European Court of Human Rights: Case of Klein v. Slovakia

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In March 1997, the weekly magazine *Domino Efekt* published an article written by Martin Klein, a journalist and film critic. In this article, Klein criticised Archbishop Ján Sokol's televised proposal to halt the distribution of the film "The People v. Larry Flint" and to withdraw the poster advertising it. The article contained slang terms and innuendos with oblique vulgar and sexual connotations, allusions to the Archbishop's alleged cooperation with the secret police of the former communist regime and an invitation to the members of the Catholic Church to leave their church.

On complaints filed by two associations, criminal proceedings were brought against Klein. The journalist was convicted of public defamation of a group of inhabitants of the Republic for their belief. For this criminal offence, he was sentenced to a fine of EUR 375, in application of Article 198 of the Slovakian Criminal Code. The Regional Court of Košice considered the article in question as vulgar, ridiculing and offending, hence not eligible for protection under Article 10 of the European Convention. It concluded that the content of Klein's article had violated the rights, guaranteed by the Constitution, of a group of adherents to the Christian faith.

Contrary to the domestic courts' findings, the European Court of Human Rights was not persuaded that the applicant had discredited and disparaged a section of the population on account of their Catholic faith. The applicant's strongly-worded pejorative opinion related exclusively to the Archbishop, a senior representative of the Catholic Church in Slovakia. The fact that some members of the Catholic Church could have been offended by the applicant's criticism of the Archbishop and by the statement that he did not understand why decent Catholics did not leave that Church could not affect that position. The Court accepts the applicant's argument that the article neither unduly interfered with the right of believers to express and exercise their religion, nor denigrated the content of their religious faith. Given that the article exclusively criticised the person of the Archbishop, convicting the applicant of defamation of others' beliefs was in itself inappropriate in the particular circumstances of the case.

For those reasons, and despite the vulgar tone of the article, the Court found that it could not be concluded that by publishing the article the applicant had interfered with the right to freedom of religion of others in a manner justifying the

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sanction imposed on him. The interference with his right to freedom of expression therefore neither corresponded to a pressing social need, nor was it proportionate to the legitimate aim pursued. The Court held unanimously that the interference with the applicant's right to freedom of expression was not "necessary in a democratic society" and that there had been a violation of Article 10 of the European Convention.

Judgment by the European Court of Human Rights (Fourth Section), case of Klein v. Slovakia, Application no. 72208/01 of 31 October 2006

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