European Court of Human Rights: Case of Radio France v. France

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The European Court of Human Rights, in its judgment of 30 March 2004, has agreed with the French authorities that *Radio France*, its editorial director and a journalist were to be held liable for the offence of public defamation of a civil servant. In a series of news flashes and bulletins in 1997, *Radio France* had mentioned an article published in the weekly magazine *Le Point*, which alleged that the deputy prefect of Pithiviers in 1942 and 1943, Mr. Michel Junot, had supervised the deportation of a thousand Jews. In 1998, the editorial director and the journalist were convicted for public defamation and were ordered to pay a fine and damages of approximately EUR 10,000. *Radio France* was also ordered to broadcast an announcement reporting the judgment every two hours for a period of 24 hours. The Paris Court of Appeal decided that Michel Junot's honour and dignity had been damaged, in particular because of the fact that in the news flashes it was said that the former deputy prefect had supervised the deportation of a thousand Jews (while in reality he had not taken the decision regarding the deportation); also, by comparing Mr. Junot's situation with that of Maurice Papon (who effectively has been convicted by the assizes Court for participation in crimes against humanity) and by suggesting that he had not been a member of the Resistance (while there was substantial evidence that Junot had been active in the Resistance).

The Strasbourg Court recognized that the disputed broadcasts had taken place against the background of a public debate and that they mainly had quoted, with correct reference to their source, from a serious weekly magazine. However, some allegations in the news flashes on *Radio France* had not been published in *Le Point* and in the news flashes some facts were presented in a much more affirmative tone than in the magazine article. In view of the seriousness of the facts inaccurately attributed to Mr. Michel Junot and because the news flashes had been broadcast many times with national coverage (the audiovisual media being powerful instruments to reach and influence a large part of the population), the European Court came to the conclusion that the French jurisdictional authorities had correctly applied Article 10 of the Convention, as the exercise of freedom of expression can be restricted or penalized taking into account the duties and responsibilities of media and journalists. According to the Strasbourg Court, the journalists and the director of *Radio France* should have exercised the utmost caution, as they must have been aware of the consequences for Mr. Junot of the bulletins that were broadcast to the whole of France. The conviction of *Radio*

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France, its director and a journalist was considered to be prescribed by law (Articles 29, 31 and 41 Press Act 1881), to pursue a legitimate goal (protection of the reputation and the rights of others, with reference also to the right of privacy as guaranteed by Article 8 of the Convention) and to be necessary in a democratic society. The Court unanimously came to the conclusion that there had been no violation of Article 10 of the Convention. The Court also agreed that it was possible to consider the responsibility of the director in the circumstances of the case and that the order to broadcast the convicting judgment was to be considered as prescribed by law. Therefore, the Court also was of the opinion that there had been no breach of Article 6 para. 2, or of Article 7 para. 1 of the European Convention on Human Rights.

Arrêt de la Cour européenne des Droits de l'Homme (deuxième section), affaire Radio France c. France, requête n° 53984/00 du 30 mars 2004

Judgment by the European Court of Human Rights (Second Section), case of Radio France v. France, Application no. 53984/00 of 30 March 2004

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