[BE] Ban on RTL-TVI Programme Containing Images of Prisoner

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In a judgment of 20 September 2001, the Brussels civil court banned a television programme of the commercial television station RTL-TVI. The film was a reconstruction of a hostage-taking and escape attempt by a prisoner, Peter C., who was sentenced to death some 20 years ago, but whose sentence was subsequently commuted to life imprisonment (forced labour).

The failed escape attempt by Peter C. took place in 1984 and the RTL-TVI programme contained some authentic images from that time, along with images of reconstructed scenes played out by actors, with the main actor bearing a strong resemblance to Peter C. The impugned film was broadcast on RTL-TVI in 1993. As Peter C. had not given his authorisation to use his image in this RTL-TVI film, he complained before the civil court of a breach of his personality right in his own image.

He sought moral damages and a court order to prevent the film from being rebroadcast. The Court recognised that a prisoner can exercise his non-patrimonial rights, such as his rights in his image and his right to privacy. It was also recognised that the film was not related to reporting on an important social issue and that a prisoner has a right to be forgotten ("un droit à l'oubli"). The judgment underlines that a person involved in a court case can, for that very reason, belong to the public sphere. In such circumstances, authorisation is not needed for the reproduction of his image as a public person in the context of news reporting. However, the use of a prisoner's image many years later is restricted, as a prisoner has a right to withdraw from the public sphere, and also for the purpose of his re-integration into society.

It is surprising that moral damages were awarded not only against RTL-TVI, but also against the Belgian State, represented in this case by the Minister for Justice. The Court was of the opinion that the prison authorities should not have given authorisation to film inside the prison where Peter C. was detained, or any logistical support for the production of the reconstruction of the escape attempt in 1984, as the prison authorities were aware that the authorisation of Peter C. had not been obtained to make the RTL-TVI programme. According to the judgment, the prison authorities should also have asked for the authorisation of Peter C. or should have deemed it a condition for RTL-TVI that any identification of Peter C. in the film would be rendered impossible.

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Peter C. vs. NV RTL-TVI and the Belgian State, represented by the Minister of Justice, nr. AR 93/4069/A, Rechtbank van eerste aanleg te Brussel (20ste Kamer), 20 September 2001

Peter C. vs. NV RTL-TVI and the Belgian State, represented by the Minister of Justice, nr. AR 93/4069/A, Court of First Instance of Brussels (20th Chamber), 20 September 2001

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