European Court of Human Rights : Karttunen v Finland

IRIS 2011-10:1/3

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

The European Court of Human Rights has delivered a decision regarding the criminalization of the possession, reproduction and public display of child pornography, freely downloaded from the Internet, and its compatibility with freedom of (artistic) expression. The issue before the European Court was whether the conviction of an artist for including child pornography in a work exhibited at an art exhibition violated the right to freedom of expression under Article 10 of the European Convention of Human Rights.

Ms. Ulla Annikki Karttunen is a Finnish artist who exhibited her work “the Virgin-Whore Church” in an art gallery in Helsinki in 2008. The work included hundreds of photographs of teenage girls or otherwise very young women in sexual poses and acts. The pictures had been downloaded from free Internet pages. One day after the opening of the exhibition, the police seized the pictures and the exhibition was closed down. The police also seized Karttunen’s computer and the public prosecutor pressed charges against the artist. The domestic courts convicted the artist of possessing and distributing sexually obscene pictures depicting children under the age of 18, also referring to the finding that some of the pictures were of an extremely violent or degrading nature. Even though the artist’s intention had not been to commit a criminal act but, on the contrary, to criticise easy Internet access to child pornography, the possession and distribution of sexually obscene pictures depicting children were still to be considered criminal acts according to Chapter 17, sections 18/19 of the Finnish Penal Code. Taking into account that Karttunen had intended to provoke general discussion about child pornography and that the crimes were minor and excusable, the Finnish court did not impose any sanctions on the artist. Instead, all the pictures were ordered to be confiscated.

Karttunen complained in Strasbourg under Article 10 of the Convention that her right as an artist to freedom of expression had been violated. She argued that she had incorporated the pornographic pictures into her work in an attempt to encourage discussion and raise awareness of how widespread and easily accessible child pornography was. The European Court noted that the artist’s conviction, even if no sanction was imposed on her, constituted an interference with her right to freedom of expression, as guaranteed by Article 10 § 1 of the Convention. As the interference was prescribed by law and pursued the legitimate aim of protecting morals as well as the reputation or rights of others, within the meaning of Article 10 § 2, it still was to be determined whether the interference in

© European Audiovisual Observatory (Council of Europe) 2026

the artist's freedom of artistic expression was necessary in a democratic society. The European Court considered that the domestic courts had adequately balanced the artist's freedom of expression with the countervailing interests. The Court referred to the finding by the Finnish courts that the possession and public display of child pornography was still subject to criminal liability, the criminalization of child pornography and the artist's conviction being mainly based on the need to protect children against sexual abuse, as well as violation of their privacy and on moral considerations. The Court also noted that the domestic courts had acknowledged the artist's good intentions, by not imposing any sanctions. Having regard as well to the aspect of "morals" involved and to the margin of appreciation afforded to the state in this area, the Court considered that the interference was proportionate to the legitimate aim pursued. Thus, the Court concluded that "it does not follow from the applicant's claim that her conviction did not, in all the circumstances of the case, respond to a genuine social need". The Court declared the artist's application manifestly ill-founded and therefore inadmissible.

Decision by the European Court of Human Rights (Fourth Section), case of Karttunen v Finland, No. 1685/10 of 10 May 2011

https://hudoc.echr.coe.int/eng?i=001-104816

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026