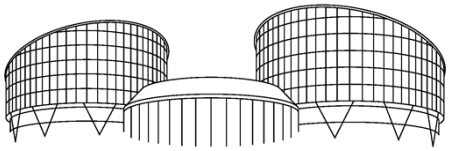

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF OLEG BALAN v. THE REPUBLIC OF MOLDOVA

(Application no. 25259/20)

JUDGMENT

Art 8 • Positive obligations • Private life • Dismissal of the defamation action of the applicant, lodged when Minister of the Interior, against the leader of an opposition political party for statements made in a document published on the latter's personal Facebook page • Failure to strike a fair balance between competing Art 8 and 10 rights • Defendant expressly treated, without explanation, as an investigative journalist and a "public person", resulting in the application of the presumption of good faith applicable to investigative journalists • Failure to carry out careful analysis of the case file elements regarding the protection of the applicant's right to a reputation

Prepared by the Registry. Does not bind the Court.

STRASBOURG

14 May 2024

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Oleg Balan v. the Republic of Moldova,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Arnfinn Bårdsen*, President*,
Jovan Ilievski*,* ad hoc *judge*,
Pauliine Koskelo,
Saadet Yüksel,
Lorraine Schembri Orland,
Frédéric Krenc,
Davor Derenčinović*, judges*,
and Hasan Bakırcı, *Section Registrar,*

Having regard to:

the application (no. 25259/20) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Moldovan national, Mr Oleg Balan ("the applicant"), on 9 June 2020;

the decision to give notice to the Moldovan Government ("the Government") of the complaint under Article 8 and to declare the remainder of the application inadmissible;

the parties' observations;

the decision of the President of the Chamber to appoint Mr Jovan Ilievski to sit as an *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 § 1 of the Rules of Court), Ms Diana Sârcu, the judge elected in respect of the Republic of Moldova, having withdrawn from sitting in the case (Rule 28 § 3),

Having deliberated in private on 9 April 2024,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The application concerns the applicant's defamation and the alleged failure of the domestic courts to properly balance competing rights (Articles 8 and 10 of the Convention), notably by offering insufficient protection as regards the applicant's right to reputation.

THE FACTS

2. The applicant was born in 1969 and lives in Chișinău. He served as Minister of the Interior between 18 February 2015 and 20 January 2016. He was represented by Ms A. Nani, a lawyer practising in Chișinău.

3. The Government were represented by their Agent, Mr D. Obadă.

4. The facts of the case may be summarised as follows.

5. On 10 November 2015 Mr Renato Usatîi, the leader of an opposition political party, published on his personal Facebook page the following

statement: “Received an interesting document in the post. Again our Timofte [who was at the time Moldova’s President] knew everything and kept silent about it”. He attached a copy of a three-page information note (“the Note”), allegedly written after the completion of an “operative study” (“*studiu operativ*”) at the Ministry of Internal Affairs. The Note bore the letterhead of the Security and Information Service (“the SIS”), was dated 22 May 2015 and was addressed to the then President of the Republic of Moldova.

The Note, which bore the stamps “Secret” and “Documents direction – Control – Time-limit 29.V.15” and had allegedly been written by the SIS, purportedly informed the President that the applicant, who was then Minister of the Interior, had prioritised promoting his own image above improving the battered image of the Ministry; dismissed or “persuaded to leave” a number of officials at various levels of the Ministry and the national police (a list of full names was included) and replaced them with people loyal to him (again a list of names was included); sold positions and protected unlawful smuggling schemes; and demoralised the Ministry and police staff. The Note also stated that financial aid in the amount of two million euros had been withdrawn by “Swedish partners” as a result of the inept leadership of the Ministry.

6. The news of Mr Usatîi’s publication of the Note, including its text or a summary of it, was published by several news portals and other media in the Republic of Moldova. One such news portal (deschide.md) noted that several months earlier it too had received by post a yellow envelope with a copy of the Note inside. However, having been unsuccessful in several separate attempts to verify its authenticity, it had decided not to publish it.

7. On the same day (10 November 2015) the SIS published a press release in which it declared that it “did not prepare the so-called ‘operative study’ at the Ministry of Internal Affairs and did not send to the country’s President such a letter”. On 11 November 2015 the President’s office published a press release in which it denied having received the Note or any other information similar to that included in it.

8. On 31 December 2015 the applicant wrote to Mr Usatîi and his party informing them of the press releases mentioned in the preceding paragraph and asking them to formally declare that the information contained in the Note was false. He also asked for a public apology from both of them and compensation for the non-pecuniary damage caused to him in the amount of 500,000 Moldovan lei (MDL – approximately 23,280 euros (EUR) at the time). He did not receive an answer, so on 15 January 2016 he lodged a court action claiming compensation for the damage caused by the defamatory statements made by Mr Usatîi and his party and repeated by a number of media outlets, all of which were also named as defendants in the case.

9. On 10 February 2017 the Chișinău District Court (Buiucani district) found in the applicant’s favour. It noted that the applicant had asked Mr Usatîi to publicly denounce the contents of the Note but had received no reply.

Moreover, the Note published by Mr Usatîi referred to specific facts amounting to accusations of criminal acts. The court found that Mr Usatîi had not submitted any evidence that the facts mentioned in the Note were true, namely that the applicant had been convicted of the crimes mentioned therein. Moreover, the SIS had denied having written such a note and the President's office denied having received it. Therefore, Mr Usatîi had published falsehoods which were defamatory of the applicant. Mr Usatîi was ordered to publish an apology and to pay the applicant MDL 50,000 (EUR 2,500). At the same time, the court found that Mr Usatîi's party had not been involved in any way in spreading the information, and so it dismissed the action in so far as it concerned the party. The court also ordered the defendant media outlets to publish a retraction informing the public that the information in the Note was false.

10. Mr Usatîi appealed against that judgment, arguing, *inter alia*, that he had tried to verify the authenticity of the Note, but that it would have been pointless to ask the SIS or the President's office to confirm its existence since they were obliged to maintain the secrecy of the document. On 13 June 2017 the Chișinău Court of Appeal quashed the initial judgment because of a procedural issue and sent the case for re-examination. On 10 January 2018 the Chișinău District Court (Buiucani district) again found in the applicant's favour.

11. On 27 June 2018 the Chișinău Court of Appeal upheld the lower court's judgment. It found that Mr Usatîi had failed to prove that he had made any attempt to verify the Note's authenticity, for example by contacting the relevant authorities before publishing the document. Accordingly, it found that Mr Usatîi had not acted in good faith. The court rejected Mr Usatîi's argument that he had been deprived of the possibility of proving the authenticity of the Note because the logs for the outgoing and incoming mail from the SIS and the President's office had not been submitted to the courts; it considered that what mattered were the efforts made to verify the Note's authenticity before its publication.

12. On 23 January 2019 the Supreme Court of Justice quashed the lower court's judgment and sent the case for re-examination, notably because the logs for the outgoing and incoming mail from the SIS and the President's office had not been submitted to the courts. It considered that that could be done, if need be, with special arrangements to prevent the disclosure of State secrets not related to the case.

13. On 23 April 2019 the Chișinău Court of Appeal found in the applicant's favour, largely for the same reasons as before. It referred to a reply submitted by the SIS informing the court that the document number and other details in the Note did not enable the identification of any of its units as being the author of the document and that, therefore, it was impossible to determine which unit's logs should be submitted. The court also found that the logs of the President's office for incoming correspondence during the relevant time,

which had been submitted to the court, did not contain any indication of the receipt of the Note.

14. Mr Usatîi appealed against that judgment, and in a final judgment of 4 December 2019 the Supreme Court of Justice quashed the lower courts' judgments and adopted a new one, rejecting the applicant's claims. It referred to the protection of freedom of expression enshrined in both domestic law and the Convention and found that publishing on the Internet could amount to journalistic activity.

Moreover, there was a clear public interest in investigative journalism, especially when aimed at revealing acts of corruption and preventing crime, in which case it acted as a "public watchdog". In accordance with the domestic law, any doubt as to the good faith of a person involved in investigative journalism had to be interpreted in the person's favour and result in a rebuttable presumption of good faith. The lower courts had focused on the Note's authenticity but had failed to take into account the approach of the Strasbourg Court to freedom of expression cases. In particular, they had not weighed the extent of the "chilling effect" on the media and journalists.

15. The court went on to emphasise the fact that the applicant had been a minister at the time of publication and, as a holder of public office, had to tolerate increased levels of criticism. It noted in that connection that the information in the Note had clearly been of public interest and had concerned the performance of the applicant's professional duties.

Mr Usatîi, the leader of an opposition party, had been the mayor of Bălți since June 2015, and was thus a holder of public office. That status imposed on its holder a duty of discretion concerning information he or she might receive in that capacity: such a holder of public office was first required to report to his or her superiors any information which he or she might come across, and if the alleged unlawfulness could not be remedied, he or she could share that information with the public.

While the court accepted that under normal circumstances Mr Usatîi would have had to verify the authenticity of the Note before publishing it, in the present case it had been impossible to do so because of its purported authorship (the SIS) and its categorisation as "secret". Therefore, it had to be presumed that Mr Usatîi had been acting in good faith. Moreover, any attempt to contact the SIS and/or the President's office would have been impractical, given the time-sensitive nature of news. Given that the SIS had not submitted its outgoing correspondence logs and the President's office had not done so until some four years after the events, there were sufficient doubts about the Note's authenticity, and any such doubt should be interpreted in favour of Mr Usatîi and lead to a presumption of good faith. In view of his presumed good faith and the applicant's failure to prove otherwise, Mr Usatîi had published truthful information until evidence to the contrary was discovered.

16. The court also noted that Mr Usatîi had circulated information coming from a third party (the SIS), and that restricting the right to report on what others said gravely affected journalistic freedom.

The court ultimately found that Mr Usatîi, in a double capacity of "journalist", in the sense of informing the public *via* social media, and of a "public person", in the sense of obtaining and revealing information of public interest, was entitled to the protection of freedom of expression under both domestic law and the Convention.

RELEVANT DOMESTIC LAW

17. Under section 2 of Law no. 64 on the protection of freedom of expression, in force since 23 April 2010, a "public person" is any person exercising a public function or any other person who, because of his or her status, social position or other circumstances, raises public interest.

Under section 7 of the same Law, everyone has the right to defend his or her honour and reputation.

Under section 9 of the same Law, persons holding public functions may be subject to criticism and their actions scrutinised by the media to the extent that their actions concern the manner in which they have fulfilled or fulfil their duties, in so far as is necessary in order to ensure transparency and the responsible exercise of their functions.

Under section 25 of the same Law, any reasonable doubt concerning the good faith of the person who conducted a journalistic investigation must be interpreted in favour of good faith.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

18. The applicant complained that the domestic courts' rejection of his claims against Mr Usatîi had amounted to a breach of Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

19. It is not disputed by the parties that protection against allegedly defamatory statements about an identified individual falls within the scope of Article 8 of the Convention (see *Denisov v. Ukraine* [GC], no. 76639/11, §§ 97-99, 25 September 2018).

20. The Court reiterates that, in order for Article 8 of the Convention to come into play, an attack on a person's reputation must attain a certain level of seriousness and its manner must cause prejudice to personal enjoyment of the right to respect for private life (see *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 89-95, 7 February 2012, and *Mesić v. Croatia*, no. 19362/18, § 82, 5 May 2022). In the present case, it considers that the effect of the statements made in the Note published by Mr Usatîi about the applicant's alleged misconduct exceeded this "threshold of severity" required by the Court's case-law and that the applicant's private life has thus been affected to a degree attracting the application of Article 8 (see *Monica Macovei v. Romania*, no. 53028/14, § 85, 28 July 2020, and *Mesić v. Croatia (no. 2)*, no. 45066/17, § 71, 30 May 2023). That provision is therefore applicable in the circumstances arising in the present case.

21. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

22. The applicant argued that his right to the protection of his honour, dignity and professional reputation, as protected by Article 8 of the Convention, had been breached. The Supreme Court of Justice had failed to properly balance the two competing rights protected under Articles 8 and 10 of the Convention. Freedom of expression was not unlimited and the courts had failed to give sufficient consideration to the duties and responsibilities inherent in exercising it. Mr Usatîi had not acted in good faith in publishing the Note as he had failed to take any steps aimed at verifying its authenticity.

23. The Government relied on the Court's case-law concerning the fair balance that the domestic courts had to establish between the competing rights under Articles 8 and 10 of the Convention, while taking into account their margin of appreciation. They submitted that the Supreme Court of Justice had properly taken into account the principles developed in that case-law and had carried out a proper balancing exercise.

24. They argued, in particular, that Mr Usatîi's purpose in publishing the Note had not been to defame the applicant, but to provoke public discussion on an important issue. In doing so he had acted, as the Supreme Court of Justice had found, as a journalist. The applicant was a public person and so was Mr Usatîi, who, in addition, as a mayor and thus a civil servant, could

have had access to certain information which the government would have preferred to have kept secret. Mr Usatîi had merely published the alleged note of the intelligence service and had not commented or accused the applicant, nor used insulting language. At the time of publication, he could not have reasonably known whether the Note was authentic, but he had considered it truthful enough. He had had very limited opportunities to verify with due diligence the content of the Note because it was secret. Had the national courts obliged him to prove the veracity of the Note, he would have been confronted with an unreasonable, or even impossible, task. Moreover, the applicant had not shown that Mr Usatîi had acted in bad faith.

25. The Government lastly noted that the applicant had at all times been entitled to the right to be presumed innocent of any criminal offence. No real and substantial harm had been caused to him as a result of the publication of the Note by Mr Usatîi. Indeed, the applicant had continued to be the Minister of the Interior until 20 January 2016, when another government had taken office. Moreover, he had remained the head of the Public Administration Academy. In the four years between the time of the events and the time when the Government submitted their observations, they could see no signs that the applicant's professional reputation had been severely affected by the publication of the Note.

26. The Court observes that in cases such as the present one, what is in issue is not an act by the State but the alleged inadequacy of the protection afforded by the domestic courts to the applicant's private life. It reiterates that the positive obligation inherent in Article 8 of the Convention may oblige the State to adopt measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves. The applicable principles are, nonetheless, similar and regard must be had to the fair balance that has to be struck between the relevant competing interests (see *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, §§ 98 and 99, 7 February 2012, with further references).

27. The Court also reiterates that, in instances where the interests of the "protection of the reputation or rights of others" bring Article 8 into play, it may be required to verify whether the domestic authorities struck a fair balance when protecting two values guaranteed by the Convention, namely, on the one hand, freedom of expression as protected by Article 10 and, on the other, the right to respect for private life enshrined in Article 8. The general principles applicable to the balancing of those rights were first set out in *Von Hannover v. Germany* (no. 2) (cited above, §§ 104-07) and *Axel Springer AG* (cited above, §§ 85-88), then restated in more detail in *Couderc and Hachette Filipacchi Associés v. France* ([GC], no. 40454/07, §§ 90-93, ECHR 2015 (extracts)) and summarised in *Perinçek v. Switzerland* ([GC], no. 27510/08, § 198, ECHR 2015 (extracts)) as follows:

> "(i) In such cases, the outcome should not vary depending on whether the application was brought under Article 8 by the person who was the subject of the statement or under

Article 10 by the person who has made it, because in principle the rights under these Articles deserve equal respect.

(ii) The choice of the means to secure compliance with Article 8 in the sphere of the relations of individuals between themselves is in principle a matter that falls within the High Contracting Party's margin of appreciation, whether the obligations on it are positive or negative. There are different ways of ensuring respect for private life and the nature of the obligation will depend on the particular aspect of private life that is at issue.

(iii) Likewise, under Article 10 of the Convention, the High Contracting Parties have a margin of appreciation in assessing whether and to what extent an interference with the right to freedom of expression is necessary.

(iv) The margin of appreciation, however, goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those given by independent courts. In exercising its supervisory function, the Court does not have to take the place of the national courts but to review, in the light of the case as a whole, whether their decisions were compatible with the provisions of the Convention relied on.

(v) If the balancing exercise has been carried out by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its view for theirs."

The Court has previously found that a similar balancing exercise was required in cases where one or both parties were politicians (see, for instance, *Mesić*, cited above, § 86, and *Ponta v. Romania*, no. 44652/18, § 47, 14 June 2022).

28. Turning to the circumstances of the present case, the Court notes that there was no disagreement between the parties as to the fact that the rejection of the claims against Mr Usatîi engaged the authorities' positive obligation under Article 8 of the Convention to protect the applicant's reputation. The Court will therefore focus on whether the authorities complied with their positive obligations.

29. In this connection, the Court has previously identified a number of criteria to be employed when balancing the two competing rights under Articles 8 and 10 of the Convention, which include the following: the subject of the publication and its contribution to a debate of public interest; how well known the person concerned is; the prior conduct of the person concerned; the content, form and consequences of the publication; and, where appropriate, the manner in which the relevant information was obtained (see *Couderc and Hachette Filipacchi Associés*, cited above, § 93). It will apply these criteria in the present case in so far as they are relevant.

1. The subject of the report

30. The Court finds, as did the Supreme Court of Justice, that the subject of allegedly improper conduct by a minister legitimately raises a high degree of public interest (see, for instance, *Ponta*, cited above, §§ 56 and 57). The promotion of free political debate about such issues is a very important

feature of a democratic society and the Court attaches the highest importance to freedom of expression in the context of such debate (see *Sanchez v. France* [GC], no. 45581/15, § 146, 15 May 2023). Thus, the Supreme Court of Justice had good reasons to afford a high level of protection to the publication of material allegedly exposing such activity.

2. How well known the person concerned is and his prior conduct

31. The Supreme Court of Justice took into account the fact that the applicant was a minister when the Note was published and that, as a public figure, he had to submit to a high degree of criticism of his actions. The Court agrees with this finding (see *Lingens v. Austria*, 8 July 1986, § 42, Series A no. 103; *Turhan v. Turkey*, no. 48176/99, § 25, 19 May 2005; and *Flux v. Moldova (no. 1)*, no. 28702/03, § 32, 20 November 2007).

3. The status of the author of the publication

32. The Court reiterates that freedom of expression is especially important for an elected representative of the people, political parties and their active members, and accordingly, any interference with the freedom of expression of a member of the opposition, who represents his or her electorate, draws attention to their preoccupations and defends their interests, thus calls for the closest scrutiny on the part of the Court (see *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, § 242, 22 December 2020, and *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, § 137, 17 May 2016).

33. In the present case, the Court agrees with the finding of the Supreme Court of Justice (see paragraph 16 above) that the restriction of the freedom of expression of Mr Usatîi, a politician and leader of an opposition party, attracted the highest level of scrutiny (see *Sanchez*, cited above, § 147).

34. It also notes that the Supreme Court of Justice expressly treated Mr Usatîi as an investigative journalist covering an issue of clear public interest (see paragraph 14 above). However, that court did not explain how speech emanating from a leader of an opposition party, published on a social media platform, could of itself be classified as investigative journalism attracting the special protection offered by the Convention to journalists in the exercise of their activity.

35. Moreover, the Supreme Court of Justice suggested that, as the mayor of a major Moldovan city, Mr Usatîi could have had access to certain information not available to the general public, giving him additional reasons to publish the Note. However, it is apparent from the documents in the file that at no point did he claim to have any information in addition to the contents of that document. Nor did he state that he had obtained the document thanks to his role as mayor.

4. The content, form and manner of obtaining the information and consequences of the publication

36. The Court observes that the Note contained serious allegations of misconduct on the part of the applicant. In this regard, the Court reiterates that there is a distinction to be made between statements of fact and value judgments. The existence of facts can be demonstrated, whereas the truth of value judgments is not susceptible of proof (see *Jerusalem v. Austria*, no. 26958/95, §§ 42-43, ECHR 2001-II, and *Radio Broadcasting Company B92 AD v. Serbia*, no. 67369/16, § 83, 5 September 2023).

37. In the present case it does not appear from the case file that Mr Usatîi made the effort to corroborate in any manner the contents of the Note and its authenticity. Nor did he inform his readers of any failed attempts to do so. More generally, Mr Usatîi did not claim that he had come into the possession of any other information about the alleged wrongdoing at the Ministry of the Interior.

38. The Court reiterates that when contributing to public debate on matters of legitimate concern, it should be possible to rely on the contents of official reports without having to undertake independent research (see Bladet Tromsø *and Stensaas v. Norway* [GC], no. 21980/93, § 68, ECHR 1999-III). However, in the present case, the circumstances in which Mr Usatîi obtained the Note (it was left anonymously in his letterbox) could raise some doubts as to its authenticity. The very fact that the Note had actually come from the authorities was therefore in doubt at the time when Mr Usatîi published it.

39. The Court is mindful that the internet has become one of the principal means by which individuals exercise their right to freedom of expression. It provides essential tools for participation in activities and discussions concerning political issues and issues of general interest (see *Sanchez*, cited above, § 158). However, the benefits of this information tool, an electronic network serving billions of users worldwide, are accompanied by a certain number of risks. Defamatory and other types of clearly unlawful speech, including hate speech and speech inciting violence, can be disseminated as never before, worldwide, in a matter of seconds, and sometimes remain available online for lengthy periods (ibid., § 162, concerning unlawful comments published on Facebook). In this regard, the Court notes that in the present case Mr Usatîi's publication was immediately quoted by several mass media outlets (see paragraph 6 above).

40. Moreover, it observes that Mr Usatîi did not simply publish the Note but captioned his Facebook post "Received an interesting document in the post. Again our Timofte knew everything and kept silent about it". Therefore, instead of warning the readers of his Facebook page about the unknown source and the doubts concerning the authenticity of the document, he presented it as being indisputably genuine (contrast *Mesić (no. 2)*, cited above, § 79). In such circumstances, warning potential readers can help them to decide whether to trust information obtained from an anonymous source

about a topic of public interest. Politicians using social media are not released from their "duties and responsibilities" under Article 10 § 2 of the Convention (see *Sanchez*, cited above, § 185, concerning the shared liability of a Facebook account holder, and § 187, concerning special obligations incumbent upon politicians). In that connection, the Court observes that a news portal had also received the same Note but, failing to establish its authenticity, had decided not to publish it (see paragraph 6 above).

41. The Court also notes that Mr Usatîi did not warn the readers on his Facebook page or elsewhere about the possibility that the Note was fake even after both the SIS and the President's office had denied its authenticity, or after he had been informed of those denials by the applicant.

42. Lastly, as regards the consequences of the publication, the Government argued that the applicant had not suffered any consequences from the publication of the Note (see paragraph 25 above). It is difficult for the Court to determine whether the publication had an effect on his political career. However, the Court has no reason to doubt that allegations as serious as those published by Mr Usatîi did affect the applicant's reputation. In this connection, the Court cannot but observe that the applicant was never charged with or convicted of any criminal offence.

5. Conclusion

43. Although the Supreme Court of Justice relied on the applicable Convention principles and the Court's case-law, the Court is not convinced that the Supreme Court struck a fair balance between the competing rights involved under the Convention. In particular, it treated Mr Usatîi as an investigative journalist and a "public person", and decided to apply the presumption of good faith applicable to investigative journalists in his case. However, it failed to carry out its own careful analysis of the elements of the case file with regard to the protection of the applicant's right to a reputation, such as whether the unverified Note coincided at least in part with known or verified information; whether Mr Usatîi had attempted to verify the Note's authenticity or any of its contents; the manner in which he had presented the report to his readers (in particular, his failure to warn them of the unverified source and content of the Note); and whether he had published any follow-up information about the Note.

44. In view of the foregoing, there has been a violation of Article 8 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

45. The applicant also complained of a breach of Article 13 taken together with Article 6 of the Convention since he had not been able to respond to the arguments relied on by the Supreme Court of Justice.

46. The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matter complained of is within its competence, this complaint does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

47. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

Non-pecuniary damage

48. The applicant claimed 15,000 euros (EUR) in respect of non-pecuniary damage. He submitted that the Note published by Mr Usatîi had defamed him as a lawyer, government minister and university professor.

49. The Government argued that the applicant had not suffered any damage and had continued in his ministerial position for two months after the publication of the Note. In any event, the amount sought was excessive, especially in the light of the domestic court's initial award (see paragraph 9 above), which the applicant had not appealed against.

50. Ruling on an equitable basis, the Court awards the applicant EUR 1,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares*, the complaint under Article 8 admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 14 May 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı Registrar	Arnfinn Bårdsen President