European Court of Human Rights: Case of White v. Sweden

IRIS 2006-10:1/3

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In 1996, the two main evening newspapers in Sweden, *Expressen* and *Aftonbladet* , published a series of articles in which various criminal offences were ascribed to Anthony White, a British citizen residing in Mozambique. The articles also included an assertion that he had murdered Olof Palme, the Swedish Prime Minister, in 1986. Mr White was a well-known figure whose alleged illegal activities had already been at the centre of media attention. The newspapers also reported statements of individuals who rejected the allegations made against Mr White. In an interview published in *Expressen* , Mr White denied any involvement in the alleged offences.

Mr White brought a private prosecution against the editors of the newspapers for defamation under the Freedom of Press Act and the Swedish Criminal Code. The District Court of Stockholm acquitted the editors and found that it was justifiable to publish the statements and pictures, given that there was considerable public interest in the allegations. It further considered that the newspapers had a reasonable basis for the assertions and that they had performed the checks that were called for in the given circumstances, taking into regard the constraints of a fast news service. The Court of Appeal upheld the District Court’s decision.

Mr White complained before the European Court of Human Rights in Strasbourg that the Swedish courts had failed to provide due protection for his name and reputation. He relied on Article 8 (right to respect for private and family life) of the Convention. The European Court found that a fair balance must be struck between the competing interests, namely freedom of expression (Article 10) and the right to respect for privacy (Article 8), also taking into account that under Article 6 § 2 of the Convention individuals have a right to be presumed innocent of any criminal offence until proven guilty in accordance with the law. The Court first noted that as such the information published in both newspapers was defamatory. The statements clearly tarnished his reputation and disregarded his right to be presumed innocent until proven guilty as it appeared that Mr. White had not been convicted of any of the offences ascribed to him. However in the series of articles, the newspapers had endeavoured to present an account of the various allegations made which was as balanced as possible and the journalists had acted in good faith. Moreover, the unsolved murder of the former Swedish Prime Minister Olof Palme and the ongoing criminal investigations were matters of serious public interest and concern. The Strasbourg Court considered that the domestic courts

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made a thorough examination of the case and balanced the opposing interests involved in conformity with Convention standards. The European Court found that the Swedish courts were justified in finding that the public interest in publishing the information in question outweighed Mr White's right to the protection of his reputation. Consequently, there had been no failure on the part of the Swedish State to afford adequate protection of the applicant's rights. For these reasons, the Court considered that there had been no violation of Article 8.

Judgment by the European Court of Human Rights (Second Section), case of White v. Sweden, Application no. 42435/02 of 19 September 2006

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