European Court of Human Rights: Von Hannover no. 3 v. Germany

IRIS 2013-10:1/2

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The European Court of Human Rights has delivered a new judgment regarding a complaint by Princess Caroline von Hannover that the German courts had not sufficiently protected her right to privacy as guaranteed by Article 8 of the Convention, by giving too much weight to the right of the press as guaranteed by Article 5 of the German Constitution and Article 10 of the European Convention (see earlier also Von Hannover no. 1 v. Germany, IRIS 2004-8/2 and Von Hannover no. 2 v. Germany, IRIS 2012-3/1). This time the Princess of Monaco lodged an appeal in Strasbourg relating to the refusal by the German courts to grant an injunction prohibiting any further publication of a photograph of her and her husband. The photograph that was the subject of the litigation was published in the magazine 7 Tage in 2002. It was taken without the Princess' knowledge while on holiday and it illustrated an article about the trend among the very wealthy towards letting out their holiday homes. With reasoning similar to that of Von Hannover no. 2, the European Court could not find a violation of Article 8 of the Convention.

The European Court refers to its judgments in Axel Springer AG v. Germany and Von Hannover no. 2 v. Germany (see IRIS 2012-3/1) in which it set forth the relevant criteria for balancing the right to respect for private life (Article 8) against the right to freedom of expression (Article 10). These were: contribution to a debate of general interest; how well-known the person concerned was; the subject of the report; the prior conduct of the person concerned; the content, form and consequences of the publication; and, in the case of photographs, the circumstances in which they were taken. The Court refers to the findings by the German courts that, while the photograph in question had not contributed to a debate of general interest, the article with the litigious picture, however, reported on the current trend among celebrities towards letting out their holiday homes, which constituted an event of general interest. The article did not contain particular information concerning the private life of the Princess, as it focused on practical aspects relating to the Von Hannover's villa and its letting. The Court also referred to the fact that the Princess and her husband were to be regarded as public figures who could not claim protection of their private lives in the same way as individuals unknown to the public. The European Court concluded that the German courts had not failed to comply with their positive obligations to protect the right of privacy in its confrontation with the freedom of press. Therefore there had been no violation of Article 8 of the Convention.

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Arrêt de la Cour européenne des droits de l'homme (Cinquième section), affaire Von Hannover n° 3 c. Allemagne, requête n° 8772/10 du 19 septembre 2013

https://hudoc.echr.coe.int/eng?i=001-126362

Judgment by the European Court of Human Rights (Fifth Section), case of Von Hannover no. 3 v. Germany, Appl. No. 8772/10 of 19 September 2013

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