European Court of Human Rights: Journalistic coverage of racist statements protected by Article 10 ECHR

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On 23 September 1994 the European Court of Human Rights ruled that the conviction and sentence of a fine to a Danish television journalist for aiding and abetting the dissemination of racist statements, constituted a violation of Article 10 of the European Convention for the protection on Human Rights. The journalist, Mr Jersild, had interviewed a group of young racists ("the Greenjackets") for the Sunday News Magazine, which interview was broadcast on 21 July 1985 on Danish television. The three youths interviewed by the applicant were charged with violating the Danish Penal Code for making racist statements and the journalist was subsequently charged with aiding them. On 24 April 1987 the Danish City Court sentenced the applicant to a fine of 1.000 Danish Krone because he had encouraged "the Greenjackets" to express their racist views and he had been well aware in advance that discriminatory statements of a racist nature were likely to be made during the interview.

The European Court of Human Rights focussed on the question whether the measures against the applicant were "necessary in a democratic society". The Court said that news reporting based on interviews constitutes one of the most important means whereby the press is able to play its vital role of "public watchdog". The punishment of a journalist for assisting in the dissimination of statements made by another person in an interview would seriously hamper the contribution of the press to the discussion of matters of public interest. Taking the circumstances of the case into consideration, the Court held that the reasons for the applicant's conviction and sentence were not sufficient to establish convincingly that the interference with Mr Jersild's right to freedom of expression was "necessary in a democratic society". In particular, the means employed were considered disproportionate to the aim of protecting "the reputation or rights of others".

European Court of Human Rights, Case of Jersild v. Denmark (36/1993/431/510), 23 September 1994, Series A vol. 298.

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