[BE] Implication of the Liability of a Journalist and the RTBF Not Upheld

IRIS 1998-9:1/8

Peter Marx
Marx, Van Ranst, Vermeersch & Partners

In 1994 the RTBF broadcast a report entitled Belgica Nostra on the activity of Mafia-type organisations in Belgium and their connections with political, economic and financial circles in Belgium. The report was produced by the journalist Mrs Van De Moortel who had spent several months carrying out a very careful investigation with a view to denouncing the establishment of the Mafia in Belgium.

Members of the Di Luciano family (referred to hereinafter as "the applicants") complained that the RTBF and Mrs Van De Moortel have impliedthat they maintained relations with the Mafia. Although the applicants were http://services.obs.coe.int/en/index.htm not referred to by name, they felt that sufficient specific details had been given to enable viewers to identify them, particularly the property called the Château de Forchies-la-Marche, of which the applicants are the owners and where they live. The applicants maintained that their personal integrity had been seriously compromised and claimed damages from Mrs Van De Moortel and the RTBF as compensation for the moral prejudice suffered.

On 16 November 1997, the Court of First Instance in Brussels held that the journalist and the RTBF were not at fault in terms of their liability in making the disputed broadcast.

The Court noted that, before being broadcast, the facts reported in the programme had been checked to a reasonable extent within the means available to a normally cautious and conscientious journalist. In the case here, the journalist had been able to prove to the Court that she had carried out numerous investigations and that her information was supported by a data from different sources.

The Court found that the applicants were wrong in claiming against Mrs Van De Moortel for not having visited their property personally in order to meet them. In the Court's opinion, Mrs Van De Moortel was free to consider it unnecessary to do so, particularly as she had received anonymous threats. The judges stressed the principle of the freedom of choice of a journalist in seeking out information.

© European Audiovisual Observatory (Council of Europe) 2026

The Court felt that the facts put forward appeared at the very least likely, in view of the various crossreferences made. According to the judges, Mrs Van De Moortel had pursued a legitimate aim in providing information.

Jugement du Tribunal de Première Instance de Bruxelles (14° chambre), 16 novembre 1997, Di Luciano contre Van De Moortel et RTBF.

Judgment of the Court of First Instance in Brussels (14th Chamber), 16 November 1997, Di Luciano v. Van De Moortel and RTBF.

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026