[BE] Only Under Strict Conditions Can the Judiciary Impose Restrictions on Journalistic Coverage of a Murder Case

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

On 8 February 2007, the Flemish Council for Journalism declared two complaints by the public prosecutor of Antwerp against two newspapers to be ill-founded. Referring to its *Embargorichtlijn* (Embargo directive) of 10 July 2003, the Council stated that the public prosecutor's office cannot unilaterally impose restrictions on journalistic coverage of a judicial reconstruction of a murder case, unless such an embargo is pertinently motivated and the editors-in-chief of the media have been properly informed.

The case concerns the judicial reconstruction of a triple murder case, which attracted massive media attention because of its obvious racist character. The media were given access to the area where the reconstruction of the murder, in the city centre of Antwerp, took place. During a press briefing the journalists were requested by the public prosecutor's office not to publish or broadcast pictures of the suspect. This request was reiterated during a press briefing after the reconstruction and was also communicated to the press agency Belga. Two newspapers, De Standaard and Het Nieuwsblad, however, did publish pictures in which the suspect could be clearly identified. The public prosecutor's office filed a complaint against the newspapers and their editors-in-chief, arguing that the publication of the pictures of the suspect was in violation of the principles of journalistic ethics as it disregarded an agreement with the judiciary, as well as the presumption of innocence, and the right to the privacy of the person concerned.

The Council was of the opinion that the request not to publish any pictures of the suspect, was unilaterally imposed and could not be considered as a consensual agreement between the judiciary and the press. Being an imposed restriction, the Council was of the opinion that such a measure can only be legitimate in exceptional circumstances and under the dual condition that such a request is pertinently motivated and that the editors-in-chief of the media are informed of this request. According to the Council, none of these conditions were met in this case. The Council also emphasised that the murder case concerned a case of important public interest and that the media have not only the right, but also the duty, to report on such a matter, as the public also has the right to be properly informed. Restrictions to the right to information are only possible under strict conditions, which were not met in this case. With regard to the alleged breach of privacy of the suspect, the Council is of the opinion that only the person directly

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concerned can file a complaint on this matter. The Council declared both complaints as being ill-founded.

Beslissing van de Raad voor de Journalistiek over de klacht van het parket van de procureur des Konings in Antwerpen tegen de hoofdredacteur van Het Nieuwsblad, 8 februari 2007

http://www.rvdj.be/pdf/beslissing200703.pdf

Council for Journalism, 8 February 2007, Public Prosecutor Antwerp v. editor-in-chief of Het Nieuwsblad

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