



Editions Plon v. France

Plon (société) v. Fr., App. No. 58148/00, 42 Eur. H.R. Rep. 36 (2006).

Country: France

Region: Europe

Year: 2004

Court: European Court of Human Rights European Court of Human Rights

Health Topics: Chronic and noncommunicable diseases, Health care and health services, Health information

Human Rights: Freedom of expression, Right to privacy

Facts

The applicant, a publishing company named Plon, and the authors of a book that contained information about former French President Mitterrand's secret battle with cancer, entitled "Le Grand Secret," were stopped through a court injunction by the family of President Mitterrand from distributing the book.

On 23 October 1996 the Paris tribunal de grande instance, ruling on the merits of the case, held that by disclosing information covered by the rules of medical confidentiality applicants had committed a wrongful act incurring civil liability. It accordingly ordered the ban on publication of "Le Grand Secret" to remain in force and the defendants to pay compensation to the family.

Applicant Company filed this complaint relying on Article 10 of the European Convention on Human Rights (Convention), and alleged that the order forbidding it to continue distribution of "Le Grand Secret" and the order requiring it to pay what it considered to be "exorbitant" damages had infringed its right to the freedom of expression.

Decision and Reasoning

1) It was held that there had been no violation of Article 10. The interim ban to sort out issues of medical confidentiality was necessary to meet a pressing social need.

2) It was held that the subsequent ruling to ban the book was in violation of Article 10 because it no longer met a pressing social need nine months into the President's death; hence the interference with applicant's right to freedom of expression was no longer justified.

Decision Excerpts

The urgent applications judge had given his ruling on the day following publication of "Le Grand Secret", which had taken place barely ten days after Mr Mitterrand's death. On a date so close in time to the President's death the distribution of a book which, in breach of the rules of medical secrecy, presented him as having knowingly lied to the French people could only have deepened his family's grief. Moreover, Mr Mitterrand's death, coming after a long fight against his illness and a few months after he left office, had aroused strong emotions among politicians and the public, so that the damage to his reputation done by the book was particularly serious.

That being so, the Court considered that the interim ban on distribution of "Le Grand Secret" until such time as the relevant courts had ruled on its compatibility with medical confidentiality and the rights of others could be regarded as "necessary in a democratic society" for the protection of the rights of President Mitterrand and his heirs and successors.

The measures ordered after trial on the merits;

The Court considered that the finding that the applicant company was civilly liable and the order requiring it to pay damages had been grounded on relevant and sufficient reasons. However, by that time keeping the ban on distribution of "Le Grand Secret" in force no longer met a "pressing social need" and was therefore disproportionate in relation to the aims pursued. The ruling had come more than nine months after President Mitterrand's death in a context which was different from the one in which the interim measure had been ordered, mainly because of the time that had elapsed since then.

