



Russian courts were justified in dismissing a defamation claim brought by Joseph Stalin's grandson against *Novaya Gazeta* newspaper

In its decision in the case of [Dzhugashvili v. Russia](#) (application no. 41123/10) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned articles published by the *Novaya Gazeta* newspaper about the shooting of Polish prisoners of war in Katyń in 1940 and the role which the former Soviet leaders had allegedly played in the tragedy. The applicant, the grandson of the former Soviet leader, Joseph Stalin, sued the newspaper for defamation of his grandfather, without success.

The Court held, in particular, that the *Novaya Gazeta* articles concerned an event of significant historical importance and that both the event and historical figures involved, such as the applicant's grandfather, inevitably remain open to public scrutiny and criticism. It also found that the Russian courts, taking into account the European Court's case law, had carefully balanced the competing interests of journalistic expression and the applicant's right to respect for his private life and that of his grandfather.

Principal facts

The applicant, Yevgeniy Yakovlevich Dzhugashvili, is a Russian national who was born in 1936 and lives in Moscow. He is the grandson of the former Soviet leader Joseph Stalin.

On 22 April 2009 the *Novaya Gazeta*, an opposition newspaper, published an article entitled "Beria pronounced guilty" which dealt with the 1940 Katyń shootings. The article was written by Mr Ya., a former investigator of the Russian Chief Military Prosecutor's Office who had been responsible for the rehabilitation of victims of political persecution.

The article accused leaders of the Soviet Politburo, including Joseph Stalin, of being "bound by much blood" in the order to execute Polish prisoners of war at Katyń in 1940, and described the applicant's grandfather as a "bloodthirsty cannibal". The article also alleged that those leaders had "evaded moral responsibility for the extremely serious crime". The applicant considered that the article was defamatory towards his grandfather, and sued the *Novaya Gazeta* and the author of the article for non-pecuniary damages totalling 9.5 million roubles (the equivalent of approximately 211,488 euros).

On 13 October 2009 the Basmanniy District Court of Moscow dismissed the claim, finding in particular that the publication contributed to a factual debate on a question of profound historical discussion and that the role of the applicant's ancestor, a world-famous figure, called for a higher degree of tolerance to public scrutiny and criticism. On 10 December 2009 this decision became final, having been upheld by the Moscow City Court.

The debate was continued in another article which was published in the *Novaya Gazeta* after the first-instance judgment. The article was entitled "Historical Trial" and gave background to the defamation proceedings. The applicant again sued for defamation. On 25 December 2009 the District Court dismissed the claim on the basis that the article constituted an expression of the author's view of the initial defamation proceedings. That decision was upheld by the Moscow City Court on 16 March 2010.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 4 June 2010.

Relying on Articles 6 (right to a fair trial), 10 (right to freedom of expression) and 14 (prohibition of discrimination) of the Convention, the applicant complained that the District Court of Moscow had failed to protect his well-known ancestor from attacks on his reputation. The Court examined the complaint under Article 8 (right to respect for private and family life).

The decision was given by a Chamber of seven, composed as follows:

Isabelle Berro-Lefèvre (Monaco), *President*,
Julia Laffranque (Estonia),
Paulo Pinto de Albuquerque (Portugal),
Linos-Alexandre Sicilianos (Greece),
Erik Møse (Norway),
Ksenija Turković (Croatia),
Dmitry Dedov (Russia), *Judges*,

and also Søren Nielsen, *Section Registrar*.

Decision of the Court

Article 8 (right to respect for private and family life)

The Court reaffirmed the principle that publications concerning the reputation of a deceased member of a person's family might, in certain circumstances, affect that person's private life and identity and thus come within the scope of Article 8 (see *Putistin v. Ukraine*, no. 16882/03).

However, the Court distinguished between defamation of a private individual (as in the *Putistin* case above), whose reputation as part and parcel of their families' reputation remains within the scope of Article 8, and legitimate criticism of public figures who expose themselves to outside scrutiny. In the applicant's case, *Novaya Gazeta's* publication of the first article contributed to a historical debate of public importance, concerning Joseph Stalin and his alleged role in the Katyń shootings. The second article concerned the author's interpretation of the domestic court's findings and could therefore be seen as a continuation of the same discussion. Furthermore, the Katyń tragedy and the related historical figures' alleged roles and responsibilities inevitably remain open to public scrutiny and criticism.

In conformity with the principles laid down in the Court's case-law, the national courts had considered that the articles contributed to a factual debate on events of exceptional public interest and importance; had found that the historic role of the applicant's ancestor called for a high degree of tolerance to public scrutiny and criticism of his personality and actions; and had taken the highly emotional presentation of the opinions outlined within the articles into consideration, ruling that the opinions fell within the limits of acceptable criticism.

The Court therefore held that the national courts had struck a fair balance between the applicant's privacy rights and journalistic freedom of expression. The application was therefore rejected as manifestly ill-founded and the case declared inadmissible.

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.