European Court of Human Rights: Case of Colaço Mestre and SIC v. Portugal

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The European Court of Human Rights has once again ruled in favour of freedom of expression, this time regarding an interview on television. The Court considered the conviction of a journalist, Mr. Colaço Mestre and of the broadcasting company, Sociedade Independente de Comunicação (SIC), as a violation of the freedom of expression guaranteed by Article 10 of the Convention. In 1996, as part of a television programme entitled *Os donos da bola* (masters of the ball), SCI broadcast an interview conducted by Mr. Colaço Mestre with Gerhard Aigner, who at the time was General Secretary of UEFA. The interview, in French, focused on allegations concerning the bribery of referees in Portugal and the actions of Mr. Pinto da Costa, the then President of the Portuguese Professional Football League and Chairman of the football club FC Porto. Mr. Colaço Mestre described Mr. Pinto da Costa as “the referees’ boss” and seemed to be eliciting comments from his interviewee about the concurrent functions exercised by Mr. Pinto da Costa at the time. Mr. Pinto da Costa lodged a criminal complaint against Mestre and SIC accusing them of defamation. The Oporto Criminal Court sentenced Mr. Colaço Mestre to a fine or an alternative 86-day term of imprisonment, and ordered the journalist and the television channel to pay the claimant damages of approximately EUR 3,990. In 2002 the Oporto Court of Appeal dismissed an appeal lodged by Mestre and SIC and upheld their conviction

The European Court of Human Rights, however, is of the opinion that this sanction was a breach of Article 10 of the Convention. The Court noted that Mr. Pinto da Costa played a major role in Portuguese public life and that the interview concerned the debate on bribery in football, a question of public interest. Moreover, the interview had not addressed the private life, but solely the public activities of Mr. Pinto da Costa as Chairman of a leading football club and President of the National League. As to the expressions used during the interview, the Court considered that there had been no breach of journalistic ethics. In the context of the heated debate at the time about bribery of Portuguese referees, the interview had been broadcast in a Portuguese football programme intended for an audience with a particular interest in, and knowledge of, the subject-matter. The Court further considered that the fact that Mr. Colaço Mestre had not been speaking in his mother tongue when he conducted the interview with the UEFA-Secretary General, which might have had an impact on the wording of his questions. The Court also found that the punishment of a journalist by sentencing him to pay a fine, together with an award of damages against him and the

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television channel employing him, might seriously hamper the contribution of the press to the discussion of matters of public interest and should not be envisaged unless there were particularly strong reasons for doing so. However, that was not the case here. In those circumstances the Court considered that, whilst the reasons advanced by the Portuguese courts to justify the applicants' conviction might be regarded as relevant, they were not sufficient and, accordingly, did not serve to meet a pressing social need. The Court therefore held that there had been a violation of Article 10.

Arrêt de la Cour européenne des Droits de l'Homme (deuxième section), Colaço Mestre et SIC - Sociedade Independente de Comunicacão S.A. c. Portugal, no 11182/03 et 11319/03, 26 avril 2007

Judgment by the European Court of Human Rights (Second Section), case of Colaço Mestre and SIC - Sociedade Independente de Comunicacão S.A. v. Portugal, Application no. 11182/03 and 11319/03 of 26 April 2007

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