

European Court of Human Rights: Case of Peck v. United Kingdom

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In the case of Peck v. United Kingdom the applicant complained about the disclosure to the media of closed circuit television (CCTV) footage, which resulted in images of him being published and broadcast widely. The local authority operating the CCTV system, the Brentwood Borough Council, had released the images to the media with the aim of promoting the effectiveness of the system in the detection and the prevention of crime. Extracts of the footage, *inter alia*, were included in an Anglia Television news programme and in the BBC programme "Crime Beat". The masking was considered inadequate by the Independent Television Commission (ITC) and the Broadcasting Standards Commission (BSC) as neighbours, colleagues, friends and family who saw the programmes recognised the applicant. The judicial authorities in the United Kingdom, on the other hand, did not consider that the disclosure of the CCTV material was a breach of the applicant's right to privacy under Article 8 of the European Convention.

The European Court of Human Rights, however, is of the opinion that the disclosure of the images to the media resulted in a breach of Article 8 of the Convention. The Court emphasises that the applicant was in a public street but that he was not there for the purposes of participating in any public event, nor was he a public figure. The image of the applicant was shown in the media, including the audio-visual media, which are commonly acknowledged as having "often a much more immediate and powerful effect than the print media". As a result, the Court considers that the unforeseen disclosure by the Council operating the CCTV system of the relevant footage constituted a serious interference with the applicant's right to respect for his private life. The Court also comes to the conclusion that the disclosure was not "necessary in a democratic society". Although the Court recognises that the CCTV system plays an important role in detecting and preventing crime and that this role is rendered more effective and successful through advertising the CCTV system and its benefits, the Council had other options available to achieve these objectives. The Council could have taken steps to obtain the applicant's prior consent to disclosure, it could have itself masked the images before making them available to the media, or it could have taken the utmost care in ensuring that the media to which the disclosure was made masked the images. The Court notes that the Council did not explore the first or second options and considers that the steps taken in respect

of the third option were inadequate. The Court is of the opinion that the Council should have demanded written undertakings from the media to mask the images, a requirement that would have emphasised the need to maintain confidentiality. As such, the disclosure constituted a disproportionate and therefore unjustified interference with the private life of the applicant and a violation of Article 8 of the Convention.

With regard to the applicant's complaint that he had no effective domestic remedy to have his right to privacy protected in the United Kingdom, it is interesting to underline that the European Court is of the opinion that the power of the BSC and the ITC is not sufficient to consider the procedures before these bodies as an effective remedy, as they cannot make monetary compensation available to an aggrieved individual who may have been injured by an infringement of the relevant broadcasting regulation. Neither did the Court accept the Government's argument that any acknowledgment of the need to have a remedy would undermine the important conflicting rights of the press as guaranteed by Article 10 of the Convention, as the media could have achieved their objectives by properly masking the applicant's identity. Accordingly there has also been a violation of Article 13 of the Convention (right to effective remedy before a national authority).

Judgment by the European Court of Human Rights (Fourth Section), case of Peck v. United Kingdom, Application no. 44647/98 of 28 January 2003

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