



Doc. 12059

12 October 2009

Ensuring protection against attacks on the honour and reputation of persons

Motion for a resolution

tabled by Mr Davit HARUTYUNYAN and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

The General Agreement on Privileges and Immunities of the Council of Europe of 1949, *inter alia*, its Article 14, guarantees immunities from all official interrogation and from arrest and all legal proceedings in respect of words spoken or votes cast in the exercise of the functions of Representatives of the Parliamentary Assembly.

The Assembly has been and continues to be the forum for the free expression of views and positions of its members. It is the pan-European stage for a democratic parliamentary debate to promote common values and principles. The Assembly rightfully prides itself on the intensity and openness of the debates and the true manifestation of freedom of expression.

The Assembly at the same time should insist on the duties and responsibilities that the right to freedom of expression carries with it, including, *inter alia*, legal responsibilities deriving from false and malicious statements intended to injure and defame other persons and therefore violate their rights. The United Nations International Covenant on Civil and Political Rights, in its Article 17, makes provisions for the right to the protection of the law against such interference or attacks on honour and reputation. Article 10 of the European Convention on Human Rights provides the right to freedom of expression, subject to certain restrictions that are in accordance with the law and necessary in a democratic society. National legislation in member states regulates legal responsibility for libel and slander. Equally, rules and regulations in national parliaments normally provide such protection against defamation. The European Court of Human Rights produced its own case-law on the distinction between value judgments and facts, in which the false nature of the latter and intention to harm the reputation or rights of individuals fall within the framework of article 10, paragraph 2, and bear legal responsibility.

There have been unfortunate instances of statements made within the Assembly, which contained false and defamatory information injuring other persons, *inter alia*, persons not represented in the Assembly. One such example is the statement delivered by a member of the Parliamentary Assembly, Ms. G. Pashayeva, at the Plenary sitting on 24 June 2009 during the discussion of the item of the agenda entitled "The State of Human Rights in Europe: the need to eradicate impunity". In her statement Ms. Pashayeva refers to a book entitled "Revival of our Souls", allegedly written by Mr Zori Balayan in 1996. Mr Balayan is a prominent and distinguished Armenian writer and publicist reputed internationally for his humanism. Mr. Balayan has never written the book alleged by Ms Pashayeva, or any other book the content of which or the quotations from which are presented in her statement. It therefore represents an act of slander, which should entail legal consequences. This act of slander is particularly aggravated by the accusations of murders allegedly committed by Mr Balayan.



In light of the above, the undersigned demand that the Committee on the Rules of Procedure, Immunities and Institutional Affairs of the Assembly draft and propose amendments to the existing Rules of Procedure in order to provide safeguards against the dissemination of false and defamatory information and protect the rights and reputation of injured persons, whether they are members of the Assembly or not.

Signed (see overleaf)

Signed¹:

HARUTYUNYAN Davit, Armenia, EDG
AGHAJANYAN Artsruni, Armenia
ALIGRUDIĆ Miloš, Serbia, EPP/CD
CILEVIČS Boriss, Latvia, SOC
FEDOROV Valeriy, Russian Federation, EDG
FOURNIER Bernard, France, EPP/CD
IZETBEGOVIĆ Bakir, Bosnia and Herzegovina, EPP/CD
KOVÁCS Elvira, Serbia, EPP/CD
LOEPFE Arthur, Switzerland
MELIKYAN Armen, Armenia, ALDE
NAGHDALYAN Hermine, Armenia, ALDE
OMELCHENKO Hryhoriy, Ukraine
PARFENOV Valery, Russian Federation, EDG
POSTANJYAN Zaruhi, Armenia
ROCHEBLOINE François, France, EPP/CD
ŠABOVIĆ Džavid, Montenegro, SOC
SANTINI Giacomo, Italy, EPP/CD
SARO Giuseppe, Italy, EPP/CD
SEKULIĆ Predrag, Montenegro, SOC
SOBOLEV Serhiy, Ukraine
ZOHRABYAN Naira, Armenia, ALDE

1. ALDE: Alliance of Liberals and Democrats for Europe
EDG: European Democrat Group
EPP/CD: Group of the European People's Party
SOC: Socialist Group