[GR] Transmission of a Video Taped by Hidden Camera Possible under Strict Conditions

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The possibility of circumventing the legal provision (Article 8 para.1, Presidential Decree 77/2003) that forbids the transmission of images filmed by hidden means was established by a decision of the plenary session of the Συμβούλιο της Επικρατείας (Council of State). In Decision No. 1213/2010, Greece's highest administrative court found that the televised transmission of images captured by hidden means constitutes a limitation on the constitutionally protected right of the portrayed person to their image, as a particular expression of the right to the respect for private life, and cannot, in principle, be considered to be a legitimate exercise of the right to inform. This rule may be overridden if the independent regulatory body Εθνικό Συμβούλιο Ραδιοτηλεόρασης (National Council for Radio and Television - ESR) finds, on the basis a specific and fully justified adjudication, that the transmission of a certain news item would be absolutely impossible or especially difficult without the transmission of the image that was captured by hidden means and which constitutes the source of the news item, as long as the news item in question contributes to a discussion of general interest, particularly in view of the identity of the portrayed person. The opinion of the dissenting minority, according to which there is no absolute ban on the transmission of such images, especially when a public person who is acting in a way that can conceivably be of interest to the public is involved, is noteworthy. According to the court's minority, the fact that the fixation of the image of a person is inherent in the very notion of television should also be taken into consideration.

In the relevant case a decision of the ESR from May 2002 (i.e., before the adoption of Presidential Decree 77/2003) was examined, in which a fine amounting to EUR 200,000 for the transmission of audiovisual material (video) taken by means of a "hidden camera" was imposed on a television channel. The video in question depicted a Member of Parliament (and President of the bi-partisan committee for the examination of the issue of arcade video games) entering an amusement arcade and playing on two machines. The applications for annulment were finally rejected (although a strong minority dissented) because, as it was stated, "it was not established that the transmission of the news item in question would have been absolutely impossible or especially difficult without the transmission of the images that constituted its source and were taken by hidden means".

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