[IE] Broadcaster ordered to pay EUR 140,000 in damages for defaming lawyer

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The High Court has awarded EUR 140,000 damages against the broadcaster TV3, for broadcasting a news report which incorrectly identified a Dublin-based lawyer as a defendant on trial for a number of criminal offences. It was the first time the court has ruled on the "offer of amends" procedure under the Defamation Act 2009, where a broadcaster publishes a correction and apology, and the court is asked to determine the issue of damages only.

On 11 November 2013, during TV3's evening news programme, the newsreader was reporting on the ongoing trial of a former lawyer, Thomas Byrne, for a number of criminal offences. However, as the newsreader read the report, the large screen behind the news desk showed a close-up of Byrne's lawyer, David Christie, rather than the Byrne himself. Christie was shown for nine seconds, as the newsreader stated that "the jury in the trial of solicitor Thomas Byrne will resume its deliberations tomorrow morning," and that Byrne had "pleaded not guilty to 50 counts of theft, forgery, using forged documents and deception."

Two days later, Christie wrote to TV3, claiming the broadcast was defamatory, and seeking a retraction, apology and "substantial compensation." On 15 November 2013, TV3 broadcast a correction and apology, stating that there was "absolutely no suggestion that Mr. Christie has been on trial for any such offences. TV3 are happy to acknowledge that Mr. Christie is a well-respected solicitor and would like to apologise to Mr. Christie and his family for any distress and embarrassment that may have been caused".

Following the apology, Christie initiated defamation proceeding against TV3, and TV3 invoked section 22 of the Defamation Act 2013. This section provides that "a person who has published a statement that is alleged to be defamatory of another person may make an offer to make amends", which is defined as publishing a suitable "correction" and "apology", and pay compensation or damages. Where the parties do not agree as to the amount of damages, the High Court can determine the amount.

The High Court judge first considered the "hypothetical scenario of the case being dealt with as a fully contested defamation action heard without a jury, with no mitigating aspects," and considered that he would be "inclined" to award EUR 200,000 in damages. The judge then took into account the "offer to make amends

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and the apology," and considered it "appropriate to allow a discount in the region of one third." However, the judge did not think it "appropriate" to allow a further discount "in the absence of a more comprehensive apology," and a failure to "take responsibility for the fact" the defence lawyer "was damaged in his reputation." Therefore, the judge awarded EUR 140,000 in damages to the defence lawyer.

Christie v. TV3 Television Network Ltd [2015] IEHC 694

http://www.bailii.org/ie/cases/IEHC/2015/H694.html

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