**Summary & Outcome**

The European Court of Human Rights (ECtHR) found that Serbia violated the right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR) by imposing disproportionate civil sanctions on a national media outlet. The case concerned a series of television broadcasts and an online article published by the applicant company, which reported on alleged irregularities in the public procurement of swine flu vaccines. The reporting cited an internal police document suggesting that several public officials, including a former Assistant Minister of Health, were suspected of wrongdoing. Domestic courts ruled against the media outlet, holding it liable for defamation and ordering it to pay compensation, remove the article from its website, and publish the judgment.

The Court found that the reporting was based on a credible document from a law enforcement body, was undertaken in good faith, and included efforts to obtain official responses from the individuals and institutions involved. It emphasized the essential role of the media as a public watchdog, especially when reporting on matters of significant public interest, and found that the domestic courts had failed to adequately balance the competing rights at stake. The Court concluded that the interference with the applicant’s freedom of expression was not necessary in a democratic society and therefore amounted to a violation of Article 10 of the ECHR.

**Facts**

The applicant in this case is *Radio Broadcasting Company B92 AD*, a media company registered in Belgrade in 2005, which owns the television station B92 TV and the online portal B92.net. According to its 2020 financial report, the company had a net profit of approximately €2.85 million, reflecting its significant presence in the Serbian media landscape.

In 2011, B92 undertook investigative journalism for its television series *Insider – Buying and Selling Health*, which focused on the Serbian government’s 2009 procurement of AH1N1 vaccines. During this process, the station obtained “official note no. 14/11” from the Anti-Corruption Division (ACD) of the Ministry of the Interior, dated 13 September 2011. The note was handed to the editor-in-chief of B92’s news program by two police officers.

The note summarized pre-trial actions undertaken from 2009 to 2011, including police surveillance, document seizure, and witness interviews, all overseen by the Special Prosecutor for Organised Crime. It stated that the investigation had entered its final phase by early September 2011.

The ACD officers had met several times with the Special Prosecutor and Deputy Prosecutor between 5 and 13 September 2011, during which they expressed the view that there was reasonable suspicion that six people, including Z.P., then Assistant Minister of Health, had committed the offence of abuse of office to benefit a vaccine supplier, J. company. Regarding Z.P., the note alleged she had: (a) failed to disclose to the government that more than three million doses had already been reserved through another supplier; (b) conducted negotiations with a third party offering better terms, but not acted on them; and (c) instructed her subordinate to revise a procurement evaluation report in favor of the J. company.

The ACD originally recommended filing charges against fourteen individuals, including Z.P. However, the Special Prosecutor’s Office concluded there was insufficient evidence against Ministry of Health employees and insisted that only three individuals—S.V., V.G., and Lj.P.—be named in the complaint. The Ministry officials disagreed, asserting that removing Ministry staff from the complaint would distort the context of the case.

A revised complaint including all fourteen individuals was submitted on 9 September 2011 during a meeting at the Special Prosecutor’s Office. The ACD also presented audio surveillance records during this meeting. Nonetheless, the final criminal complaint filed before 29 November 2011 named only the three individuals accepted by the prosecutors.

On 27 November 2011, B92 TV reported that the police's list of suspects had included Z.P. and others, and that twelve names had disappeared from the list following consultation with the prosecutors. These reports were aired again on 28 and 29 November and on 13 and 14 December 2011, often accompanied by Z.P.’s photograph.

B92.net published an article titled “Insider: Selective Justice?” which repeated the above claims and suggested that Z.P. and others had been excluded from prosecution due to pressure from the Special Prosecutor’s Office. The article criticized the selective nature of justice and included partial responses from the Special Prosecutor’s Office and the Ministry, denying improper conduct and asserting that only three individuals were suspects at that time.

On 27 November 2011, another article, “The Ministry reacts to Insider,” stated that the police had suspected Z.P. and other high-ranking officials in the vaccine procurement process.

Z.P. asked B92 to publish a denial of the allegations made on 27 November 2011, accusing the broadcaster of assuming the role of judicial authorities and spreading unverified information, which she claimed amounted to a public lynching. B92 declined to publish the full text, only printing her announcement that she intended to pursue legal action.

On 27 April 2012, Z.P. filed a civil lawsuit before the Belgrade High Court. She sought compensation for non-pecuniary harm to her honour and reputation, publication of the judgment, and the removal of the two articles from B92’s website. She later added the editor-in-chief as a co-defendant. Z.P. asserted that she had never been formally suspected, and the claims of her removal from a suspect list due to prosecutorial influence were false.

B92 argued that the information came from a document of a relevant State body and was reported in the public interest. They relied on Article 82 of the 2003 Public Information Act, which provides journalists immunity when citing official State documents. The editor-in-chief testified that he had received the note from two police officers and deemed it newsworthy. The investigative journalist confirmed that Z.P. had initially agreed to comment but later declined.

On 23 October 2013, the Belgrade High Court partially ruled in favour of Z.P., ordering B92 to pay RSD 200,000 in damages and RSD 113,100 in costs, to remove the article “Insider: Selective Justice?” and to publish the judgment. The court found that B92 had failed to verify the information, did not contact Z.P. for comment, and relied on a police note that did not qualify as an official document under Article 82 of the Public Information Act. The court also noted that no criminal complaint had been filed against Z.P. and that the published information contained unverified facts implying criminal suspicion and prosecutorial misconduct.

B92 appealed the decision, invoking Article 10 of the European Convention on Human Rights (ECHR). On 5 June 2014, the Belgrade Court of Appeal upheld the High Court's ruling, finding that the applicant failed to verify the origin and accuracy of the information. It rejected the argument that citing a police note fulfilled the requirements of Article 82 and emphasized that freedom of expression may be lawfully limited to protect the honour and reputation of others under Article 8 of the ECHR.

A constitutional appeal was filed by B92 on 30 July 2014. On 18 May 2016, the Constitutional Court dismissed the appeal. It held that although the case involved an interference with freedom of expression, the interference was necessary and proportionate to protect Z.P.’s reputation. The court found that B92 had published unverified factual statements implying that Z.P. had been removed from a suspect list due to improper influence. It also noted that Z.P. was a public official and should tolerate a higher degree of scrutiny, but the claims published by B92 failed to meet the standards of responsible journalism.

After exhausting all domestic remedies, B92 submitted an application to the European Court of Human Rights (ECtHR) on 9 November 2016, alleging a violation of Article 10 of the ECHR due to what it considered a disproportionate interference with its journalistic freedom to report on a matter of public interest.

**Decision Overview**

The European Court of Human Rights (EcttHR) delivered a judgment in the case of *Radio Broadcasting Company B92 AD v. Serbia*, addressing whether civil defamation sanctions imposed by domestic courts on a Serbian media company violated its right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR). The applicant company, B92 AD, had broadcast and published content in late 2011 reporting that Z.P., then Assistant Minister of Health, had been included on a police list of suspects in relation to alleged abuses during the procurement of AH1N1 vaccines and later removed from that list following consultations between the police and the Special Prosecutor’s Office. Domestic courts found this reporting to be defamatory and imposed civil liability on the company, including the payment of damages, removal of an article from its website, and publication of the judgment.

The applicant company argued that the interference with its freedom of expression was unjustified and not necessary in a democratic society. It emphasized that the contested information was a faithful reproduction of content from an official document issued by the Anti-Corruption Department of the Ministry of the Interior (ACD). The company maintained that it had not aimed to damage the reputation or dignity of Z.P., a public official, but rather sought to contribute to a matter of significant public interest—namely, alleged irregularities in the procurement of AH1N1 vaccines in 2009 and the related pressure on investigative authorities.

It further underscored that its reporting was based on a legitimate journalistic inquiry and that it had accurately relayed the internal communication without suggesting that Z.P. had been formally charged or that the Special Prosecutor’s Office had taken action against her. The existence of institutional disagreement between the police and prosecutors was presented as a key contextual element, and the company asserted that further verification of official State documents was unnecessary under the circumstances.

The applicant company also pointed out that the domestic proceedings had been limited to certain news items and did not concern its broader investigative work or related publications. It contended that journalists must be allowed some leeway in the use of provocative language, referencing its use of the phrase “many [got] protected” [para. 60] as legitimate commentary reflecting institutional conflict.

Furthermore, it asserted that the refusal to publish Z.P.'s denial was lawful, as her statement constituted opinion rather than verifiable fact, and therefore did not meet the criteria for a right of reply. The applicant stressed that the mere initiation of civil proceedings against it amounted to a violation of its right to freedom of expression, regardless of the absence of criminal sanctions.

In contrast, the Government contended that there had been no violation of Article 10 of the ECHR, as the interference with the applicant company’s freedom of expression was justified and necessary in a democratic society. It argued that the domestic courts had provided adequate reasoning and that the civil judgment had not imposed a disproportionate burden on the applicant company. The compensation awarded was consistent with national case-law and did not impede the company’s ability to continue operating profitably.

Contrary to the applicant’s claim, the Government maintained that the domestic decisions had, in fact, referred to both the news article “The Ministry reacts to Insider” and the television series, and these were part of the broader factual context considered by the courts.

The Government further asserted that the applicant company had published inaccurate factual allegations about Z.P., including claims that she had concealed procurement details, manipulated the process to favor a specific supplier, and improperly influenced investigative bodies. Such statements, which suggested criminal misconduct, were not value judgments and required verification—especially where not explicitly supported by the internal Ministry note cited by the applicant.

The Government argued that relying on a single pre-trial document, which only summarized preliminary operational information and was not deemed official by the courts, was insufficient to justify such serious claims. The courts were better placed to assess the evidentiary weight of the note, and unlike the cases cited by the applicant, the document here lacked the formal authority or reliability to shield the applicant from liability. Therefore, the Government concluded that the interference with the applicant's freedom of expression did not breach the Convention.

The Court confirmed that there had been an interference with the applicant company’s freedom of expression, and that this interference was prescribed by law and pursued a legitimate aim, namely the protection of the reputation or rights of others, as provided for in Article 10(2) of the ECHR. The central question, however, was whether the interference was necessary in a democratic society.

In assessing this, the Court applied its established test, reaffirming that while States have a margin of appreciation in regulating speech, this is particularly narrow when the reporting concerns matters of public interest. The Court emphasized that freedom of expression includes duties and responsibilities, but that sanctions capable of dissuading public-interest journalism must be subject to the strictest scrutiny.

The Court reiterated six key criteria for balancing freedom of expression against other protected interests, namely: the contribution to a public debate; the status of the person affected; the method of obtaining the information and its veracity; the content and form of the publication; the consequences of the interference; and the severity of the sanction imposed.

The Court found that the applicant’s reporting clearly contributed to a matter of public concern, involving public officials and the alleged mishandling of health-related procurement. Z.P., as an Assistant Minister of Health at the time, was a public figure whose official conduct was a legitimate subject of public scrutiny. The Court affirmed that public officials must tolerate a greater degree of criticism than private individuals.

The Court further held that the applicant company had taken reasonable steps to verify the accuracy of the information. It obtained the police note from identifiable sources within the Ministry of the Interior, sought comment from Z.P. (who declined to respond), and published the prosecutor’s official response to the controversy. In this context, the Court was particularly critical of the domestic courts’ failure to evaluate whether the contested statements were value judgments based on a disclosed factual basis.

It noted that while the applicant company reported that names were removed from the suspect list following consultation with prosecutors, and suggested this may have occurred under pressure, this allegation was framed cautiously and could reasonably be seen as a value judgment related to a systemic concern, which is selective justice.

The Court also noted that the domestic courts did not acknowledge the applicant’s efforts to present the views of all parties involved, nor did they conduct a proper balancing exercise between the competing rights under Articles 8 and 10 of the Convention. The courts’ treatment of B92’s freedom of expression arguments as irrelevant to Z.P.’s privacy rights under Article 8 failed to satisfy the standards of necessary reasoning.

The Court was further concerned that the sanctions imposed including monetary damages, a requirement to remove the article, and publication of the domestic judgment were capable of having a chilling effect on investigative journalism. It stressed that the role of the press as a “public watchdog” is vital in a democratic society, and that journalists must not be deterred from reporting on matters of public interest through the threat of legal penalties. The Court stated that even though the sanction imposed was relatively moderate, it was capable of having a chilling effect on the exercise of the applicant company’s right to freedom of expression.

In reaching its decision, the Court relied on well-established precedents, including *Axel Springer AG v. Germany*, *Morice v. France*, *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina*, and *Cumpǎnǎ and Mazǎre v. Romania*. These cases underscore the principle that legal sanctions should not be imposed in a manner that chills robust reporting, especially where the media act in good faith and present balanced reporting on issues of public concern.

Accordingly, the Court concluded unanimously that the interference with B92’s right to freedom of expression was not justified under Article 10(2) and constituted a violation of the ECHR. It held that the Serbian courts failed to apply the appropriate legal standards or to assess the facts in a manner consistent with the principles embodied in Article 10. As a remedy, the Court awarded the applicant company €2,740 in pecuniary and non-pecuniary damages and €2,500 for legal costs and expenses.

**Decision Direction**

*Expands Expression*

This judgment expands freedom of expression by reaffirming the press’s essential role as a public watchdog in democratic societies, particularly when reporting on matters of significant public interest. The European Court of Human Rights (ECtHR) found that the civil sanctions imposed on the applicant media company for reporting on alleged irregularities in public vaccine procurement were not necessary in a democratic society. The Court emphasized that the domestic courts failed to consider whether the media had acted in good faith, relied on credible sources, and made efforts to obtain responses from the authorities concerned. Notably, the judgment clarified that relying on internal documents from state authorities during investigative journalism may be protected under Article 10 of the European Convention on Human Rights (ECHR), especially when the reporting concerns issues of governance and potential corruption. This decision reinforces the importance of robust legal safeguards for journalistic inquiry and affirms that sanctions—such as damage awards and orders to remove content—must not have a chilling effect on press freedom.

**Global Perspective**

*European Convention on Human Rights (ECHR)*

* + Article 10 – Freedom of Expression
  + Article 8 – Right to Respect for Private and Family Life
  + Article 34 – Individual Applications

*European Court of Humn Rights (ECtHR)*

1. *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, ECHR 1999-III
2. *Colombani and Others v. France*, no. 51279/99, ECHR 2002-V
3. *Yordanova and Toshev v. Bulgaria*, no. 5126/05, 2 October 2012
4. *Tešić v. Serbia*, nos. 4678/07 and 50591/12, 11 February 2014
5. *Morice v. France* [GC], no. 29369/10, ECHR 2015
6. *Bédat v. Switzerland* [GC], no. 56925/08, 29 March 2016
7. *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no. 17224/11, 27 June 2017
8. *SIC - Sociedade Independente de Comunicação v. Portugal*, no. 29856/13, 27 July 2021
9. *Axel Springer AG v. Germany* [GC], no. 39954/08, 7 February 2012
10. *Milisavljević v. Serbia*, no. 50123/06, 4 April 2017
11. *Milosavljević v. Serbia*, no. 57574/14, 25 May 2021
12. *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], no. 931/13, 27 June 2017
13. *The Sunday Times v. UK* (no. 1), 26 April 1979, Series A no. 30
14. *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99
15. *Jerusalem v. Austria*, no. 26958/95
16. *Cumpǎnǎ and Mazǎre v. Romania* [GC], no. 33348/96
17. *Tønsbergs Blad A.S. and Haukom v. Norway*, no. 510/04
18. *Kasabova v. Bulgaria*, no. 22385/03
19. *Dammann v. Switzerland*, no. 77551/01
20. *Verlagsgruppe Droemer Knaur GmbH & Co. KG v. Germany*, no. 35030/13
21. *Erla Hlynsdóttir v. Iceland*, no. 43380/10
22. *Godlevskiy v. Russia*, no. 14888/03
23. *Lombardo and Others v. Malta*, no. 7333/06
24. *Romanenko and Others v. Russia*, no. 11751/03
25. *July and SARL Libération v. France*, no. 20893/03
26. *White v. Sweden*, no. 42435/02
27. *Egeland and Hanseid v. Norway*, no. 34438/04

*Serbian Domestic Law*

Constitution

* Article 46 – Freedom of thought and expression, limits for protection of reputation

Public Information Act (2003)

* Article 3 – Due diligence in verifying information
* Article 4 – Freedom to publish in the public interest
* Article 9 – Limited privacy rights for public officials
* Article 37 – Prohibition on declaring someone guilty without a final decision
* Articles 47–43, 57–58, 79–82 – Right of reply, corrections, and liability standards

Obligations Act

* Article 154 – Civil compensation grounds
* Article 199 – Remedies for violations of personal rights
* Article 200 – Non-pecuniary damages for mental anguish

Code of Criminal Procedure

* Articles 504 – Procedure for organized crime and corruption
* Article 504 – Confidentiality of pre-trial proceedings

Anti-Corruption Agency Act

* Article 2 – Definition of "official" and "public office"

Free Access to Information of Public Interest Act

* Articles 2 and 9 – Definition of public information and exceptions for confidentiality