



Libel case against the author of a book on the murder of a four-year-old boy did not breach his freedom of expression

In today's **Chamber** judgment¹ in the case of [Prompt v. France](#) (application no. 30936/12) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

The case concerned the judgment given in civil proceedings for libel against Mr Prompt, the lawyer representing Bernard Laroche, one of the protagonists in the "Grégory case", on account of a book he had published on the case. The circumstances of four-year-old Grégory Villemin's murder have still not been established.

The Court held in particular that the domestic courts had found only two passages from the book to be libellous and had accepted that Mr Prompt had pursued a legitimate aim and had expressed his views without any personal animosity towards Mr and Mrs Villemin. They had reached the finding of libel only on account of a lack of caution in the author's remarks.

The Court also observed that no criminal penalty had been imposed on Mr Prompt, who had instead been ordered to pay a fine and to publish a judicial announcement, a requirement that had applied only to reprints or new editions of the book. That penalty had not resulted in the withdrawal of the books already published and did not prevent the book from being republished provided that the announcement was included.

Principal facts

The applicant, Paul Prompt, is a French national who was born in 1926 and lives in Paris (France). He was the lawyer representing Bernard Laroche, a cousin of Jean-Marie Villemin, the father of Grégory Villemin, a four-year-old boy whose body was found in a river on 16 October 1984.

The day after the child's body was found, Jean-Marie Villemin received an anonymous letter claiming responsibility for the crime and stating that it had been an act of revenge. Bernard Laroche was charged with murder in November 1984. On 29 March 1985 Jean-Marie Villemin shot and killed Bernard Laroche at his home. In July 1985 Christine Villemin, Grégory Villemin's mother, was charged with the child's murder but the charges were dropped in February 1993.

On 17 February 2007 Mr Prompt published a book entitled "The Grégory case: have the courts spoken their last word?". Mr and Mrs Villemin brought proceedings in libel against Mr Prompt and the editor and the publishing company in respect of 28 passages from the book. On 27 October 2008 the Paris *tribunal de grande instance* found that two of the passages from the book had publicly libelled Mr Villemin by suspecting him of having wanted to kill another key figure in the case and of killing Bernard Laroche in front of the latter's son. The court ordered the defendants to pay a total of 5,500 euros (EUR), and further ordered that any reprint or new edition of the book should contain a judicial announcement of the judgment against them for libel.

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.

Mr Prompt and the editor and publishing company appealed, as did Mrs Villemin. The Court of Appeal upheld the judgment of the Paris *tribunal de grande instance* with regard to the two passages from the book which the latter had found to be libellous. In the Court of Appeal's view, it was indisputable that Mr Prompt had pursued a legitimate aim in writing and publishing a book designed to present to the public the point of view of the Laroche family's lawyer.

The Court of Appeal held that by suspecting Jean-Marie Villemin of attempting to commit murder, and even premeditated murder, Mr Prompt had made a rash accusation and therefore could not be deemed to have acted in good faith. It set aside the part of the judgment finding that libel had not been made out with regard to a passage which insinuated that the decision by Mrs Villemin and her husband to join the criminal proceedings as a civil party had been a strategic one. It ordered those concerned to pay a total of EUR 9,000 to Mr Villemin and EUR 4,500 to Mrs Villemin, and to publish a judicial announcement in any reprint or new edition of the book.

Mr Prompt appealed on points of law, relying on Article 10 (freedom of expression) of the Convention. In a judgment of 4 November 2011 the First Civil Division of the Court of Cassation allowed the part of the appeal concerning the passage insinuating that Mrs Villemin had joined the criminal proceedings as a civil party for a purpose that ran contrary to the establishment of the truth.

The parties did not apply to the court to which the case was remitted and Mrs Villemin withdrew her appeal against the judgment of 27 October 2008 and repaid the sums awarded by the judgment of 7 April 2010.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression) of the Convention, Mr Prompt alleged an infringement of his right to freedom of expression.

The application was lodged with the European Court of Human Rights on 3 May 2012.

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

Angelika **Nußberger** (Germany), *President*,
Ganna **Yudkivska** (Ukraine),
Erik **Møse** (Norway),
André **Potocki** (France),
Yonko **Grozev** (Bulgaria),
Carlo **Ranzoni** (Liechtenstein),
Mārtiņš **Mits** (Latvia),

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

Article 10

The Court observed that the judgment against Mr Prompt for libel had been given on account of the publication of his book. He could therefore claim to have been the victim of a restriction on the exercise of his freedom of expression.

The Court noted that this restriction had a legal basis in sections 29 and 32 of the Freedom of the Press Act of 29 July 1881, and had therefore been "prescribed by law". The Court further found that the restriction had pursued one of the legitimate aims referred to in the second paragraph of Article 10 of the Convention, namely "the protection of the reputation or rights of others".

The Court observed that Mr Prompt had expressed his views on a matter of general interest, in view of the level of public attention focused on the Gregory case and the issues raised by the case with regard to the functioning of the justice system. The Court noted that Mr Prompt disputed the domestic courts' finding that he had displayed a lack of caution – which had led to the conclusion that he had not acted in good faith and to the judgment against him – in claiming that Mr Villemin had intended to kill another key figure in the case and had murdered Bernard Laroche in front of his son. However, the Court observed that the judgment of the Paris Court of Appeal had given detailed reasons on these points. A number of factors showed that the domestic courts had examined Mr Prompt's case carefully and had duly weighed up the interests at stake. The judgment of the Paris *tribunal de grande instance* of 27 October 2008 had contained a detailed summary of Mr Prompt's book and, after examining the case, the domestic courts had found only two passages from the book to be libellous. With regard to those two passages, the Paris Court of Appeal had accepted that Mr Prompt had pursued a legitimate aim and had expressed his views without any personal animosity towards Mr and Mrs Villemin. It had reached its finding of libel only on account of a lack of caution in the author's remarks.

The Court considered that the principle whereby a degree of immoderation was allowed in expressing views on a matter of general interest could not validly be invoked in order to justify an allegation, based on mere hypothesis, that someone had intended to commit murder, or a reference to factual circumstances not borne out by the evidence in the file.

Lastly, the Court observed that no criminal penalty had been imposed on the applicant, who had simply been ordered, jointly and severally with the editor and the publishing company, to pay EUR 9,000 in damages and costs not included in the expenses. The courts had ordered the publication of a judicial announcement, taking care to impose that requirement only in respect of reprints or new editions of the book. This had not resulted in the withdrawal of the books already published and did not prevent the book from being republished provided that the announcement was included. The Court considered that the domestic courts, in spite of the limited discretion they enjoyed, had been entitled to consider that the interference with Mr Prompt's right to freedom of expression had been necessary in a democratic society for the protection of the reputation or rights of others.

Accordingly, there had been no violation of Article 10 of the Convention.

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.