



Forthcoming Grand Chamber judgments in two cases against Germany concerning media coverage of celebrities' private lives

The European Court of Human Rights will be delivering two Grand Chamber judgments, in the cases of **Axel Springer AG v. Germany** (application no. 39954/08) and **Von Hannover v. Germany (no. 2)** (application nos. 40660/08 and 60641/08), at a public hearing in Strasbourg on **Tuesday 7 February 2012 at 10 a.m.** – local time.

Both cases concern the publication in the media of articles and, in the second case, of photos depicting the private life of well-known people.

Principal facts and complaints

Axel Springer AG

The applicant company, Axel Springer AG, is registered in Germany. It is the publisher of *Bild*, a national daily newspaper with a large circulation.

In September 2004, *Bild* published a front-page article about X., a well-known television actor, being arrested for possession of cocaine. The article was illustrated by three pictures of X. and complemented by a more detailed article on another page. It mentioned that X., who had played the role of a police superintendent in a popular TV series since 1998, had previously been given a suspended prison sentence for possession of drugs in July 2000. The newspaper published a second article in July 2005, which reported on X. being convicted and fined for illegal possession of drugs after he had made a full confession.

Immediately after the first article appeared, X. brought injunction proceedings against the applicant company with the Hamburg Regional Court, which granted his request and prohibited the publication of the article and the photos. The applicant company did not challenge the judgment concerning the photos, and the prohibition to publish the article was eventually upheld by the court of appeal in June 2005.

In November 2005, Hamburg Regional Court prohibited any further publication of almost the entire article, on pain of penalty for non-compliance, and ordered the applicant company to pay a penalty. The court held in particular that the right to protection of X.'s personality rights prevailed over the public's interest in being informed, even if the truth of the facts related by the daily had not been disputed. The case had not concerned a serious offence and there was no particular public interest in knowing about X.'s offence. The judgment was upheld by the Hamburg Court of Appeal and, in December 2006, by the Federal Court of Justice.

In another set of proceedings concerning the second article, about X.'s conviction, the Hamburg Regional Court granted his application on essentially the same grounds as those set out in its judgment on the first article. The judgment was upheld by the Hamburg Court of Appeal and, in June 2007, by the Federal Court of Justice. In March 2008, the Federal Constitutional Court declined to consider constitutional appeals lodged by the applicant company against the decisions.

In its application before the European Court of Human Rights, Axel Springer AG complains, under Article 10 (freedom of expression) of the European Convention on Human Rights, of the injunction preventing it from publishing the articles.

Von Hannover (no. 2)

The applicants are Princess Caroline von Hannover, daughter of the late Prince Rainier III of Monaco, and her husband Prince Ernst August von Hannover.

Since the early 1990s Princess Caroline has been trying to prevent the publication of photos of her private life in the press. Two series of photos, published in 1993 and 1997 respectively in German magazines had been the subject of three sets of proceedings before the German courts. In particular leading judgments of the Federal Court of Justice of 1995 and of the Federal Constitutional Court of 1999 dismissed her claims. Those proceedings were the subject of the European Court of Human Rights' judgment in *Caroline von Hannover v. Germany* (no. 59320/00) of 24.06.2004, in which the Court held that the court decisions had infringed Princess Caroline's right to respect for her private life under Article 8.

Relying on that judgment, Princess Caroline and Prince Ernst August subsequently brought several sets of proceedings before the civil courts seeking an injunction against the publication of further photos, showing them during a holiday and taken without their consent, which had appeared in the German magazines *Frau im Spiegel* and *Frau Aktuell* between 2002 and 2004.

While the Federal Court of Justice granted Princess Caroline's claim as regards the publication of two of the photos in dispute, it dismissed her claim as regards another photo which had appeared in February 2002 in *Frau im Spiegel*. It showed the couple taking a walk during their skiing holiday in St. Moritz and was accompanied by an article reporting, among other issues, on the poor health of Prince Rainier of Monaco. The courts found that the reigning prince's poor health was a subject of general interest and that the press had been entitled to report on the manner in which his children reconciled their obligations of family solidarity with the legitimate needs of their private life, among which was the desire to go on holiday. In a judgment of 26 February 2008, the Federal Constitutional Court dismissed Princess Caroline's constitutional complaint, rejecting in particular the allegation that the German courts had disregarded or taken insufficient account of the Court's case-law. On 16 June 2008, the Federal Constitutional Court declined, without giving reasons, to consider further constitutional complaints brought by the applicants in respect of three sets of proceedings.

In their application before the European Court of Human Rights, the applicants complain, under Article 8 (right to respect for private and family life), of the German courts' refusal to prohibit any further publication of the photos in dispute. They allege in particular that the courts have not taken sufficient account of the Court's judgment in *Caroline von Hannover v. Germany* of 2004.

Procedure

The application in the case *Axel Springer AG* was lodged with the European Court of Human Rights on 18 August 2008. The case *Von Hannover v. Germany* (no. 2) originated in two applications which were lodged with the Court on 22 August and 15 December 2008 respectively, and which were joined on 24 November 2009.

On 30 March 2010, the Chamber to which all three applications had been allocated, after having joined them, relinquished jurisdiction in favour of the Grand Chamber. A Grand Chamber hearing was held on 13 October 2010.

The following organisations were granted the right to submit written comments:

In both cases:

Media Lawyers Association

Media Legal Defence Initiative

International Press Institute

World Association of Newspapers and News Publishers

In the case of *Von Hannover (no. 2)*:

Association of German Magazine Publishers (*Verband Deutscher Zeitungsverleger*)

Ehrlich & Sohn GmbH & Co. KG publishing company

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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.