

[NO] Defamation and jurisdiction without frontiers in broadcasting matters

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In October 1995, the Oslo Byrett (the lower court of Oslo) condemned the Swedish public service broadcaster Sveriges Television (SVT) to pay damages of 320 000 Norwegian Kronor to a number of seal hunters in Norway. The reason for this was the broadcasting of a documentary on seal hunting produced by the Norwegian free lance journalist, Odd Lindberg and the Swedish producer, Bo Landin, which the court found to be defamatory. The case has been given topical interest again since the seal hunters have appealed for higher damages to the Lagmannsretten (the appeal court) with reference to a previous case thought to be similar, against Norsk Rikskringkastning (NRK) where the broadcaster was condemned to pay higher damages than SVT (Oslo Byrett, 4 August 1993). According to the seal hunters, Bo Landin and SVT are even more responsible for the defamatory statements in the documentary than NRK at the time, and therefore the damages would consequently have to be higher.

The fact that the Norwegian seal hunters earlier complaint to the Court in Oslo, and now appeal to the Lagmannsretten in Norway has raised an interesting question of jurisdiction. In its judgement the court of Oslo found that the defamatory statements, even though they were broadcast in Sweden, had an impact in Norway and therefore assumed jurisdiction over the case. The court of Oslo did not only decide on the defamatory nature of statements in the documentary itself, but also on statements made by SVT at a press conference in Oslo where they announced the broadcasting of the documentary. The court referred to the Lugano Convention, Article 5 § 3, stipulating that a person can bring a matter to court where a damage has occurred or has been caused. With reference to the same rule the court also decided to apply Norwegian law.

In line with the discussions in Europe on which country has jurisdiction over broadcasters and in the light of the Television without Frontiers Directive, this has caused a somewhat animated debate in Sweden and in Norway. It remains to be seen what position the appeal court will take in this matter. IRIS will keep you informed.

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Oslo Byrett, 20 October 1995, Norwegian seal hunters v. Sveriges Television and Bo Landin.

