Neutral Citation Number: [2019] EWHC 957 (QB)

Case No: HQ18M01270

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 16/04/2019

Before :

THE HONOURABLE MR JUSTICE WARBY

- -

Between :

Javanshir Feyziyev	**Claimant**
- and -	
(1) The Journalism Development Network Association	
(2) Paul Radu	**Defendants**

- -
- -

Adam Wolanski QC (instructed by **Atkins Thomson Solicitors**) for the **Claimant**
Jonathan Price and **Jennifer Robinson** (instructed by **Weil, Gotshal & Manges LLP**) for the **Defendants**

Hearing date: 12 April 2019

- -

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

THE HONOURABLE MR JUSTICE WARBY

MR JUSTICE WARBY:

1. This is a libel action brought in respect of two articles which have been published online in and since September 2017, concerning an alleged money-laundering operation and slush-fund involving members of the ruling elite in Azerbaijan:

   (1) an article dated 4 September 2017 ("the First Article"), under the heading "Azerbaijani Laundromat"; and

   (2) an article dated 20 September 2017 ("the Second Article") entitled "AvroMed May Have Received Millions Through Laundromat", amended on 21 September 2017.

2. This has been the trial of the issue of meaning, pursuant to an Order of Master Davison, and the hearing of an application by the claimant, for orders striking out parts of the Defence and requiring further information about the defendants' case.

3. The claimant is is a member of the Azerbaijani parliament and co-chair of the EU/Azerbaijan Parliamentary Cooperation Committee. His claim is brought in respect of publication within this jurisdiction only, via a website at the address https://occrp.org ("The Website"), and on Twitter and other social media His case, which is admitted by the defendants, is that he lives for a substantial proportion of the year in a home he owns in London, where his wife and children live permanently and where his two children are at school, and that he invests significant sums in this jurisdiction.

4. The first defendant is a registered association in Romania. The claimant's case is that the first defendant operates a journalistic enterprise called the Organized Crime and Corruption Reporting Project, or OCCRP, and publishes content on the Website. The first defendant maintains that it has no responsibility for the publication of anything on the Website, or for any publication that may have occurred on Twitter or other social media. The first defendant's case is that OCCRP is the operating name of a separate organisation called Journalism Development Network Inc, a non-profit corporation incorporated in the State of Maryland, United States.

5. The second defendant is resident in Romania. The claimant's case is that the second defendant was the co-ordinator, in the sense that he edited and arranged and authorised the publication on the Website, of the articles complained of. The second defendant admits to being a member of the board of the first defendant, and to being a co-executive director of OCCRP. He also admits that he was listed on the Website as a co-ordinator of the Azerbaijani Laundromat project of OCCRP. But his case is that he did not edit, arrange, authorise or play any other role in the publication of either of the articles complained of, on the Website, on Twitter, or on other social media.

6. The claim was begun in March 2018, the complaint being in essence that the publications complained of implicated the claimant as a participant in the alleged corruption. On 7 August 2018, the defendants served a Defence, in which both defendants denied responsibility for the publications complained of. But they went on to take issue with the defamatory meanings complained of, maintaining that the articles were not reasonably capable of bearing the meanings complained of, and did not bear any defamatory meaning about the claimant. In the alternative, the defendants advanced a defence of truth. In the further alternative, it was pleaded that the publication of the

words complained of was "clearly and fully" in the public interest. In addition, it was denied that the publication had caused serious harm to the claimant's reputation.

7. The claimant sought further information about the Defence. The Request sought details of the defendants' case on three topics: (1) responsibility for publication, (2) truth, and (3) public interest. A response was served on 2 November 2018, which addressed the first two topics, but not the third.

8. On 30 November 2018, the claimant filed two application notices, one seeking orders for meaning to be tried as a preliminary issue, and the other seeking the orders to strike out, and for the outstanding further information. The strike-out application targeted paragraphs 22-24 of the Defence, on the footing that they disclosed no reasonable grounds for defending the claim on the grounds of truth. The argument, in short, was that the meaning defended as true is a non-defamatory meaning and, further, that the facts pleaded in support of the defence could not on analysis support any defence of truth.

9. On 21 December 2018, Master Davison granted the application for a trial on meaning and gave directions, including costs management directions. He ordered that the trial and the claimant's application be heard together. He refused the defendants' application for a trial of the preliminary issue of responsibility for publication.

10. Since then, the issues have narrowed. The defendants no longer maintain that the articles are not defamatory at all, nor is there an issue about serious harm. The defendants do not seek to maintain the pleaded defence of truth. The strike-out application is conceded. On 28 March 2019, the defendants proposed an amendment to their meaning. The claimant has accepted that the meaning proposed is an arguable one, so that the amendment would cure the existing defect. But the defendants have deferred a decision on whether to make any amendment until after the Court's decision on what the words complained of actually mean. The contest today is essentially between rival meanings which are, by concession, seriously defamatory.

Meaning

11. The claimant's case is that in their natural and ordinary meaning the First Article, and the Second Article in each of its versions, meant:

> "that the Claimant had, through the company AvroMed, engaged or assisted in illegal money laundering and in the bribery of influential European politicians, journalists and businessmen on a vast scale, or that there were very strong grounds so to suspect."

12. The defendant's draft amended meaning, and their contention today, is that the articles meant that that "there are grounds to suspect that the claimant was complicit in money laundering and corruption."

13. This, therefore, is one of those cases in which the contest is between meanings at different levels of gravity. These are often expressed as "*Chase* levels". Nicklin J explained this terminology in *Brown v Bower* [2017] 4 WLR 197 at [17]:

> "They come from the decision of Brooke LJ in *Chase v News Group Newspapers Ltd* [2003] EMLR 11 [45] in which he identified three types of defamatory allegation: broadly, (1) the claimant is guilty of the act; (2) reasonable grounds to suspect that the claimant is guilty of the act; and (3) grounds to investigate whether the claimant has committed the act. In the lexicon of defamation, these have come to be known as the *Chase* levels. Reflecting the almost infinite capacity for subtle differences in meaning, they are not a straitjacket forcing the court to select one of these prescribed levels of meaning, but they are a helpful shorthand. In *Charman v Orion Publishing Group Ltd*, for example, Gray J found a meaning of "*cogent grounds to suspect*" [58]."

14. It is sometimes overlooked that the wording of *Chase* Level 2 derives from a particular context. It comes from *Lewis v Daily Telegraph* [1954] AC 234, where the words complained of referred to a "fraud probe" by police. "Reasonable grounds to suspect" is of course a well-known threshold in the law of police powers, such as the power of arrest. So it makes sense for a reader to infer, from a report that the police have arrested someone, that they had reasonable grounds for acting as they did. The implications may be different in other contexts.

15. The principles to be applied when deciding the natural and ordinary meaning of allegedly libellous words are well-established and uncontroversial. They were conveniently re-stated in a recent judgment of Nicklin J in *Koutsogiannis v The Random House Group Ltd* [2019] EWHC 48 (QB). Omitting internal citations, they are these:-

> "11. The Court's task is to determine the single natural and ordinary meaning of the words complained of, which is the meaning that the hypothetical reasonable reader would understand the words bear. It is well recognised that there is an artificiality in this process because individual readers may understand words in different ways: *Slim -v- Daily Telegraph Ltd* [1968] 2 QB 157, 173D– E, per Lord Diplock.
>
> 12. The following key principles can be distilled from the authorities:
>
> (i) The governing principle is reasonableness.
> (ii) The intention of the publisher is irrelevant.
> (iii) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. A reader who always adopts a bad meaning where a less serious or non-defamatory meaning is available is not reasonable: s/he is avid for scandal. But

always to adopt the less derogatory meaning would also be unreasonable: it would be naïve.

(iv) Over-elaborate analysis should be avoided and the court should certainly not take a too literal approach to the task.

(v) Consequently, a judge providing written reasons for conclusions on meaning should not fall into the trap of conducting too detailed an analysis of the various passages relied on by the respective parties.

(vi) Any meaning that emerges as the produce of some strained, or forced, or utterly unreasonable interpretation should be rejected.

(vii) It follows that it is not enough to say that by some person or another the words might be understood in a defamatory sense.

(viii) The publication must be read as a whole, and any 'bane and antidote' taken together. Sometimes, the context will clothe the words in a more serious defamatory meaning (for example the classic "rogues' gallery" case). In other cases, the context will weaken (even extinguish altogether) the defamatory meaning that the words would bear if they were read in isolation (e.g. bane and antidote cases).

(ix) In order to determine the natural and ordinary meaning of the statement of which the claimant complains, it is necessary to take into account the context in which it appeared and the mode of publication.

(x) No evidence, beyond the publication complained of, is admissible in determining the natural and ordinary meaning.

(xi) The hypothetical reader is taken to be representative of those who would read the publication in question. The court can take judicial notice of facts which are common knowledge, but should beware of reliance on impressionistic assessments of the characteristics of a publication's readership.

(xii) Judges should have regard to the impression the article has made upon them themselves in considering what impact it would have made on the hypothetical reasonable reader.

(xiii) In determining the single meaning, the court is free to choose the correct meaning; it is not bound by the meanings advanced by the parties (save that it cannot find a meaning that is more injurious than the claimant's pleaded meaning)."

16. In any individual case, some of these principles are likely to have greater relevance, and greater resonance, than others. Thus, in *Stocker v Stocker* [2019] UKSC 17, the recent Supreme Court decision on the meaning of a social media post on Facebook, the Court did not depart from, doubt, or qualify any of the principles listed above; but it

emphasised, in the context of the case before it, the importance of principles (iv), (v) and (ix): see [17], [38] and [40].

17. It is obviously right to have regard to the nature of the readership at which the publication is aimed, and the nature of the speech under consideration. In the present case, I am not concerned with an item on social media about personal relationships, as was the case in *Stocker*. Nor is this light-hearted journalism using irony, as for example, in *Sir Elton John v Guardian Newspapers Ltd* [2008] EWHC (QB) [22-33]. I am looking at serious reporting on political issues, of public interest, published by an investigative body on its own dedicated website, in terms which are clearly considered and measured. The principles that are of particular relevance in this case are (iii), (vi), (viii), (ix), (x) and (xi).

18. Mr Wolanksi has referred to "the repetition rule". This, in the present context, is a descriptive rule about how the ordinary reasonable reader understands reported allegations. "Repeating someone else's libellous allegation is just as bad as making the statement directly" (*Lewis v Daily* 260 (Lord Reid)); because if "A says to B that C says that D is a scoundrel, B will think just as ill of D as if he had heard the statement directly from C" (*Mark v Associated Newspapers Ltd* [2002] EWCA Civ 772 [2002] EMLR 839 [29] (Simon Brown LJ)). The repetition rule underlies, and is assumed by, the "bane and antidote" principle (principle (viii)).

19. Both the articles complained of by this claimant are lengthy, and it is convenient to set out the words complained of as Appendices to this judgment, rather than incorporating them within it. Appendix A to this judgment sets out the First Article. Appendix B set out the words complained of from the original text of the Second Article, with the corrections made on 21 September 2017. For ease of reference, line numbering has been added, as well as section headings, which I will use when referring to the content of the articles. It is unnecessary to address the amendments of 21 September 2017, as the defendants take no point on any differences between the two versions of that article.

20. I have to address each of the articles separately. There is no suggestion that the meaning of one is influenced by the content of the other.

The First Article

21. Mr Wolanski QC, for the claimant, has made the following points:

(1) The article presents as a fact that members of Azerbaijan's ruling elite, or "*the country's kleptocratic ruling clique*", used a "*secret slush fund*" to pay off European politicians, to launder money and for other corrupt purposes. No doubt is indicated about the existence of this 'Laundromat' or the involvement in it of many prominent Azerbaijanis, as operators of the scheme and as recipients of the corruptly sourced cash.

(2) Recipients of this corruptly obtained money are also said to include "at least three European politicians", who were amongst those that "were able to mobilize important international organizations, such as UNESCO and the Parliamentary Assembly of the Council of Europe, to score PR victories for the regime".

(3) The claimant's name appears in the following context:

> "another $138 million likely went to AvroMed, a major drug company co- founded by Javanshir Feyziyev, a member of the Azerbaijani parliament who specializes in building relationships with EU politicians. (The recipient's actual ownership is hidden, but its records match what is known about the pharmaceutical giant.)."

This, it is argued, presents the claimant as "clearly in the frame" as a member of the kleptocratic elite who participated in the corrupt Laundromat scheme, knowing it to be illegal, in order to mobilize his connections with European politicians, meaning to bribe them. It is argued that the reference to hidden ownership suggests, strongly, that the claimant himself has sought to obscure his connections to the corrupt money

(4) Several members of the Azerbaijani elite are identified, and clearly depicted as guilty. The claimant is named, and the characteristics attributed to him would place him, in the eyes of an ordinary reader, as yet another guilty member of the Azerbaijani elite.

(5) The article, says Mr Wolanski, is "all bane and no antidote". It contains no denial from AvroMed or the company, let alone any response that might lead readers to think that the claimant was not culpably involved in the Laundromat scheme. The use of the word "likely" does nothing to dilute the allegation of fraudulent conduct on his part, it is said. Indeed, it reinforces it. Here, Mr Wolanski invokes the observation of Nicklin J in *Hewson v Times Newspapers Ltd* [2019] EWHC 650 (QB) [40], that

> "The effect of the repetition rule is that the use of verbs like "*alleged*" or "*claimed*" (however often they are repeated in a publication) is unlikely, *in itself*, to insulate a publisher from the effect of the rule."

22. The argument for the defendants begins with some general, overarching points. Mr Price submits that the impression left on the Court following its initial reading must be of primary importance and "must be substantially preserved in the face of any subsequent rhetorical or analytical assault by counsel". "Primary" puts the matter too strongly, but given the way in which I approached the task of reading these articles, I think this is otherwise a fair submission, consistent with principle (xii). It is right to give weight to the impression taken from the words by the Court. It is not the end of the matter, however. A Judge should not rest with his or her initial impression. The Judge should undertake a degree of critical analysis, consistent with the nature and context of the publication under consideration, and should test the initial impression. A useful method is the one recommended by Lord Reid in *Lewis* (above) at 259-260, when enunciating what is now principle (iii):

> "Ordinary men and women have different temperaments and outlooks. Some are unusually suspicious and some are unusually naive. One must try to envisage people between these two extremes and see what is the most damaging meaning they would put on the words in question. So let me suppose a number of

> ordinary people discussing one of these paragraphs which they had read in the newspaper. No doubt one of them might say - "Oh, if the fraud squad are after these people you can take it they are guilty." But I would expect the others to turn on him, if he did say that, with such remarks as - "Be fair. This is not a police state. No doubt their affairs are in a mess or the police would not be interested. But that could be because Lewis or the cashier has been very stupid or careless. We really must not jump to conclusions. The police are fair and know their job and we shall know soon enough if there is anything in it. Wait till we see if they charge him. I wouldn't trust him until this is cleared up, but it is another thing to condemn him unheard.""

23. Mr Price makes some further general points about the right approach to these articles. They put forward a series of detailed factual propositions about the claimant, which no lawyer would take as sufficient to establish guilt. The Court should not patronise the ordinary reasonable reader, and assume the reader would do otherwise. He submits that this case does not engage the repetition rule; the articles are not reporting the allegations of others, but the results of investigation. As to the articles themselves, Mr Price submits that there are two important factors. The first is the qualified language used in reference to the claimant and/or the company, which contrasts with the direct language used to allege guilt against others. The authors are clearly capable of making direct allegations of guilt when they see fit. In relation to the claimant, the articles are careful to state that, despite what is reported, the forensic circle has not been closed in relation to the claimant. This qualified language contrasts with the unqualified language used in relation to information that is conveyed conclusively as fact. Mr Price provides a number of specific illustrations of this theme, in relation to each of the articles.

24. In the case of the Second Article, Mr Price relies on the express disclaimers and exculpatory statements it contains, as he submits, "throughout". Mr Price invites me to recognise that the hypothetical reader of these articles is capable of understanding – and does understand – the gradations of allegation deployed in the articles, and the purpose and import of the disclaimers. The impression left on such a reader, submits Mr Price, is that OCCRP has not been able to conclude and therefore stops short of the outright allegation that the claimant is guilty of culpable involvement in the Laundromat, and that this is why the caveats and disclaimers have been deployed in the articles. They cannot be simply ignored, it is said.

25. In my judgment, the First Article does not convey a *Chase* Level One meaning; it bears the following natural and ordinary meaning:

> "There are reasonable grounds to suspect that the claimant, through the company AvroMed, engaged or assisted in illegal money laundering and in the bribery of influential European politicians, journalists and businessmen on a vast scale."

26. This is essentially the meaning I had arrived at as a matter of impression on reading the article before reading or hearing argument. As Mr Price had correctly anticipated in his skeleton argument for the defendants, I read each of the articles complained of once, before reading anything said in the statements of case or the skeleton arguments on the topic of meaning. I did my best to place myself in the position of a typical reader of the

kind that may reasonably be supposed to take an interest in an online publication of this kind, on the Website, or on Twitter: a politically engaged individual with an interest in anti-corruption campaigns of the kind in question here. I took the reader to be intelligent, literate, and capable of understanding reasonably complex political and financial analysis. I formed some provisional views before reading, and then hearing, the parties' submissions.

27. I had swiftly concluded that the article was portraying the Laundromat scandal as an unquestionable fact, in which some senior individuals in Azerbaijan – several of them named - were undoubtedly complicit; and that the claimant was identified as someone whom there was reason to suspect of complicity; but that the article would not convey to the ordinary reasonable reader, not avid for scandal, that the claimant was guilty of corrupt participation. The arguments have fortified these conclusions. I found myself envisaging Lord Reid's hypothetical reader responding quizzically to Mr Wolanski's arguments, and looking more favourably on those of Mr Price, who has provided reasoning, grounded in principle, and in the detail of the article, that cogently supports my initial impression.

28. The existence and nature of the Laundromat are presented as an established fact. Links between the claimant and the corrupt payments are suggested. The question is whether the claimant is thereby portrayed as someone guilty of involvement in the corruption. It is certainly true that, as Mr Price submits, a number of other individuals and organisations are explicitly and directly accused of complicity in the Laundromat. "The family of Yaqub Eyyubov" are identified as "recipients" of corrupt funds. Ali Nagiyev and his family are identified as "major users of the system". Four companies are also named as "the core companies that power" the Laundromat. It is stated as a fact that Danske Bank received corrupt money and "turned a blind eye" to transactions that should have raised red flags. The wording used with reference to the claimant is much more guarded, and indirect. It clearly implies that there are reasons to suspect him of guilty involvement. But as Mr Price submits, there is a contrast between the way his links are portrayed and the unequivocal way in which others are dealt with. The distinction between the ways in which he and the various other individuals and organisations are dealt with is marked, and would be clear to a reasonable reader.

29. There are two separate points. First, it is not presented as an unquestionable fact that the corrupt $138m went to Avromed, the drug company linked to the claimant. I do not agree with Mr Wolanski that the word "likely" has no weight in this context. The article allows for the possibility of mistaken identity. More importantly, the links between the claimant and the company are not presented as clear evidence of his complicity. The only reference to his connection with the company is a statement that he "co-founded" AvroMed [54]. The only other information provided about him is contained in that same paragraph. He is described as a member of the Azerbaijani Parliament, but that does not make him one of the "prominent Azerbaijanis with government positions or connections" identified at G49-50 as recipients of Laundromat money. He is described as someone who "specialises in building relationships with EU politicians." Elsewhere (at C24-25), the article states that "at least three EU politicians" were among the recipients of Laundromat money. These, on the face of it, are grounds for suspecting the claimant's involvement in the Laundromat scheme, as it is described in the article. But these details, in the context of the article as a whole, fall short of pointing to guilt.

30. Mr Price has pointed out that anyone who read the whole of the article complained of, as the reasonable reader is assumed to do, would see the long list of credits at the end (Y102-114). This demonstrates to the reader that the text is the outcome of a project that has involved a large team, including research, editorial and fact-checking personnel. That is a contextual point of some significance, it seems to me.

31. I agree with Mr Price that this is not a case which engages the repetition rule. The bane and antidote principle is engaged, but the real question is: what is the bane, or poison? In my judgment, the answer is: the meaning I have identified. The fact that there is nothing in the article to dispel suspicion means that it remains the overall meaning of the article.

32. The approach I have just set out is analytical, to a degree. But except for the last part of it, which is a technical legal analysis, I do not believe that I have taken a much more analytical approach than the one that would be taken by the ordinary reasonable reader of the First Article, published on the Website as the fruits of an investigative project of the kind described in lines 8-9 at Section A. If I have done so, it is only by way of a check on my own initial impression.

The Second Article

33. Mr Wolanski submits that the use of the word "may" in the headline is of no consequence. By the end of the article, readers are left in no doubt that AvroMed had indeed "received millions through the Laundromat" and that the claimant is at the centre of the company's corrupt activities. Mr Wolanski points to six features of the article in support these arguments:

    (1) The statement that the Azerbaijani Avromed company has "the *same name* as the second biggest beneficiaries of the Laundromat" (emphasis added);

    (2) Passages about the "coincidence" of names are said to be sarcastic in tone, and to suggest that in reality this is no coincidence; the recipient of the monies is indeed the Azerbaijani AvroMed company;

    (3) The statement that the claimant "openly' managed that company until 2010 is said to imply that he still manages it, but not 'openly';

    (4) Passages under the headline "Who Really Owns AvroMed?' are said to cast doubt on the claimant's claim that he gave up his stake in the company following his 2015 election to parliament, and to imply an association with partners who have strong connections to the ruling elite;

    (5) A link to the corrupt political leadership of the country is said to be contained in the statements that the claimant himself is "close" to the first family, and 'instrumental in Azerbaijan's efforts to lobby the European Union" where the country "works aggressively" to deflect criticism of its poor human rights record;

    (6) Reliance is placed on the section headed "*Skyrocketing to success*", which is said to portray AvroMed MMC as having achieved success so extraordinary that it can only have been achieved by dint of corrupt links with the country's ruling elite, and abuse of a monopoly position. "Readers are left in no doubt that this is a disreputable

> company which has corrupt connections with Azerbaijan's venal elites", submits Mr Wolanksi.

34. Acknowledging that the article includes a quotation attributed to a Ms Mahmudova, in which she denies that AvroMed made or received payments outside its commercial activities, Mr Wolanski submits that this reported denial is immediately undermined by the two sentences that follow. As with the First Article, there are allegations of involvement in corruption, with next to nothing to balance them out, he says.

35. Mr Price submits that the Second Article contains a number of qualified statements about the claimant and Avromed which would not be ignored by readers, and cannot be ignored by the Court. It also contains some crucial disclaimers. Not only is there the denial of Ms Mahmudova, there are also statements (at A18), that "*if true* it is *not clear* how the millions *apparently* received by Avromed could be connected to any of its legitimate businesses"; (at A25) that "It is *not clear* where the money ultimately ended up or how it was used"; and (at B35), statements that "*What, if any,* relationship the real Avromed has to AvroMed LLP is *not clear*", and that it is "*impossible to conclusively determine whether*" the accounts in question do belong to "the Azerbaijani pharmaceutical giant". The article reports the claimant's claim to have severed ties with AvroMed in 2015, which is a rebuttal. True, the article questions the veracity of that claim, but it does not do so unequivocally. Rather, it states (at D76-77) that this "cannot be independently verified".

36. In my judgment, the Second Article bears the following natural and ordinary meaning:

> "There are strong grounds to suspect that the claimant, through the company AvroMed, engaged or assisted in illegal money laundering and in the bribery of influential European politicians, journalists and businessmen on a vast scale."

37. This, again, is broadly the impression I gained from this article on first reading, and it is one that has not been dislodged by argument. This article may engage the repetition rule, but in a way different from the one advanced by Mr Wolanksi. The reported statements in this article are those attributed to AvroMed and the claimant, and they are not accusatory but exculpatory: the company denies receiving any corrupt money, and the claimant denies involvement with the company. That raises the question of whether there are statements which wholly or partly contradict and undermine the impact of these disclaimers.

38. Stepping away from this legal analysis, the Court's real task is to assess the impact on the ordinary reader of the article as a whole. Again, I find Mr Price's submissions persuasive. He concedes that the Laundromat is presented as a fact. But he is right to point to the careful and qualified nature of what is said about the company, the coincidence of name, and about the claimant, both in the headline and in the text of the article. There are indeed other qualified statements. At B29, it is "*not clear*" where the "real" AvroMed is registered. At B39, the suggestion is that the transactions "*give the appearance*" of being related to the "real" AvroMed. In that context, it is a matter of some significance, in my view, that the article makes clear that AvroMed LLP is not a fiction, but a genuine entity, incorporated in the UK in 2012, which has filed annual reports in this jurisdiction, professing to carry on a legitimate business.

39. There are most certainly features of the article which cast a cloud of suspicion over the claimant. The matters to which Mr Wolanski has referred all tend in that direction, and all have some persuasive power. Together, they suggest that there is a compelling case to answer or, as I have encapsulated it, strong grounds to suspect. But in my judgment, Mr Wolanski presses the points beyond their limits. I agree that the reference to "openly" managing the company implies that the claimant may have been doing so since in a covert manner, but not that it implies as a fact that the claimant has been doing so. The picture presented is that the true position is shrouded in mystery or uncertainty. Nor do I agree that, either individually or collectively, these points convey the suggestion that the claimant is guilty of involvement in corruption. An unduly suspicious reader might think so, but not the reasonable one, not avid for scandal.

The Strike-Out Application

40. I grant this, which is rightly unopposed. Mr Price has made clear that the defendants intend to review their position and make a decision on whether to re-plead a defence of truth and, if so, in what terms.

Further Information as to the Public Interest defence

41. In the course of argument, it has also been made plain that the defendants intend to conduct a more wide-ranging review of their strategic position. It is clear from their answers to the first part of the Part 18 Request that they maintain their position, that neither has any responsibility for the publications complained of. If that is right, they would have no need to advance any substantive defences to the claim. Mr Price has however put forward a hypothetical scenario in which they might need to, but be unable to do so. The Court might accept (for instance) the first defendant's case about his role, and yet find him responsible for publication. In that event, says Mr Price, there may be a risk that the defendants would be unable to run the statutory public interest defence, because that depends on the existence of a reasonable belief that publication was in the public interest, and these defendants had no actual involvement in the publication. Such an outcome would be "outrageous", or would at least cause some consternation, submits Mr Price.

42. The first defendant's account of things, as set out in the Further Information, is that it provides financial and other support to investigative journalism. As I understand it, that is said to be its only role. The second defendant's case is he was aware of the leak of information that led to the launch of the overall investigation, helped to develop the concept of the series, and reported on some of it, but not including the articles complained of. He did not write or edit either article, saw no draft copy, played no part in the research or preparation of the articles, or in deciding on the presentation or layout of the articles, or the decision to publish them, and indeed was not aware of their subject-matter and had not even heard of the claimant.

43. The hypothetical dilemma identified by Mr Price has not been explored further. There has been no need to do so. It is clear that the defendants, and it may be others to whom they are connected, need to make decisions about how to respond to this claim. The outcome of the present hearing has been an order that the defendants should serve an Amended Defence by a specified deadline; that they should answer the outstanding requests for further information in the process, to the extent that they remain relevant;

but that this shall be without prejudice to their right to rely on the source protection rights provided for by s 10 of the Contempt of Court Act 1981.

APPENDIX A

4 September 2017

A **Azerbaijani Laundromat**

occrp.org/en/azerbaijanilaundromat

The Azerbaijani Laundromat is a complex money-laundering operation and slush fund that handled $2.9 billion over a two-year period through four shell companies registered in the UK.

The scheme was uncovered through a joint investigation by Berlingske (Denmark), OCCRP, The Guardian (UK), Süddeutsche Zeitung (Germany), Le Monde (France), Tages-Anzeiger and Tribune de Genève (Switzerland), De Tijd (Belgium), Novaya Gazeta (Russia), Dossier (Austria), Atlatszo.hu (Hungary), Delo (Slovenia), RISE Project (Romania), Bivol (Bulgaria), Aripaev (Estonia), Czech Centre for Investigative Journalism (Czech Republic), and Barron's (US).
This project is part of the Global Anti-Corruption Consortium, a collaboration started by the OCCRP and Transparency International.

From 2012 to 2014, even as the Azerbaijani government arrested activists and journalists wholesale, members of the country's ruling elite were using a secret slush fund to pay off European politicians, buy luxury goods, launder money, and otherwise benefit themselves.

Banking records revealing some 2.5 billion euro (US $2.9 billion) in transactions were leaked to the Danish newspaper Berlingske, which shared them with OCCRP. The two outlets then organized a collaborative investigation to track down where the money went.

B What is a laundromat?

The result is the **Azerbaijani Laundromat** – so called because the vast sums that passed through it were laundered through a series of shell companies to disguise their origin. The project reveals the many uses to which the country's kleptocratic ruling clique puts some of its billions.

Among other things, the money bought silence. During this period, the Azerbaijani government threw more than 90 human rights activists, opposition politicians, and journalists (such as OCCRP journalist Khadija Ismayilova) into prison on politically motivated charges. The human rights crackdown was roundly condemned by international human rights groups.

C The Influence Machine

Meanwhile, at least three European politicians, a journalist who wrote stories friendly to the regime, and businessmen who praised the government were **among the recipients** of Azerbaijani Laundromat money. In some cases, these prominent individuals were able to mobilize important international organizations, such as UNESCO and the Parliamentary Assembly of the Council of Europe, to score PR victories for the regime.

D The Core Laundromat Companies

Nor to major Western financial institutions escape responsibility. The banking records in the leak – over 16,000 transactions in all – reveal that the core of the Azerbaijani Laundromat was formed by **four shell companies** registered in the United Kingdom. The country's lax regulations allowed these companies to file registration paperwork that listed proxy or non-existent shareholders and disguise their true origins.

E Denmark's biggest bank hosted Azarbaijani slush fund

Moreover, the records show that **Danske Bank**, a major European financial institutions, turned a blind eye to transaction that should have raised red flags. The bank's Estonian branch handled the accounts of all four Azerbaijani Laundromat companies, allowing the billions to pass through it without investigating their property.

A majority of the payments went to the other secretive shell companies similarly registered in the UK, indicating that the full extent of the scheme may be much larger than is currently known. Large amounts also went to companies in the UAE and Turkey. (Some of the transactions involve companies in the Russian Laundromat, a vast money laundering scheme previously exposed by OCCRP.)

F Where Did The Money Go?

The subsequent flow of much of these funds is unknown. But the records reveal that millions of dollars ended up in the accounts of **companies and individuals across the world**, including luxury car dealerships, football clubs, high-end travel agencies, and hospitals. Many of these recipients would not have understood the problematic nature of the transfers, and cannot be accused of doing anything improper. But their involvement reveals the many uses to which the scheme's operators put their money.

G Azerbaijan's High-Profile Beneficiaries

The recipients also included **prominent Azerbaijanis** with government positions or connections. These include the family of Yaqub Eyyubov, Azerbaijan's first deputy prime minister, who is one of the country's most powerful politicians.

H The Corruption in Fighter's Hidden Empire

They also include **Ali Nagiyev**, a man responsible for battling corruption in Azerbaijan. As it turns out, he and his family were major users of the system.

I AvroMed May Have Received Millions Through Laundromat

Another $138 million likely went to **AvroMed**, a major drug company co-founded by Javashir Feyziyev, a member of the Azerbaijani parliament who specializes in building relationships with EU politicians. (The recipient's actual ownership is hidden, but its records match what is known about the pharmaceutical giant.)

J The Origin of the Money

But **where did all this money from**? Its precise origin is unclear – again, hidden behind a series of secretive shell companies – but there is ample evidence of its connection to the family of President Ilham Aliyev.

Almost half of the $2.9 billion came from an account held in the International Bank of Azerbaijan (IBA) by a mysterious shell company linked to the Aliyevs. The second and third biggest contributors were two offshore companies with direct connections to a regime insider. Some of the money came directly from various government ministries. Mysteriously, another portion came from Rosoboronexport, a state-owned Russian arms exporter. It is clear that the full extent of the Azerbaijan Laundromat will be explored for years to come.

K US Lobbying Firm Launders Azerbaijan's Reputation – And Gets "Laundromat" Cash

67 A purportedly private Azerbaijani organization paid over a million and a half dollars to a US firm
68 to lobby for the country in Washington. That organization was secretly funder by the Azerbaijani
69 Laundromat.

L Baku's Man in American

70 A quarter-million dollars from the Azerbaijani Laundromat went to a US energy consultant of
71 Azerbaijani origin who, for years, had lobbied in the interests of his native country in the halls of
72 Congress.

M Azerbaijani Regime Insider Brings Millions to Vienna's Golden Quarter

73 A key player in the Azerbaijani Laundromat – a slush fund and money-laundering scandal that
74 has already led to the resignation of members of the Parliamentary Assembly of the Council of
75 Europe – has gained a foothold in Vienna's "Golden Quarter."

N Notorious Laundromats Used in Iran's Anti-Sanction 'Economic Jihad'

76 The word jihad, usually defined as a struggle against the enemies of Islam, took on a new
77 meaning six years ago when Iran's supreme leader Ayatollah Khamenei declared 2011 the "year
78 of economic jihad."

O AvroMed May Have Received Millions Through Laundromat

79 The Azerbaijani Laundromat reveals payments in the same name as the largest pharmaceutical
80 industries in the country.

P The Corruption Fighter's Hidden Empire

81 Ali Nagiyev, 59, is a busy man. His job is to fight corruption in Azerbaijan, one of the most
82 corrupt countries in the world.

Q Denmark's biggest bank hosted Azerbaijani slush fund

83 Denmark enjoys a reputation for low corruption and transparency that is the envy of the world.
84 But the country's largest bank was a key enabler in the Azerbaijani Laundromat, a general-
85 purpose money laundering scheme and slush fund used by the ruling elite in Baku.

R Azerbaijan's High-Profile Beneficiaries

86 The Azerbaijani Laundromat was a money-laundering scheme and slush fund used by
87 Azerbaijani elites to disguise the origin of billions of dollars, purchase goods and services, and
88 make secret payments to companies and individuals in the European Union.

S The Origin of Money

89 The US$ 2.9 billion Azerbaijani Laundromat was comprised of four bank accounts belonging to
90 four shell companies registered in the United Kingdom, although more may have been involved.

T The Core Companies

91 The core companies that power the Azerbaijani Laundromat – through which more than €2.5

92 billion (US$ 2.9 billion) passed in just two years – are Polux Management LP, Hilux Services LP,
93 Metastar Invest LLP, and LCM Alliance LLP.

U The Influence Machine

94 From 2012 to 2014, even as the Azerbaijani government made wholesale arrests of activists and
95 journalists, members of the country's ruling elite were using a secret slush fund to pay off
96 European politicians and other influencers who spoke favourably about the country and its
97 oppressive regime.

V What is the Laundromat?

98 The Azerbaijani Laundromat is the name given to a comple money-laundering operation that
99 handled US$ 2.9 billion over a two-year period thanks to four shell companies registered in the
100 United Kingdom.

W Reactions

X Additional Materials

101 Laundromat Recipients See the raw data

Y The Project Team

102 **Coordinator**: Paul Radu
103 **Reporting**: Ilgar Agha, Roman Anin, Anna Babinec, Sophie Balay, Attila Biro, Jan Bratanic, Anuška
104 Delić, Ricardo Ginés, Pavla Holcová, Khadija Ismayilova, Elena Loginova, Miranda Patrucić,
105 Madina Mammadova, Paul Radu, Atanas Tchobanov, Jonny Wrate
106 **Research**: Carole Kerbage, Dragana Peco, Nadia Shiyyab
107 **Data Analysis**: Friedrich Lindenberg, Amy Guy, Lion Summerbell
108 **Editing**: Ilya Lozzovsky, Jody McPhillips, Paul Radu, Drew Sullivan
109 **Images and Infographics**: Cosmin Nitu, Edin Pašović, Catalina Raileanu
110 **Videos**: Sergiu Brega, Matt Sarnecki
111 **Fact Checking**: Birgit Brauer, Lejla Čamdžić, Rozana Jipa, Ana Poenariu
112 **Translation**: Marina Denisyeva, Leyla Mustafayeva, and others
113 **Layout**: Adem Kurić, Aleksandar Todorović, Michał "rysiek" Woźniak
114 **Promotion**: Ilya Donskih, Stella Roque

APPENDIX B

20 September 2017

A **AvroMed May Have Received Millions Through Laundromat**

AvroMed Company LLC, one of the largest pharmaceutical companies in Azerbaijan, has the same name as the second-biggest beneficiaries of the Azerbaijan Laundromat, which received more than US$ 138 million between August 2013 and December 2014.

The money was sent by two of the four British shell companies, linked to Azerbaijan's ruling family, that are at the center of the Azerbaijan Laundromat scheme. (See: Core Companies)

AvroMed was co-founded and, until 2010, openly managed by Javanshir Feyziyev, a member of parliament who is close to the first family, with which he has business ties. He is considered a trusted associate of President Ilham Aliyev and is instrumental in Azerbaijan's efforts to lobby the European Union (EU). The country works aggressively on the international level to deflect criticism of its poor human rights record. (See: The Influence Machine)

Javanshir Feyziyev, the co-founder of AvroMed, in a screenshot from an AvroMed promotional video. Credit: Youtube

In response to reporters' questions, Shahia Mahmudova, a deputy CEO of AvroMed, said that the company has "never, in its entire history, made any payments nor had receipts outside of its purely commercial activities."

She would not comment on the specific transaction which appear to have been sent to the company.

If true, it's not clear how the millions apparently received by AvroMed could be connected to any of its legitimate business. The company has no offices or representatives in the Baltic countries where the payments were made.

Money-laundering operations like the Laundromat are common in the former Soviet republics and often deeply integrated into their economies. They may be used by government officials, organized crime groups, or even ordinary businesses for a variety of purposes, such as disguising the origins of money, evading taxes, or paying bribes.

It is not clear where the money ultimately ended up or how it was used.

The company is one of the largest importers of the medicine and medical supplies in Azerbaijan, where the cost of medicines is among the highest in the region. It has been accused of creating artificial shortages to hike prices even higher.

B A Strange Coincidence

The $138 million arrived in two bank accounts, one in Latvia and one in Estonia, that were registered under the name AvroMed ("AvroMed Company" and "AvroMed Company LLP"). Neither account uses the suffix "MMC," the Azerbaijani version of the designation for a limited liability company.

It is not clear where the real AvroMed is registered although they call themselves a UK/Azerbaijani company. A search of worldwide business records revealed that the name "AvroMed Company" is used by only two companies in the world. One is the Azerbaijani pharmaceutical giant.

What, if any, relationship the real AvroMed has to AvroMed Company LLP is not clear. Representatives from AvroMed would not answer questions on its own ownership and its

relationship (if any) with the other company. This makes it impossible to conclusively determine whether these accounts do, in fact, belong to the Azerbaijan pharmaceutical giant. But the transactions in question give the appearance of being related to the real AvroMed.

The other, "AvroMed Company LLP," was incorporated in the United Kingdom (UK) on Sept. 10, 2012 - just months before the transactions began. The firm's UK registration documents list two offshore companies registered in the Commonwealth of Dominica as international business companies (IBC) – Kenmark Inc. and Ostoberg Ltd. – as its formal owners. These two companies show up as the owners of a number of other companies. Under Dominican law, IBC ownership is not disclosed which allows the companies to effectively serve as proxies used to hide the real owners of the companies they own – including AvroMed Company LLP. The UK firm was dissolved in early 2017.

In emails to the company, AvroMed did not address the payments or their relationship to the UK company.

The Azerbaijani AvroMed has referred to itself in promotional materials as a joint British-Azerbaijani pharmaceuticals company. And the British AvroMed's annual reports reveal that it was active as a "trade agent for pharmaceutical goods" and that it received some real commissions.

C Skyrocketing to Success

The Azerbaijani AvroMed was incorporated in late 2001, quickly becoming the country's exclusive distributor for the major American and European pharmaceutical companies, including GlaxoSmithKline, Aventis, Sanofi, and Novartis.

Archives of earlier versions of its web site reveal the company's staggering growth. In 2002, it had an annual turnover of just 3.5 million AZN ($3.6 million). By 2011, its turnover had increased by an astonishing 60 times to 212 million AZN ($270 million).

Today, the company competes with more than 500 other Azerbaijani pharmaceutical companies, yet controls up to 25 percent of the market, according to company officials. It imports medicines from more than 250 pharmaceutical companies in 42 countries around the world.

Among its clients are about 15 state hospitals, about 200 private clinics, more than 100 beauty and health centres, sports federations and clubs, about 2,000 pharmacy shops, as well as Ministry of Defense, the State Border Service, and the Ministry of Justice.

In a 2012 interview with The Business Year, Elshad Abdullayev, then the company's General Manager, said that AvroMed has supplied "nearly 50%" of Ministry of Health tenders since 2007.

Between 2010 and 2017, AvroMed won 1.1 billion AZN in government tenders. (This is equivalent to about $640 million today, though the Azerbaijani manat has lost about half its value since 2015.) The true number may well be much higher since Azerbaijan does not publish full information about its procurement.

D Who Really Owns AvroMed?

Javanshir Feyziyev, AvroMed's powerful cofounder, claimed in a November 2016 interview with a local newspaper to have given up his stake in the company following his 2015 reelection to parliament. "As a result of my personal opinion, I made the decision," he said. "I think that I made the right decision. I didn't need to disclose it to the press because it was personal information."

A screenshot of Javanshir Feyziyev, the co-founder of AvroMed, in a screenshot from an AvroMed promotional video. Credit: Youtube

In Azerbaijan, companies' owners and financial information is not available to the public, so his claim cannot be independently verified. Public records reveal that his daughter is still the company's legal representative.

While the names of Feyziyev's partners in AvroMed have never been disclosed, another previously unknown partnership may give some insight into the reasons behind the company's huge success.

E Partnership with the First Family

In September 2008, Feyziyev founded another pharmaceutical company in Azerbaijan called Dokta MMC. Records previously obtained by OCCRP reveal that his two partners in this venture are prominent members of Azerbaijan's ruling elite.

A source close to the first family who refused to be identified said that the Allyevs have known Feyziyev since the 1990s as a "reliable partner and a good manager," and said that he had been introduced to them because of his business skills and reputation for loyalty.

One of his partners in Dokta, Javad Marandi, was the country direction for Phillip Morris in its early days in Azerbaijan. At the time, Feyziyev was head of the company's regional division, making him Marandi's boss.

Marandi is a close friend of the first family and was, at one point, a managing partner in their construction business, though he now refers to himself as a consultant. He is also known to be a patron of Leyla Aliyeva, the president's daughter, supporting her interest in the arts and films.

Mirjalal Pashayev, Feyziyev's other partner in Dokta, is a cousin of Azerbaijan's first lady, Mehriban Aliyeva. In 2014, he received a $6 million apartment in London from Marandi as a gift.

Dokta is a successful business. The company operates a network of drugstores in Baku that offer pharmaceuticals, beauty care products, baby food, and medical equipment.

F Allegations of Artificial Scarcity to Raise Prices

Over the years, AvroMed has been accused in the media of running a monopoly, forcing other companies to buy drugs from it, and creating false shortages to increase prices.

The most recent crisis erupted in February 2017. For weeks, Azerbaijanis faced shortages of medicines and even baby food across the country.

The price of drugs in Azerbaijan is considerably higher that in other countries in the Commonwealth of Independent States (CIS), according to a report by IMS Health, an American healthcare information company. Studies conducted by experts showed that the price of drugs in Azerbaijan is approximately two or even three times higher than in Turkey and Iran.

In a 2015 interview with Yeni Müsavat, an Azerbaijani newspaper, Feyziyev was repeatedly questioned by a reporter about the country's sky-high medicine prices. Feyziyev denied that his company enjoyed a monopoly. "In the case of free competition, the prices should fall," he admitted. "But the opposite is happening in Azerbaijan – because of excessive free competition."

This story is part of the Global Anti-Corruption Consortium, a collaboration started by OCCRP and Transparency International. For more information, click here.

Corrections, Sept 21, 2017: The story was corrected to more accurately represent Javanshir Feyziyev and Javad Marandi's roles in Philip Morris and to more accurately reflect the involvement of Javanshir Feyziyev's family in AvroMed.
Correction, Sept 26, 2017: The initial version of this story incorrectly reported how much money AvroMed won in government tenders. The correct figure is 321 million AZN, OCCRP regrets the error.