Chapter 13
Privacy and Accountability of Public Figures:
International Jurisprudence – The Cases of N. Campbell, M. Mosley, Caroline of Monaco, and F. Mitterrand

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ABSTRACT

Regarding the regular violation of the right of public figures to privacy by the media, through its jurisprudence, the European Court of Human Rights (ECtHR) imposes profound changes on European countries concerning the equilibrium between the fundamental rights of privacy and the freedom of expression in the media. The lack of violation of privacy in various European countries does not elicit unified solutions in case of damage as a result of breach of the right to privacy. Therefore, taking into account the particularities of national courts, it is evident that the court rules more objectively by investigating the facts on a case-by-case basis, within the margin of the principle of proportionality, creating a point of reference for national courts to follow and ensuring the protection of the freedom of expression, as initially established in the European Convention of Human Rights (ECHR). This chapter explores this.

A celebrity is a person who works hard all his life to be well-known, then wears dark glasses to avoid being recognized. (Fred Allen)

1. INTRODUCTION

This paper examines the conflict between Article 8 of the European Convention on Human Rights (ECHR) stating that everyone has a right to privacy in their private and family life, home and correspondence and Article 10 of the ECHR that protects the freedom of expression and speech. When examining the conception of the term “privacy” in various European countries, the connection between the legal system in each country, this term and the development of the notion, as well as the extent of the protection of the freedom of expression is evident.

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More specifically, the cases of Naomi Campbell and of M. Mosley concern the case-law of courts in the UK, the von Hannover case introduces rulings of German courts, while the case of the formal French President Francois Mitterrand reveals the perception of private life in France. The above individuals are undoubtedly public figures, raising public interest and dialogue, even when acting within the sphere of their private lives. The issue of when the private sphere of public figures may be violated by the press or the media places several questions, depending on the legal system of each country and the obligations of these countries to respect the ECHR, which they have incorporated in their own legal systems.

Moreover, the European Court of Human Rights (ECtHR), through its international jurisprudence, has played a formative role in balancing these fundamental rights in conflict, emphasizing the genuine protection of human dignity and judging each case based on the principle of proportionality. This way the Court, by judging such cases, stabilized its international jurisdiction and forced the European countries to be more careful in protecting the freedom of speech, which is inevitably a fundamental factor in democratic societies. Thus, the Court reconsidered the role and the function of the press, always in the framework of protecting human dignity. However, concerning public figures and the freedom of the press, the Court having reflected upon this freedom, undoubtedly empowered it, based on principles like that of democracy, of the diversity of political thoughts, truth, information and the freedom of communications. In addition, the Court reflected upon the freedom of speech and rendered it a synonym of public dialogue, of public criticism, of transparency and the control of political life in democratic societies.

2. THE PROTECTION OF PRIVATE LIFE, THE FREEDOM OF EXPRESSION AND THE PRESS

2.1 The Definition of Privacy

A wide array of definitions of privacy demonstrates the perception of the term in each country and justifies the rulings of the courts in those countries. Warren and Brandeis (Warren and Brandeis (1890), p. 213.) define the term of privacy as “the principle, which protects personal writings and any other productions of the intellect of or the emotions, is the right to privacy” (Wang, 2011). For some, privacy is a concept of “to be let alone” (Warren and Brandeis (1890), p. 193; Meulders-Klein, M.T. (1992), p. 771) or “(privacy) is a valuable concept” (DeCew (1997), p. 81). For others, it is “control over when and by whom the various parts of us can be sensed by others” (Parker (1974), p. 281.), or “the condition of not having undocumented personal knowledge about one possessed by others” (Parent (1983b), p. 269.). For others, privacy is “the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others” (Westin (1967), p. 7). It is clear that “privacy” in the sense of “to be let alone” today, with all the technological means being developed, could refer to only a small and rather unimportant area of an individual’s life.

The term “privacy” appears more in American law, whereby privacy concerns the individual itself and individual freedoms such as personal autonomy and freedom to make decisions on personal matters (Wright (2001), the freedom of religion, of association and the freedom and the protection of political beliefs, etc (Rigaux (1980), p. 706, Mavrias (1982), p.122-146, Wagner (1965),

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