[FI] Proposal on Press Crimes, Unwanted Communication and Stalking

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On 25 April 2012, a proposal of the committee on press crimes, unwanted communication and stalking was officially published. The committee's task was to assess the need to reform the "press crimes" legislation taking into consideration the jurisprudence of the European Court of Human Rights. In addition, the committee had to assess if there was a need for legislation prohibiting the communication to a target which does not want to receive, and consider if there was a need to criminalise the so called stalking.

The committee suggests adding a new criminal provision (Sec. 1 a §) on unwanted communication to Chapter 24 of the Criminal Code. The crime would be at hand if somebody continuously sends messages or calls another person with the purpose of disturbing him if the action is likely to cause him a major disruption or harm.

Section 8 of Chapter 24 (Dissemination of information violating personal privacy, 531/2000) reads as follows:

"(1) A person who unlawfully, through the use of the mass media, or otherwise by making available to many persons, disseminates information, an insinuation or an image of the private life of another person, so that the act is conducive to causing that person damage or suffering, or subjecting that person to contempt, shall be sentenced for dissemination of information violating personal privacy to a fine or to imprisonment for at most two years.

(2) The spreading of information, an insinuation or an image of the private life of a person in politics, business, public office or public position, or in a comparable position, does not constitute dissemination of information violating personal privacy, if it may affect the evaluation of that person’s activities in the position in question and if it is necessary for purposes of dealing with a matter with importance to society."

As the ECHR has stated that the imposition of a prison sentence for a press offence is compatible with journalists' freedom of expression only in exceptional circumstances, the committee suggests that the mentioned crime would be divided into normal and aggravated forms. The punishment for normal crime would be a fine. The aggravated crime could result in a maximum of 2 years imprisonment. The penalty for normal defamation would also be mitigated to a

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fine.

Following the practice of the ECHR, the committee proposes adding the new articles to the sections concerning dissemination of information violating personal privacy and defamation. According to them an expression would not be considered a crime if it concerns a matter that is having a significant public interest and if presenting it does not significantly exceed what is considered acceptable (taking into account its content, format, others rights, and other circumstances).

As following from the practice of the ECHR, publishing libelous information in the mass media or providing information otherwise to numerous people would not be a ground for aggravated defamation anymore.

The committee also suggests adding a new criminalisation named persecution (in some countries called stalking) to Chapter 25 (Sec. 7 a) of the Criminal Code. According to it the crime would be at hand if somebody repeatedly threatens, follows, monitors, takes contact or by other comparable manner to those persecutes the other, so that his behavior is likely to cause fear or anguish for the person persecuted. The punishment is a fine or imprisonment for up to two years.

The Ministry of Justice will ask for opinions on the committee's report. Then it will decide about the further preparation of the proposal. The committee suggests that the law reform would come into effect on 1 January 2014.

Sananvapausrikokset, vainoaminen javiestintärauhan rikkominen

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Proposal of the Committee on Press Crimes, Unwanted Communication and Stalking, 25 April 2012

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