European Court of Human Rights: Yleisradio Oy a.o. v. Finland

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In 2004 Yleisradio Oy broadcast a current affairs programme focusing on some legal aspects of incest cases in the context of child custody disputes. Genuine cases were used as examples. In one case, A. appeared undisguised and using his own first name. He was introduced as a 55-year old driver from Helsinki and it was further announced that A. had been convicted and sentenced to imprisonment for sexual abuse of his two children, X. and Y., their gender and current age being mentioned. The judgment concerning A.'s conviction for sexual offences had been declared confidential by the Court of Appeal and the case file had also been declared confidential. However, some information included in that file was revealed during the programme and some details about the court proceedings and the conduct of the children's mother were mentioned. Z., the children's mother, filed a criminal complaint and the public prosecutor charged A., the editor and the editor-in-chief on grounds of dissemination of information violating personal privacy and aggravated defamation.

The Supreme Court concluded that it was probable that several persons could have connected A. with X. and Y. on the basis of the information given in the programme and that information had been disseminated violating the personal privacy of X., Y. and Z., although the disclosure of this confidential information had not been based on the need to inform the public. On the contrary, it had been necessary to conceal that information. A. and the two journalists were fined and ordered to pay damages and costs. The broadcasting company and its two journalists complained under Article 10 of the European Convention that the Supreme Court's judgment violated their right to freedom of expression.

Although the European Court was of the opinion that the programme clearly involved an element of general importance and that in such situations any restrictions on freedom of expression should be imposed with particular caution, it noted that the two under-age victims of sexual offences and their mother were private persons and that sensitive information about their lives was revealed on air nationwide. The European Court did not find arbitrary the Finnish Supreme Court's finding that the relevant criminal provision did not, in general, require that the victims be recognised de facto and that, in this particular case, it was probable that several people, even if a very limited group, could have connected the victims to the person interviewed. The Court was satisfied that the reasons relied on by the Supreme Court were relevant and sufficient to show that the

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interference complained of was “necessary in a democratic society” and that a fair balance between the competing interests was struck. Unanimously, the Court rejected the application by Yleisradio Yo and its editor and editor-in-chief as being manifestly ill-founded. For these reasons the Court unanimously declared the application inadmissible. Hence Article 10 of the Convention was not found to be violated in this case.

Decision by the European Court of Human Rights (Fourth Section), case of Yleisradio Oy a.o. v. Finland (no. 30881/09) of 8 February 2011

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