***Judge Svetlin Mihailov v. Mediapool and Boris Mitov***

***Meta-Data*:**

* **Case Number**: Civil Case No. 15441 of 2019
* **Date of decision**: 21.12.2021
* **Featured case**: N/A
* **Region**: Sofia
* **Country**: Bulgaria
* **Type of expression**: SLAPP/defamation
* **Judicial Body**: Sofia City Court
* **Type of law**: civil law
* **Main Themes**: SLAPP, defamation;
* **Outcome**: the media and the journalist were sentenced to pay 60000 lv (approx.. 30 000 euro) to the judge Svetlin Mihailov for calling him “scandalous”
* **Status**: pending before second instance
* **Tags**: SLAPP; defamation; criticism towards public officials;

***Analysis:***

* **Summary and Outcome**:

The Sofia City Court of Bulgaria held that when a judge is called “scandalous” by a journalist in an article, this harms its reputation and good name and resolves in a non-material damages, which the court evaluates of BGN 60 000 (approx. EUR 30 000 or USD 32 000). The Bulgarian journalist Boris Mitov wrote a series of articles in the website Mediapool over the failed election of the chairman of the Sofia City Court. Despite his articles included actual statements and true facts, the journalist and the media were condemned to pay a huge compensation in comparison to the Bulgarian court practice.

* **Facts**:
* Since1992 the plaintiff held the position of a judge at Sofia City Court. The plaintiff worked as a junior judge, district judge, judge in the Sofia City Court. He was the chairman of the Sofia City Court for the period 2004 - 2009.
* In 2017, a procedure was opened for the election of the chairman of the Sofia City Court, in which the plaintiff was one of the candidates.
* During the procedure before the Sofia City Court in the electronic edition "Mediapool.bg" , published by Mediapool LtD and owned by Stoyana Georgieva and Foundation Infospace., a series of materials related to the election procedure were published.
* On February 12th 2018 , at the web address [https://www.M..bg/gradskite-sadii-ne- podkrepyat-s.-m.-za-nov-upravlenski-mandat-news275 452 .html](https://www.mediapool.bg/gradskite-sadii-ne-%20podkrepyat-svetlin-mihailov-za-nov-upravlenski-mandat-news275452.html) ; an article entitled "City judges do not support Svetlin Mihailov for a new management mandate" appeared.
* The article begins like this: "**The infamous former chairman of the Sofia City Court Svetlin Mihailov expectedly did not receive the support of his colleagues…”.** The other applications are discussed with short professional references. The article continues with stating that Svetlin Mihailov is the judge who allowed usage of special intelligence devices on another scandalous case, as well as that there are claims among the judicial circles that the judge enjoyed the favor of the DPS [Bulgarian political party mainly representing the Turkish minority in the country] while he was the chairman. In the article it is stated as well that "the loudest scandals with him were related to the denied registration of another political party SDS, as well as to the dubious-sounding political motives for the decision regarding the registration of the leadership of the chief mufti". The article ends with the statement that in 2005 the judge uses a jeep stolen in Germany, provided by the Ministry of Finance to the Sofia City Court.
* On 16.02.2018, at the web adress: <https://www.mediapool.bg/gradskiyat-sad-poiska-za-shef-neopetnen-sadiya-a-ne-skandalen-milioner-na-hod-e-vss-news275648.html> an article was published under the title "**The city court asked for an inexperienced judge, not *the scandalous* millionaire. The Supreme Court Council is underway."**

In it, when discussing the candidacies, it is stated about the plaintiff that he is " the ex-chairman, known both for his proximity to the DPS and for the series of scandals in which his name was involved during his management mandate from 2004 to 2009" as “probably for this reason, the plaintiff did not obtain the necessary majority, and that this vote shows the reluctance of the magistrates to be led by a **proven scandalous magistrate".** When discussing the financial status of the candidates, it was stated that "Svetlin Mihov, whose professional career has been spent entirely in the judicial system, is officially a millionaire". It is indicated that all checks by the State agency for national security and National Revenue Agency have not found anything wrong, as well as that "The ambiguities circumstances in which this property was generated are not the biggest problem in Mihov’s biography. It is far more important that his possible election is a guarantee of new scandals in the activities of the Sofia City Court, and this is not an assumption, but a logical consequence of his mandate as the head of the court". The article quotes another judge – Konstantin Penchev, who was the chairman of the Supreme Administrative Court and afterwards Constitutional judge, who refers to Mihov as a "Disgrace to the judicial system", following with a detailed opinion of Penchev about the abilities of Mihov as a chairman. In the subtitle "Scandal after scandal", it is stated that during the five years of being a chairman, Mihov was able to get involved in not one or two scandals, some "with a political overtone, others with an economic one, but mostly characterized by suspicions of corruption". Several case studies are mentioned - "the bankruptcy of Kremikovtsi", "the refused registration of SDS" and "the stolen company of Mavrodiiski". The role of the Sofia City Court was also discussed, stating "Against this background, it seems more than absurd that the Judicial College of the Sofia City Court would prefer a compromised candidate for the head of a city court. […] Additional concerns are raised by rumors in judicial circles that Svetlin Mihov has already sought the support of high-ranking political figures”.

* On February 19, 2018, there was another article on the web address: [https://www.M..bg/samo-favoritat-na-sadiite-za-shef-na-sgs-otgovori-na-vaprosi-za-imushestvoto-si-news275743 . html](https://www.mediapool.bg/samo-favoritat-na-sadiite-za-shef-na-%20sgs-otgovori-na-vaprosi-za-imushtestvoto-si-news275743.html)  with the title: "Only the judges' favorite for Sofia City Court chief answered questions about his assets". There is a subtitle called: **“Svetlin Mihailov has not yet commented on his enrichment”**. The article gives details about the declaration of the other candidate and his assets, as well as stating that “**It is said that the other candidate in the race - the infamous former chairman of the Sofia City Court, Svetlin Mihailov, remains silent on the subject for now, although it is his property situation that raises far more doubts.”**
* On 20.02.2018 at web address: [https://www.М..bg/s.-m.-vleze-po-speshnost-v-pravitelstvena-bolnitsa-i-otlozhi-vota-za-sgs-news275767.html](https://www.mediapool.bg/svetlin-mihailov-vleze-po-speshnost-%20v-pravitelstvena-bolnitsa-i-otlozhi-vota-za-sgs-news275767.html) , an article titled "Svetlin Mihailov rushed into a government hospital and postponed the vote for Sofia City Court".

In the article, the expressions "**the scandalous former chairman of the largest district court in the country**" are used again in relation to the plaintiff. It is stated **that “thanks to his transactions with his parents from 1999 he is now officially a millionaire, although he has only been a magistrate throughout his career”.** It is claimed that "Apart from doubts surrounding his rapid enrichment, part of which coincides with his management mandate at the Sofia City Court, another serious minus in the biography of Judge Mihailov is the numerous scandals that broke out while he was the chairman of the court." The facts of the enrichment and the financial status of the judge have not been challenged before the court.

* The articles were prepared by the journalist Boris Mitov, named as the author in them. The articles were published in view of increased public interest - since the election of the chairman of the Sofia City Court was in the public eye.
* On 19.02.2018 the plaintiff was urgently admitted to the Lozenets Hospital, where he was hospitalized until 23.02.2018.
* **Decision Overview**:

Judge Daniela Popova of Sofia City Court finds that there is violation of art. 39, par. 1 of the Bulgarian Constitution (guarantee of freedom of expression) and art. 45 and 49 of Contract and Obligation Act of Bulgaria, which proclaim tort (non-contractual liability – art. 45) and liability of the work contractor (art. 49) (in this case the employer is Mediapool.bg and Infospace Foundation). According to the judge, despite the fact that the plaintiff is a public figure and enjoys lower level of protection regarding his privacy, “it is clear from the content of all the articles that their purpose is not to publicize public information important to society /in this case the election of a new chairmen of the largest district court in the country/, but to attract the attention of readers and increase their interest to the site through defamation of the person of the plaintiff. Moreover, the very titles of the articles are provocative, aiming to attract the attention of the readers by directing them to disgraceful facts related to a public figure, which is undoubtedly the plaintiff. It is clear and unequivocal that what is described in the articles will lead to the negative reaction of the society, will create extremely lasting and negative emotions in the readers towards a person and will harm his reputation.” The court also decides that the words “scandalous”, “a scandalous millionaire”, “a proven scandalous magistrate” and also the quotation of judge Penchev, who said the plaintiff is “disgrace to the judiciary” lead to direct violation of art. 39, par. 1 of the Bulgarian Constitution and cause damages to the good name and the reputation of judge Mihailov. According to the court, all expressions made in the articles are humiliating to his honor and dignity and are therefore beyond the limits of the right to freely express and disseminate an opinion.

It was established in the case that the ]publications contained offensive and defamatory statements regarding the plaintiff, which damaged his prestige and good name. As a result of the publications, the plaintiff suffered and continues to suffer negative emotions, both personally and professionally . This was established by a witness testimony. Further, the court accepted the judge Mihailov suffered permanent negative consequences in personal and professional plan and also there was a negative impact on his health. The court accepted that the amount of BGN 60,000 can compensate the negative emotions suffered by the plaintiff. The claim is justified in its full amount, in which it should be honoered.

***Direction:***

* **Outcome**: Contracts Expression
  + The decision contracts expression by limiting freedom of expression of the journalist and the media with qualifying the words “scandalous”, “scandalous millionaire” and other people’s quotations about the plaintiff as an insult. The seeked compensation of BGN 60, 000 is fully recognized.

***Perspective***:

* **Related International and/or regional laws**:

[ECHR, art. 10](https://www.echr.coe.int/Documents/Convention_ENG.pdf);

* **National law or jurisprudence**:
* Bulgarian Constitution art. 39, 40 and 41.
* Obligation and contract law art. 45 and 49.

***Significance***:

The decision establishes a binding or persuasive precedent within its jurisdiction.

* **Related Cases**: Self-generated
* **Date updated**: N/A

***Docs***:

* **Official Case Documents**:

**Examples:**

Judgment (in English) [Attached]

Press Release issued by …. (in English) [Attached]

* **Reports, Analysis, and News Articles**:
  + Please list any titles and URLS of interesting articles or analyses about the case that might be of interest to readers