

SLOVENIA

Prof. Dr. Barbara Novak

Judgment of the Supreme Court II Ips 304/2013, 21 January 2016: **non-material loss due to defamation of the reputation or good name of a legal entity**

a) Brief Summary of the Facts

- The plaintiff, **a political party**,
- claimed compensation from the defendant for non-material loss
- because of **defamation of its reputation and good name**
- because of statements in an article that was published on the front page of the main daily newspaper in Slovenia.

In the title of the article, the journalist stated that “Money from B. did not end up with F.F. but with his party C.”

- The article accused the political party of the crime of corruption from the time that it was in the governing coalition.
- The article received much attention in Slovenia, being summarised in all the central media in Slovenia, as well as abroad.

b) Decisions of the Courts

- The court of first instance granted the plaintiff's claim for compensation of loss to a level of € 10,000, but rejected the higher damages claim for € 290,000.
- The second instance court rejected the judgment of the first instance court for payment of compensation for non-material loss in entirety.
- The Supreme Court partially granted review
- and **amended the judgment** of the second instance court so that **it confirmed the judgment of the first instance** court.

The Supreme Court agreed with the standpoints of the lower courts that:

the **defendant had behaved unlawfully** since in the article, he had published statements of a foreign investigator that he had not made or had distorted his statements.

- In the opinion of the Supreme Court, the title of the article presented a clear message for the average reader that the plaintiff had behaved in a corrupt manner.

c) Commentary

- **The Code of Obligations** (art 183), in the chapter on compensation for non-material loss, envisages:
 - the right of a legal entity to claim pecuniary compensation **for non-material loss**
 - because of **defamation of reputation** or **good name**
 - **if the circumstances of the case justify this.**
- The right exists **independently of compensation of material loss**, so even if it did not lead to material loss.