European Court of Human Rights: Haldimann and Others v. Switzerland

IRIS 2015-4:1/1

Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

In a case concerning the conviction of four journalists for having recorded and broadcast an interview using hidden cameras, the European Court of Human Rights found, by six votes to one, that the Swiss authorities had violated the journalists' rights protected under Article 10 on freedom of expression of the European Convention on Human Rights. The Court emphasised that the use of hidden cameras by the journalists was aimed at providing public information on a subject of general interest, whereby the person filmed was targeted not in any personal capacity, but as a professional broker. The Court found that the interference with the private life of the broker had not been serious enough to override the public interest in information on denouncing malpractice in the field of insurance brokerage (on the use of hidden cameras, see also Tierbefreier E.V. v. Germany, IRIS 2014-3/2).

In 2003, the Swiss German-language television channel SF DRS prepared a documentary on sales of life insurance products, against a background of public discontent with the practices used by insurance brokers. One of the SF DRS journalists presented herself as a customer while meeting with an insurance broker. Two hidden cameras were placed in the room in which the meeting took place. At the end of the meeting the journalist revealed that the conversation had been in reality an interview that had been filmed for journalistic purpose. The broker tried to obtain an injunction against the programme, but that request was dismissed. A short time later, sequences from the recording were broadcast on television, with the broker's face and voice disguised. After a complaint by the broker, a prosecution was started against the journalists involved in the making and editing of the programme, on charges of illegal recording of a conversation by others. Although acknowledging the major public interest in securing information on practices in the field of insurance, the journalists were convicted for recording and communicating a conversation by others without authorisation. The journalists complained before the European Court of Human Rights that their sentence to a payment of between four to 12 day-fines amounted to a disproportionate interference with their right to freedom of expression as protected under Article 10.

The Court reiterated its case law on attacks on the personal reputations of public figures and the six criteria which it has established in its Grand Chamber judgment of 7 February 2012 in the case of Axel Springer AG v. Germany (see IRIS

© European Audiovisual Observatory (Council of Europe) 2026

2012-3/1), weighing freedom of expression against the right to private life: (1) contributing to a debate of general interest, (2) ascertaining how well-known the person being reported on is and the subject of the report/documentary, (3) that person's prior conduct, (4) the method of obtaining the information and its veracity, (5) the content, form and repercussions of the journalistic output, and (6) the penalty imposed. The Court applied those criteria to the present case, while taking into consideration that the broker was not a well-known public figure. The Court noted that the documentary in question had not been geared towards criticising the broker personally, but rather towards denouncing specific commercial practices and the inadequate protection of consumers' rights in the sector of insurance brokers. Hence the report concerned an issue of interesting public debate, while Article 10 protects journalists in relation to such reporting under the proviso that they are acting in good faith and on an accurate factual basis, while providing "reliable and precise" information in accordance with the ethics of journalism. The Court noted that the veracity of the facts as presented by the journalists had indeed never been contested and that it was not established that the journalists had deliberately acted in breach of the ethics of journalism. The recording on the other hand had been broadcast in the form of a report which was particularly negative in so far as the broker was concerned, using audiovisual media, which are often considered to have a more immediate and powerful effect than the written press. However, a decisive factor was that the journalists had disguised the broker's face and voice and that the interview had not taken place on his usual business premises. Therefore the Court held that the interference with the private life of the broker had not been serious enough to override the public's interest in receiving information on the alleged malpractice in the field of insurance brokerage. Despite the relative leniency of the penalties of 12 day-fines and four day-fines respectively, the criminal sentence by the Swiss court had been liable to discourage the media from expressing criticism, even though the journalists had not been prevented from broadcasting their documentary. The Court therefore concluded that there had been a violation of Article 10.

Jugement de la Cour européenne des droits de l'homme (deuxième section), affaire Haldimann et autres c. Suisse, requête n° 21830/09 du 24 février 2015

Judgment by the European Court of Human Rights (Second Section), case of Haldimann and Others v. Switzerland, Appl. No. 21830/09 of 24 February 2015

https://hudoc.echr.coe.int/eng?i=001-152711

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026