



Court rejects as manifestly ill-founded Mr Ramadan's application under Article 10 in connection with his conviction for disseminating the identity of a victim of sexual assault

In its decision in the case of [Ramadan v. France](#) (application no. 23443/23) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the applicant's conviction for having disseminated information about the identity of the presumed victim of a rape for which he was facing trial.

The Court noted that the domestic courts had clarified the concept of a "victim" for the purposes of the Freedom of the Press Act and had reaffirmed that only written authorisation from the person who had lodged the criminal complaint and joined the proceedings as a civil party could have released the applicant from his criminal liability under the law by waiving the duty of secrecy and allowing the dissemination of her identity. It observed that the courts had given consideration to the conduct of the victim, who had felt the need to discuss the events and had, in so doing, disclosed information enabling herself to be identified. In their assessment, the domestic courts had also weighed in the balance the applicant's right to free expression as part of his public defence, in view of the serious and stigmatising accusations made against him.

The Court saw no reason to question the assessment by the domestic courts, which had weighed the applicant's rights and those of the victim in the balance and had arrived at a solution based on relevant and sufficient grounds.

Lastly, the Court noted the moderate sums the applicant had been sentenced to pay in fines and damages, which had been reduced on appeal, in particular to take account of the fact that the victim had played a part in her own identification.

In the light of the above, the Court found that, having regard to the respondent State's wide margin of appreciation, the impugned interference with the applicant's freedom of expression had been proportionate to the legitimate aim pursued. It therefore declared the application inadmissible as manifestly ill-founded.

Principal facts

The applicant, Tariq Ramadan, is a Swiss national who is presented in the press articles submitted in support of his application as a Muslim intellectual, Islamologist and preacher.

On 2 February 2018 the investigating judge of the Paris *tribunal de grande instance* placed Mr Ramadan under judicial investigation on several counts of rape of a vulnerable person, allegedly perpetrated against X in Paris in 2012, and of rape, allegedly perpetrated against another person in Lyons in 2009.

On 29 March 2018 X joined the proceedings as a civil party.

Mr Ramadan pointed out that X's surname and first name had been disclosed in April and June on the internet site LeMuslimPost and in various media sources in France, Belgium, Switzerland and Luxembourg. He added that the alleged victim had created a blog under the pseudonym "Christelle" and that she had disclosed a photograph of her face on her Twitter account and her Facebook page, associating it with her pseudonym.

On 6 September 2019 Mr Ramadan mentioned X's name – the presumed victim and civil party in the proceedings against him – in a press release announcing the forthcoming publication of his book entitled "Devoir de vérité" ("Duty of Truth") and in a television interview. X's name also appeared in the book.

On 9 September 2019 X lodged a request with the president of the Paris *tribunal de grande instance* seeking, in particular, to have the information pointing to her identity removed from the press release and the sale of the book prohibited. The president of the *tribunal de grande instance* dismissed X's request in a judgment of 10 September 2019.

The book "Devoir de vérité" was published on 11 September 2019.

On 11 October 2019 X brought a criminal complaint for publication of the identity of a victim of sexual assault. In a judgment delivered on 6 November 2022 the *tribunal judiciaire* found Mr Ramadan guilty of having, on 6 September 2019, disseminated information on the identity of a victim of sexual assault and of being complicit in the dissemination of such information as the author of the book published on 11 September 2019. The book's publisher was found guilty on the second charge as principal. Mr Ramadan was sentenced to an immediate fine of 1,000 euros (EUR) and a suspended fine of EUR 2,000, and to pay the victim EUR 1,000 in compensation for the damage caused by the press release and the interview of 6 September 2019, while the publisher was sentenced to a fine of EUR 1,000. Both were sentenced, jointly, to pay EUR 4,000 in compensation for the damage caused by the publication of the work in question.

On 3 February 2022 the Paris Court of Appeal upheld the judgment of 6 November 2020.

The Court of Appeal reduced the penalties, sentencing Mr Ramadan to a fine of EUR 1,000 and his publisher to a fine of EUR 500. It took into consideration the fact that, while they had knowingly chosen to disseminate X's identity without having obtained her written consent, her identity had not been revealed by them, since X's identity had been disclosed or disseminated previously by numerous media sources and X herself had contributed to her own identification. The Court of Appeal also reduced the amount due in damages to take account of the fact that X had taken part in making her likeness known to the public and that she had failed to produce supporting documents enabling the court to assess the impact of the events on her personal life and health.

On 7 February 2023 the Court of Cassation dismissed Mr Ramadan's appeal on points of law.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 2 June 2023.

Relying on Article 10 (freedom of expression), the applicant complained of his conviction under section 39 *quinquies* of the Freedom of the Press Act of 29 July 1881.

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

Georges **Ravarani** (Luxembourg), *President*,
 Carlo **Ranzoni** (Liechtenstein),
 Mārtiņš **Mits** (Latvia),
 Stéphanie **Mourou-Vikström** (Monaco),
 María **Elósegui** (Spain),
 Mattias **Guyomar** (France),
 Mykola **Gnatovskyy** (Ukraine),

and also Martina **Keller**, *Deputy Section Registrar*.

Decision of the Court

Article 10

The Court noted that the applicant's conviction for disseminating X's name constituted an interference with his right to freedom of expression and reiterated that such interference would be in breach of the Convention if it was not "prescribed by law", did not pursue one or more of the legitimate aims listed in Article 10 § 2 and was not "necessary in a democratic society" to achieve the relevant aim or aims.

Section 39 *quinquies* of the Freedom of the Press Act provided that "the dissemination, by any means and in any medium whatsoever, of information on the identity of the victim of sexual assault or abuse, or of an identifiable likeness of that victim, [was] punishable by a fine of 15,000 euros", and that those provisions "[did] not apply where the victim [had] given her written consent".

The Court was convinced that the applicant had been in a position, in September 2019, to foresee that by mentioning X's name in a press release, an interview and a book, he would thereby be "disseminating" her identity within the meaning of section 39 *quinquies* of the Freedom of the Press Act. Nor could he have been unaware that the condition for such dissemination had not been fulfilled, since he had not been in possession of any written authorisation from X to that effect.

As to the concept of "victim", the Court noted that X had joined the proceedings as a civil party in March 2018, during the judicial investigation that had been initiated against the applicant, thereby positioning herself as someone having "personally suffered damage directly caused by the offence" for the purposes of Article 2 of the Code of Criminal Procedure, and thus as a victim of the serious criminal acts at issue in those proceedings. On that point, the Court referred to the findings of the domestic courts, observing that the *tribunal judiciaire* had provided the following clarification: "... the mere fact that [X] alleges that she is the victim of acts falling within the scope of the offences referred to in the Criminal Code as sexual assault or abuse satisfies the requirements of the text in question[, since] the Code of Criminal Procedure makes recurring reference to the term 'victim', and that term is used to designate those who present themselves as such and – where they have applied for civil-party status – claim to have been harmed by the acts in respect of which they have called for or joined the criminal proceedings". The Paris Court of Appeal, and subsequently the Court of Cassation, had agreed that the term "victim" "necessarily appli[ed] to anyone presenting him or herself as such".

The Court therefore noted that the national courts had rightly considered that X was to be regarded as a victim within the meaning of section 39 *quinquies* of the Freedom of the Press Act. It followed that the interference complained of had been prescribed by law.

As to the legitimate aim pursued – to protect the dignity and private life of the victim of a sexual offence and avoid pressure on him or her –, the present case concerned "the protection of the reputation or rights of others", namely those of X. The Court referred to the general principles set forth in particular in the [Perinçek v. Switzerland](#) judgment to determine whether the interference complained of had been necessary to achieve that aim.

In the present case, it could be seen that in disseminating X's identity, the applicant had not intended to take part in a debate on an issue of public interest, but had wished to defend himself publicly against accusations that he had committed sexual offences. The respondent State had accordingly enjoyed a wide margin of appreciation.

The Court then found that the Paris *tribunal judiciaire*, having found in its judgment of 6 November 2022 that the applicant's conviction on the basis of section 39 *quinquies* of the Freedom of the Press Act had interfered with his right to freedom of expression under Article 10 of the Convention, had been satisfied that this interference had been prescribed by law, had pursued a legitimate aim, and had constituted a proportionate means of achieving that aim. The *tribunal judiciaire* had then found

that the dissemination of X's name had been necessary neither for the exercise of the applicant's defence rights nor to secure his right to a fair trial, and that he had been at liberty to express his views on the acts of which he had been accused, provided he refrained from disseminating the name of the individual claiming to have been the victim of his actions.

Endorsing the reasoning of the Paris *tribunal judiciaire*, the Paris Court of Appeal, in its judgment of 3 February 2022, had nevertheless added that the interference with the applicant's freedom of expression was acceptable only if the choice of penalty took into account the circumstances in which the dissemination had taken place, together with the victim's own conduct; it had accordingly reduced not only the amount of the fine imposed on the applicant but also that of the damages he was to pay.

For its part, the Court of Cassation – having noted that the interference with freedom of expression was defined by law in a clear and precise manner and pursued at least one of the legitimate aims set out in Article 10 of the Convention – had pointed out that a person's reputation formed part of his or her personal identity and psychological integrity and therefore fell within the scope of his or her private life within the meaning of Article 8 of the Convention. It had emphasised that, since the right to respect for private life and the right to freedom of expression had the same normative force, it fell to the court hearing the case to strike a fair balance between those two rights in the event of a conflict between them.

Having next verified that the Paris Court of Appeal had carried out the requisite judicial review, the Court of Cassation had found that “in ruling as it [had], and given that the publication complained of [had] not contribut[ed] to a debate in the public interest, the Court of Appeal [had] correctly applied [Article 10 of the Convention]”.

The Court noted that the domestic courts had clarified the concept of “victim” for the purposes of the Freedom of the Press Act and had reaffirmed that only written authorisation from the victim could have released the applicant from his criminal liability under the law by waiving the duty of secrecy and allowing him to disseminate X's identity. The domestic courts had given consideration to the conduct of the victim, who had felt the need to discuss the events and had, in so doing, disclosed information enabling herself to be identified. In their assessment, the domestic courts had also weighed in the balance the applicant's right to express himself freely as part of his public defence, in view of the serious and stigmatising accusations made against him.

The Court saw no reason to question the assessment of the domestic courts, which had weighed the applicant's rights and those of X in the balance and had relied on relevant and sufficient grounds.

Lastly, the Court noted the moderate nature of the sums which the applicant had been sentenced to pay in fines and damages, and which had been decreased on appeal, in particular to take account of the fact that X had played a part in her own identification.

Having regard also to the respondent State's wide margin of appreciation, the Court found that the interference complained of had been proportionate to the legitimate aim pursued. The application, which was manifestly ill-founded and therefore inadmissible, had to be rejected pursuant to Article §§ 3 (a) and 4 of the Convention.

The decision is available only in French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpess@echr.coe.int | tel: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Denis Lambert (tel.: + 33 3 90 21 41 09)

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.