European Court of Human Rights: Ressiot and Others v. France

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Once again the European Court has emphasised the importance of the protection of journalists' sources, this time in a case concerning searches and seizures carried out at the French sporting daily L'Equipe, the weekly magazine Le Point and at the homes of some of their journalists. This judgment comes only a few months after the judgment of the European Court found a violation of Article 10 of the European Convention by the French authorities for disrespecting the protection of journalists' sources (ECtHR 12 April 2012, Martin and Others v. France, Appl. Nr. 30002/08).

The case Ressiot and Others v. France concerns investigations carried out at the premises of L'Equipe and Le Point and at the homes of five journalists accused of breaching the confidentiality of a judicial investigation. Both newspapers had published a series of articles about an ongoing investigation into alleged doping by the Cofidis cycle racing team in the Tour de France, an investigation carried out by the Drugs Squad. The French authorities wanted to identify the source of the leaks the journalists were obviously relying upon. Searches, seizures and telephone tapping were ordered. The five journalists requested that all the material seized and gathered during the searches at the newspapers' offices and at their homes be declared null and void. While some of the investigative measures were considered null and void by the French courts, the seizure and placing under seal of certain materials were considered to be legitimate interferences, not violating the rights of the journalists. The five journalist lodged an application with the European Court of Human Rights, complaining that the investigations into their actions had been carried out in violation of Article 10 of the Convention.

In its judgment the Court reiterates the importance of the protection of journalistic sources as one of the cornerstones of freedom of the press. Without such protection, sources might be deterred from assisting the press in informing the public. As a result, the vital public-watchdog role of the press might be undermined and the ability of the press to provide accurate and reliable information might be adversely affected. The Court accepts that the interference by the French authorities out of concern for the confidentiality of the investigation had been aimed at preventing the disclosure of confidential information, protecting the reputation of others, ensuring the proper conduct of the investigation and therefore protecting the authority and impartiality of the

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judiciary. According to the Court journalists cannot, in principle, be released from their duty to obey the ordinary criminal law. The Court, however, notes that when the searches were carried out and the telephone calls tapped, the sole aim had been to identify the source of the information published in the newspaper articles, while the right of journalists not to disclose their sources could not be considered a mere privilege to be granted or taken away depending on the lawfulness or unlawfulness of their sources, but was part and parcel of the right to information. In this case there was no overriding social need to justify the interference with the journalists' sources. The means used by the French authorities were not reasonably proportionate to the legitimate aims pursued having regard to the interest of a democratic society in ensuring and maintaining the freedom of the press. Hence the Court, unanimously, comes to the conclusion that there has been a violation of Article 10 of the Convention.

Arrêt de la Cour européenne des droits de l'homme (cinquième section), affaire Ressiot et autres c. France, no15054/07 et 15066/07 du 28 juin 2012

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Judgment by the European Court of Human Rights (Fifth Section), case of Ressiot and Others v. France, nrs. 15054/07 and 15066/07 of 28 June 2012

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