

SAZAS loses lawsuit: Dnevnik's reporting was correct

The Court of Appeal also refused to grant SAZAS's € 50,000 damages claim against Dnevnik for articles in which the journalist revealed Sazas' controversial transfers abroad.

JUSTICE

Peter Lovšin

17 February 2020



SAZAS filed a € 50,000 claim in court, but failed to convince either the first instance court or the higher court. (Photo: Matej Povše)

The Ljubljana High Court has upheld the first instance court's ruling that Dnevnik journalist Anja Hreščak's reporting on SAZAS's controversial activities was correct and based on information. *"The Court of Appeal upholds the reasoning of the Court of First Instance that the articles in question did not focus on defaming, disparaging or discrediting the applicant or misleading readers about its 'criminal' activities, as it puts it, but rather on objective reporting about its business,"* the senior judges in Ljubljana wrote in their ruling.

Silence doesn't pay

A Dnevnik journalist has written in several articles about SAZAS's money transfers to Switzerland. These were funds that SAZAS collected from cable retransmission and transferred to AGICOA in Switzerland.

Anja Hreščak reported that an unusually small part of these funds was returned to Slovenia or to Slovenian beneficiaries through the Swiss organisation, which redistributes the funds to beneficiaries all over the world. The journalist explained that SAZAS and AGICOA did not have the proper legal basis for the money transfers to Switzerland, but SAZAS claimed that there was nothing wrong with the transfers. SAZAS brought a claim in court for €50,000, but failed to

convince either the first instance court or the higher court. In the end, SAZAS will have to reimburse Dnevnik for slightly more costs than the first instance court (an additional €2,269 on top of the €4,502 already awarded).

There was no doubt in the court's mind that Dnevnik's reporting was in the public interest, but what is also important is the court's view that it is clear that silence on journalists' questions cannot prevent reporting. SAZAS did not respond to the journalist's questions, but subsequently asked the editorial staff to publish corrections to the articles.

"In this context, the High Court considers it essential that the defendant (Dnevnik) gave the plaintiff (SAZAS) the opportunity to respond before the publication of the first article: it informed her of the allegations and asked her specific questions, to which, according to the findings of the Court of First Instance, she did not reply for several days," the three-judge chamber of senior judges wrote. *"Since the applicant did not respond of its own volition to the defendant's invitation to present its side of the story and did not avail itself of the opportunity to make its version of events known to the public at the same time, the defendant cannot successfully be accused of illegality in its conduct."*

Article critical but not offensive

The Court also addressed the question of whether the articles might have been defamatory towards SAZAS, but the senior judges also agreed that this was not the case.

"It is settled case-law that defamation is an act by which the perpetrator unjustifiably denies respect to someone, takes away his reputation, or by which he sows hatred, contempt, strife or ridicule against someone. None of this applies to the present case," the judges said.

That the writing was critical and may to some extent have been embarrassing for the applicant, the Court of Appeal has no doubt. But it is within the limit of that which it must endure as a relatively public figure."

The Court: There was no defamation of Sazas

The Ljubljana High Court upheld the reasons of the Court of First Instance that the articles in question *"were not aimed at defaming, disparaging or discrediting the applicant or misleading readers about its 'criminal' activities, as it puts it, but rather at objective reporting on its business"*.

Original text in Slovenian at:

<https://www.dnevnik.si/1042922611>