



Ordering the blacking-out of photographs of a young man held captive and tortured was not contrary to the European Convention on Human Rights

In today's **Chamber** judgment¹ in the case of [Société de Conception de Presse et d'Édition v. France](#) (application no. 4683/11) 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 unauthorised publication by the magazine *Choc* of a photograph of a young man, I.H., taken by his torturers while he was in captivity.

The Court found in particular that the publication of the photograph, which had not been intended for public viewing, constituted serious interference with the private life of I.H.'s relatives.

The Court found that the restriction on freedom of expression had been proportionate, as the domestic courts had merely ordered that the photograph in question be blacked out, without censoring the article or ordering its withdrawal.

Principal facts

The applicant, Société de Conception de Presse et d'Édition, is a company incorporated under French law with its registered office in Noisy-Le-Grand (France).

In January 2006 I.H., aged 23, was held captive and tortured for 24 days. He died of his injuries. While the young man was being held, a photograph of him wearing shackles and showing visible signs of ill-treatment was sent to his family together with a ransom demand.

During the trial of the individuals suspected of involvement in the case, the magazine *Choc*, published by the applicant company, printed the photograph on the front cover of issue no. 120 and in four places inside the magazine, accompanied by other photographs and by an article several pages long.

Following publication of the photograph, I.H.'s mother and sister brought urgent proceedings against the publishing company for breach of privacy. On 20 May 2009 the Vice-President of the Paris *tribunal de grande instance* ordered the applicant company to withdraw the issue of the magazine from all sales outlets, on pain of a daily fine, and to pay 20,000 euros (EUR) to I.H.'s mother and EUR 10,000 to each of his sisters in compensation. The Paris Court of Appeal upheld the main points of that judgment, but replaced the order to withdraw the issue from sale by an order requiring the photograph in question to be blacked out in all the magazines put on sale, on pain of a daily fine.

The applicant company lodged an appeal on points of law which was dismissed by the Court of Cassation on 1 July 2010.

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.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), the applicant company alleged a violation of its right to freedom of expression.

The application was lodged with the European Court of Human Rights on 23 December 2010.

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 Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

Article 10

The Court noted that the article as a whole, which concerned a court case and crimes that had been committed, had contributed to a debate of general interest.

The Court observed that the photograph, which had not been intended for public viewing – despite being shown briefly during a television programme – had been published without the permission of I.H.’s relatives. The Court reiterated in that regard the importance it attached to journalists’ assumption of their ethical duties and responsibilities. It also shared the domestic courts’ view that publication of the photograph had shown a grave disregard for the grief of the young man’s family, in other words for the privacy of I.H.’s mother and sisters. The Court stressed that journalists were required to take into account the impact of the information and pictures which they published, especially where these were liable to adversely affect the private and family life of other persons, protected by Article 8 of the Convention.

The Court considered that in merely ordering the photograph to be blacked out and taking no action in relation to the text of the report or the other photographs accompanying it, the Paris Court of Appeal had ensured respect for the publication as a whole.

Lastly, the Court considered that, in view of the circumstances of the case and the interference with the private life of I.H.’s relatives, the penalty imposed had not been liable to have a chilling effect on freedom of expression.

Accordingly, the Court took the view that the restriction imposed by the domestic courts on the exercise of the publishing company’s rights had been based on relevant and sufficient reasons and had been proportionate to the legitimate aim pursued. It had therefore been necessary for the proper functioning of a democratic society.

The Court thus concluded that 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.