European Court of Human Rights: Eon v. France

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In a Chamber judgment of 14 March 2013 the European Court of Human Rights made clear that the French president should not be overprotected against insulting statements, especially when these statements, with a satirical undertone, have been uttered as part of a public or political debate.

The case concerns the criminal conviction of Hervé Eon, a socialist and anti-GM activist living in Laval, for insulting the President of France, Mr. Sarkozy. In 2008, during a visit to Laval by the President of France, Eon waved a small placard reading “Casse toi pov’con” (“Get lost, you sad prick”), an allusion to a much publicised phrase that the President himself had uttered earlier that year at the International Agricultural Show in response to a farmer who had refused to shake his hand. The phrase had given rise to extensive comment and media coverage and had been widely circulated on the Internet and used as a slogan at demonstrations. Eon was immediately arrested by police and taken to the police station. He was prosecuted by the public prosecutor for insulting the president, an offence punishable under section 26 of the Freedom of the Press Act of 29 July 1881. The court of first instance of Laval found, in particular, that by repeating the phrase in question, Eon had clearly intended to cause offence to the head of State. Eon was fined EUR 30, a penalty that was suspended. The judgment was upheld by the court of appeal of Angers. Subsequently, an appeal to the Supreme Court (Court de Cassation) was dismissed. Eon lodged an application with the European Court of Human Rights, arguing that his conviction for insulting the President of France had infringed his freedom of expression.

While accepting that the phrase in issue, taken literally, was offensive to the French President, the European Court considered that the showing of the placard with the slogan should be examined within the overall context of the case. The European Court emphasized the importance of free discussion of matters of public interest. The Court considered that Eon’s repetition of a phrase uttered earlier by the President had not targeted the latter’s private life or honour; nor had it simply amounted to a gratuitous personal attack against him. Instead, the Court took the view that Eon’s criticisms had been political in nature. There was therefore little scope under Article 10 for restrictions on freedom of expression in the political sphere. The Court reiterated that politicians inevitably and knowingly laid themselves open to close public scrutiny of their words and deeds and consequently had to display a greater degree of tolerance towards criticism directed at them. Furthermore, by echoing an abrupt phrase that had been used

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by the President himself and had attracted extensive media coverage and widespread public comment, much of it humorous in tone, Eon had chosen to adopt a satirical approach. Since satire was a form of expression and comment that naturally aimed to provoke and agitate, any interference with the right to such expression had to be examined with particular care. The European Court held that criminal penalties for an expression and conduct such as that displayed by Eon were likely to have a chilling effect on satirical contributions to discussion of matters of public interest, such discussion being fundamental to a democratic society. The criminal penalty imposed on Eon, although modest, had thus been disproportionate to the aim pursued and unnecessary in a democratic society. The European Court therefore found a violation of Article 10 of the Convention.

Arrêt de la Cour européenne des droits de l'homme (Cinquième section), affaire Eon c. France, requête n° 26118/10 du 14 mars 2013

Judgment by the European Court of Human Rights (Fifth Section), case Eon v. France, Appl. nr. 26118/10 of 14 March 2013

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