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Meeting: 1383rd meeting (29 September - 1 October 2020) (DH)

Item reference: Action Report (15/06/2020)

Communication from Romania concerning the case of Ciorhan v. Romania (Application No. 49379/13)

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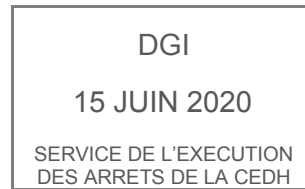
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Réunion : 1383^e réunion (29 septembre - 1 octobre 2020) (DH)

Référence du point : Bilan d'action (15/06/2020)

Communication de la Roumanie concernant l'affaire Ciorhan c. Roumanie (requête n° 49379/13) (**anglais uniquement**)

L/1447
4837 R/AG/ 22



15 June 2020

Action Report
Ciorhan v. Romania
(Application no. 49379/13, judgment of 3 December 2019)

I. Introductory summary of the case

This present case concerns the unjustified interference with the applicant's right to freedom of expression, as a result of the final domestic court's decision rendered in April 2013 holding him liable in tort for defamation and ordering him to pay damages and legal costs for statements made in press on matters of public interest, particularly linked to alleged irregularities in the management of an association which provided a public service.

The Court held that the domestic courts had failed to strike a fair balance between the relevant interests and to establish that there was a "pressing social need" to put the protection of the association's reputation above the applicant's right to freedom of expression. Therefore, the Court considered that the domestic courts had overstepped the narrow margin of appreciation afforded to them in matters of debate of public interest, and that the interference had not been "necessary in a democratic society" (violation of Article 10).

II. Individual measures

The European Court awarded the applicant the amount of 1,300 EUR for pecuniary damage, representing the compensation which he had been ordered to pay under the impugned domestic decision of April 2013 which had found him liable in tort for defamation.

The Court also awarded him the amounts of 4,000 EUR in respect of non-pecuniary damage and 1,640 EUR in respect of costs and expenses.

It is noted that the aforesaid amounts, paid in due course, covered the pecuniary and non-pecuniary damage suffered by the applicant as a consequence of the violation found by the Court, as well as the costs and expenses incurred by him both in the domestic proceedings and in proceedings before the Court. Accordingly, the payment of the just satisfaction has erased all consequences for the applicant of

the violation found by the European Court and no other individual measure is required in this case.

III. General measures

The judgment *Ciorhan v. Romania* has been disseminated to the Superior Council of Magistracy and to all Courts of Appeal of Romania.

The Government consider that the present case does not raise issues with regard to existing legislation applicable in the area of freedom of expression. More so, national courts directly apply Article 10 of the Convention and Romanian magistrates are increasingly aware of the Conventional requirements in the area of freedom of expression and therefore have made great improvements in the time elapsed since the civil proceedings that made the object of application no. 49379/13 (which took place between 2012-2013).

The Government is aware that that certain questions remain open, notably as regards the proportionality test undertaken by the domestic courts in this area and the quantum of damages awarded in civil case files dealing with defamation/insult allegations. It considers that these questions can be pursued in the framework of the leading case of *Ghiulfer Predescu v. Romania*.

IV. Conclusions

As the individual measures have been resolved in this case and the general measures still required are followed by the Committee of Ministers in the framework of the case of *Ghiulfer Predescu v. Romania* (No. 29751/09), the Government invites the Committee to close its supervision of the present case.