

Press release issued by the Registrar

**CHAMBER JUDGMENT
EGELAND AND HANSEID v. NORWAY**

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Egeland and Hanseid v. Norway* (application no. 34438/04).

The Court held unanimously that there had been **no violation** of **Article 10** of the European Convention on Human Rights.

[\(The judgment is available only in English.\)](#)

1. Principal facts

The applicants are two Norwegian nationals: John Olav Egeland who was born in 1951 and lives in Bekkestua (Norway); and, Einar Hanseid who was born in 1943 and lives in Oslo. At the relevant time, they were both Editors in Chief of two major national newspapers in Norway, the *Dagbladet* and *Aftenposten*, respectively.

The case concerns the applicants' complaint, in particular, that they were convicted and sentenced to a fine for unlawful publication of photographs of a woman leaving a court building where she had just been convicted and sentenced to 21 years' imprisonment for a triple murder, the so-called *Orderud* case.

The photographed woman, B, had been on trial for murdering her parents-in-law and sister-in-law in a particularly brutal manner. Following the judgment delivery of 22 June 2001, she was immediately arrested inside the courthouse and taken to an unmarked police car. The criminal case attracted unprecedented attention from the Norwegian media and public in general.

In the *Dagbladet's* and *Aftenposten's* subsequent reports, three photographs were published of B – leaving the courthouse, walking towards and then in the awaiting police car – in which she appeared distraught and in tears with a handkerchief drawn to her face.

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

B's lawyer had attempted to prevent her client from being photographed, for which consent had not been given.

B's defence lawyer brought charges against the applicants for violating section 131A of the Administration of Courts Act 1915 which prohibits photographing an accused or convicted person on their way to or from a court hearing without their consent.

Acquitted at first-instance, the Supreme Court subsequently, however, found the applicants guilty and sentenced them each to pay 10,000 Norwegian Kroner (the equivalent of 1,139 euros (EUR)). The decision was based both on considerations of protection of privacy and the need to safeguard due process. The Supreme Court also found that there were no special considerations, such as B's arrest after conviction constituting a new situation or the extensive public interest in the case, which would give the press the right to take photographs or the public the right to see them.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 23 September 2004 and declared admissible on 22 November 2007.

Judgment was given by a Chamber of seven judges, composed as follows:

Christos **Rozakis** (Greece), *President*,
Nina **Vajić** (Croatia),
Anatoly **Kovler** (Russia),
Elisabeth **Steiner** (Austria),
Khanlar **Hajiyev** (Azerbaijan),
Sverre Erik **Jebens** (Norway),
Giorgio **Malinverni** (Switzerland), *judges*,

and also Søren **Nielsen**, *Section Registrar*.

3. Summary of the judgment²

Complaint

Relying on Article 10, the applicants complained about their conviction and sentencing to a fine for unlawfully publishing photographs of B, just convicted, while leaving the court building.

Decision of the Court

The parties did not dispute that the judgment delivery of 22 June 2001 resulting in B's conviction, sentencing and immediate arrest had been a matter of public interest.

However, under the terms of Article 10 § 2, the exercise of freedom of expression carried with it "duties and responsibilities". In the applicants' case this involved protecting "the

² This summary by the Registry does not bind the Court.

reputation or rights of others” and “maintaining the authority and impartiality of the judiciary”.

Although the photographs had concerned a public event and had been taken in a public place at a time when B’s identity was already well known to the public, the Court found that their portrayal of her had been particularly intrusive. Indeed, she had just been arrested inside a court house after having been notified of a judgment in which she had been convicted of triple murder and sentenced to the most severe sentence under Norwegian law. It had to be assumed that B, shown in tears and great distress, had been emotionally shaken and at her most vulnerable psychologically.

Nor had B consented to the photographs being taken or to their publication. The fact that she had cooperated with the press on previous occasions could not justify depriving her of protection against the publication by the press of the photographs in question.

In conclusion, the Court found that both reasons relied on in the Supreme Court’s judgment, that is to say protection of B’s privacy and the fair administration of justice, had been sufficient to justify the restriction on the applicant editors’ right to freedom of expression. Moreover, the interest in restricting publication of the photographs had outweighed those of the press in informing the public on a matter of public concern. Given also that the fines imposed on the applicants had not been particularly severe, the Court held that there had therefore been no violation of Article 10.

Judges Rozakis and Malinverni expressed concurring opinions, which are annexed to the judgment.

The Court’s judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.