

MINUTES
of the public pronouncement of the verdict of 28 January 2015

Present for the Court:
Marijan Bertalančić
(Presiding Judge - Judge)

(Council Members)

Jasminka Popović
(Registrar)

Criminal case:
Plaintiff: private prosecutor Željko Topić
Defendant: Vesna Stilin
For the crime from the Article 200/2 and other
of the Criminal Code

It has established that the following parties have been present:

1. Plaintiff: private prosecutor – no one, legal representative of the Party, attorney-at-law Tina Čovo
2. Damaged party:
3. Defendant: no one, legal representative of the Party, attorney-at-law Zoran Životić
4. Witness:
5. Expert witness:

It has been established that neither the private plaintiff nor the defendant, who have been duly summoned, have attended today's hearing on the occasion of the public pronouncement of the Court's decision

Pursuant to Article 356 para. 3 of the Criminal Procedure Code, this hearing for the purposes of the public pronouncement of the Court's decision will be held in the absence of duly invited private plaintiff and the defendant.

The judge announces

ON BEHALF OF THE REPUBLIC OF CROATIA
THIS DECISION

The defendant **STILIN Vesna**, the daughter of Milan and Ruzica born Bekavac, born on April 21, 1954 in Zagreb, Zagreb, Biokovske stube 4, a citizen of the Republic of Croatia, holder of a diploma in law [LL.B.], married, with no children and no criminal record, is

Pursuant to the Article 453 point 1 of the CPA/08

ACQUITTED OF THE CHARGES

That she, as follows:

1. On 22 November 2010 in the letter sent to the Croatian Government, the Prime Minister Jadranka Kosor, which was also sent to the Croatian Parliament (deputy Bianca Matković) for information, as

well as to the Minister of Economy, Labour and Entrepreneurship, the Minister of Science, Education and Sports, the Minister of Administration, the Minister of Foreign Affairs and European Integration, the Minister of Culture and the Minister of Finance and Miljenko Pavlaković in HEP, in order to harm the reputation and honor of the private plaintiff by making false statements about him, among other things, stated:

- *"Because of Topić's ignoring of the aforementioned problems, the writers have suffered financial damage because they should have been receiving compensation for the lending of their books in public libraries for at least the last two years."*

- *" Željko Topić bought his second term as the Director of the State Intellectual Property Office by paying approximately 500,000.00 HRK to the Ministry of Education and Sports (MZOS) during the period of over two years (from May 2007, when the agreement in question was signed, until July 2009, when Primorac left the Ministry), which I also mention, among other things, in the Constitutional complaint no.: U-III 5023/08, which is still sub judice, and where I have challenged Topić's appointment as the Director in fact, I also submitted my nomination for the position of the director of the Office after this person, at the end of 2007, secretly ... abolished my department [of the State Intellectual Property Office] ... "*

- *"Topić's decisions concerning procedures relating to PLR, which have caused the writers to suffer financial damage and which led to a serious violation of my right to work, at the same time meet the criteria of the criminal offence of "abuse of position and authority" and "negligent performance of duty" ... "*

- *"That the financial resources of SIPO were used to pay for "the SIPO fleet of six luxury cars, including the supervision of the MZOS, and that he allowed himself to use, in addition to the Audi 6, also a new luxury E-class Mercedes which was hidden among the shelves in the archives in order to conceal the waste of funds from the state budget."*

- *"Topić himself has for years provided false information about the number of civil servants working in my department (he said there are twice as many civil servants working there compared to the actual count) to the Ministry of Administration which submitted the received information to the Government of the Republic of Croatia"*

- *"... Because of Topić's lies and incompetence, which he compensated for by bribery, and due to the lack of supervision, this infamously long process is not over yet ..."*

- *".... That for years I have worked overtime managing the previously mentioned department and that I have never, unlike Topić and others, neither received nor asked for any financial compensation"*

- *"From the perspective of criminal law, Topić's actions in this case meet the elements of criminal offences: negligent performance of duty, abuse of office, abuse in performance of duties, discrimination, violation of the right to work and other labor rights and corruption ... "*

- *"If the supervisory bodies had conducted the due administrative control of the Office, i.e. of Mr. Topić, and criminally prosecuted him, he would have been dismissed from his position at the beginning of 2008. The announced reconstruction of the Government should also have entailed the dismissal of Mr. Topić, as the disclosure of this information in public would certainly harm the Government."*

all of which affected the honor and reputation of the private plaintiff,

that is, in the described manner, she made a false claim which could damage the honor of the other person as the defamation became accessible to a large number of persons,

2. On 22 November 2010 in the letter sent to the Croatian Government, the Prime Minister Jadranka Kosor, which was also sent to the Croatian Parliament (deputy Bianca Matković) for information, as well as to the Minister of Economy, Labour and Entrepreneurship, the Minister of Science, Education and Sports, the Minister of Administration, the Minister of Foreign Affairs and European Integration, the Minister of Culture and the Minister of Finance and Miljenko Pavlaković in HEP, in order to belittle and insult the private plaintiff, among other things she stated:

- "In the last conversation with Topić (April 2008) in response to my inquiry about what was going to happen with the PLR (due to my dismissal), Topić answered that it was my personal thing. It simply cannot be my personal thing and such a reaction is completely incompetent, which should not come as a surprise, as the person in question completed his education in another country (economist from Bosnia) and has never passed the professional state exam in Croatia",

which offended the private plaintiff,

that is, she offended the other person as described above due to the insult becoming accessible to a large number of persons,

and therefore, by acting in the previously described manner, she committed the crime against honor and reputation – by defamation - defined and punishable under Article 200 paragraph 2 of the CC 97, and partly under item 2 the criminal offense against honor and reputation - an insult - described and punishable under Article 199 paragraph 2 of the CC/97, all with the application of Article 60, paragraph 1 of the CC/97.

Pursuant to Article 143 paragraph 3 of the CPA/08 the private plaintiff is obliged to reimburse the costs of criminal proceedings from the Article 145 paragraph 2 points 1-6 of the CPA/08, all necessary expenses of the defendant and all the necessary expenses and the award of Defendant's attorney.

The verdict was read in public and briefly explained verbally and the parties were informed of their right to appeal and the response to the appeal.

Completed at 10.50 hours.

Judge:

Registrar:

Z A P I S N I K

o objavi presude od 28. siječnja 2015.g.

Prisutni od suda:

MARIJAN BERTALANIČ
(predsjednik vijeća - sudac)

(članovi vijeća)

Jasminka Popović
(zapisničar)

Kazneni predmet:

Tužitelj: privatni tužitelj Željko Topić

OKRIVLJENI: Vesna Stilin

Zbog kaz. djela iz čl. 200/2 i dr. KZ

Utvrđuje se da su pristupili:

1. Tužitelj: privatni tužitelj nitko, zz punomoćnika odvj. Tina Čovo
2. Oštećeni:
3. Okrivljeni: nitko, zz branitelja odvj. Zoran Životić
4. Svjedok:
5. Vještak:

Utvrđuje se da na današnje ročište zakazano povodom objave presude nisu pristupili uredno pozvani privatni tužitelj i okrivljena

Temeljem čl. 356 st. 3 ZKP održat će se ročište za objavu presude u odsutnosti uredno pozvanih privatnog tužitelja i okrivljene.

Sudac objavljuje

U I M E R E P U B L I K E H R V A T S K E P R E S U D U

Okr. **STILIN VESNA**, kćer Milana i Ružice r. Bekavac, rođena 21.4.1954.g. u Zagrebu, iz Zagreba, Biokovske stube 4, državljanin RH, diplomirana pravica, udana, bez djece, neosuđivana,

Temeljem čl.453 toč.1 ZKP/08

OSLOBAĐA SE OPTUŽBE

da je:

1. dana 22. studenog 2010.g. u dopisu upućenom Vladi Republike Hrvatske, predsjednici Jadranki Kosor, koji dopis je na znanje uputila i Saboru RH (zastupnici Bianci Matković) te ministru gospodarstva, rada i poduzetništva, ministru znanosti, obrazovanja i športa, ministru uprave, ministru vanjskih poslova i europskih integracija, ministru kulture i ministru financija te Miljenku Pavlaković u HEP-u, u cilju da iznošenjem neistinitih navoda o privatnom tužitelju naškodi njegovu ugledu i časti, među ostalim navela:

- *"Zbog Topićevog ignoriranja navedene problematike, književnici su financijski oštećeni jer su već najmanje 2 godine trebali dobivati naknade za posudbe svojih knjiga u javnim knjižnicama."*

- *"Topić Željko kupio je svoj drugi mandat ravnatelja DZIV-a, plativši cca 500.000,00 kuna MZOŠ u razdoblju od preko 2 godine (od svibnja 2007., kada je potpisan navedeni Ugovor, do srpnja 2009., kada je Primorac otišao iz Ministarstva), što spominjem, uz ostalo i u Ustavnoj tužbi br.:U-III 5023/08 koja je još u rješavanju, gdje osporavam Topićevo imenovanje za ravnatelja...Naime, podnijela sam kandidaturu za ravnateljicu Zavoda nakon što je isti krajem 2007. potajno... ukinuo moj sektor..."*

- *"Topićev postupak vezano uz PJP, kojim je financijski ošteti književnike, a meni prouzročio težu povredu prava na rad, ispunjava istovremeno i elemente kaznenog djela "zloupotrebe položaja i ovlasti" i "nesavjesnog rada u službi"..."*

- *da je financijskim sredstvima DZIV-a plaćao "vozni park DZIV-a od 6 luksuznih automobila, uključivo i nadzorom MZOŠ, te sebi uz Audi 6 i novi luksuzni Mercedes E klase, koji je skrivao među policama u arhivi da bi prikrrio rasipanje državnog novca."*

- *"Sam Topić godinama je dostavljao lažne podatke Ministarstvu uprave, a oni Vladi RH, o broju izvršitelja u mom Sektoru (duplo više nego što nas je radilo.)"*

- *"....zbog Topićevih laži, nekompetentnosti koju je kompenzirao podmićivanjem, i izostanku nadzora, vodim ovaj sramotno dugi postupak..."*

- *"....da sam godinama prekovremeno radila vodeći navedeni Sektor za što nikada, za razliku od Topića i drugih, nisam dobila ni tražila financijsku naknadu"*

- *"Sa kaznenopravnog aspekta Topićevi postupci u ovom slučaju ispunjavaju elemente kaznenih djela: nesavjesnog rada u službi, zlouporabe položaja i ovlasti, zlostavljanja u obavljanju službe, diskriminacije, povrede prava na rad i drugih prava iz rada i davanja mita..."*

- *"Da su nadzorna tijela učinila dužni nadzor nad Zavodom tj. Topićem i kazneno ga procesuirala, Topić bi već bio smijenjen početkom 2008. Najavljena rekonstrukcija Vlade RH podrazumijeva i Topićevu smjenu, jer obznanjivanje ovoga u javnosti zasigurno bi štetilo Vladi RH."*

a što je sve naškodilo časti i ugledu privatnog tužitelja,

d a k l e, na opisani način za drugoga iznijela nešto neistinito što može škoditi njegovoj časti čime je kleveta postala pristupačnom većem broju osoba,

2. dana 22. studenog 2010.g. u dopisu upućenom Vladi Republike Hrvatske, predsjednici Jadranki Kosor, koji dopis je na znanje uputila i Saboru RH (zastupnici Bianci Matković) te ministru gospodarstva, rada i poduzetništva, ministru znanosti, obrazovanja i športa, ministru uprave, ministru vanjskih poslova i europskih integracija, ministru kulture i ministru financija te Miljenku Pavlaković u HEP-u, u cilju da omalovaži i uvrijedi privatnog tužitelja, među ostalim navela:

- "Prilikom posljednjeg razgovora sa Topićem (travanj 2008) na moj upit što će biti sa PJP (zbog mog razrješenja), ..., Topić je odgovorio da je to moja osobna stvar. To naprosto ne može biti moja osobna stvar i takva reakcija je posve nekompetentna, što ne iznenađuje, zbog činjenice da je isti kompletno školovanje imao u drugoj državi (ekonomista iz Bosne) te da nije polagao stručni državni ispit u Hrvatskoj.", čime je uvrijedila privatnog tužitelja,

d a k l e, na opisani način drugog uvrijedila zbog čega je uvreda postala pristupačnom većem broju osoba,

pa da je time djelom pod točkom 1. počinila kazneno djelo protiv časti i ugleda - klevetom - opisano i kažnjivo po čl.200 st.2 KZ/97, a djelom pod točkom 2. kazneno djelo protiv časti i ugleda - uvredom - opisano i kažnjivo po čl.199 st.2 KZ/97, sve uz primjenu čl.60 st.1 KZ/97.

Temeljem čl.149 st.3 ZKP/08 privatni tužitelj se obvezuje naknaditi troškove kaznenog postupka iz čl.145 st.2 toč.1-6 ZKP/08, nužne izdatke okrivljenika te nužne izdatke i nagradu njegova branitelja.

Presuda javno objavljena i usmeno ukratko obrazložena, stranke poučene o pravu na žalbu i odgovoru na žalbu.

Dovršeno u 10,50 sati.

Sudac:

Zapisničar: