[FR] Programmes about Court Cases and the Right to be Forgotten

IRIS 2013-3:1/14

Amélie Blocman
Légipresse

The 17th chamber of the regional court in Paris and the audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) have been referred to in turn on the matter of the use and broadcasting of the image of prisoners, who invoke their entitlement to privacy and the right to be forgotten. As part of the programme entitled Enquêtes Criminelles, the television channel W9 broadcast a report on a widely-reported case in 1991 in which four soldiers were given life sentences for a number of rapes and murders carried out in a particularly barbarous fashion. One of the men sentenced, who has been in prison for more than 21 years, where he is studying for a doctorate in computer science and is employed by a computer services company, instigated proceedings against the production company and the television channel claiming compensation for the prejudice he had suffered as the result of the infringement of his privacy and his right to restrict the use of his own image. He was also calling for a ban on future broadcasting of the programme or, at the very least, for details in the programme to be rendered anonymous. He claimed that broadcasting images of him without his permission violated Article 9 of the Civil Code, on the right to privacy. The court recalled the principle that the protection afforded by Article 9 of the Civil Code could be overridden by the freedom to provide information on anything within the scope of legitimate public interest, as is justified in the case of certain types of topical events or items of general interest, and that it was therefore for the courts to seek a to find a balance and to opt for the solution that provided most protection for the interests of the most legitimate party. In the present case, the applicant party's image appeared in the disputed documentary in the form of both identity photographs taken in the course of his military career and in still photographs and footage filmed during the criminal trial. These documents were deemed to constitute relevant illustrations of a subject of general interest, namely reporting on a court case that constituted a public event at the time, since it helped to revive the debate on the death penalty. The court found that the applicant's right to dispose of his own image had not been infringed.

Examining the alleged infringement of the applicant party's privacy, the court noted that the criminal facts and the context of the case had been lawfully revealed by the court transcripts. Repeating them could not be deemed to be without legitimate justification, even though this was not directly related to a topical matter. Moreover, the report did not reveal any element of the applicant

© European Audiovisual Observatory (Council of Europe) 2026

party's current life. Lastly, the court found that the applicant party could not invoke a right to be forgotten as this was not set out in any text and, in the present case, it could not override the public's right to free, complete and objective information on a criminal case, since the disputed report brought to the public's knowledge the facts discussed in court that subsequently resulted in a court decision against the parties involved. The court also noted that the director had not failed in his duty to exercise prudence and objectivity in relating the acts committed by the applicant party and in his description of that party, who indeed did not contest the accuracy of the information contained in the programme. As a result, the court did not agree that his rights had been infringed, and the case was thrown out in full.

The CSA was subsequently required to pronounce on the programme entitled Faites Entrer l'Accusé, which relates major French criminal cases, and is broadcast on France 2. It invited the channel to strike a balance between informing the public and protecting individuals and their entourage, recommending that those elements connected with the case that are not strictly necessary for informing the public should be rendered unrecognisable. It has also written to all the editors broadcasting programmes dealing with past or current court cases reminding them of their obligations and informing them of these recommendations.

TGI de Paris, 17e ch. Civ., 14 janvier 2013 - T. El Borgi c. Métropole Télévision et a.

Regional court of Paris, 17th chamber (civil cases), 14 January 2013 - T. El Borgi v. Métropole Télévision and others

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026