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

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This case concerns the prohibition of the distribution of the book written by Dr. Gubler " *Le Grand Secret* ", about the former president Mitterrand and how his cancer had been diagnosed and medically treated. The central question is: was the prohibition of the distribution of the book in 1996 to be considered as necessary in a democratic society in order to protect the deceased president's honour, his reputation and the intimacy of his private life? Many items of information revealed in the book were indeed legally confidential and were capable of infringing the rights of the deceased and his family. But was this a sufficient reason to legitimise a blanket ban of the book?

As to whether the interference by the French courts ordering the prohibition of the distribution of Dr. Gubler's book at the request of Mitterrand's widow and children met a pressing social need, the European Court emphasises in the first place that the publication of the book had taken place in the context of a general-interest debate. This debate had already been going on for some time in France and was related to the right of the public to be informed about the president's serious illnesses and his capacity to hold that office, being aware that he was seriously ill.

The European Court considered that the interim ban on the distribution of " *Le Grand Secret* " a few days after Mitterrand's death and until the relevant courts had ruled on its compatibility with medical confidentiality and the rights of others as necessary in a democratic society for the protection of the rights of President Mitterrand and his heirs and successors.

The ruling however, more than nine months after Mitterrand's death, to keep the ban on the book, is considered as a violation of Article 10 of the Convention. Moreover, at the time when the French court ruled on the merits of the case 40,000 copies of the book had already been sold, the book had been published on the internet and it had been the subject of much comment in the media. Accordingly, preserving medical confidentiality could no longer constitute a major imperative. The Strasbourg Court consequently considered that when the French court gave judgment there was no longer a pressing social need justifying the continuation in force of the ban on distribution of " *Le Grand Secret* ". While the Court found no violation in regard to the injunction prohibiting distribution of the book issued as an interim measure by the urgent applications judge (summary proceedings), the European Court comes to the conclusion that there has been a violation of Article 10 of the Convention in regard to the order maintaining that

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prohibition in force made by the civil court which ruled on the merits.

Arrêt de la Cour européenne des Droits de l'Homme (deuxième section), affaire Plon (Société) c. France, requête n° 56148/00 du 18 mai 2004

Judgment by the European Court of Human Rights (Second Section), case of Plon (Société) v. France, Application no. 56148/00 of 18 May 2004

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