[BE] Right of Oblivion against Freedom of Expression

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Belgian television viewers cannot look forward to seeing "Meurtre aux Champs" ("Murder in the Fields"), a film made for the famous "Strip-tease" programme, in the near future. The film is about the trial of a farmer who, in 1993, had killed the landlord of one of his fields. The farmer and his family had already managed to get the film suspended by a summary order injunction, which was then confirmed following an appeal. The District Court of Brussels, deciding on the merits of the case, banned the RTBF from broadcasting the film as long as the plaintiffs refused to give their permission. The RTBF invoked article 10 of the European Convention of the Human Rights, but the Court preferred article 8 of the same Convention and the right to protection of privacy. Using a judgement handed down by the French Court of Cassation on 20 November 1990, the Brussels judges set a precedent in the country by allowing the "right to oblivion" (droit à l'oubli) to be accepted as an integral part of the right to privacy. After considering that a fresh disclosure of the facts as judged by the Cour d'Assises of Luxembourg would not be of any topical interest, the District Court ruled that there was not sufficient reason to override the right to oblivion and thus banned the broadcasting of the film.

Jugement du Tribunal de première instance de Bruxelles du 30 juin 1997

Ruling of the Court of first instance of 30 June 1997

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