European Court of Human Rights: Case of Radio Twist v. Slovakia

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In a judgment of 19 December 2006, the European Court of Human Rights considered the sanctioning of a radio station to be a violation of freedom of expression as guaranteed by Article 10 of the Convention. The applicant, Radio Twist is a radio broadcasting company that was convicted for broadcasting the recording of a telephone conversation between the State Secretary at the Ministry of Justice and the Deputy Prime Minister in a news programme. The recording was accompanied by a commentary, clarifying that the recorded dialogue related to a politically influenced power struggle in June 1996 between two groups which had an interest in the privatisation of a major national insurance provider. Mr. D., the Secretary at the Ministry of Justice subsequently filed a civil action against Radio Twist for protection of his personal integrity. He argued that Radio Twist had broadcast the telephone conversation despite the fact that it had been obtained in an illegal manner. Radio Twist was ordered by the Slovakian courts to offer Mr. D. a written apology and to broadcast that apology within 15 days. The broadcasting company was also ordered to pay compensation for damage of a non-pecuniary nature, as the Slovakian courts considered that the dignity and reputation of Mr. D. had been tarnished. This was, in particular, related to the broadcasting of the illegally tapped conversation, which was considered an unjustified interference in the personal rights of Mr. D., as the protection of privacy also extends to telephone conversations of public officials.

The Strasbourg Court however disagreed with these findings of the Slovakian Courts. Referring to the general principles that the European Court of Human Rights has developed in its case law regarding freedom of expression in political matters, regarding the essential function of the press in a democratic society, and regarding the limits of acceptable criticism of politicians, the Court emphasised that the context and content of the recorded conversation was clearly political and that the recording and commentary contained no aspects relevant to the concerned politician’s private life. Furthermore, the Court referred to the fact that the news reporting by Radio Twist did not contain untrue or distorted information and that the reputation of Mr. D. seemed not to have been tarnished by the impugned broadcast, as he was shortly afterwards elected as a judge of the Constitutional Court. The Court points out that Radio Twist was sanctioned mainly due to the mere fact of having broadcast information that had been illegally obtained by someone else who had forwarded this to the radio station. The Court was, however, not convinced that the mere fact that the recording had been

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obtained by a third person contrary to the law could deprive the broadcasting company of the protection afforded by Article 10 of the Convention. The Court also noted that it was, at no stage, alleged that the broadcasting company or its employees or agents were in any way liable for the recording or that its journalists transgressed criminal law while obtaining or broadcasting it. The Court observed that there was no indication that the journalists of Radio Twist acted in bad faith or that they pursued any objective other than reporting on matters which they felt obliged to make available to the public. For these reasons, the Court concluded that by broadcasting the telephone conversation in question, Radio Twist did not interfere with the reputation and rights of Mr. D. in a manner that could justify the sanction imposed upon it. Hence the interference with its rights to impart information did not correspond to a pressing social need. The interference was not necessary in a democratic society, thus it amounted to a violation of Article 10 of the Convention.

Judgment by the European Court of Human Rights (Fourth Section), case of Radio Twist S.A. v. Slovakia, Application no. 62202/00 of 19 December 2006

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