European Court of Human Rights: Case of von Hannover v. Germany

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The European Court of Human Rights in a judgment of 24 June 2004 has come to the conclusion that Germany has not awarded a sufficient level of protection to the right of privacy of Princess Caroline von Hannover. On several occasions Caroline von Hannover, the daughter of Prince Rainier III of Monaco, applied to the German courts for an injunction to prevent any further publication of a series of photographs which had appeared in the German magazines *Bunte, Freizeit Revue* and *Neue Post*. As Caroline von Hannover was undeniably to be considered as a contemporary public figure " *par excellence* ", the German courts were of the opinion that she had to tolerate she appeared with her children or with a friend in a secluded place in a restaurant. Other photos however showing Caroline von Hannover on horseback, shopping, cycling or skiing were to be considered as falling under the right of the press to inform the public on events and public persons in contemporary society, just like a series of photographs showing the Princess in the *Monte Carlo Beach Club*.

In its judgment of 24 June, the Strasbourg Court agreed with Caroline von Hannover that the decisions of the German courts infringed her right to respect for her private life as guaranteed by Article 8 of the Convention. The Court recognizes that "the protection of private life has to be balanced against the freedom of expression guaranteed by Article 10 of the Convention", emphasizing at the same time that "the present case does not concern the dissemination of "ideas", but of images containing very personal or even intimate "information" about an individual. Furthermore, photos appearing in the tabloid press are often taken in a climate of continual harassment which induces in the person concerned a very strong sense of intrusion into their private life or even of persecution". In such circumstances, priority has to be given to respect for the right to privacy. As a matter of fact "a fundamental distinction needs to be made between reporting facts even controversial ones capable of contributing to a debate in a democratic society relating to politicians in the exercise of their functions, for example, and reporting details of the private life of an individual who, moreover, as in this case, does not exercise official functions. While in the former case the press exercises its vital role of "watchdog" in a democracy by contributing to "imparting information and ideas on matters of public interest", it does not do so in the latter case". According to the Court, the sole purpose of the publication of the photos was to satisfy the curiosity of a particular readership regarding the details of the applicant's private life. In these conditions freedom of expression requires a

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narrower interpretation. The Court also stated that "increased vigilance in protecting private life is necessary to contend with new communication technologies which make it possible to store and reproduce personal data. This also applies to the systematic taking of specific photos and their dissemination to a broad section of the public". In the Court's view, merely classifying the applicant as a figure of contemporary society " *par excellence* ", does not suffice to justify an intrusion into her private life. The Court therefore considers that the criteria on which the domestic courts based their decisions were not sufficient to ensure the effective protection of the applicant's private life and that she should, in the circumstances of the case, have had a "legitimate expectation" of protection of her private life. The Court unanimously reached the conclusion that the German courts did not strike a fair balance between the competing rights and that there was a violation of Article 8 of the Convention.

Judgment by the European Court of Human Rights (Third Section), case of von Hannover v. Germany, Application no. 59320/00 of 24 June 2004

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