



The judgment against *Paris-Match* for publishing information on the private life of Prince Albert of Monaco breached the magazine's freedom of expression

In today's Chamber judgment in the case of [Couderc and Hachette Filipacchi Associés v. France](#) (application no. 40454/07), which is not final¹, the European Court of Human Rights held, four votes to three, that there had been:

A violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

The case concerned the exercise of freedom of expression of the press in relation to the protection of the reputation and rights of others.

In May 2005 the weekly magazine *Paris-Match* published an article – despite being served notice by Prince Albert of Monaco to refrain from publication – in which Ms C. claimed that Albert Grimaldi, the reigning Prince of Monaco, was the father of her son. The courts ruled against Hachette Filipacchi Associés, the publisher of the magazine, and its director for invasion of privacy and infringing the monarch's right to the protection of his own image.

The Court held that the judgment against the applicants had made no distinction between information which formed part of a debate of general interest and that which merely reported details of the private life of the Prince of Monaco. Nor did the case simply concern a dispute between the press and a public figure; the interests of Ms C. and the child in asserting his existence and having his identity recognised had also been at stake. In the Court's view, there was no reasonable relationship of proportionality between the restrictions imposed on the right to freedom of expression and the protection of the reputation and rights of others.

Principal facts

The applicants are Anne-Marie Couderc, a French national born in 1950 and the publication director of the weekly magazine *Paris-Match*, and the company Hachette Filipacchi Associés, which publishes the magazine.

On 3 May 2005 the English newspaper the *Daily Mail* published claims by Ms C. that Albert Grimaldi, the reigning Prince of Monaco, was the father of her son. The newspaper reproduced the main points of an article due to be published in *Paris-Match*. Prince Albert of Monaco, having learnt that an article was about to appear in *Paris-Match*, served notice on the applicants to refrain from publishing the article. The magazine went ahead and published the article, together with photographs showing the Prince with the child, which appeared simultaneously in the German weekly magazine *Bunte*.

On 19 May 2005 Prince Albert of Monaco brought proceedings against the applicants in the Nanterre *tribunal de grande instance* on the basis of Article 8 of the European Convention and Articles 9 and 1382 of the Civil Code.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

On 29 June 2005 the court awarded Prince Albert 50,000 euros (EUR) in damages and ordered details of the judgment to be printed in a full-page feature on the front cover of *Paris-Match*, under the title “Court order made against *Paris-Match* at the request of Prince Albert II of Monaco” (« Condamnation judiciaire de *Paris-Match* à la demande du prince Albert II de Monaco »). The court ruled that the judgment was to be immediately enforceable. It considered that the whole article and the accompanying pictures came within the most intimate sphere of the Prince’s emotional and family life and were not apt to be the subject of any debate of general interest.

The applicants appealed and obtained a suspension of the judgment’s immediate enforceability.

On 6 July 2005 the Prince issued a statement in which he publicly acknowledged that the child was his. The Court of Appeal gave judgment on 24 November 2005, finding that the article in *Paris-Match* had caused irreversible damage to the Prince, as the fact that he was the child’s father, which had remained secret until publication of the article, had suddenly become public knowledge, against his wishes. The Court of Appeal upheld the award of EUR 50,000 for damages and altered the conditions of the order for publication, ruling that the statement should appear without a title, occupying only one third of the front cover.

Alleging a violation of Article 10 (freedom of expression) of the European Convention, the applicants lodged an appeal on points of law, which was dismissed.

In Germany, the urgent application lodged by Prince Albert of Monaco against the magazine *Bunte* was dismissed in a judgment that was subsequently upheld by the Court of Appeal. The German courts gave precedence to the public’s right to be informed over the Prince’s interest in protection of his private life. They considered that the question of a possible male heir was of decisive importance in a hereditary monarchy and that it was for the child’s mother and not for the Prince, who had not acknowledged paternity, to decide whether the disclosure of the child’s existence fell within the protected private sphere.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), the applicants alleged that the judgment against them amounted to unjustified interference with the exercise of their right to freedom of information.

The application was lodged with the European Court of Human Rights on 24 August 2007.

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

Mark Villiger (Liechtenstein), *President*,
Angelika Nußberger (Germany),
Boštjan M. Zupančič (Slovenia),
Ann Power-Forde (Ireland),
André Potocki (France),
Paul Lemmens (Belgium),
Helena Jäderblom (Sweden),

and also Claudia Westerdiek, *Section Registrar*.

Decision of the Court

Article 10

In the Court’s view, this case did not simply concern a dispute between the press and a public figure; the interests of Ms C. and the child had also been at stake. The child’s mother had supplied information to the press and had played a pivotal role in the publication of the article in question.

She had used the press to draw public attention to the situation of her child, who had been born outside marriage and had not yet been formally recognised by his father.

The Court noted that the French courts had taken the view, unlike their German counterparts, that the birth of the Prince's son fell within the sphere of private life rather than forming part of a debate of general interest, since the Constitution of Monaco made it impossible for a child born outside marriage to succeed to the throne.

The Court agreed that a distinction had to be made between the core message of the article and the details contained in it. The article and the photographs published in *Paris-Match* had concerned the descendants of a reigning Prince, revealing the existence of a son born outside marriage of which the public had previously been unaware. Even though, under the Constitution of Monaco as it currently stood, the child in question could not succeed his father to the throne, his very existence was apt to be of interest to the public and in particular to the citizens of Monaco. In a hereditary constitutional monarchy like the Principality of Monaco, the birth of a child had special significance. Accordingly, the requirements of the protection of the Prince's private life and the debate on the future of the hereditary monarchy had been in competition. As this was an issue of political significance, the Court found that the public had had a legitimate interest in knowing of the child's existence and being able to conduct a debate on the possible implications for political life in the Principality of Monaco.

The Court observed that the material published has also included elements relating exclusively to the private, or even intimate, life of the Prince and Ms C. However, the Court pointed out that it was not just the Prince's private life that had been at stake, but also that of the child's mother and the child himself. It was difficult to see how the private life of one person – in this instance the Prince – could act as a bar to the claims of another person – his son – seeking to assert his existence and have his identity recognised. The Court noted that Ms C. had consented to publication on her own behalf and that of her son and that it was she who had taken the initiative to inform the press. The photographs accompanying the article had not been taken without the Prince's knowledge; on the contrary, they had been taken by the child's mother in the privacy of an apartment. The Court considered that the fact that the interview had been initiated by the child's mother and that she had handed over the photographs to the magazine of her own free will was an important factor to be taken into consideration in balancing the protection of private life against freedom of expression.

The Court noted that the issue of *Paris-Match* of 5 May 2005, of which over a million copies had been printed, had certainly had significant repercussions, but that the information it contained had no longer been confidential since the *Daily Mail* and *Bunte* had reported on it or published extracts from it in the preceding days. Lastly, the Court noted that the article in *Paris-Match* had not made any defamatory allegations and that the Prince had not disputed the truth of the disclosures contained in it.

The Court concluded that, in disclosing the information, Ms C. had sought to secure public recognition of her son's status and of the fact that the Prince was his father, which were crucial factors in ending the secrecy surrounding him. Thus, she had made public, in addition to the facts concerning the child's paternity, certain information that had not been necessary since it came within the sphere of private life.

In conclusion, the Court observed that the judgment against the applicants had made no distinction between information which formed part of a debate of general interest and that which merely reported details of the private life of Prince Albert of Monaco. The Court considered that, in spite of the margin of appreciation left to States, no reasonable relationship of proportionality existed between the restrictions imposed on the applicants' right to freedom of expression and the legitimate aim pursued. It held that there had been a violation of Article 10.

Just satisfaction (Article 41)

As the applicants had not submitted any claim under Article 41 of the Convention, the Court did not make an award under that head.

Separate opinion

Judges Villiger, Zupančič and Lemmens expressed a joint separate opinion which is annexed to the judgment.

The judgment is available only in French.

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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.