[FR] Recognition of the good faith of a journalist who wrongly presented a man as a terrorist

IRIS 2014-10:1/15

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An interesting judgment delivered on 17 October 2014 by the press chamber of the Regional Court in Paris is the outcome of a case involving proof of the good faith of a television journalist being prosecuted for defamation. In the case at issue, an Algerian man had a summons issued against the directors of the publication of a television channel and its Internet site, and the journalist who wrote a paper, which was broadcast on the main evening news on television on the expulsion of five Islamists ordered by the Minister for the Interior. The photograph of the plaintiff had been shown on the screen, with a voice-over commentary stating that he had be found guilty in 1997 for the attacks committed in Marrakech in 1994 during which a number of Spanish tourists were killed, and that he maintained "regular contact" with people involved in terrorist activities ("former jihadists who had been through training at camps in Afghanistan and Pakistan"). The court found that this caused prejudice to the man's honour and to the consideration due to him, as it was specifically stated that he had been found guilty of committing terrorist attacks, which proved to be false, and of maintaining close links with terrorists. The defamatory nature of the utterances in the case was therefore proven.

The journalists thus brought to book and then attempted to prove that they had acted in good faith. According to longstanding jurisprudence, defamatory remarks are deemed at law to have been made with the intention of causing harm, but they may be justified if their perpetrator establishes having acted in good faith by proving that a legitimate goal, untinged by any personal animosity, had been pursued and that a certain number of safeguards have been observed, including the rigorous nature of the investigation and the prudent manner of making the utterances. The court found that by devoting a news report to the expulsion, carried out by the Minister for the Interior "as an extremely urgent measure", of persons presented as being "radical Islamists" suspected inter alia of "preaching against the West, in favour of sharia", the aim pursued by the journalist was legitimate. It was indeed a matter of informing the public of measures adopted by the Government to counter possible terrorist threats, in the context of a paper of general interest, the subject having been raised a few days after the much mediatised series of murders committed by Mohamed Merah in Toulouse. There was no mention of any personal animosity on the part of the journalist towards the man involved. Given that the man is not recorded as having been found guilty

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of carrying out any such terrorist acts, he was entitled to have felt shocked and hurt by the way he was presented in the newscast.

The court noted nevertheless that in view of the very nature of the information broadcast publicly, the fact that the source of the information, namely the Ministry of the Interior, theoretically ought to have checked its accuracy, and the circumstances of the broadcasting of the information (during the main evening newscast, devoted mainly to the presentation of news items circulated by press agencies with an international reputation based on the fact that they state they have checked all the information they circulate), the journalist was not obliged to carry out a full investigation and to check the content of the information being broadcast, despite the corroborating checks he said he had carried out in the police hierarchy and among people responsible for gathering such information, whose identity he could not reveal for reasons of source secrecy. Lastly, the court found that under the very particular circumstances of the case, it could not be held that the journalist had not interviewed the man involved or his counsel once the expulsion measure was actually under way. The court granted the accused the benefit of good faith and therefore discharged them from prosecution.

TGI de Paris (17e ch.), 17 octobre 2014 - A. Belhadad c. A. Girard, N. Paolini et a.

Regional court of Paris (17th chamber), 17 October 2014 - A. Belhadad v. A. Girard, N. Paolini and others.

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