case. No decision was issued regarding the defendant’s complaint, leading to the filing of a cassation appeal, which the court refused to accept for proceedings.

On December 27, 2022, the court of first instance initiated a new round of proceedings on the case. 4 court hearings were held on February 28, May 4, June 16 and October 20. At the November 10 hearing, the court rejected the lawsuit again on the grounds of expiration of the statute of limitations. This time, the court established the remuneration for the defendant's attorney at 200,000 AMD.

**Defamatory Nature of Information**

The plaintiff pointed out the following expressions as defamatory: “Does the National Interests Fund not care about a basic ‘feedback’ norm? And how should, for instance, an investor reach out to this investment promotion company? The question remains open,” “Let’s hope the public will also learn at what stage the involvement of major investors is, and what specific investment flows the “Armenian National Interests Fund” (which has a staff receiving high salaries and, as mentioned, 1 month after its establishment, the Government issued a decree, allocating 240 million drams from the 1,072.1 million drams grant planned for the implementation of the “Investment and Export Promotion of the RA” program to that fund without a tender) has contributed to grow.”

However, there was no examination of the lawsuit’s content. The defendant filed a motion to apply the statute of limitations, and the court solely addressed that motion.

**Statute of Limitations**

The defendant stated that the disputed article had been published on April 12, 2021, while the lawsuit had been filed on May 13, breaching the stipulated trial timelines. They argued that calculating one month from April 12 led to May 12, and the plaintiff had not been deprived of the chance to exercise their right on that day, yet they had filed the lawsuit with a one-day delay.

Objecting to the motion, the plaintiff emphasized that the article had been published on April 12, at 19:52, during a non-working hour. As a result, they believed that this day should not be considered in the calculation.
Upon reviewing the stances of the parties, the court observed that the deadline for filing a claim in this case had expired by May 13.

Based on the plaintiff's complaint, the Court of Appeal also addressed this issue in its decision, stating that the calculation timeframe commences on the day the individual becomes aware of the violation of their right. And the period starts from the following day and ends on the corresponding day of the subsequent month, thus confirming the plaintiff’s adherence to the deadlines stipulated by law. Notably, in contrast, the presiding judge of the appellate court presented a special opinion, concurring with the media's argument that the statute of limitations had expired.

In the course of the retrial of the case in the Court of General Jurisdiction, the judge determined that the plaintiff had become aware or should have become aware of the publication on April 12, the very day of its release. Therefore, the lawsuit should have been filed by May 12. Additionally, the court noted that the lawsuit submitted on May 13 via e-mail without an electronic signature, failed to comply with the requirement outlined in the Civil Procedure Code and the procedure established by the Supreme Judicial Council. The court emphasized that, even if May 13 were considered the filing deadline, the lawsuit, which had been delivered by postal service on May 14, would still be considered a missed deadline for the statute of limitations.

**Attorney’s Fee**

Concerning the 300 thousand AMD remuneration sought by the defendant for the attorney’s services, the court observed that this sum was deemed unreasonable. Upon comparing the case facts, its complexity and evaluating the volume of work performed, the court concluded that 200 thousand AMD should be confiscated from the plaintiff in favor of the defendant as attorney’s fee.
The court merely noted that it did not support the alignment of the actions with the requested sum, but failed to substantiate its opinion in the judgment.

**Measure to Secure the Claim**

As mentioned earlier, the plaintiff included a motion to secure the claim alongside the lawsuit, but the court rejected this motion. It is noteworthy that the plaintiff did not attempt to appeal this decision. Upon studying the plaintiff’s conduct in other legal proceedings, we found out that in similar court disputes, they had also sought the application of a measure to secure the claim and the placement of a lien on the property and bank accounts of defendants. As a rule, the courts rejected these claims. We believe that as a state entity, the Fund should demonstrate a certain degree of tolerance, refraining from a tendency to impose such restrictions on the media, since it diverges from the legal principles safeguarded by the state.

**Conclusion**

Essentially, the focus of the dispute in the current case shifted from the substantive to the procedural aspect, aiming to determine whether the timeframe for filing a lawsuit commences on the publication day or the following day. It is evident that there was a considerable divergence in the viewpoints of the judges. In particular, 3 of the total 5 judges who heard the case concluded that the period commences from the date of the article’s publication, whereas two judges from the Court of Appeal argued that the starting point should be calculated from the day following the publication.

The answer to this question is outlined in the norms regulating both civil and procedural relations. Specifically, Article 327 of the Civil Code and Paragraph 2 of Article 115 of the Civil Procedure Code make it evident that the filing timeframes commence from the day following the occurrence. With the contested publication appearing on the website on April 12, it follows that the filing timeframe should start on April 13 and end on May 13.

As for the issue of filing the lawsuit without an electronic signature, a point raised in the second hearing, this aspect could have been pivotal for the resolution of the case. However, the court that initially reviewed the lawsuit failed to take note of these circumstances and returned it on different grounds. As a result, there arises a situation when one judge from the same court questions the legality of another judge’s actions, and the rationale behind this questioning is not well-founded.

As highlighted earlier, the statute of limitations applied by the court and the decision to reject the lawsuit on those grounds were overturned by the Court of Appeal and remanded. This last judicial act that entered into force may serve as a precedent. However, in the course of the re-examination, the court of first instance, without offering comprehensive reasoning, once again decided to apply the statute of limitations on almost identical grounds. Such an approach, is at a minimum, a subject of controversy.

**Demi Pharm Ltd. v. Investigative Journalists NGO**

**(Court Case No.** [**ED/25763/02/21**](https://datalex.am:443/?app=AppCaseSearch&case_id=45880421204166302)**)**

**Background of the Case**

On June 10, 2021, *Demi Pharm Ltd.* filed a lawsuit against *Investigative Journalists NGO* (founder of *Hetq.am* website) with the Court of General Jurisdiction of Yerevan, demanding to publicly refute the information considered defamatory and to pay 2 million AMD in compensation. The lawsuit was caused by an article[[13]](#footnote-13) entitled “Children's Vitamins Registered with Violations by the National Institute of Health,” published on May 6, 2021 on the aforementioned website.

The lawsuit was accepted for proceedings on June 22, 2021. Eight court hearings were held for the case on October 29, November 3, December 6, 2021, March 24, June 14, September 16, December 1, 2022 and January 18, 2023. On March 13, the powers of the judge were terminated, and the case was transferred to another judge, who on March 28 accepted the case for a new proceeding. During this second examination, three court hearings were held on June 13, July 7 and August 9, 2023. The court issued a judgment on August 23, entirely rejecting the lawsuit. Additionally, the court upheld the confiscation of 100,000 AMD from the plaintiff in favor of the defendant as attorney’s fee.

The judicial act was not appealed and entered into force.

**Defamatory Nature of Information**

The plaintiff considered the following expressions from the article as defamatory: “We found out that the Canadian company *Herbaland* indeed manufactures such supplements for Armenia, distributed in the Armenian market by *Demi Pharm* company. Nevertheless, we also discovered that this product available in pharmacies lacked mandatory state registration (as of April 26), implying that it could no longer have the right for market sale, not to mention the requirement for state registration.” The plaintiff told the court that the expressions “lacked state registration” and “could not have the right for market sale” tarnished the good reputation of the company.

The defendant fully objected to the lawsuit, asserting that the media had no intention to defame anyone and did not engage in defamation. The article specifically highlighted the absence of registration for “Herbaland Kid's Gummy Calcium with D3” product. At least, there had been no information about it, and the media had approached the plaintiff company seeking clarification. Notably, the article had fully quoted the correspondence between the journalist and the plaintiff company, demonstrating adherence to professional good faith. Furthermore, the journalist had patiently waited for the company's response as the director had promised to provide information on state registration, but had failed to do so. The article also clearly mentioned that as of April 26, the specified product had not secured registration in the unified state register.

While reviewing the case, the court acknowledged that the product, initially registered as “Herbaland Kid's Gummy Omega3” on April 26, 2021, had undergone a subsequent re-registration on May 25, with an adjustment to the product name as “Herbaland Kid's Gummy Calcium with D3”.

According to the court, the media had rightfully referenced the information available in the unified state register during the article’s development, and at that particular time there had been no registration for a product named “Herbaland Kid's Gummy Calcium with D3”. Additionally, the court highlighted that the conclusions made in the piece were entirely derived from the presented factual data and constituted value judgments that required no additional proof.

**Attorney’s Fee**

Regarding the attorney's fee, the court deemed the following facts as essential: although the lawsuit was rejected, this civil case had been under examination since 2021, and the defendant's representative took part in all court sessions, attending judicial processes under different judges, submitting a response to the claim, etc.

We find the court's assessment of the reasonableness of the attorney's fee to be justified.

**Conclusion**

An analysis of the case reveals that the registration date of “Herbaland Kid's Gummy Calcium with D3” food supplement played an essential role in ensuring an impartial trial. The court confirmed that the product had initially been registered under a different name due to an error, and had later been re-registered under the correct name.

It is important that the author made an effort to obtain comments on the issue from the plaintiff prior to publishing the article. However, the plaintiff, for the most part, offered evasive responses. In particular, the company’s director directed the journalist to a lawyer who promised to provide certain information, but failed to do so.

Naturally, had the plaintiff provided a proper response to the journalist's inquiry, the content of the article might have been different.

We find the court's decision to reject the claim to be legitimate, as the journalist indeed presented information from public sources in the article and could not have foreseen the product’s registration under a different name or an error.

An assertion grounded in specific facts, indicating that a food supplement with the name mentioned was not registered on the date in question cannot be regarded as defamation: it reflects the objective reality and is not aimed at tarnishing the plaintiff's good reputation.

**Armenian National Interests Fund CJSC and its Executive Director David Papazyan v. Hraparak Daily Ltd. and Suzan Simonyan**

**(Court Case No.** [**ED/33821/02/21**](http://datalex.am/?app=AppCaseSearch&case_id=45880421204189151)**)**

**Background of the Case**

On August 2, 2021, Armenian National Interests Fund (ANIF) CJSC and its Executive Director David Papazyan, filed a lawsuit against *Hraparak Daily Ltd.* (*Hraparak.am* news website)and Suzan Simonyan with the Court of General Jurisdiction of Yerevan, demanding to refute the information tarnishing their honor, dignity and business reputation and pay 2 million AMD in compensation. Additionally, they sought an apology for the insult and 1 million AMD in compensation. The lawsuit was caused by an article[[14]](#footnote-14) titled “What Compensation Did the Director of the Fund Receive Over 2 Years of Inactivity?”

On August 12, 2021, the court accepted the lawsuit for proceedings and on the same day rejected the plaintiff's motion to apply a measure to secure the claim, which further remained unchanged by the Court of Appeal. In the first instance, four hearings were held for the case on March 21, June 6, August 11 and November 22, 2022. Throughout the examination, Susanna Simonyan, who appeared as the author under the name Suzan Simonyan, filed a motion on March 30, 2022, requesting to be involved as a third party in the case. The motion was granted. However, on June 2, the plaintiff submitted a motion to the court to include Susanna Simonyan as a proper defendant, which was granted on June 6. Subsequently, on June 8, Susanna Simonyan, now a defendant, filed a motion to apply the statute of limitations, resulting in its granting by the court’s January 10, 2023 decision and the rejection of the claim concerning Susanna Simonyan. The case of the media was separated under the number [ED/4175/02/23](http://datalex.am/?app=AppCaseSearch&case_id=45880421204398402)[[15]](#footnote-15).

The court obliged the plaintiff to pay 200 thousand AMD to the defendant's attorney. On March 13, an appeal was filed by the plaintiff challenging the verdict, which was rejected by the decision issued on November 29.

The content of the lawsuit remained unexplored in the courts, and the proceedings centered on the issue of the statute of limitations.

**Statute of Limitations**

Susanna Simonyan told the court that a claim had been filed against her on June 2, 2020 in violation of the statute of limitations. She argued that the plaintiff had had the chance to verify the information related to the author of the piece, but had failed to do so. Consequently, in her view, a non-existent individual or an individual unrelated to the case, Suzan Simonyan, was involved as a defendant.

The plaintiff fully objected to the motion to apply the statute of limitations, stating that they had filed a lawsuit within one month following the article’s publication, adhering to the legal requirements. The lawsuit had been filed against Suzan Simonyan due to her being mentioned as the author of the article. Even a photo was provided for her identification. Additionally, the plaintiff highlighted that person's Facebook page, where she introduced herself as Suzan Simonyan[[16]](#footnote-16), employed at *Hraparak Daily Ltd.* The plaintiff argued that they could not in any way assume any alteration of the author’s name, emphasizing that the copy of the lawsuit had originally been addressed to Suzan Simonyan at *Hraparak Daily Ltd.’s* business address. Hence, from the beginning, there was no ambiguity both for *Hraparak Daily Ltd.* and Susanna Simonyan regarding the lawsuit's intended recipients.

Upon an examination of the parties’ positions and a comparison of the legal and factual circumstances, the court concluded that the motion filed by defendant Susanna Simonyan was valid. According to the court, the plaintiff, in fact, had filed the claims against Susanna Simonyan 9 months and 19 days after the publication of the article, exceeding the stipulated filing deadline. Following this line of thought, the plaintiff had initially filed a lawsuit against a person lacking any legal status, thereby holding no legal consequences for an actual person, since the action had not been personalized. In response to the argument of the plaintiff's representative that the author’s identity was initially unknown due to the use of a pseudonym, the court underscored that on March 30, 2022 Susanna Simonyan had filed a motion to be involved as a third party, at that moment disclosing herself as the author of the article. Meanwhile, the plaintiff submitted the motion to include Susanna Simonyan as a proper defender on June 2, two months later, missing the legally stipulated deadline.

In the appeal, the plaintiff restated the arguments provided in the court on the timely filing of the lawsuit. The appellate court pointed out that accepting the lawsuit filed against an improper defendant, Suzan Simonyan, for proceedings could not imply a timely filing. And by the time the motion revealed the true identity of the author, Susanna Simonyan, more than 9 months had passed since the publication, resulting in a violation of the statute of limitations.

**Attorney’s Fee**

Considering the volume of work performed by the defendant's attorney, the complexity of the case, the attorney's fee pricelist established by the Council of the RA Chamber of Advocates, and the fact that the lawsuit was partially upheld, the court determined 200,000 AMD as a reasonable remuneration, chargeable to the plaintiff. In this part of the decision, the court made an omission, by stating “the claim was partially upheld,” whereas the claim against Susanna Simonyan was rejected, and the claim against the media was separated. The court failed to specify the observed volume of the case and the attorney’s work, which makes it impossible to verify the accuracy of the determined amount.

**Measure to Secure the Claim**

In the appeal to the appellate court challenging the court's rejection of the motion to apply a measure to secure the claim, the plaintiff stated that the claim amount in this case was 3 million drams and was apparently well-founded. Additionally, they raised the concern that without the application of a measure to secure the claim, the defendants could expropriate their assets, including financial resources, or may not actually possess the claimed amount at the time of executing the judicial order.

The appellate court considered this suspicion groundless owing to the fact that at least one of the defendants was a media company. It would be illogical for such a company to expropriate their assets or financial resources to evade a potential judgment.

The courts’ choices not to apply a measure to secure the claim are justified in our view, as the plaintiff failed to provide any facts or grounds to substantiate the argument that the enforcement of the judgment would be challenging or impossible in the event the lawsuit were to be upheld.

Observing the selected compensation amount and the lack of a valid rationale, it can be inferred that, apparently, such a demand by the plaintiff, along with the motion to apply a measure to secure the claim, were exclusively intended to punish the media and restrict its activities.

**Conclusion**

Thus, the courts rectified that the author of the article in question was Susanna Simonyan, using the pseudonym Suzan Simonyan.

The use of a pseudonym by any person is not inherently unlawful; however, it is necessary to acknowledge that it may cause legal consequences for the media. In particular, according to Paragraph 9 of Article 1087.1 of the RA Civil Code, “If, during the act of insult or slander, there is no reference to the source of information (the author), or the source of information (the author) is unknown, or the entity carrying out media activities, in exercising its right not to disclose the source, does not reveal the name of the author, the responsibility for compensation shall rest with the person who publicly presented the insult or slander. In cases where insult or slander is found in the information disseminated by the entity carrying out media activities, the responsibility for compensation shall rest with that entity.”

Based on the legal norm outlined above, if the author of the article had not been identified, the responsibility for the content should have fallen on the media. Nevertheless, rather than addressing this matter, the court and the litigants opted for alternative actions - namely, substituting the proper defendant.

Article 172 of the Civil Procedure Code makes it evident that in order to substitute one person for another, it is imperative that that the initially involved person can be identified. Otherwise, the substitution of a non-existent person for another becomes impossible.

We believe that the practice of using a pseudonym is perilous, as defamatory expressions can be published with the use of a pseudonym. Subsequently, once the individual is identified and included in a protracted legal process, they may exploit the opportunity to file a motion to apply the statute of limitations, thus evading liability.

The application of legal regulations should be such that, with this interpretation, even upon revealing the author behind a pseudonymous article, the media continues to bear responsibility. Otherwise, these regulations will be undermined, allowing for their arbitrary interpretations.

**Artur Vanetsyan v. Gurgen Melkonyan and Public Television Company of Armenia CJSC**

**(Court Case No.** [**ED/36336/02/21**](https://datalex.am/?app=AppCaseSearch&case_id=45880421204194767)**)**

**Background of the Case**

On August 19, 2021, Artur Vanetsyan, former Director of the RA National Security Service, filed a lawsuit against Gurgen (Gagik) Melkonyan (the Public Television Company of Armenia CJSC was involved as a third party in the case) with the Court of General Jurisdiction of Yerevan, demanding to publicly refute the information considered defamatory, publish a refutation text, and compensate (in the amount of 2 million AMD) the damage caused to his honor and dignity. The lawsuit was caused by an interview conducted by Petros Ghazaryan on July 20, 2021, featuring former Deputy Minister of Defense, Lieutenant General, Deputy Gurgen (Gagik) Melkonyan, aired on Public TV and subsequently shared on the media’s YouTube channel[[17]](#footnote-17).

On August 21, 2021, the lawsuit was accepted for proceedings. Eight court hearings were held on December 15, 2021, March 18, June 21, August 4, November 17, December 27, 2022, March 15 and June 2, 2023. On June 16, 2023, the court ruled to partially uphold the lawsuit. The court obliged the defendant to publish a refutation, pay 500 thousand AMD as pecuniary compensation and 18 thousand AMD as state duty.

On July 26, 2023, the defendant filed an appeal, which was accepted for proceedings by the higher court on August 18. On January 12, 2024, this court overturned the June 16, 2023 verdict of the lower court, directing the case back to the same court for a renewed examination. As of the completion of the current study, the reexamination of the case had not commenced.

**Defamatory Nature of Information**

The plaintiff told the court that the following defamatory expressions had been made by the defendant on the air of the Public TV: “The ‘With Honor’ Alliance has caused a lot of damage to our country,” “From the beginning to the end of the Artsakh war they did a number of anti-Armenian things, let me state it plainly: I wonder where they were during the Artsakh war,” “Vanetsyan departed and fled. He left and returned in an instant. Their goal was to bring weapons. Where was the location of his fight? Tell me the place where he fought and held that place until the end. Is there such a place? Can he even state that he fought in a certain area and held it until November 9? Can he say he was there? Just let him say. Let him prove that there is an area he held, he should speak up. He stayed silent as there isn’t any proof. They fled the scene: they grabbed the weapons and fled, a fact that many people can confirm. Secondly, they began circulating the word ‘capitulator’, probably without realizing that it refers to someone who has already surrendered. Anyone can issue commands like instructing others to change location, get out of one area, promise to deploy a certain amount of troops, or insist on ceding certain territories: this is the essence of being a capitulator. We haven’t given up any land from Armenia, we have lost a part of Artsakh, and Armenia wasn’t the one losing; it was Artsakh’s loss, our troops supported during the war and faced defeat...”

According to the plaintiff, untrue information and expressions had been publicly presented about him, which tarnished his honor and dignity: they were not an assessment or an opinion, but a record of certain facts, aimed at disgracing his reputation.

The defendant, objecting to the lawsuit, argued that he had exercised his right to free expression of opinion, namely, during the program, in response to the questions, he presented the events he had learnt during the war, and having a sufficient factual basis, he expressed his value judgment and negative opinion, criticizing Artur Vanetsyan’s behavior.

Gurgen Melkonyan also told the court that both the plaintiff and himself were political figures, their activities were always a focus of public attention, and the boundaries of permissible criticism were even wider. Therefore, the judgments voiced in the video were also in the nature of political criticism, based on the information discussed on Facebook, in the media, and among other people.

In its ruling, the court pointed out that the defendant's statements could not be considered evaluative, since throughout the interview, he had presented information sometimes clearly and sometimes as questions, without referring to any source. The court concluded that these expressions were defamatory, as they tarnished the plaintiff's honor and dignity, by portraying him as a perpetrator of crimes and someone known for his anti-Armenian activities.

According to the court's analysis, the defendant's statements during the interview had a single goal: rather than providing the public with objective and reliable information, the defendant’s sole purpose was to tarnish the plaintiff's honor and dignity, to defame him, presenting a negative image to the public, inciting hatred and hostility.

At the same time, the court made reference to the November 15, 2011 Decision[[18]](#footnote-18) DCC-997 of the Constitutional Court, which indicates that individuals holding public positions, as well as the RA courts should acknowledge the position of the European Court of Human Rights. According to the European Court, personal rights of public officials are objectively exposed to a greater risk of being violated than the rights of private individuals. Article 10 of the European Convention envisages fewer restrictions on political speech and debate concerning matters of public interest. The limits of criticism against public and political figures are broader compared to criticism of private individuals, given the inherently more public nature of their activities. Hence, they are expected to demonstrate a higher level of tolerance. This also aligns with the content of Articles 1, 2 and 5 of the RA Constitution.

The defendant stated in the appeal that he had exercised his right to freely express his opinion, relying on previously acquired information to make value judgments. He argued that the court had considered expressions as defamatory despite their apparent lack of connection to the plaintiff.

Objecting to the appeal, the plaintiff emphasized that the expressions in the video piece were directed at him, evident to a regular viewer.

Analyzing the aired interview, the Court of Appeal observed that the defendant had used expressions that could not be deemed as exclusively directed at the plaintiff, as most of them related to other individuals as well. Consequently, the appellate court concluded that the first instance court’s statement asserting that “the facts presented by the defendant refer to the plaintiff himself” was illegitimate, unfounded and lacked reasoning.

**Pecuniary Compensation**

Regarding the amount of pecuniary compensation, the court highlighted the defendant’s self-presentation as a military figure, former RA Deputy Minister of Defense, with the rank of Lieutenant General, and a Deputy of the RA National Assembly. Subsequently, the court emphasized that the speech of an individual in such a high and responsible position should be much more careful, balanced and well-substantiated compared to others, since such individuals have a much larger audience. Hence, their freedom of speech should be subjected to much broader restrictions. Furthermore, especially when attributing a crime or other illegal/anti-social conduct to a person, officials should show a greater degree of responsibility by presenting verified, accurate information in good faith, devoid of defamatory or offensive elements.

Upon analyzing the slanderous nature of the information, the court concluded that the defendant's speech had failed to meet the above-mentioned criteria and had damaged the reputation, honor and dignity of the plaintiff. Based on this reasoning, 500 thousand AMD was set as a reasonable amount of compensation.

Nevertheless, the court failed to substantiate why the non-pecuniary compensation was insufficient, nor did it disclose the criteria and calculation leading to the specified amount. This decision lacks the necessary reasoning, a common issue observed in compensation awards across similar cases. Interestingly, the same challenge arises when courts determine the attorney's fee.

**Amount of State Duty**

The plaintiff provided a receipt indicating the payment 60 thousand AMD state duty, and the case involved two non-pecuniary claims and a pecuniary claim totaling 2 million AMD. Hence, the amount of the state study should have been 48 thousand AMD. Article 9 of the RA Law “On State Duties” specifies the payments applicable for filing a lawsuit: 4 thousand AMD for each non-pecuniary claim, and 2 percent of the claim value for pecuniary claims, (in this case, 8 thousand and 40 thousand drams, respectively).

The court should have addressed this inconsistency during the lawsuit acceptance stage or in the final proceedings. Notably, the concluding part of the judgment mandated 18,000 AMD confiscation from the defendant in favor of the plaintiff, representing the pre-paid state duty amount. The approval of the non-pecuniary claim and partial award (in the amount of 500 thousand AMD) for the pecuniary claim imply that the amount of state duty was subject to recalculation and a partial reimbursement to the plaintiff.

**Conclusion**

Examining the final part of the court ruling, it is apparent that the court obliged the defendant to publicly refute the expressions considered defamatory and publish a refutation text. A question arises about whether public refutation and text publication are separate actions. The judicial examination failed to provide an answer to this question.

In the refutation text, the court included specific expressions without addressing their tarnishing nature. In particular, it pointed to the following part of the contested interview: “… Secondly, they began circulating the word ‘capitulator’, probably without realizing that it refers to someone who has already surrendered... We haven’t given up any land from Armenia, we have lost a part of Artsakh, and Armenia wasn’t the one losing; it was Artsakh’s loss, our troops supported during the war and faced defeat...” It is, at the very least, questionable that this constitutes an insult or defamation against Artur Vanetsyan, as his name is not even mentioned.

In this case, it is noteworthy that the court obliged the defendant to incorporate phrases like “it is a lie, it is false” in the refutation text, which is beyond the standards stipulated by the law. According to Article 8, Paragraph 1 of the RA Law “On Mass Communication,” “individuals have the right to seek a refutation from the implementer of media activities regarding factual inaccuracies violating their rights, provided the media fails to prove the veracity of those facts.”

Meanwhile, the court obliged to describe obvious facts as lies, such as “we have lost a part of Artsakh,” or “our troops supported (Artsakh) during the war and faced defeat.”

It is worth noting that despite certain expressions being directed not specifically at Artur Vanetsyan but at his political alliance, they were associated with Vanetsyan. We acknowledge the legitimacy of the Court of Appeal’s conclusions regarding the following statements: “The ‘With Honor’ Alliance has caused a lot of damage to our country,” “From the beginning to the end of the Artsakh war they did a number of anti-Armenian things, let me state it plainly: I wonder where they were during the Artsakh war.” The Court of Appeal determined that these expressions were not explicitly directed at the plaintiff. Nevertheless, this instance had ample grounds to change the judicial act and render a final verdict. And sending the case for a new examination unnecessarily restricts the right of the trial participants to obtain justice within a reasonable timeframe.

**Hovhannes Hovhannisyan v. Media Plus Ltd. and Free Speech Platform NGO**

**(Court Case No.** [**ED/37855/02/21**](https://datalex.am/?app=AppCaseSearch&case_id=45880421204197285)**)**

**Background of the Case**

On August 27, 2021, Hovhannes Hovhannisyan, Acting Rector of Yerevan State University (currently Rector), filed a lawsuit against *Media Plus Ltd.* (founder of *Yerevan.today* news website) and *Free Speech Platform* *NGO* (founder of *Politik.am* news website) with the Court of General Jurisdiction of Yerevan. The plaintiff demanded to publicly refute the information considered defamatory and pay 2 million AMD in compensation. Additionally, he sought a public apology for the insult and 1 million AMD in compensation. The lawsuit was caused by three articles released on *Yerevan.today* and *Politik.am*. Specifically, on August 4, 2021, *Yerevan.today* published the article titled “Sorosist Hovhannes Hovhannisyan to Take on YSU Acting Rector Position: Politik.am,”[[19]](#footnote-19) and on August 10, *Politik.am* published the article titled “The YSU Acting Rector Falsified His Biography Through Plagiarism: Yerevan.today,”[[20]](#footnote-20) with a piece with identical headlineappearing on *Yerevan.today[[21]](#footnote-21)* on the same day.

On September 16, 2021, the court returned the lawsuit, citing the inclusion of media names as defendants instead of their respective founding legal entities. Based on the plaintiff's complaint, on November 24, the Civil Court of Appeal annulled the decision of the first instance, considering it unfounded.

On December 28, the lawsuit was accepted for proceedings, and seven court hearings were held for the case on March 21, 23, July 12, November 3, 2022, January 24, March 1 and April 19, 2023. On May 11, the court ruled to partially uphold the claim, obliging *Media Plus Ltd.* to publicly refute the information considered defamatory, pay 500 thousand AMD as compensation for the damage caused by defamation, 50 thousand AMD as attorney’s fee and 14 thousand AMD as state duty.

The judgment was not appealed and entered into legal force.

**Defamatory Nature of Information**

The plaintiff, in particular, highlighted the following expressions in the articles as defamatory: “Last year, “Politik.am” reported that Sorosist deputy Hovhannes Hovhannisyan aspired to become YSU rector. Despite all the efforts of the Sorosist, he was unsuccessful in 2020,” “The YSU acting rector falsified his biography through plagiarism,” “Hovhannes Hovhannisyan defends his doctoral dissertation with apparent legal violations...,” “...Gogyan knew something, that's why he resigned. However, observing no alarm, he awarded his friend Hovik a doctor's degree on June 1 for a fake thesis...,” “... The government candidate for the YSU rector last year defended a doctoral dissertation containing plagiarisms...”

In their objection, defendant *Media Plus Ltd.* stated that the published information had been received from some representatives of the scientific community. These figures who had chosen to remain anonymous had informed that Hovhannes Hovhannisyan's doctoral thesis replicated the articles of his scientific supervisor Avetis Kalashyan in many instances. As a result, the existing evidence allowed the media to consider what happened as plagiarism.

The defendant also pointed out that the plaintiff had not approached the editorial office with a demand to publish a refutation or remove the allegedly defamatory publications, opting instead to directly pursue legal action, avoiding the possibility of resolving the dispute through an out-of-court procedure.

*Free Speech Platform NGO,* the other defendant, stated that the term “Sorosist” lacked the four criteria[[22]](#footnote-22) defined by precedent rulings to be considered an insult. Additionally, they emphasized that this term could not in any way tarnish an individual’s name and good reputation, as it merely indicated their affiliation with the given organization, the Soros Foundation.

Upon the examination of the arguments of both the plaintiff and the defendants, the court addressed the insult and defamation issues separately. Based on that, the court concluded that the term “Sorosist” could be perceived both negatively and positively across different segments of society, preventing its clear classification as an insult. The court also noted that defendant *Media Plus Ltd.* had failed to provide any evidence supporting the plaintiff’s affiliation with Soros or the *Open Society Foundations* linked to his name. Nevertheless, referencing the information available on the official website of the organization, the court acknowledged its humanitarian activities. Consequently, even if the use of the word “Sorosist” carried a negative connotation, it did not tarnish the individual’s honor.

The court also highlighted that the dissemination of information regarding the candidates for the role of Yerevan State University rector during the specified period was conditioned by overriding public interest as the society was concerned about who would assume the leadership of the Mother University. Consequently, the court argued that the plaintiff, aspiring to this position, should demonstrate some restraint even in the face of sharp criticism.

The court considered the criteria for categorizing as defamation the term “plagiarism” within the expressions. Thus, according to the *Explanatory Dictionary of Modern Armenian*, a “plagiarist” is an individual who partially or wholly appropriates someone else's writing, presenting it as their own, while “to falsify” means to appear, act in a false image.

In the court’s interpretation, the mentioned words inherently hold a negative meaning, touching upon an individual’s personal characteristics and essence.

In relation to the *Yerevan.today* article titled “The YSU Acting Rector Falsified His Biography Through Plagiarism,” the court noted that no evidence had been provided throughout the examination indicating that the media's comments had been made on the basis of professional opinions or analysis. Thus, the court concluded that the author's conclusions were insufficient to establish the presence of plagiarism in the plaintiff’s academic work or to demonstrate that he had presented any false information about his activities.

**Pecuniary Compensation**

The court first observed that defendant *Media Plus Ltd.* did not present any objection to the claim for the confiscation of the compensation amount. The court further concluded that the information about the YSU rector's candidate had been widely disseminated among student circles, causing damage to the person's honor and dignity with resulting consequences. Therefore, considering the nature of the information, its extensive dissemination, and the aspirant’s status, the court concluded that the application of the second measure of liability -confiscation of the compensation amount - was necessary for a complete restoration of the violated rights, setting a reasonable amount at 500,000 AMD. However, the ruling did not provide rationale for the selected pecuniary compensation amount, and the analysis of the case facts was absent during its determination.

It is worth noting that, on the one hand, the court acknowledged that the YSU rector, as an official, should demonstrate a degree of tolerance, and on the other hand, it considered being an official as an aggravating circumstance in defaming him, leading to the imposition of pecuniary compensation.

We believe that the court should have set pecuniary compensation solely if the facts unequivocally established that non-pecuniary compensation could not restore the violated rights. Following that, the court should have considered the financial situation of the media to determine their capability to pay a compensation. However, the court failed to undertake these steps.

**Conclusion**

Although the reasoning in the ruling is incomplete in some sections, it allows for an evaluation of the conclusions of the court. In essence, the article in question was considered as partially defamatory for the terms “falsify” and “plagiarism.” However, this verdict is questionable as during the examination, the fact that these expressions were value judgments was overlooked. Considering the factual data in the article, one could argue that the classification of plagiarism could have been justified. Additionally, the judicial act lacks a substantial analysis to assert that the expressions did not constitute value judgments.

Noteworthy is the fact that the plaintiff did not deny the existence of overlaps between his dissertation and the articles of his academic supervisor Avetis Kalashyan, only emphasizing that they tarnished his honor and dignity. The court, in turn, did not clearly confirm or deny the presence of these overlaps. Without clarifying this issue, the court reached the conclusion that the media was to publish a refutation and pay 500 thousand drams for defamation.

While the court contended that the media should have provided evidence demonstrating that the comments in the article were based on professional opinions or analysis, it should be, nevertheless, highlighted that no specialized professional skills are required to identify the overlaps, and the factual data obtained were sufficient for making a value judgment about plagiarism.

In other words, from the point of view of ensuring freedom of speech, the court adopted a restrictive approach making it impossible to fully exercise the right to seek, receive and disseminate information and ideas, along with the free expression of opinions.

**Armenian National Interests Fund CJSC v. Hraparak Daily Ltd. and Hrant Bagratyan**

**(Court Case No.** [**ED/47388/02/21**](http://datalex.am/?app=AppCaseSearch&case_id=45880421204223627)**)**

**Background of the Case**

On October 20, 2021, Armenian National Interests Fund (ANIF) CJSC, filed a lawsuit against *Hraparak Daily Ltd.* and former Armenian Prime Minister Hrant Bagratyan with the Court of General Jurisdiction of Yerevan, demanding to oblige them to refute the information tarnishing their business reputation and pay 2 million AMD in compensation. The lawsuit was caused by an interview with Hrant Bagratyan titled “I Consider the Establishment of the National Carrier Without a Tender a Corrupt Deal,” conducted by Suzan Simonyan[[23]](#footnote-23) and published on *Hraparak.am* on September 28, 2021. On October 29, 2021, the court accepted the lawsuit for proceedings and on the same day applied a measure to secure the claim by placing a lien on the media's property (excluding financial resources), as well as on the property owned by Hrant Bagratyan. Four court hearings were held on July 12, October 27, 2022, and on February 1 and April 19, 2023.

The lawsuit was rejected through the verdict issued on May 4. On June 8, the plaintiff submitted a complaint to the Civil Court of Appeal. It was accepted for proceedings on August 9.

**Defamatory Nature of Information**

First, the plaintiff presented to the court the expressions in the introductory section of the controversial piece published on *Hraparak* *daily*, which they believed tarnished the Fund's business reputation: “We had touched upon the deal concluded by that Fund on July 14, through which the Arab company “Air Arabia” was granted the status of a national air carrier. We had underscored that this was a business by a group of people, given the lack of transparency to the public, and the absence of a tender process in selecting the national air carrier…” Subsequently, in the actual interview text, the plaintiff contested the following remarks made by Hrant Bagratyan: “... That fund, ANIF, is doing business against the state’s interests...,” “... Just imagine what a huge corruption risk we are facing here. In all circumstances, the absence of a tender equates to corruption...,” “In this context of corruption, be it concerning the airline or the Armenian tests, we witness deals fraught with a high risk of corruption, often linked to Avinyan himself. I consider the establishment of the Armenian air carrier without an international tender to be a wholly corrupt deal.”

The plaintiff contended that the mentioned expressions were directed at them, were made publicly, and their detrimental nature was apparent, as they contained accusations of acting against the interests of the state and concluding a corrupt deal.

The defendant media objected to the claim, underscoring that the interview had been conducted and published by Suzan Simonyan, which, in turn, meant the media was not the author of the article. Hence, the media argued that it was exempt from civil liability[[24]](#footnote-24) as outlined in Paragraph 6 of Article 1087.1 of the RA Civil Code.

Defendant Hrant Bagratyan, in his turn, noted that his responses to the journalist's questions were general, and his analyses focused on granting the status of national air carrier to “Air Arabia.” He argued he had expressed his subjective viewpoint, specifically highlighting enormous corruption risks in the no-tender deal, and he interpreted the mentioned risk as an uncertain event or uncertain condition. The defendant emphasized the use of the term “to consider,” which was not a statement of a precise fact. Furthermore, he referenced explanatory dictionaries of the Armenian language, where “to consider” implies thinking or assuming.

In relation to the claim against the media, the court pointed out that both in the introductory and conclusive sections of the article there were references to the information source, namely, author Suzan Simonyan. This circumstance served as grounds for exempting the media from liability for insult or defamation in accordance with Paragraph 6 of Article 1087.1 of the RA Civil Code.

When analyzing the claim presented against the second defendant, Hrant Bagratyan, the court made reference to a legal stance outlined in the Court of Cassation’s ruling on civil case No. ED/7480/02/18 of July 21, 2020. “... Any expression or word with an offensive or defamatory connotation, inappropriate in nature cannot automatically result in liability, as long as the boundaries of freedom in expressing opinions are respected, and the purpose of expressing an opinion is not to insult or defame the recipient.” Moreover, in such cases, it is crucial to make a clear distinction between the factual data of defamatory nature and value judgments with a factual basis.

Following this, the court, citing Eduard Aghayan's Explanatory Dictionary, highlighted that the term “risk” is described as a potential danger of something. In the present case, the defendant used the phrase “corruption risk,” indicating a potential risk of corruption, which constitutes a value judgment. As a result, the court concluded that the argument that the defendant intended to tarnish the good reputation of the company was not substantiated. Rather, in the court’s view, the defendant had made value judgments, based on information received and analyses conducted by the latter. Therefore, the publication could not generate a belief that a criminal act was ascribed to the Fund.

Upon analyzing the contested expressions, the court found them to be abstract in nature, lacking sufficient specificity to define the described actions. The expressions did not elicit any understanding among the readers about the corruption affairs referenced, the methods employed, and the scope of the individuals involved. Essentially, there was an insufficient synthesis of data that would allow for the formation of an understanding of the nature of the actions taken.

**Attorney’s Fee**

The defendant media told the court that on December 16, 2021, a service contract had been signed between them and Lev Group Law Firm Ltd., appointing the law firm to represent the interests of *Hraparak Daily Ltd.* Accordingly, the remuneration for the services was 300 thousand AMD.

In its ruling, making reference to the principle of reasonableness of the fee paid to the attorney and the specifics of the civil case, taking into account the volume of work performed by the attorney, the complexity of the case and the fact that the lawsuit was subject to rejection, the court considered 100 thousand AMD as a reasonable amount to remunerate the attorney. We find this amount set by the court unreasonable primarily since it was not based on the average pricelist[[25]](#footnote-25) for attorney fee. Furthermore, the courts must ensure that the prevailing party does not end up with a lower compensation for court costs than the amounts initially invested to defend the rights in court. Otherwise, the right to effective legal protection will be violated.

**Measure to Secure the Claim**

The court’s decision to impose a measure to secure the claim, which includes placing a lien on the property of the media (excluding financial resources) and the entire property of Hrant Bagratyan cannot be considered legitimate. The application of such a measure in defamation and insult cases without substantial arguments is unfounded. Furthermore, following the threefold increase in the upper threshold of pecuniary compensation in Article 1087.1 of the Civil Code, there is a noticeable trend of increased monetary claims in lawsuits, even though the judicial practice has not changed, and courts do not grant compensation in such high amounts. Nevertheless, if a measure to secure the claim is applied by the court, it may violate the rights and interests of the media, since there is no recourse for any compensation under the law in case it is later discovered that the property has been unlawfully held in lien for months or maybe years.

**Conclusion**

We believe that the court, in fact, rendered a legitimate verdict. First of all, filing a lawsuit against the media is unfounded, as Suzan Simonyan was recognized as the author of the published interview, and any claims should have been directed towards her. As for the claims against Hrant Bagratyan, as the court rightly concluded, the expressions in question could not be considered defamation. In particular, Hrant Bagratyan, relying on specific accurate facts, made judgments regarding a potential corruption risk in the considered deal, given its execution without a tender.

The plaintiff’s demand to confiscate 2 million AMD in compensation was not reasonable either, especially given the absence of any substantiating evidence. Thus, the plaintiff was to prove that:

1. the restoration of their rights was impossible without material compensation;
2. the amount sought corresponded to the level of compensation necessary for the restoration of their violated rights.

Seeking pecuniary compensation without these substantiations and filing a motion to secure the claim is an attempt to exert additional pressure on the media, while the court's granting of that motion, in our perspective, is an abuse of procedural rights. Essentially, in this case the court was used to restrict the media's financial or property rights for a certain period.

**Larisa Harutyunyan v. Shark Ltd.**

**(Court Case No.** [**ED/48578/02/21**](https://datalex.am/?app=AppCaseSearch&case_id=45880421204226662)**)**

**Background of the Case**

On October 26, 2021, citizen Larisa Harutyunyan filed a lawsuit against *Shark Ltd.* (founder of *5th Channel* TV Company) with the Court of General Jurisdiction of Yerevan, demanding to publish a refutation. The lawsuit was caused by the October 16 report of the *5th Channel Haylur* news program titled “She Is Making Me Mourn: the Neighbor Does Not Allow to Install a Khachkar Dedicated to the Heroes”[[26]](#footnote-26).

On November 9 of the same year, the court returned the lawsuit due to the lack of clarity in the demands to the defendant. The lawsuit was refiled on November 18 and was accepted for proceedings on December 14. On March 10, 2022, the first court hearing on the case was held, after which a change of the judge occurred due to the termination of the presiding judge’s powers. The case was accepted for a new round of proceedings on June 2, and 5 court hearings were held on July 8, January 17, April 18, September 11 and October 16, 2023.

On November 6, the court ruled to partially uphold the lawsuit. The court obliged the defendant to refute the content of the report, as well as pay 4 thousand AMD as state duty.

As of the completion of the current study, no appeal had been filed.

**Defamatory Nature of Information**

The plaintiff told the court that the report of Haylur news program contained information tarnishing her honor and dignity. In particular, it stated: “A Davitashen village resident in Aragatsotn Marz reported to the Police that an attempt was being made to install a memorial stone honoring 5 fallen soldiers from the village in the garden next to her house. She is against it.” Meanwhile, according to the plaintiff, her report to the Police was related not to the installation of the memorial stone, but to a neighbor’s use of foul language and threats against her.

The plaintiff stated that the media acknowledged unintentional misinformation due to inattention, but declined to publish a refutation, prompting her to pursue legal action.

According to the defendant, the plaintiff made statements in the piece such as, “True, their sons have died, but I have no desire to be admitted to a psychiatric hospital,” “he is making me mourn,” “but they benefit from every earthly pleasure,” etc. The media acknowledged their omission, resulting in a misinterpretation of events. However, later they negotiated with the plaintiff and corrected the error through a separate publication.

Added to that, the defendant argued that there was no evidence in the case indicating that the piece was defamatory, asserting that, in fact, it was a value judgment derived from information obtained through interviews with the plaintiff and others.

Upon comparing the arguments from both the plaintiff and the defendant, the court determined that the media had acknowledged their omission and corrected it in the October 30, 2021 news release. Thus, the media, through its conduct, had contributed to the dissemination of the corrected information, based on which the court concluded that the media had taken effective measures to resolve the dispute.

Nevertheless, based on the response to the lawsuit filed on January 26, 2022 and the media’s acknowledgment of the plaintiff's arguments, the court concluded that the information contained in the report constituted defamation.

**Conclusion**

As outlined in Paragraph 2 of Article 9 of the Civil Procedure Code, the court, in its judgments, must address all the essential arguments, referenced legal grounds and evidence presented in the procedural documents, verbal explanations, and responses to questions posed by the involved parties. An examination of this case demonstrates that the defendant refused to acknowledge the defamatory nature of the statements, arguing that they were value judgments. However, the court failed to take it into consideration, refraining from evaluating the evidence in the case and drawing a conclusion about the tarnishing nature of the expressions.

The judicial act merely recognized the defendant's acknowledgment of the facts raised in the lawsuit. The defendant accepted the facts underlying the lawsuit. Yet, throughout the proceedings, the media argued that they had committed an omission, not defamation.

The court's reasoning plays a crucial role as it makes evident to the parties involved and those interested in the case the process of evidence evaluation, establishment of facts, and the conclusions drawn. However, in this particular case, all these components are absent: the court failed to sufficiently examine the facts in the case.

A scrutiny of the report in question reveals that it attributed a standpoint to the plaintiff, namely, her opposition to the installation of a khachkar commemorating the fallen soldiers in the war. There is no doubt that the commemoration of martyred servicemen is perceived positively by the public, however, expressing dissent towards it does not constitute such deplorable and reprehensible conduct that the accusation could be considered as defamation.

The court admitted the fact that a few days after the initiation of the lawsuit, the media, in fact, had broadcast a program aimed at refuting their earlier statements, and had corrected their error. This circumstance, on the one hand, raises doubts regarding the plaintiff's assertion of intentional defamation by the defendant, and on the other hand, prompts questions about the court’s decision to require a renewed refutation of a text that had already been refuted.

In the concluding part of the verdict, the court obliged the defendant to refute the disseminated information, failing to specify the exact content. It is noteworthy that both in her lawsuit and the subsequent supplements to its subject and grounds, the plaintiff had outlined the statements she considered defamatory. However, the court ignored these specifics and issued a general demand in the judgment for the defendant to refute the factual data in the report.

Meanwhile, the courts have an obligation to specify the statements that were ultimately classified as defamatory, since when ordering a refutation, there must be clarity on which statements are deemed slanderous and in need of refutation.

**Karen Melik-Tangyan v. Social Media Ltd. and Armen Khachatryan**

**(Court Case No.** [**ED/55488/02/21**](http://datalex.am/?app=AppCaseSearch&case_id=45880421204243125)**)**

 **Background of the Case**

On December 10, 2021, Karen Melik-Tangyan, former head of *Mother Armenia* Military History Museum, filed a lawsuit against *Social Media Ltd.* (founder of *Mamul.am* news website) and Armen Khachatryan (deputy head of the Museum for scientific affairs) with the Court of General Jurisdiction of Yerevan. The plaintiff demanded to make a public apology, publish a refutation text, as well as pay a compensation of 1 million AMD for insult and 2 million AMD for defamation under the principle of joint and several liability. The lawsuit was caused by a piece (later removed from the page) titled “A Military or a Criminal Authority? The Head of the Museum Is Not in the Appropriate Role,” published on November 11, 2021 in the “Press Spokesman” column of the media.

On December 27, 2021, the lawsuit was accepted for proceedings. Six court hearings were held for the case on March 10, June 14, September 27, December 15, 2022, as well as March 21, April 5, 2023. On April 27, the court ruled to partially uphold the lawsuit: the court obliged Social Media Ltd. to make a public apology to the plaintiff, refute the information considered defamatory, as well as pay 100,000 AMD to the plaintiff as attorney’s remuneration. The plaintiff, in his turn, was obliged to pay 200 thousand AMD to defendant Armen Khachatryan.

On June 29, 2023, defendant Social Media Ltd. submitted a complaint to the Court of Appeal, seeking to overturn the verdict of the lower court. The appeal was accepted for proceedings on September 19.

**Defamatory Nature of Information**

According to the plaintiff, the article contained the following offensive expressions: “Melik-Tangyan has a great inclination towards alcoholic beverages, which has a negative impact on his memory and sound logic,” “Being a confrontational, disorganized and unbalanced person,” “With his characteristic insolence and street showdowns, under ‘I’m invincible’ principle, K. Melik-Tangyan believes he can “smash a wall with his head,” “What is a ‘street guy’ with no basic education and manners doing in a cultural institution?”

And as defamation, the plaintiff singled out the following expressions: “K. Melik-Tangyan, with his education and half-knowledge, is unfit for the role of the museum’s head,” “Without valid reasons, just to avoid hearing about the unfair and discriminatory practices created by him, he demands employees to submit resignation applications and leave. And in the case of ignored and humiliated employees resisting his unlawful demands, with his characteristic insolence and street showdowns, he forces them to either leave the institution out of disgust and disappointed with the unhealthy environment, or develop health problems, prompting voluntary departure,” etc.

The plaintiff told the court that after seeking the help of an IT specialist he had found that Armen Khachatryan was the one who had published the article under the pseudonym of *New Generation* organization. He also informed about receiving communication from the RA Prime Minister's Office about a defamatory article about him on *Mamul.am*, leading to inquiries about his planned actions. The plaintiff had approached the media, asking to disclose the author, but his request had been denied. The media, in turn, had offered the plaintiff to register on the platform, become a subscriber and apply online to the columnist. However, the proposal had been declined by him.

Defendant Armen Khachatryan stated that the lawsuit was subject to rejection, as he was an improper defendant. He argued that the content in the article consisted of value judgments, reflecting the author’s opinion on the situation in the museum. According to him, such expressions could not be categorized as defamation and insult.

The representative of *Social Media Ltd.,* the other defendant, objected to the plaintiff's demands, by stating that the article in question did not exist. He argued that he could not express a viewpoint regarding a non-existent piece, emphasizing that without the electronic copy of the article, it was impossible to compare and verify the authenticity of the presented printed version.

The mentioned piece, indeed, is no longer available on the website (possibly removed), and the court, instead of analyzing this factor, ignored it.

The court confirmed the fact that the piece had been published on the media owned by the defendant company, that this company carried out news activities, which should adhere to the stipulations of the Law “On Mass Communication” and Article 1087.1 of the Civil Code. Consequently, the responsibility for the website's content rested with the company. The court added that there was no evidence in the case proving Armen Khachatryan as the author of the article, which signaled the potential rejection of the claim against him.

Through its examination, the court drew the following conclusions. First, the defendant failed prove the authenticity of certain facts mentioned in the article, such as the plaintiff’s alleged incomplete education and inadequate knowledge for his position, etc. In addition, while acknowledging the public interest in the museum's operation and management, the court emphasized that this interest could not be considered absolute, and in this case, the information could be restricted to protect the individual’s right to dignity and business reputation. Upon a comprehensive analysis of the published piece, the court concluded that the characterizations made against the plaintiff lacked substantiation and were offensive, suggesting a deliberate attempt by the author to demean him.

**Amount of Compensation**

In relation to the demand for compensation for insult and defamation, the court highlighted that upholding such a claim was unreasonable, as it would disproportionately restrict the fundamental right to freedom of speech. In this respect, the media's financial and property situation (the media declared no ownership of property, noting that the editorial office operated in a rented venue) was also evaluated and considered. This evaluation also played a role in the court’s decision not to consider pecuniary liability reasonable, resulting in the rejection of the plaintiff’s demand regarding the confiscation of 3 million AMD.

We consider this decision to be legitimate. In essence, the court assessed two key aspects: the public significance of the media and the financial situation of the company. We believe that the courts should prioritize the examination of the media’s activities in the light of protecting freedom of speech. Only then should they engage in discussions regarding the necessity and feasibility of monetary compensation.

**Court Costs**

The court determined that on January 22, 2022, a contract was concluded between attorney and private entrepreneur (PE) Artur Petrosyan and defendant Armen Khachatryan, establishing the price for legal services at 500,000 AMD. Another contract dated December 15, 2022, between plaintiff Karen Melik-Tangyan and PE Lusineh Ohanyan established the service fee at 200,000 AMD.

As a result, the plaintiff's representative participated in 3 court hearings, while the attorney representing the defendant drafted a response to the lawsuit, an objection, a motion, participating in 6 court hearings. The court, considering the volume of work performed by the attorneys, the complexity of the case, the average price standard for legal fees set by the Council of the RA Chamber of Advocates, as well as taking into account the partial success of the lawsuit, concluded that the reasonable remuneration for the attorney representing plaintiff Karen Melik-Tangyan should be set at 100 thousand AMD, which should be confiscated from defendant *Social Media Ltd.*, and 200 thousand AMD should be confiscated from plaintiff Karen Melik-Tangyan for the attorney of defendant Armen Khachatryan.

We commend the court for providing such a thorough reasoning on the issue of attorneys’ fees, which is a rarity in judicial practice. Nevertheless, the decision of the court regarding the remuneration of Armen Khachatryan's attorney is debatable. Since the lawsuit against this defendant was entirely rejected, and his lawyer effectively fulfilled his duties with success, the assessment of his services should have taken into account both the contract amount and the pricelist approved by the Council of the RA Chamber of Advocates. Meanwhile, as a matter of fact, the court did not conduct a thorough analysis and provide adequate substantiation on this matter.

**Conclusion**

First of all, it is noteworthy that the plaintiff presented the disputed publication to the court in print, and the court failed to verify whether the given piece had originally been published on the website in that identical form. A key argument raised by the media was the absence of such an article on their platform, making it impossible to confirm with certainty that the piece in its printed form and the actual electronic publication on the website were identical. The court did not address this matter at all, which we consider a serious omission.

The court's conclusions on the offensiveness and defamatory nature of certain expressions are not always well-reasoned. For example, the court did not offer a rationale for deeming expressions like “A military or a criminal authority? The head of the museum is not in the appropriate role,” “… Under ‘I’m invincible’ principle, K. Melik-Tangyan believes he can “smash a wall with his head” as offensive. Additionally, the court did not provide a reasoning for categorizing the expression “Under ‘divide to conquer' principle, he is doing everything to set the museum's employees against each other and make them quarrel” as defamatory. The court merely recognized these expressions as insulting and defamatory without addressing or examining them.

Numerous expressions may be subject to dispute in insult and defamation lawsuits. However, this does not mean that only some of them should be selectively examined, influencing the remaining ones.

**Arman Martirosyan v. Exclusive Media Holding Ltd.**

**(Court Case No.** [**ED/48087/02/21**](http://datalex.am/?app=AppCaseSearch&case_id=45880421204225661)**)**

**Background of the Case**

On December 22, 2021, citizen Arman Martirosyan filed a lawsuit against *Exclusive Media Holding Ltd.* (founder of *Exclusive.am* news website) with the Court of General Jurisdiction of Yerevan. The plaintiff demanded to refute the defamation, make a public apology for insult, publish the final part of the ruling, and pay 1 million AMD compensation for insult and 2 million AMD for defamation. The lawsuit was caused by an article titled “Entertainment Clubs Owner Rewarded with a Weapon by Arayik Harutyunyan. His Heroism? Operating the Clubs During the War,” published on *Exclusive.am* on September 29, 2021.

On October 29, 2021, the court returned the lawsuit due to the payment of a state duty that was below the legally established amount. It was refiled on November 8, along with a receipt proving the accurate payment of the state duty. On November 18, 2021, the lawsuit was accepted for proceedings. Five court hearings were held for the case on April 22, July 12, November 7, 2022, and March 10 and May 22, 2023. On June 12, 2023, the court ruled to partially uphold the claim, obliging the media to publicly refute the defamatory expressions in the article, pay 170,000 AMD in favor of the plaintiff, of which 20,000 as state duty, and the remaining amount as attorney’s fee.

The judgment was not appealed and entered into legal force.

**Defamatory Nature of Information**

The plaintiff characterized the entire disputed piece as defamatory, without specifying any particular expression in the lawsuit, and indicating what was deemed as defamatory or insulting. Meanwhile, the court conducted an analysis of the publication and singled out the following expressions: “According to Exclusive.am’s sources, Artsakh President Arayik Harutyunyan continues to shower weapons to anyone off the street,” “The latest awardee is Arman Martirosyan, nicknamed “Chakhkal,” who owns Royal Music Hall, Queen Music Hall, Varda Music Hall,” “Arayik Harutyunyan alone knows the reason behind presenting a commendation to someone who was among the first to indulge in celebrations in wartime and make money. In any case, those entertainment establishments remained open throughout the war. Adding Martirosyan’s appearance to that, the likelihood of his participation in the war diminishes to zero. What contributions has he made to the motherland, aside from indulging in the performances by scantily clad singers in his dens?” “Two persons mediated for the weapon reward: one of them is Armen Mkrtchyan, the leader of the failed and subsequently closed “Hayazn” party, who is currently running errands for Shahen Petrosyan, and the other is Tchut (Ed.: Tchut is a nickname) from Karabakh.”

According to the plaintiff, the expressions in the article tarnished both his and Artsakh Republic President Arayik Harutyunyan’s honor and dignity. Arman Martirosyan argued that the defendant had defamed him, calling into doubt the legality of his receiving a weapon. This, in turn, had created a public perception that he was undeserving of that reward.

The media did not submit an objection to the lawsuit, which was acknowledged as a crucial factor by the court. In relation to the comments regarding the weapon reward, the court noted that they were directed at Arayik Harutyunyan rather than the plaintiff. According to the court, despite the defendant casting doubt on the plaintiff’s merits in receiving the weapon, the expression “anyone off the street” was not aimed personally at Arman Martirosyan, but was a value judgment about the merit for which he was rewarded. Furthermore, the author of the piece linked the questioning of the plaintiff’s merits to his non-participation in military operations. It is noteworthy that Arman Martirosyan's representative did not even counter this statement; rather, they emphasized that the plaintiff had made a substantial contribution during the war.

The court considered as defamation the article’s claim about certain individuals mediating the reward process, as it implied unlawful actions, according to the court. The court also identified another defamatory statement, suggesting that the plaintiff had indulged in celebrations in wartime, potentially signaling a person's low moral and psychological standing. As a result, the court obliged the defendant to publicly refute the mentioned expressions.

As for the depictions of the plaintiff's physical attributes, the court determined that they fell entirely within the realm of value judgments. The author of the piece had not mocked, but rather had questioned the likelihood of a person with an overweight physique participating in the war. Moreover, there were no grounds to qualify the nickname “Chakhkal” attributed to the plaintiff as an insult, as it is commonly used for individuals with bluish-green eyes, precisely matching Arman Martirosyan's. Hence, the insult claim was rejected.

**Amount of Compensation**

Regarding the issue of withholding compensation for insult and defamation (with the plaintiff seeking 1 million AMD for insult and 2 million AMD for defamation), the court concluded that although the purpose of pecuniary compensation is to restore the violated rights of the victim, the compensation for damage caused to the plaintiff's honor and dignity was not contingent on such compensation, let alone its amount.

Thus, taking into account the specifics of the case, the court reached the conclusion that a proportionate, reasonable and efficient means to restore the damage to the plaintiff's honor and dignity was to oblige the defendant to publish a refutation on the same platform.

This decision of the court is legitimate and holds immense significance for judicial practice. Essentially, when examining the issue of awarding pecuniary compensation, this interpretation should take precedence in determining whether non-pecuniary compensation is insufficient to restore the plaintiff's violated rights. This query is primary, and only in the event of a negative response can the option of pecuniary compensation be contemplated.

**Attorney’s Fee**

With regards to the court costs, the court decided to seize 170 thousand AND from the founder of the media in favor of Arman Martirosyan, comprising a 20 thousand AMD state duty, and a 150 thousand AMD attorney’s fee. The remaining part of the confiscation claim was rejected. Based on the case facts, the plaintiff's legal fees amounted to 500,000 AMD, and the upheld 150,000 AMD, according to the court, was determined considering the amount of work carried out by the attorney: drafting and filing the lawsuit, attending the court hearings, presenting evidence, which was not particularly difficult to gather. Nevertheless, it should be noted that the amount of remuneration set by the court is half the average price standard approved by the Council of the Chamber of Advocates.

**Conclusion**

In essence, the court identified two expressions in the article as defamatory: one related to “mediating” for the weapon’s reward by others and the other concerned “indulging in celebrations” during wartime. Upon examining the first thought it becomes evident that the article’s author had attributed the mediatory actions to other individuals. If this action were to be classified as a crime or misdemeanor, the article implied that it had been done by others, not the plaintiff. However, the court failed to address this issue and did not specify the facts based on which it considered that this act had been attributed to the plaintiff, resulting in defamation.

Basically, the author of the piece had brought up a matter of public interest, by raising doubt about the appropriateness of granting a weapon as a reward to an individual whose professional sphere had nothing to do with such a recognition.

It is noteworthy that the fact of mediation and reward in that process was not refuted after publication. In this context, the court’s decision to oblige the media to publish a refutation is controversial, especially given the inadequacy of reasoning in the matter.

We also find the court's decision to categorize the act of celebrating during the war as defamation to be questionable, as the expression should be viewed in a certain context, as outlined in the article: “(...) In any case, those entertainment establishments remained open throughout the war. What contributions has he made to the motherland, aside from indulging in the performances by scantily clad singers in his dens?” In this light, it is evident that when the author of the article spoke about the plaintiff’s exultation during the war, he/she referred to the operation of the entertainment centers managed by the plaintiff in that period. This could be a basis for the journalist to make a value judgment. Therefore, classifying the expression as defamation represents an unjustifiably strict approach.

As for the refutation text approved by the court, it encompassed expressions that were not considered defamatory in the judicial act. For instance, the court obligated to refute the following: “… One of them is Armen Mkrtchyan, the leader of the failed and subsequently closed “Hayazn” party, who is currently running errands for Shahen Petrosyan, and the other is Tchut from Karabakh.” In its verdict, the court did not offer reasoning for the refutation of these statements and did not specify the extent of damage inflicted on the honor and dignity of the plaintiff.

The legal dispute spanned about 20 months, a duration that, in our opinion, is not reasonable, especially given that no response and objection to the lawsuit had been presented, which implies that the classic stage of challenging the facts was not part of the proceedings.

**Stepan Mosinyan v. Larisa Paremuzyan and Civilitas Foundation**

**(Court Case No.** [**LD2/1513/02/22**](http://datalex.am/?app=AppCaseSearch&case_id=30962247438342829)**)**

**Background of the Case**

On April 4, 2022, Stepan Mosinyan, Director of *Alaverdi Medical Center CJSC* filed a lawsuit against Larisa Paremuzyan and *CivilNet* online TV (*Civilitas Foundation* legal entity) with the Court of Lori Marz. The plaintiff demanded to refute the information considered defamatory, to oblige the defendant to publish a refutation text, and pay 3 million AMD in compensation. The lawsuit was caused by an article[[27]](#footnote-27) titled “The Director of Alaverdi MC a Monopolist in the Business of ‘Death’,” published on *Civilnet.am* on March 14, and an email with the subject ‘Information request’ addressed to Lori governor Aram Khachatryan. This case was separated from case No. LD2/0507/02/22, where the plaintiff pursued identical claims, ultimately facing rejection. This lawsuit was caused by an article[[28]](#footnote-28) titled “The Negligence of the Alaverdi Medical Center Surgeon and the Business Interests of the Director,” published on January 19, 2022.

On September 26, 2022, the lawsuit was accepted for proceedings. Seven court hearings were held on the case: on October 28, November 28, 2022, January 10, February 15, March 16, April 26, and May 26, 2023.

On June 14, 2023, the lawsuit was rejected. On July 6, the plaintiff filed an appeal, which was returned on August 8. The appeal refiled by the complainant was accepted for proceedings on September 8.

**Defamatory Nature of Information**

The plaintiff told the court that the article contained the following defamatory expressions: “Stepan Mosinyan, Director of “Alaverdi Medical Center” CJSC, has maintained a significant presence in the coffin business in Tumanyan region of Lori Marz since 2008. Through his pharmacy at Alaverdi Medical Center, Mosinyan is engaged in the retail trade of medicines, overseeing the distribution of state-ordered medications to dispensary patients. Mosinyan exploits the pathoanatomical department of the medical center to enrich himself.” According to the article, the plaintiff demanded money from the families of deceased persons for morgue services and created obstacles for those who failed to make the payment.

The lawsuit was also grounded on an email that was received by the Marz administration, sparking discussions and eventually becoming available to a broader circle of external individuals. It was reported in the email that the bodies of victims of criminal offenses were undergoing autopsy in the morgues. The email suggested that the determination of the causes of death for these individuals could also be influenced by the preferences of one person, Stepan Mosinyan.

The plaintiff stated that these and other expressions mentioned above tarnished his dignity and good reputation. He referred to a ruling[[29]](#footnote-29) by the RA Court of Cassation, which outlines four criteria for an expression to qualify as defamatory: it must involve factual data, be publicly made, be untrue and be tarnishing in nature. The plaintiff argued that the expressions were directed at him, were made public, did not correspond to reality and were intended to demean him. The plaintiff emphasized that the 3 million AMD claim was not intended as retribution against the media.

In their response, *Civilitas Foundation* contended that the submitted lawsuit was entirely unfounded and should be rejected. The defendant argued that the piece represented a “reasonable publication” addressing the concerns and grievances of Alaverdi residents with the aim of protecting the public against dangerous consequences.

Defendant Larisa Paremuzyan, objecting to the lawsuit, informed that prior to publishing the piece, she had attempted to gather information about the problems from the Alaverdi Medical Center, but her inquiries had been met with silence. As a result, she had crafted the article based on the facts obtained from various sources, driven by overriding public interest. The journalist argued that the expressions perceived as tarnishing the plaintiff’s honor and dignity were value judgments grounded in specific facts, underscoring that she had no intention of defaming anyone.

According to the court, the statement “Our source from the Medical Center and also rumors circulating in Alaverdi suggest that Stepan Mosinyan has leased a part of the pathoanatomical department, most likely the morgue, for fifty years,” was a value judgment, since being based on an assumption, it did not require substantiation. The court concluded that there were no facts in the case that could constitute defamation.

In relation to the email, the court highlighted that the journalist had expressed a hypothetical and evaluative judgment that did not require proof. Furthermore, the court maintained that the email was addressed solely to one person, the governor, who was the plaintiff's superior; hence, in this particular case, there was no publicity.

The court highlighted that if an individual, in the exercise of their rights, submits an application to the competent authority seeking a resolution, but the details in the application are not substantiated during the examination by that body, this does not serve as a basis for holding the individual liable, as the individual’s objective was solely to report their complaint to the competent authority and not to defame anyone.

We consider the court's conclusions as legitimate since the expressions in question are either value judgments or grounded in accurate facts. Journalists enjoy the right to publish somewhat exaggerated and provocative thoughts in their articles, which may seem shocking in some sense. However, such expressions fall entirely within the boundaries of freedom of speech and are necessary for a democratic society.

**Facts and Value Judgments**

The court's evaluation suggests that a number of legal provisions outline regulations for the paid transportation of bodies to morgues, along with the care, treatment and dressing of the deceased by a private entity or organization. In the context of exercising the public's right to information, the defendants could make value judgments that *Alaverdi Medical Center CJSC* Director Stepan Mosinyan had maintained a significant presence in the coffin business in Tumanyan region of Lori Marz since 2008.

**Conclusion**

First of all, it is crucial to acknowledge that the monetary demand presented by the plaintiff lacks reasonableness when weighed against the alleged violation of his rights, as the expectation of 3 million AMD in compensation does not align with the figures typically awarded by courts in analogous situations. In this light, it can be assumed that the plaintiff took this measure to simply exert additional pressure on the media, notwithstanding his previous assertion that such was not his intention.

Overall, a review of this case allows to conclude that the court rightly rejected the lawsuit, addressing in the judgment all the expressions deemed defamatory by the plaintiff and underscoring that their publication was also driven by overriding public interest.

The court took into consideration the likelihood of a certain degree of exaggeration and even provocation within the boundaries of journalistic freedom. The court classified the expressions within the discussed article as value judgments, based on the information obtained through the defendant’s inquiries, a specific journalistic investigation, and interviews.

The court’s attention towards the outlined circumstances is an important and commendable approach. Consequently, the court issued a judicial act that adheres to the legal requirements. According to the verdict, the defendants exercised their right to freely express their opinions. Moreover, while preparing the article, they took the legally prescribed measures for collecting necessary factual data, publishing the information in good faith.

**Serob Sargsyan v. Liana Sargsyan**

**(Court Case No. ARD**[**1/0156/02/22**](https://datalex.am:443/?app=AppCaseSearch&case_id=38843546786229502)**)**

**Background of the Case**

On May 16, 2022, Serob Sargsyan, Deputy Head of Ajapnyak Administrative District of Yerevan, filed a lawsuit against journalist Liana Sargsyan with the Court of General Jurisdiction of Yerevan, demanding to publicly refute the information considered defamatory, make an apology and compensate (in the amount of 1 million AMD for insult and 2 million AMD for defamation) the damage caused to his dignity. The lawsuit was caused by *Mediahub.am* news website correspondent Liana Sargsyan’s two posts about the plaintiff on her Facebook page. The posts were accompanied by the plaintiff’s photos.

On May 19, the court accepted the lawsuit for proceedings and granted the plaintiff's motion to prohibit the journalist from deleting the contested pieces as a measure to secure the claim, as well as to prevent any restriction of access to the journalist’s Facebook page. Additionally, the court directed the preservation of the disputed posts in printed form and on a flash drive.

15 court hearings were held for the case on August 12, September 26, November 4, December 16, 2022, February 10, March 10, April 14, May 12, June 9 and 30, July 14, August 18, September 29, December 1 and 8, 2023. On December 28, the court ruled to reject the lawsuit.

As of the completion of the current study, no appeal had been filed.

**Defamatory Nature of Information**

The plaintiff told the court that the posts contained the following defamatory expressions: “And thousands of men lost their lives for this scoundrel, and this scoundrel lives next to you. By the way, I was told that this scoundrel supposedly has no connection to the store (…),” “How vile must a person be to deny something witnessed by 2-3 men? Guys, if you truly see yourselves as men, you should spit in this creature's face and confirm my statement. Let it rest on your conscience. By the way, the fact that a scoundrel calls the parents of the victims “slatterns” and runs away into the store (…)”

According to the plaintiff, the Facebook posts in question accused him of property misappropriation, falsehood, and presented information demeaning his merits as a citizen, creating a negative perception of him. Taking into account the author’s profile (fields of activity: journalism, politics) and the content of her text (violating the presumption of innocence), the plaintiff argued that the defendant, considering her status and the nature of her statements, had failed to take reasonable measures in advance to verify the authenticity of the data published by her.

Liana Sargsyan, entirely objecting to the lawsuit, highlighted that during the protest march of the parents of fallen soldiers on April 30, 2022, Serob Sargsyan had displayed inappropriate behavior, labeling the parents of the soldiers fallen in the war “slatterns” in the presence of a group of people. As a witness to the incident, the defendant fulfilled her professional duty by informing the public about the incident on her Facebook page on that very day. Dismissing the argument that she was to fact-check, she pointed out that it was unnecessary, as she had personally heard the plaintiff’s remark, and there had been other witnesses to the incident.

The defendant told the court that initially she had been unaware of the person insulting the parents of the fallen servicemen. Subsequently, upon discovering the information, she had edited the publication to add the plaintiff’s position. She also stated that the word “scoundrel” had been used in the context of the plaintiff denying the accusations of labeling the soldiers' parents as “slatterns,” while the phrase “spit in his face” had been employed figuratively. According to the defendant, the presented facts were true and also served as a basis for value judgments.

In the court case review, some of the witnesses of the incident, particularly, the relatives of fallen servicemen Jivan Mikayelyan, Marineh Musheghyan, Kristina Azatyan, Anushik Hakobyan and Anahit Manasyan testified that they had heard Serob Sargsyan addressing them with the remark “just look at these slatterns.” Narek Azizyan, a member of the *Civil Contract* party from the Ajapnyak Administrative District office, who appeared in court, stated as a witness that he had been present at the scene and had not heard such a remark from Serob Sargsyan.

Through a comparison of the available testimonies, Facebook posts, and the positions of the trial participants, the court confirmed that the plaintiff had used the word “slatterns” directed at the parents of fallen servicemen. According to the court, Liana Sargsyan, a direct witness to the incident, a journalist, and thus a person responsible for disseminating information on matters of public interest, had a clear objective in her statements: to present to the public a negative conduct in the presence of a group of people during a mass march, displayed towards the parents of the soldiers who sacrificed their lives for the defense of the motherland, revealing at the same time the identity of the person involved.

In the court’s view, the publication could not be qualified as tarnishing the plaintiff's reputation, honor and dignity as it did not focus on the plaintiff in a personal manner. The defendant’s goal had been to inform the public about the conduct of the person in question providing her negative, sharply critical assessment. This implied that she had made a value judgment, having a sufficient factual basis and acting in good faith. The court also underscored that the opposite conclusion might unnecessarily restrict Liana Sargsyan's freedom of expression.

**Conclusion**

When pursuing legal action, the plaintiff did not make a distinction between insulting and defamatory expressions. Presumably, he considered the expressions “scoundrel” and “you should spit in this creature's face” as insults, and “he calls the parents of the victims “slatterns” as defamation. The main issue discussed throughout the trial was whether Serob Sargsyan had made offensive remarks against the relatives of the fallen servicemen. Based on the witness testimonies and other evidence, the court confirmed that the plaintiff had indeed made such a remark.

We believe that this conclusion is substantiated and well-reasoned. Thus, the court's decision to reject the defamation claim can be regarded as legitimate.

However, the court should have subjected expressions like “scoundrel” and “you should spit in this creature's face” directed at the plaintiff and qualified as value judgments, to a specific examination. It was essential to clarify whether these expressions were in line with the legal interpretation of the concept of “value judgment”.

In the review of the Civil Case EKD/2293/02/10[[30]](#footnote-30), the Court of Cassation addressed the legal framework of value judgments. It stressed that in such situations, the courts should closely consider the explanations, approaches, of the person publicly presenting factual information and their attitude towards that data. This scrutiny helps determine whether the person intended to discredit someone through the presented facts, or objectively expressed value judgments with a good faith approach.

Without a doubt, referring to any person or group of persons as “slatterns” can in no way be considered lawful behavior; it is offensive and unacceptable. In this case, the situation took on a more severe context, as the act was committed by an official against the relatives of fallen servicemen, who, in the post-war period were protesting against specific actions of the government.

However, the court's interpretation that the word “scoundrel” directed at the plaintiff was a value judgment is debatable: with this remark, the defendant described the plaintiff rather than portraying the plaintiff’s action. The situation would have been different if she had used the same word to characterize the plaintiff’s action and not the plaintiff himself. In other words, expressions may carry a certain degree of severity, but the word “scoundrel” is difficult to interpret in any other manner than as an insult directed at a person.

Equally perplexing is the court's conclusion that the phrase “spit in this creature's face” also constitutes a value judgment. Through these words, Liana Sargsyan calls for a specific action against the plaintiff, surpassing the boundaries of legitimacy and tolerance.

In light of the aforementioned details, we conclude that some of the reasonings and substantiations of the court ruling are controversial, and there is also a necessity to check the legitimacy of the judgment through a reexamination.

**Hakob Arshakyan v. ArmdayAM Ltd. and International Media Holding Ltd.**

**(Court Case No.** [**ED/29999/02/22**](http://datalex.am/?app=AppCaseSearch&case_id=45880421204309633)**)**

 **Background of the Case**

On June 9, 2022, RA National Assembly Vice President Hakob Arshakyan filed a lawsuit against *ArmDayAM Ltd.* (founder of *ArmDay.am* news website) and *International Media Holding Ltd.* (founder of *Lurer.com* news website) with the Court of General Jurisdiction of Yerevan, demanding to publicly refute the information considered defamatory and to pay 5 million AMD in compensation under the principle of joint and several liability.

The lawsuit was caused by an article[[31]](#footnote-31) entitled “Post-Revolutionary “Accomplishments” of Former Employers of Civil Contract Officials: Part 1”, published on February 14, 2022 on the aforementioned websites.

On June 22 of the same year, the court returned the lawsuit, citing the absence of the representative's original power of attorney. The lawsuit was refiled on July 19, and was accepted for proceedings on July 28.

Four court hearings were held for this case on February 28, April 6, June 29 and August 25, 2023. On September 8, 2023, the court ruled to partially uphold the claim, obliging the defendants to publish a refutation, under the principle of joint and several liability, pay the plaintiff 500,000 AMD as compensation for defamation and 35,000 AMD as state duty. The judicial act was not appealed and entered into legal force.

**Defamatory Nature of Information**

The plaintiff highlighted the following defamatory expressions in the article. “... As a case in point, let’s consider the story of Hakob Arshakyan, former Minister of High-Tech Industry, and current acting Speaker of the National Assembly. The plan for the establishment of the “Engineering City”, greenlit at a government meeting two years ago, was preceded by wrangling among different departments. Essentially, the Ministry of Transport, Communication and Information Technologies appropriated the project previously developed and introduced by the Ministry of Economic Development and Investments, presenting it as their own plan… “Minister of Transport Hakob Arshakyan has influenced the Government to adopt a decision, enabling the state to get a 10 million USD loan from the World Bank to build an Engineering City in Jrvezh in partnership with Hakob's former employer (National Instruments), Hakob's own firm (Araxis Engineering) and several other companies,” a social network user posted.”

According to the plaintiff, the company “Araxis Engineering” mentioned in the article indeed belonged to him, but the remaining information was untrue, defamatory and tarnished his honor, dignity and business reputation.

The defendants did not participate in the court session, neither did they provide any documentation, evidence or standpoint.

As outlined by the court's decision, the plaintiff was to prove that:

1. the claim directed at each of the defendants was well-reasoned;
2. the information he highlighted as defamatory was factual and included specific, clear-cut information about a certain action or inaction;
3. the factual data about him were presented publicly;
4. the mentioned data actually tarnished his honor and dignity, specifically targeting him;
5. the monetary claim was well-founded.

And the defendants were to prove that:

1. the presented factual data were true or were not defamatory;
2. they had taken measures within reasonable limits to verify the authenticity and soundness of the published expressions, as well as report those expressions in a balanced manner and good faith.

Upon receiving the evidence, the court stated that the defendants had publicly presented details about the plaintiff, which were not abstract and included clear-cut information about the plaintiff's actions, while no evidence relevant to them was brought before the court.

According to the court, the loan agreement for the establishment of the “Engineering City” had been signed between Armenia and the World Bank on August 6, 2014. Given that the plaintiff had assumed a political position in May 2018, the court concluded that he could not have had any role in the essential decisions regarding the involvement of such loan funds by the state.

The court confirmed the defamatory nature of the information in the article, and that its publication demeaned the plaintiff's honor and dignity, falsely attributing a number of actions to the plaintiff.

According to the judicial act, the defendants' release of this particular information had a sole objective: not to offer the public with impartial and credible information, but to tarnish the plaintiff's honor and dignity, and defame him before the public.

The court also concluded that the defamation had been carried out via highly accessible media with an extensive reach, which in its turn had resulted in heightened attention from a broader spectrum of audiences. In court’s perspective, the public’s opinion of the plaintiff is extremely important, since it could demean his reputation as former RA First Deputy Minister of Transport, Communication and Information Technologies, later Minister, Minister of High-Tech Industry, and presently Vice President of the National Assembly. In other words, the plaintiff might be seen by society as someone that has caused damage to the Republic of Armenia.

**Amount of pecuniary compensation**

The defendants failed to provide evidence to substantiate their financial situation. Therefore, considering that high profile criminal activities perceived negatively by society were attributed to the plaintiff, the court ruled to confiscate 500 thousand AMD as compensation under the principle of joint and several liability instead of the 5 million AMD sought. However, the court overlooked the absence of a prior decision mandating such evidence, making it unclear how the negative consequences of non-submission fell on the defendants.

**Conclusion**

The analysis of the case exposes a number of legal violations committed by the court, which make it impossible for the judicial act to be considered lawful and legitimate.

Thus, the court failed to properly analyze the expressions that could be considered defamatory. The article indeed gives an impression of being directed at the plaintiff, in contrast to the controversial statements such as “wrangling among different departments”, “the Ministry appropriated it, presenting as their own plan.” These expressions evidently referred to state bodies. Therefore, the court should have acknowledged the existence of expressions in the article that were not directed at the plaintiff, yet a judicial act was rendered to refute them.

The part of the article in question alleging that Hakob Arshakyan “has influenced the Government to adopt a decision, enabling the state to get a 10 million USD loan from the World Bank to build an Engineering City in Jrvezh in partnership with Hakob's former employer (National Instruments), Hakob's own firm (Araxis Engineering) and several other companies. 50 percent of the expenses are to be covered by the state through the WB loan, and the remaining 50 percent are to be financed by Hakob Arshakyan's former employer, his own firm and several other companies,” was not properly analyzed either. The court did not specify which of these expressions were defamatory, making it challenging to assess the legality of the judicial act.

However, an in-depth content analysis of the contested expressions reveals that the author of the piece, in fact, attributed to the plaintiff certain intentional actions aimed at securing preferential financial resources for his former employer and his own company and the construction of an “Engineering City”. While Hakob Arshakyan did not deny the existence of such a program and the ownership structure of Araxis Engineering and National Instruments companies, he argued that the program had been launched in 2014, when he held no official position. Nevertheless, a scrutiny of the Government legal acts related to the program reveals that a number of decisions[[32]](#footnote-32) were made during the period when the plaintiff held a position at the HTI Ministry. Thus, his arguments to completely negate his role in the program are questionable.

The information about the establishment of the “Engineering City” has been a topic of public interest, extensively covered in a number of articles[[33]](#footnote-33), including a piece[[34]](#footnote-34) titled “Why is the Engineering City Delayed?” by *Fip.am* fact-checking platform. Despite a somewhat negative attitude towards the plaintiff in the discussed article, it brings forth critical questions concerning the publication period such as officials’ personal interests, favoritism and conflict of interests. Moreover, the fact that certain expressions may be exaggerated or even untrue does not necessarily imply that they can be qualified as defamation.

Thus, it is our inference that the contested article contains certain negative actions attributed to the plaintiff, potentially exceeding the threshold of tarnishing of the plaintiff's honor and dignity. When determining the compensation amount, the court identified accusations of criminal acts in the contested expressions. However, the article lacks such a direct, targeted speech, and in the absence of the court's reasoning, it remains unclear which expressions formed the basis for such a conclusion.

In its precedent ruling, the Court of Cassation outlined the criteria[[35]](#footnote-35) for deeming expressions defamatory, stating that: “The author of the statement must, from the beginning, have the objective of tarnishing the other person's honor, dignity or business reputation. In essence, he/she must have the intention to tarnish the other person's reputation and subject them to humiliation through the statement in question.” The court of first instance also determined there was an intent to defame the plaintiff. However, throughout the examination of the court case, we found no evidence supporting such a conclusion. Therefore, we consider these arguments questionable.

Setting a 500,000 AMD compensation for the media is also unfounded. The court failed to provide substantiating facts to clarify why it considered that non-pecuniary compensation (such as a refutation or a response piece) were insufficient for restoring the plaintiff's violated rights—a rationale it was, however, obliged to provide, in light of the Court of Cassation December 2, 2016 Ruling[[36]](#footnote-36) No. EKD/1320/02/14. This is crucial as monetary compensation may have a chilling effect on the media and constrain their coverage of issues of public importance.

On November 1, 2023, the Information Disputes Council issued an opinion[[37]](#footnote-37) on “Hakob Arshakyan v. ArmDay.am and Lurer.com news websites” court case. The opinion underscored the court’s failure to utilize any of the legal tools for balancing public and private interests. Furthermore, the court did not study whether the journalist had acted in good faith and had provided balanced coverage or not.

The IDC paid attention to the expressions used in the judicial act, particularly where the court specified “liability for transgression”. The Council pointed out that such conclusions gave grounds to believe that in determining the compensation amount, the court did not intend to adequately remedy the plaintiff's damage, but rather to punish the defendant media. The IDC considered this approach as impermissible and unlawful.

**Armenian National Interests Fund CJSC v. Pastinfo Ltd.**

**(Court Case No.** [**ED/39374/02/22**](http://www.datalex.am/?app=AppCaseSearch&case_id=45880421204330716)**)**

**Background of the Case**

On August 2, 2022, *Armenian National Interests Fund (ANIF) CJSC*, filed a lawsuit against *Pastinfo Ltd.* (*PastInfo.am* news website) with the Court of General Jurisdiction of Yerevan, demanding to oblige the media to refute the information tarnishing their business reputation and pay 5 million AMD in compensation. The lawsuit was caused by an article[[38]](#footnote-38) titled “The Foreign Members of ANIF's Board of Directors Excluded from Managing the Entrusted ZCMC Shares,” published on *PastInfo.am* on June 25, 2022.

On August 17, the lawsuit was accepted for proceedings, on the same day the court ruled to reject the motion to place a lien on the defendant's property in the amount of the claim. On September 9, the plaintiff filed an appeal against the decision, which was also rejected on October 11. Two court hearings were held for the case on November 22, 2022 and March 21, 2023. On April 11, the court ruled to reject the lawsuit, obliging the plaintiff to pay 200,000 AMD as the defendant's attorney’s fee.

On August 3, the plaintiff filed a complaint with the Court of Appeal.

**Defamatory Nature of Information**

The plaintiff told the court that the article contained the following defamatory expressions: “In fact, ANIF uses the names of foreigners to disguise various murky deals” and “... The administration decided to censor official correspondence addressed to foreign members of the Board of Directors and the Investment Committee, preventing them from learning the details of the political corruption deal.” By referring to the ruling[[39]](#footnote-39) of the RA Court of Cassation in the civil case No. EKD/2293/02/10, the Fund argued that in this particular case all the information presented by the defendant constituted actions and facts ascribed to them, which were untrue, and hence, could be qualified as defamation. Additionally, these defamatory expressions had been published on a news website with its Facebook page having 112,236 followers as of the lawsuit filing date, indicating that the information had been presented publicly, adversely affecting their business reputation.

In their response, *Pastinfo Ltd.* declared their non-acceptance of the claim, deeming it entirely groundless and warranting rejection. According to the defendant, the expressions alleged to be defamatory in the lawsuit were value judgments. Nevertheless, even if the court were to consider them as factual data, the media argued that they had been presented based on overriding public interest. Moreover, prior to publishing the article, the editorial team had made efforts to reach out to the Italian and French members of the plaintiff organization's Board of Directors, as well as the Chairman of the Investment Committee. The objective was to find out, among other things, whether they had analyzed the legality of the process involving the transfer of Zangezur Copper Molybdenum Combine shares to Armenia as its property and subsequently to ANIF for fiduciary management. The Fund had refused to provide contact details for those individuals. Instead, the editorial team had received an unsigned letter from ANIF, which lacked proper responses to the questions. Based on this, the defendant had expressed the following value judgement: “We have all grounds to assume that the inquiries did not reach the intended recipients, the administration decided to censor official correspondence addressed to foreign members of the Board of Directors and the Investment Committee, preventing them from learning the details of the political corruption deal.”

A notable aspect is that the sentence in question begins with the words “We have all grounds to assume,” signaling that the statement made was a judgment. The defendant also pointed out that the recipient of the terms “corruption” or “murky deals” used in the article was the RA government, which had not sought a legal action for a refutation. Upon reviewing the contested article, the nature of the information it held, the court concluded that the expressions highlighted by the plaintiff did not contain factual data subject to refutation.

Furthermore, prior to publishing the article, the defendant had undertaken conscientious efforts by submitting a detailed inquiry. In the absence of response, the defendant had had sufficient grounds to form an assumption, categorizing the described deals as “murky and corrupt.”

According to the court, the article clearly used the phrase “we have all grounds to assume,” suggesting that the expressions were abstract and devoid of specific factual basis. Moreover, journalistic freedom implies the right to resort to certain exaggerations and even provocations, and in this sense, Article 10 of the European Convention protects not only the content of information and ideas, but also the manner of their presentation. Taking into consideration these factors, the court classified the contested expressions as value judgments, grounded in the media’s inquiries and the plaintiff’s unsigned response letter. As a result, the court concluded that the claims were unfounded and should be rejected.

 **Attorney’s Fee**

In accordance with the contract signed between *Concern-Dialog CJSC*, representing the defendant’s interests, and the defendant, the client undertook to pay 4,313,600 AMD for the rendered services. This sum exceeds the average price standard approved by the RA Chamber of Advocates by several times. At the same time, the fee of 200,000 AMD set by the court in this case, is also a matter of contention, being nearly half of the aforementioned average price standard. Despite the court making reference to the criteria for determining the attorney remuneration, it failed to present any analysis or reasoning related to their actual implementation in its verdict.

**Conclusion**

First of all, it is necessary to acknowledge that the compensation of 5 million AMD claimed by the plaintiff is unjustifiable in this situation: such a sum might have a constraining effect on the media, impeding the coverage of topics of public significance, and even exposing the media to the risk of bankruptcy. Added to that, monetary compensations for insult and defamation should be applied only in exceptional cases, when eliminating the alleged violations of individuals’ rights is unattainable through refutation, apology or other non-monetary measures.

The court rightfully rejected the lawsuit, taking into account several circumstances. First of all, in its precedent ruling[[40]](#footnote-40) the Court of Cassation determined that the information, containing data on violations of enforced legislation, manifestations of unfair behavior, violations of ethical requirements in private, public or political life, lack of integrity in economic or entrepreneurial activities by a natural or legal person and other information, not supported by evidence (not real), should be considered disgracing and demeaning a person's honor, dignity or business reputation. Therefore, expressions that contain false information regarding the violation of legal norms and moral principles, provoking negative sentiments towards an individual fall under the category of defamation. As such, the statements cited by the plaintiff do not contain clear details about a particular action or inaction. It is evident from the phrase “we have all grounds to assume” used in the article that the statements made are abstract in nature.

The court took into account the possibility of resorting to a certain degree of exaggeration and even provocation within the boundaries of journalistic freedom. It classified the expressions in the article as value judgments, based on the content of the media’s inquiries and the unsigned response letter from the plaintiff company.

The court failed to address the defendant’s argument that *Armenian National Interests Fund CJSC* was an improper plaintiff, and that the alleged defamatory expressions were aimed at the RA government, not the plaintiff. It was imperative for the court to address this circumstance, as right from the beginning the defendant had pointed to it as one of the primary reasons for rejecting the claim. Since the dispute was essentially resolved in favor of the defendant, this omission did not affect the case.

The legitimacy of the verdict is also supported by the court’s recognition of the media's proper conduct: the editorial team contacted the plaintiff for clarification and included their viewpoint in the article. According to the verdict, the media exercised its freedom of expression, and moreover, prior to publishing the article, they took measures prescribed by law to gather information, they presented to the public the facts and circumstances they had become aware of in a balanced and conscientious manner.

**Mariam Hovsepyan v. International Media Holding Ltd.**

**(Court Case No. ED**[**/43787/02/22**](https://datalex.am/?app=AppCaseSearch&case_id=45880421204338959)**)**

**Background of the Case**

On August 23, 2022, citizen Mariam Hovsepyan filed a lawsuit against *International Media Holding Ltd.* (founder of *Lurer.com* news website) with the Court of General Jurisdiction of Yerevan, demanding to publicly refute the information considered defamatory, make an apology and compensate (300 thousand AMD for insult and 600 thousand AMD for defamation) the damage caused to her dignity.

The lawsuit was caused by a piece titled “Citizen Mariam Hovsepyan Fined by Court for Offensive Social Media Behavior, and Forced to Issue a Written Apology,” published on July 7, 2022 on *Lurer.com*. On August 31, 2022, the lawsuit was accepted for proceedings. Five court hearings were held on February 9, May 15, July 3, September 4 and November 22, 2023.

On December 12, the court ruled to partially uphold the claim. The court obliged the defendant to make an apology to the plaintiff, publish a refutation, pay 50 thousand AMD each for insult and defamation, as well as 43 thousand as state duty and 50 thousand as attorney’s remuneration.

As of the completion of the current study, no appeal had been filed.

**Defamatory Nature of Information**

The plaintiff told the court that the publication contained the following defamatory expressions: “a citizen known for scandals,” “... with her offensive, provocative and biased remarks towards state and public institutions, politicians, journalists and businessmen...,” “her superficial, reality-distorting and intentional comments on the events of recent years,” “this person has misled people and specific groups,” “(...) her attacks on social media targeting Naira Baghdasaryan,“Aravot” newspaper Moscow correspondent, Gohar Gumashyan, Executive Director of “Armenian Businessmen Association,” and other well-known figures,” etc.

*International Media Holding Ltd.* did not participate in the court proceedings, nor did they submit a response or an objection to the lawsuit. The court determined that the above expressions were statements regarding facts, directed at the plaintiff as an individual, rather than at her activities. This is crucial when addressing the issue of insult. And since the defendant, as mentioned, abstained from participating in the trial, no stance, fact or argument was put forward to refute the assertion that those expressions were directed at the plaintiff. Additionally, there was no clarification on the basis for these statements, and a revelation of the media's intention.

The court carried out an objective analysis to determine whether the expressions in question were insulting or defamatory. Despite overall agreement with the conclusions outlined in the judgment, we consider that there exists a degree of controversy regarding the court’s position on the word ‘attack’. The court reasoned that although that word itself was not defamatory, its usage within the given publication attributed illegal behavior to the plaintiff, and consequently, in this regard, the lawsuit was well-founded and should be upheld.

**Pecuniary Compensation**

The court highlighted that it was unreasonable to set pecuniary compensation that would disproportionately restrict the right to freedom of speech. In the absence of information about the defendant’s financial situation and considering the extent of dissemination of the controversial expressions, the court set a pecuniary compensation of 50 thousand AMD each for insult and defamation, rejecting the rest of the claim.

The court failed to substantiate the need to set pecuniary compensation in this case, and did not clarify why non-pecuniary compensation was insufficient for the restoration of the plaintiff's allegedly violated rights. The discussion about the defendant's financial situation becomes relevant if in the course of proceedings it has been proven that the damage to the plaintiff’s rights is so extensive that it cannot be restored through non-pecuniary compensation alone, necessitating the addition of pecuniary compensation. This consideration is important, emphasizing that non-pecuniary damage should be primarily addressed through non-pecuniary means, considering their proportionality.

**Conclusion**

According to the case facts, the article in question was published on July 7, 2022, and the lawsuit was filed in court on August 23 of the same year, i.e. 1 month and 16 days later. However, Article 13 of the Civil Code stipulates that a claim for protection of the right may be submitted to the court within one month after the person becomes aware of insult or defamation, but not later than within six months from the moment of insult or defamation. This implies that the defendant had the right to invoke the statute of limitations and submit a corresponding motion. While acknowledging the lawsuit's postal submission and the potential delays, yet a 16-day gap raises concerns. In this context, the examination of the issue of the statute of limitations could have been a critical factor for the outcome of the case.

However, as the defendant remained absent throughout the trial, this issue was not brought to the forefront.

The characterization of certain contested expressions as insult and defamation raises confusion. In particular, the court considered the phrase “this person has misled people and specific groups” to be an insult, although it does not in any way cross the threshold of being disparaging and lacks any content to be deemed as an insult. Instead, the phrase describes a specific action attributed to the plaintiff that can solely be considered defamatory. Similarly, the court described as defamation the expression “(...) her attacks on social media targeting Naira Baghdasaryan,“Aravot” newspaper Moscow correspondent, Gohar Gumashyan, Executive Director of “Armenian Businessmen Association,” and other well-known figures.” However, an “attack” against a certain individual on social media cannot be considered a condemnable action, misdemeanor, or offense unless the person goes beyond the boundaries of free speech. Moreover, user disputes on social networks can be sharp, even featuring harsh language. If these disputes are described as attacks in the publication, they may not even in the given context reach a level of slanderous nature qualifying as defamation.

The same applies to the statements concerning making superficial, reality-distorting comments, which, despite carrying a certain negative tone, fully fall within the boundaries of freedom of speech. If every unfavorable statement is treated as an insult or defamation, the right to free expression of opinion will be unreasonably restricted, placing constraints on media activities.

\*\*\*

***This Report has been developed as part of a Project supported by the Canada Fund for Local Initiatives. The information, opinions, and assessments presented in this document are the sole responsibility of the CPFE and may not align with the views and positions of the Government of Canada.***

1. The previous studies are available here: [Monitoring 2021-2022](https://khosq.am/en/monitorings/court-cases-against-media-outlets-and-journalists-in-2021-2022-media-monitoring-report/), [Monitoring 2019-2020](https://khosq.am/en/monitorings/court-cases-against-media-outlets-and-journalists-in-2019-2020-media-monitoring-report/) and [Monitoring 2010-2013](https://khosq.am/en/monitorings/monitoring-of-libel-and-insult-cases-against-the-media/) [↑](#footnote-ref-1)
2. <https://www.e-draft.am/projects/6552/about> [↑](#footnote-ref-2)
3. The November 15, 2011 Decision DCC-997 of the RA Constitutional Court is available at <https://www.arlis.am/documentview.aspx?docid=72335> [↑](#footnote-ref-3)
4. <https://www.arlis.am/DocumentView.aspx?DocID=90965> [↑](#footnote-ref-4)
5. The European Court of Human Rights 06.09.2005 Judgment on the case of *Salov v. Ukraine*, Paragraph 89, the European Court of Human Rights 21.01.1999 Judgment on the case of *Garcia Ruiz v. Spain*, Paragraph 26: available at <https://hudoc.echr.coe.int/eng?i=001-70096> [↑](#footnote-ref-5)
6. <https://www.arlis.am/documentview.aspx?docID=33816> [↑](#footnote-ref-6)
7. The pricelist is available here: <https://advocates.am/images/library/gnacucak_29.07.2021.pdf> [↑](#footnote-ref-7)
8. The provision stipulates the following: “In order to determine a reasonable remuneration for the work of an advocate, including the compensation of costs by judicial bodies, the Board of the Chamber of Advocates can set an average pricelist of fees. This pricelist cannot be used for other purposes.” [↑](#footnote-ref-8)
9. <https://mamul.am/am/news/197221> [↑](#footnote-ref-9)
10. <https://www.arlis.am/documentview.aspx?docID=76836> [↑](#footnote-ref-10)
11. According to the specified Article, “The court, based on the claims and objections of the involved parties and guided by legal norms applicable to the disputed legal relationship, determines the essential facts necessary for resolving the case.” [↑](#footnote-ref-11)
12. <https://168.am/2021/04/12/1493119.html> [↑](#footnote-ref-12)
13. <https://hetq.am/hy/article/130541> [↑](#footnote-ref-13)
14. <https://hraparak.am/post/007161f1f8dd671393a6aa4dd1164d96> [↑](#footnote-ref-14)
15. Throughout the conduct of this study, no developments took place in the court case: <http://datalex.am/?app=AppCaseSearch&case_id=45880421204189151> [↑](#footnote-ref-15)
16. <https://www.facebook.com/syuzan.simonyan> [↑](#footnote-ref-16)
17. <https://bit.ly/3Ozibca> [↑](#footnote-ref-17)
18. <https://www.arlis.am/documentview.aspx?docid=72335> [↑](#footnote-ref-18)
19. <https://yerevan.today/all/politics/87473/sorosakan-hovhannes-hovhannisyany-knshanakvi-eph-rektori-jp%E2%80%A4-politik-am> [↑](#footnote-ref-19)
20. <https://politik.am/am/eph-rektori-pashtonakatary-gragoxutyamb-kensagrutyun-e-kextsel-yerevantoday> [↑](#footnote-ref-20)
21. <https://yerevan.today/all/hetaqnnutyun/87738/eph-rektori-pashtonakatary-gragoghoutyamb-kensagroutyoun-e-keghtsel> [↑](#footnote-ref-21)
22. <https://www.arlis.am/documentview.aspx?docID=76836> [↑](#footnote-ref-22)
23. <https://hraparak.am/post/fce1d14accd0c9cceabc338fdc0e6a51> [↑](#footnote-ref-23)
24. A person is exempt from liability for insult or defamation, if the factual data expressed or communicated constitute the verbatim or good-faith reproduction of information disseminated by a media agency, as well as of information contained in another person’s public speech, official documents, other mass media or work of authorship, and if in the course of dissemination a reference has been made to the source (author) of information. [↑](#footnote-ref-24)
25. <https://advocates.am/images/library/gnacucak_29.07.2021.pdf> [↑](#footnote-ref-25)
26. <https://www.youtube.com/watch?v=lK6HT5ihmKQ> [↑](#footnote-ref-26)
27. <https://bit.ly/3b6RtcZ> [↑](#footnote-ref-27)
28. <https://bit.ly/3MhPfWG> [↑](#footnote-ref-28)
29. <https://www.arlis.am/documentview.aspx?docID=76836> [↑](#footnote-ref-29)
30. <https://www.arlis.am/documentview.aspx?docID=76836> [↑](#footnote-ref-30)
31. <https://lurer.com/?p=451795&l=am>, <https://armday.am/post/205597> [↑](#footnote-ref-31)
32. For example, the Government’s July 16, 2020 decree approving the “Engineering City” investment program is available at the following link: <https://www.arlis.am/DocumentView.aspx?DocID=144660> [↑](#footnote-ref-32)
33. For instance, <https://armenpress.am/arm/news/956569.html> , <https://www.panorama.am/am/news/2018/11/05/%D4%BB%D5%B6%D5%AA%D5%A5%D5%B6%D5%A5%D6%80%D5%A1%D5%AF%D5%A1%D5%B6-%D6%84%D5%A1%D5%B2%D5%A1%D6%84/2028632> [↑](#footnote-ref-33)
34. <https://fip.am/14819> [↑](#footnote-ref-34)
35. <https://www.arlis.am/DocumentView.aspx?DocID=90965> [↑](#footnote-ref-35)
36. <https://www.arlis.am/DocumentView.aspx?DocID=111791> [↑](#footnote-ref-36)
37. <http://www.foi.am/hy/IDC/item/2464/> [↑](#footnote-ref-37)
38. <https://www.pastinfo.am/hy/news/2022/06/25/0pl4o52te/1422480> [↑](#footnote-ref-38)
39. This ruling of the Court of Cassation addressed the criteria for insult and defamation: <https://www.arlis.am/documentview.aspx?docID=76836> [↑](#footnote-ref-39)
40. The RA Court of Cassation April 27, 2012 ruling in the civil case No. LD/0749/02/10 is available at <https://www.arlis.am/documentview.aspx?docID=76813> [↑](#footnote-ref-40)