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

IRIS 2006-4:1/1

Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

In 1994, the newspaper *Le quotidien de Paris* published an article with the headline “The obscurity of error”, concerning the encyclical “The splendour of truth” (*Veritatis Splendor*) issued by Pope John Paul II. The article was written by Paul Giniewski, a journalist, sociologist and historian and contained a critical analysis of the particular doctrine developed by the Catholic Church and its possible links with the origins of the Holocaust. A criminal complaint was lodged against the applicant, the newspaper and its publishing director, alleging that they had published racially defamatory statements against the Christian community. The defendants were found guilty of defamation at first instance but were acquitted on appeal. Ruling exclusively on the civil claim lodged by the *Alliance générale contre le racisme et pour le respect de l'identité française et chrétienne* (General Alliance against Racism and for Respect for the French and Christian Identity - AGRIF), the Orléans Court of Appeal ruled that Giniewski was to pay damages to the AGRIF and that its decision was to be published at his expense in a national newspaper. The Orléans Court of Appeal considered the article defamatory toward a group of persons because of their religious beliefs. The applicant unsuccessfully contested the decision before the French Supreme Court.

In a judgment of 31 January 2006, the European Court of Human Rights holds that the article in question had contributed to a debate on the various possible reasons behind the extermination of Jews in Europe: a question of indisputable public interest in a democratic society. In such matters, restrictions on freedom of expression are to be strictly interpreted. Although the issue raised in the present case concerned a doctrine endorsed by the Catholic Church, therefore a religious matter, an analysis of the article in question showed that it did not contain attacks on religious beliefs as such, but a view which the applicant had wished to express as a journalist and historian. The Court considered it essential that a debate on the causes of acts of particular gravity, resulting in crimes against humanity, take place freely in a democratic society. The article in question had, moreover, not been “gratuitously offensive” or insulting and had not incited disrespect or hatred. Nor had it cast doubt in any way on clearly established historical facts.

From this perspective, the facts were different from those in I.A. v. Turkey regarding an offensive attack on the Prophet of Islam (see IRIS 2005-10: 3) and

© European Audiovisual Observatory (Council of Europe) 2026

those in R. Garaudy v. France. The Court considered that the reasons given by the French courts could not be regarded as sufficient to justify the interference with the applicant's right to freedom of expression. Specifically with regard to the order to publish a notice of the ruling in a national newspaper at the applicant's expense, the Court considers that while the publication of such a notice did not in principle appear to constitute an excessive restriction on freedom of expression, the fact that it mentioned the criminal offence of defamation undoubtedly had a deterrent effect. The sanction thus imposed appeared disproportionate with regard to the importance and interest of the debate in which the applicant had legitimately sought to take part. The Court therefore held that there has been a violation of Article 10 of the Convention.

Arrêt de la Cour européenne des Droits de l'Homme (deuxième section), affaire Giniewski c. France, requête n° 64016/00 du 31 janvier 2006

Judgment by the European Court of Human Rights (Second Section), case of Giniewski v. France, Application no. 64016/00 of 31 January 2006

https://hudoc.echr.coe.int/eng?i=001-72216

R. Garaudy v. France, ECHR, 24 june 2003, nr. 65831/01, Decision on admissibility

https://hudoc.echr.coe.int/eng?i=001-44357

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026