[BE] Conflict between Press and Justice

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The decision handed down on 16 June by the Court of Cassation (Cour de Cassation), following the considerable number of leaks over the last months in court cases, laid out in strong terms a reminder of the fundamental principles of the presumption of innocence and the respect for human dignity and honour that each person has the right to enjoy. On 23 June, several offices belonging to the Le Soir daily newspaper were searched. Mr.Mafféi, the Brussels appeal court judge in charge of the investigation, spent three and a half hours interviewing René Haquin, the journalist covering the Agusta case and whose office and home were searched. Mr.Haquin was thought to be the recipient of leaks supposedly coming from Léon Giet, the Liège Attorney General and Armand Spirlet, the Solicitor General, themselves suspected by the Court of Cassation of being in breach of the enquiry secrecy in the Cools and Agusta cases. Mr.Haquin challenged the letter accusing him that was addressed to the Court of Cassation Attorney General and refused to reveal his sources, in accordance with his code of practice.

The international code of practice for journalists claims the right to information, to freedom of expression and to criticise are fundamental liberties and have in fact been included in the Belgian Constitution since 1831. The secrecy of the investigation is not a notion that is explicitly set out in Belgian law, but comes from the Code of Criminal Procedure, along with article 458 of the Penal Code, which also punishes public officers who divulge a secret confided to them in the course of their official duties. What remains to be done is to combine the right to information with the right not to reveal sources of information, the secrecy of the investigation, the presumption of innocence and the judges' and journalists' codes of practice. Following the Court's decision, leaked cases will now be handed over to an Appeal Court judge.

Arret de la 2ème chambre de la Cour de Cassation du 16 juin 1995.

Decision of the 2nd Chamber of the Court of Cassation of 16 June 1995.

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