

Press release issued by the Registrar

CHAMBER JUDGMENT IN THE CASE OF PECK v. THE UNITED KINGDOM

The European Court of Human Rights has today notified in writing a judgment¹ in the case of *Peck v. the United Kingdom* (application no. 44647/98). The Court held unanimously that there had been:

- a violation of Article 8 (right to respect for private life) of the European Convention on Human Rights;
- a violation of Article 13 (right to an effective remedy) taken in conjunction with Article 8.

Under Article 41 (just satisfaction) of the Convention, the Court awarded the applicant 11,800 euros (EUR) for non-pecuniary damage and EUR 18,075 for costs and expenses.

(The judgment is available only in English.)

1. Principal facts

The applicant, Geoffrey Dennis Peck, is a United Kingdom national, who was born in 1955 and lives in Essex.

On the evening of 20 August 1995, at a time when he was suffering from depression, Mr Peck walked alone down Brentwood High Street, with a kitchen knife in his hand, and attempted suicide by cutting his wrists. He was unaware that he had been filmed by a closed-circuit television (CCTV) camera installed by Brentwood Borough Council.

The CCTV footage did not show the applicant cutting his wrists; the operator was solely alerted to an individual in possession of a knife. The police were notified and arrived at the scene, where they took the knife, gave the applicant medical assistance and brought him to the police station, where he was detained under the Mental Health Act 1983. He was examined and treated by a doctor, after which he was released without charge and taken home by police officers.

On 9 October 1995 the Council issued two photographs taken from the CCTV footage with an article entitled “Defused – the partnership between CCTV and the police prevents a

1. Under Article 43 of the European Convention on Human Rights, 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.

potentially dangerous situation". The applicant's face was not specifically masked. The article noted that an individual had been spotted with a knife in his hand, that he was clearly unhappy but not looking for trouble, that the police had been alerted, that the individual had been disarmed and brought to the police station where he was questioned and given assistance.

On 12 October 1995 the "Brentwood Weekly News" newspaper used a photograph of the incident on its front page to accompany an article on the use and benefits of the CCTV system. The applicant's face was not specifically masked.

On 13 October 1995 an article entitled "Gotcha" appeared in the "Yellow Advertiser", a local newspaper with a circulation of approximately 24,000. The article, accompanied by a photograph of the applicant taken from the CCTV footage, referred to the applicant having been intercepted with a knife and a potentially dangerous situation having being defused. It was noted that the applicant had been released without charge. On 16 February 1996 a follow-up article entitled "Eyes in the sky triumph" was published by the newspaper using the same photograph. It appears that a number of people recognised the applicant.

On 17 October 1995 extracts from the CCTV footage were included in an Anglia Television programme, a local broadcast to an average audience of 350,000. The applicant's face had been masked at the Council's oral request.

In late October or November 1995 the applicant became aware that he had been filmed on CCTV and that footage had been released because a neighbour said he had seen him on television. He did not take any action as he was still suffering from severe depression.

The CCTV footage was also supplied to the producers of "Crime Beat", a BBC series on national television with an average of 9.2 million viewers. The Council imposed orally a number of conditions, including that no one should be identifiable in the footage and that all faces should be masked.

However, in trailers for an episode of "Crime Beat", the applicant's image was not masked at all. After being told by friends that they had seen him on 9 March 1996 in the trailers, the applicant complained to the Council about the forthcoming programme. The Council contacted the producers who confirmed that his image had been masked in the main programme. On 11 March the CCTV footage was shown on "Crime Beat". However, although the applicant's image was masked in the main programme, he was recognised by friends and family.

The applicant made a number of media appearances thereafter to speak out against the publication of the footage and photographs.

On 25 April 1996 the applicant complained to the Broadcasting Standards Commission (BSC) in relation to, among other things, the "Crime Beat" programme, alleging an unwarranted infringement of his privacy and that he had received unjust and unfair treatment. On 13 June 1997 the BSC upheld both complaints. On 1 May 1996 the applicant complained to the ITC concerning the Anglia Television broadcast. The ITC found that the applicant's identity was not adequately obscured and that the ITC code had been breached. Given an admission and apology by Anglia Television, however, no further action was taken. On 17

May 1996 the applicant complained unsuccessfully to the Press Complaints Commission concerning the articles in the “Yellow Advertiser”.

On 23 May 1996 he applied to the High Court for leave to apply for judicial review concerning the Council’s disclosure of the CCTV material. His request and a further request for leave to appeal to the Court of Appeal were both rejected.

2. Procedure and composition of the Court

The application was lodged with the European Commission of Human Rights on 22 April 1996 and transmitted to the Court on 1 November 1998. It was declared admissible on 15 May 2001.

Judgment was given by a Chamber of 7 judges, composed as follows:

Matti **Pellonpää** (Finnish), *President*,
Nicolas **Bratza** (British),
Antonio **Pastor Ridruejo** (Spanish),
Marc **Fischbach** (Luxemburger),
Rait **Maruste** (Estonian),
Stanislav **Pavlovschi** (Moldovan),
Lech **Garlicki** (Polish), *judges*,

and also Michael **O’Boyle**, *Section Registrar*.

3. Summary of the judgment¹

Complaints

The applicant complained about the disclosure of the CCTV footage to the media, which resulted in images of himself being published and broadcast widely, and about a lack of an effective domestic remedy. He relied on Articles 8 and 13 of the Convention.

Decision of the Court

Article 8

The Court observed that, following the disclosure of the CCTV footage, the applicant’s actions were seen to an extent which far exceeded any exposure to a passer-by or to security observation and to a degree surpassing that which the applicant could possibly have foreseen. The disclosure by the Council of the relevant footage therefore constituted a serious interference with the applicant’s right to respect for his private life.

The Court did not find that there were relevant or sufficient reasons which would justify the direct disclosure by the Council to the public of stills of the applicant in “CCTV News”, without the Council having obtained the applicant’s consent or masking his identity, or which would justify its disclosures to the media without the Council taking steps to ensure so far as possible that his identity would be masked. Particular scrutiny and care was needed given the crime prevention objective and context of the disclosures.

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

Neither did the Court find that the applicant's later voluntary media appearances diminished the serious nature of the interference and nor did these appearances reduce the need for care concerning disclosures. The applicant was the victim of a serious interference with his right to privacy involving national and local media coverage: it could not therefore be held against him that he tried afterwards to expose and complain about that wrongdoing through the media.

Accordingly, the Court considered that the disclosures by the Council of the CCTV material in "CCTV News" and to the "Yellow Advertiser", Anglia Television and the BBC were not accompanied by sufficient safeguards and, therefore, constituted a disproportionate and unjustified interference with the applicant's private life and a violation of Article 8.

In the light of this finding, the Court did not consider it necessary to consider separately the applicant's other complaints under Article 8.

Article 13 in conjunction with Article 8

The Court found that judicial review did not provide the applicant with an effective remedy in relation to the violation of his right to respect for his private life.

In addition, the lack of legal power of the BSC and ITC to award damages to the applicant meant that those bodies could not provide an effective remedy to him. The ITC's power to impose a fine on the relevant television company did not amount to an award of damages to the applicant. And, although the applicant was aware of the Council's disclosures prior to the "Yellow Advertiser" article of February 1996 and the BBC broadcasts, neither the BSC nor the PCC had the power to prevent such publications or broadcasts.

The Court further found that the applicant did not have an actionable remedy for breach of confidence at the relevant time.

Finding, therefore, that the applicant had no effective remedy in relation to the violation of his right to respect for his private life, the Court concluded that there had been a violation of Article 13.

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

Registry of the European Court of Human Rights

F – 67075 Strasbourg Cedex

Contacts: Roderick Liddell (telephone: +00 33 (0)3 88 41 24 92)

Emma Hellyer (telephone: +00 33 (0)3 90 21 42 15)

Stéphanie Klein (telephone: +00 33 (0)3 88 41 21 54)

Fax: +00 33 (0)3 88 41 27 91

The European Court of Human Rights was set up in Strasbourg in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. On 1 November 1998 a full-time Court was established, replacing the original two-tier system of a part-time Commission and Court.