European Court of Human Rights: Case of Feldek v. Slovakia

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In a judgment of 12 July 2001, the European Court of Human Rights decided, by five votes to two, that there had been a violation of Article 10 because of the conviction of a publicist who had sharply criticised the Slovak Minister of Culture and Education. This is the second time in only a short period that the Strasbourg Court has found a breach of the right to freedom of expression in Slovakia (See also: Judgment by the European Court of Human Rights (Second Section), Case of Marônek v. Slovakia, Application no. 32686/96 of 19 April 2001.

After the publication in 1995 of a statement in several newspapers referring to the "fascist past" of the Minister of Culture and Education of the Slovak Republic, the author of this statement, Mr Feldek, was convicted by the Supreme Court. The Court applied Articles 11 and 13 of the Slovak Civil Code, which offer protection against the unjustified infringement of one's personal rights, civil and human dignity. The statement was indeed considered as having a defamatory character and Feldek was ordered to ensure the publication of the final judgment in five newspapers.

The judgment of the European Court of Human Rights recalls that there is little scope under Article 10 § 2 of the Convention for restrictions on political speech or on debate on questions of public interest and that the limits of acceptable criticism are wider as regards a politician as such than as regards a private individual. Emphasising the promotion of free political debate as a very important feature in a democratic society, the Court underlined that allowing broad restrictions on political speech in individual cases would undoubtedly affect respect for freedom of expression in general in the state concerned. In the Feldek case, the Court was satisfied that the value judgment referring to the "fascist past" of the Slovak Minister of Culture was based on information which was already known to the wider public. The Strasbourg Court refused to subscribe to a restrictive definition of the term "fascist past", as such an interpretation could also mean that a person participated in a fascist organisation, as a member, even if this was not coupled with specific activities propagating fascist ideals. The Court of Human Rights reached the conclusion that the Slovak Court of Cassation had not convincingly established any pressing social need for putting the protection of the personal right of a public figure above the applicant's right to freedom of expression and the general interest of promoting this freedom when issues of

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public interest are concerned. As the interference complained of by Feldek was not necessary in a democratic society, the Court found that there had been a violation of Article 10 of the Convention.

This judgment will become final in the circumstances set out in Article 44 of the Convention. Any party to the case may request a rehearing by the Grand Chamber of the Court within three months.

Judgment by the European Court of Human Rights, Case of Feldek v. Slovakia, Application no. 29032/95 of 12 July 2001 (Second Section)

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