[CZ] Constitutional Court - Tabloid Media Must Be Prepared to Pay for Lies and baseless Allegations substantially higher Sums than ever before

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Jan Fučík
Česká televize

On 6 March 2012 the Constitutional Court issued a decision concerning the Czech writer Michael Viewegh. In 2004 the newspaper Aha! published a report about Viewegh's alleged affair with a mistress with the subtitles "My secret lover", "V. likes young author" and "He showed me his big pencil sharpener". The writer claimed that he knew the woman only as a pupil and met with her only in the classroom. He said months after the publishing of the article he still was not at ease. Furthermore, advertising on television repeatedly aired the article and the information therefore reached not only readers of Aha! but also millions of television viewers.

The Prague Municipal Court first awarded compensation of CZK 50,000 (EUR 2,000) to Viewegh. The High Court in Prague increased, in November 2006, the amount by a further CZK 150,000. His appeal to the Supreme Court was rejected.

The complainant sought the annulment of the decisions of the ordinary courts because he argued that they violated his fundamental right to the protection of his personal honour and good reputation as guaranteed by Art. 10 para. 1 of the Czech Charter of Fundamental Rights and Freedoms and also his right to protection against any unauthorised intrusion into private and family life, guaranteed by Art. 10 para. 2 of the Charter and Art. 8 para. 1 of the ECHR. In the constitutional complaint he disagreed with the ordinary courts' conclusions on the adequacy of the amounts of the financial compensation awarded. He regarded as reasonable an amount of compensation several times higher. The verdict apparently contained no legal analysis or evaluation of the non-pecuniary harm. The unfounded information was published at a time when the writer's wife was pregnant. He considered the amount of CZK 200,000 too low and asked for five million, since low penalties would not discourage the media from publishing unsubstantiated and false reports - and the Constitutional Court agreed.

The compensation in the amount of CZK 200,000 appeared to be completely inadequate from a constitutional point of view, the Constitutional Court said. The publication was a significant intrusion into the intimate sphere of private life (sexual life). It was capable of striking at the very essence of humanity, human dignity, the judges decided. According to the Constitutional Court, reports on the

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privacy of famous people generate profit for tabloid media, which therefore should pay higher compensation for any inaccurate information. According to the Constitutional Court the tabloid used the notoriety of the writer to increase its own profits.

Viewegh has been fighting with the tabloids for a long time. Together with the actor Mark Vašut he initiated a petition against the unscrupulous practices of the Czech tabloid press. Signatories to the petition pointed out characteristics such as "bad taste, indiscretion, vulgarity, half-truths disguised as truth, provocation, photomontages, fictional interviews, ruthlessness and outright journalistic hyenismus".

The Constitutional Court concluded that the ordinary courts failed in their constitutional duty to protect the complainant's fundamental rights (Art. 4 Constitution) and did not adequately protect the respect for private life guaranteed by Art. 10 of the Charter and Art. 8 of the Convention.

Nález Ústavního soudu Čj. 1586/09 z 6.března 2012

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