European Court of Human Rights: Jon Gaunt v. the United Kingdom

IRIS 2016-10:1/2

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

A recent decision of the European Court of Human Rights (ECtHR) clarifies that journalistic freedom of expression does not encompass the right to insult and offend an interviewee during a radio interview, including a politician. It also confirms the competence of a media regulatory body to interfere with a journalist's or a radio station's freedom of expression in a proportionate way. In the case at issue Ofcom, the independent regulator and competition authority for the United Kingdom communications industries, had launched an investigation into a radio interview about which it received a series of complaints. Ofcom concluded that the broadcast had breached the Broadcasting Code, as it had amounted to gratuitous and offensive insult without contextual content or justification. No sanction or penalty was imposed either on the radio station or the journalist, other than the publication of the decision by Ofcom.

The case concerns an interview on Talksport, a speech-based radio station on which Jon Gaunt presented a programme which covered a broad range of news issues, often with a combative and hard-hitting interview style. In 2008 Gaunt conducted a live interview with M.S., the Cabinet Member for Children's Services for Redbridge London Borough Council. The interview concerned the Council's proposal to ban smokers from becoming foster parents on the ground that passive smoking could harm foster children. Gaunt showed a specific interest in the issue, as he spent some of his childhood in the care system himself. In a newspaper column he had expressed his appreciation for his foster mother who lavished love and care, although she "smoked like a chimney". The first part of the interview was reasonably controlled, giving M.S. the opportunity to explain his Council's policy. The rest of the interview, however, degenerated into a shouting match from the point when Gaunt first called M.S. "a Nazi", an insult that was repeated several times. The journalist also called the interviewee an "ignorant pig", while the whole interview style became gratuitously offensive and could be described as a rant. Within ten minutes of the end of the interview, Gaunt apologised to the listeners, accepting that he did not "hold it together", that he had been "unprofessional", and that he had "lost the rag". One hour after the end of the broadcast, he made a further apology for having called M.S. a Nazi. The same day Gaunt was suspended from his programme and a short time later Talksport terminated his contract without notice.

© European Audiovisual Observatory (Council of Europe) 2026

Following the broadcast, Ofcom received 53 complaints about Gaunt's conduct during the interview. In a response to Ofcom, Talksport stated that it regretted what had happened and accepted that the interview "fell way below the acceptable broadcasting standards which it expected and demanded". It regretted that Gaunt's language had been offensive, and that the manner in which the interview was conducted had been indefensible. Subsequently Ofcom concluded that the broadcast had breached Rules 2.1 and 2.3 of the Broadcasting Code as it fell short of the generally accepted standards applied to broadcast content and included offensive material which was not justified by the context. In reaching this conclusion, Ofcom took into account the extremely aggressive tone of the interview style and the seriousness which the broadcaster attached to the incident, as demonstrated by its prompt investigation and dismissal of the journalist, as well as Gaunt's two on-air apologies. Gaunt applied for a judicial review of Ofcom's decision on the ground that it disproportionately interfered with his freedom of expression and infringed his rights under Article 10 of the European Convention on Human Rights. After the national courts dismissed Gaunt's complaint (see IRIS 2010-8/30), he lodged an application before the ECtHR.

Although the ECtHR would not exclude the possibility that Ofcom's finding was at least capable of interfering with the journalist's freedom of expression (while Ofcom's finding was only directed to Talksport), it finds Gaunt's complaint manifestly ill-founded and therefore inadmissible. The Court found that the interference with Gaunt's freedom of expression was prescribed by law and was justified and proportionate. The ECtHR agrees that the national authorities have weighed up the interests at stake in compliance with the criteria laid down in the Court's case-law. In assessing Gaunt's Article 10 complaint, the national courts took properly into account that the interview was with a politician and involved political speech on a matter of general public interest, before concluding that his freedom of expression did not extend to what had amounted to gratuitous, offensive insult and abuse without contextual content or justification; "hectoring" and "bullying"; and a "particularly aggressive assault on M.S. and his opinions". The ECtHR reiterates that a degree of exaggeration, or even provocation, is permitted, while it has repeatedly held that this does not extend to "manifestly insulting language" or a "gratuitous personal attack". In the Court's view, the content of the interview with M.S. certainly came close to being a "gratuitous personal attack" without any appreciable contribution to the subject being discussed. In deciding what is capable of offending a broadcast audience, weight must be given both to the opinion of the domestic courts and, to an even greater extent, to that of a specialist regulator of broadcast standards - such as Ofcom - which has considerable experience of balancing the parameters of potentially offensive content with the fluctuating expectations of contemporary radio audiences. Hence, the ECtHR shows reluctance to substitute its view on whether or not the interview amounted to a "gratuitous personal insult" for that of the specialist regulator, which has been confirmed by the domestic courts at two

© European Audiovisual Observatory (Council of Europe) 2026

levels of jurisdiction. The Court is of the opinion that the publication of the Ofcom finding was proportionate to the legitimate aim of the protection of the rights of others. There has been accordingly no violation of Gaunt's right to freedom of expression under Article 10 of the Convention.

Decision by the European Court of Human Rights, First section, case of Jon Gaunt v. the United Kingdom, Application no. 26448/12 of 6 September 2016

https://hudoc.echr.coe.int/eng?i=001-167180

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026