[FR] Presentation of Satirical Drawings on Television - the Limits of the Right to Exercise Humour

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On 22 May 2014 the press chamber of the regional court of Paris delivered two judgments which illustrate the subtle appreciation of the right to exercise humour and the limits of freedom of speech on television. In the case at issue, Marine Le Pen, leader of the right-wing 'Front National' political party, had summoned both the director of publication of France Télévisions and the presenter of the weekly infotainment programme 'On n'est pas couché' to appear in court in respect of the presentation, in two separate broadcasts, of satirical drawings which the complainant found insulting. The first sequence at issue, broadcast on 7 January 2012, involved the presentation, after an interview with a candidate for the presidential election, of the various posters of the election candidates as compiled and presented in that week's issue of the satirical magazine 'Charlie Hebdo'. The presenter of the broadcast showed the eight satirical posters on the air, including one in which Marine Le Pen was likened to "an enormous steaming turd". The second sequence at issue concerned the presentation in the broadcast of 5 November 2011, after mentioning a book on the genealogy of a number of political figures, of the family trees of a number of political figures, including François Hollande (in the shape of a rose bush), Marine Le Pen (a swastika), Nicolas Sarkozy (a bonsai), Dominique Strauss-Kahn (a phallus), etc. Marine Le Pen complained that she felt the fact of claiming and circulating that she had a family tree in the shape of a swastika, a symbol of Nazism, was insulting to her. The defendants felt that in both cases the boundaries of freedom of speech had not been overstepped. The court began by recalling the general principles for application in this area: caricature and satire, even though they were deliberately provocative, were an element of the freedom of speech and the communication of thoughts and opinions. Thus the use of a humorous and deliberately outrageous tone could remove the seriousness of the disputed terms, and humour permitted greater freedom in the tone adopted. The right to exercise humour had its limits nevertheless, and had to stop at the point beyond which it constituted an infringement of respect for human dignity, and personal attack. Furthermore, appreciation of the insulting nature of the incident, which lay with the judge, needed to take account of the context, and the elements that were intrinsic and extrinsic to the message, in an objective fashion, not based on the personal perception of the victims. The court recalled lastly that the boundaries of admissible criticism were wider when public figures were involved.

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The insulting nature of the two disputed drawings was therefore examined in the light of all these principles. Regarding the first (the steaming turd), the court found that the disputed poster was presented in a form similar to a press review, since the presenter showed all the posters and specified that they were from 'Charlie Hebdo', a satirical magazine well known as such and which had not raised any objections, although it had not supported the presentation either. Indeed it had kept its distance, merely stating, "It's satirical - it's 'Charlie Hebdo'". Since the intentional element of the insult was therefore not demonstrated, despite the outrageousness and vulgarity of the drawing, the defendants were dismissed from the proceedings.

Regarding the second drawing (the swastika-shaped family tree), the court noted that it was very clear to television viewers that the sequence was humorous and that they were not genuine family trees. It nevertheless noted that outrageous, derisive humour was not enough to eliminate the insult caused by the drawing. The association of the name and image of Marine Le Pen (who was shown at the centre of the swastika) with a swastika, emblem of the Nazis, was manifestly outrageous. Its excessiveness went beyond the bounds of the acceptable limits of the freedom of speech, even in this particular context. The offence of insult was therefore constituted and both the director of the television channel and the presenter, in the capacity of accessory, were fined EUR 1 000 and ordered to pay EUR 2 000 to Marine Le Pen in damages.

TGI de Paris (17e ch.), 22 mai 2014 - M. Le Pen c. L. Ruquier, France Télévisions et a. (2 espèce)

Regional court of Paris (17th chamber), 22 May 2014 - M. Le Pen v. L. Ruquier, France Télévisions and others (2 cases)

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