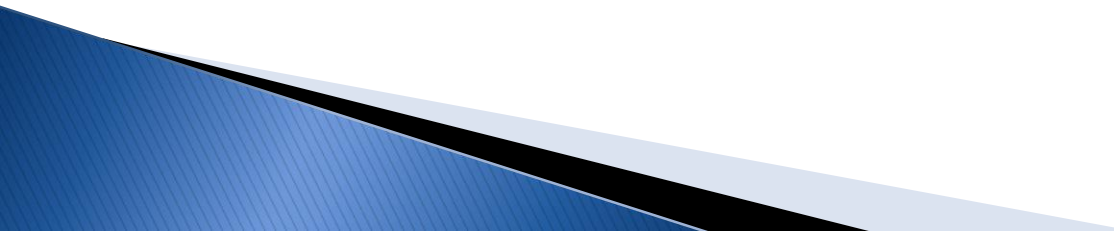


European Court of Human Rights

**Case of von Hannover v.
Germany**

Structure of the speech

- ▶ European Court of Human Rights
 - ▶ The case
 - ▶ Solution of the German Court
 - ▶ Solution of the ECHR
 - ▶ Discussion
- 

European Court of Human Rights

- ▶ The European Court of Human Rights is an **international court** set up in **1959**.
 - ▶ It rules on individual or State applications alleging violations of the civil and political rights set out in the **European Convention on Human Rights**.
 - ▶ Since **1998** it has sat as a **full-time court** and **individuals** can apply to it **directly**.
- 

European Court of Human Rights

- ▶ In almost fifty years the Court has delivered more than **10,000 judgments**.
- ▶ These are **binding** on the countries concerned and have led governments to alter their legislation and administrative practice in a wide range of areas.

European Court of Human Rights



- ▶ The Court is based in Strasbourg, France

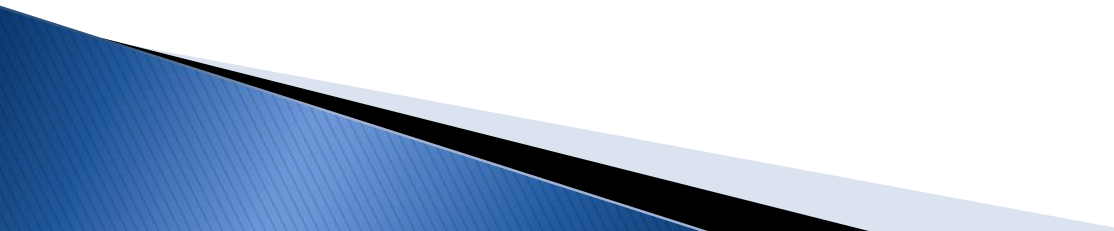
European Court of Human Rights

- ▶ The Court monitors respect for the human rights of **800 million Europeans** in the **47 Council of Europe member States** that have ratified the European Convention of Human Rights
- ▶ All European states, except the Republic of Belarus and the Vatican City State are member of the Council of Europe

European Court of Human Rights

- ▶ The Jurisdiction of the Court is based on the **European Convention of Human Rights**
 - ▶ This convention is an **international treaty** under which the member States of the Council of Europe promise to secure **fundamental civil** and **political rights**
 - ▶ The Convention, which was signed **on 4 November 1950** in Rome, entered into force in 1953.
- 

European Court of Human Rights

- ▶ The Convention *secures* in particular:
 - ▶ – the right to life,
 - ▶ – the right to a fair hearing,
 - ▶ – the right to **respect for private and family life**,
 - ▶ – **freedom of expression**,
 - ▶ – freedom of thought, conscience and religion and,
 - ▶ – the protection of property.
- 

European Court of Human Rights

- ▶ The Convention *prohibits* in particular:
 - ▶ – torture and inhuman or degrading treatment or punishment,
 - ▶ – slavery and forced labour,
 - ▶ – death penalty,
 - ▶ – arbitrary and unlawful detention, and
 - ▶ – discrimination in the enjoyment of the rights and freedoms set out in the Convention

European Court of Human Rights

- ▶ The Court is **not to be confused** with the

Court of Justice of the European Union

and the

International Court of Justice

European Court of Human Rights

- ▶ The Convention is **not to be confused** with the *Universal Declaration of Human Rights* and the *Charter of Fundamental Rights*

The Case

- ▶ Who is Caroline of Hanover?

The Princess of Hanover is the eldest child of *Prince Rainier III of Monaco* and his wife, the American former film actress *Grace Kelly*.

She is the wife of *Ernst August*, Prince of Hanover, the head of the House of Hanover

Caroline of Hanover



Her husband



Her lawyer



Photos that were the subject of the jurisdiction :



- ▶ The first photo shows her canoeing with her daughter Charlotte

Photos that were the subject of the jurisdiction :



- ▶ The second photo shows her with the actor Vincent Lindon in a restaurant.

Photos that were the subject of the jurisdiction :



- ▶ The third photo shows her doing her shopping with a bag slung over her shoulder,

Solution of the German Court

- ▶ The Federal Constitutional Court held that even figures of contemporary society “*par excellence*” were entitled to respect for their private life and that this was not limited to their home but also outside their home.

Solution of the German Court

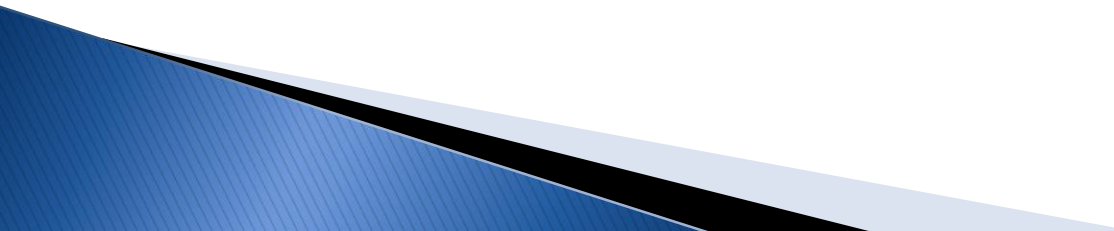
- ▶ Outside their home, however, they could not rely on the protection of their privacy unless they had retired to a **secluded place** – **away from the public eye** (*in eine örtliche Abgeschiedenheit*) – where it was objectively clear to everyone that they wanted to be alone and where, confident of being away from prying eyes, they behaved in a given situation in a manner in which they would not behave in a public place.

Solution of the German Court

- ▶ As a figure of contemporary society “*par excellence*”, the applicant has to **tolerate** the publication of photos in which she appeared in a public place even if they were **photos of** scenes from her **daily life** and not photos showing her exercising her official functions.

Solution of the German Court

The public has a **legitimate interest** in knowing where the applicant was staying and **how she behaved in public.**



Solution of the German Court

► This means:



► **Forbidden!**

Soloution of the German Court

▶ This means:



▶ **Forbidden!**

Solution of the German Court

► This means:



► **Allowed!**

Solution of the ECHR

- ▶ The Court considers that the publication of the photos and articles in question, **the sole purpose of which was to satisfy the curiosity** of a particular readership regarding the details of the applicant's private life, **cannot** be deemed to **contribute to any debate of general interest** to society despite the applicant being known to the public.

Solution of the ECHR

- ▶ The Court considers that the **criteria** on which the domestic courts based their decisions were **not sufficient** to protect the applicant's private life effectively.

Solution of the ECHR

- ▶ 1. As a figure of contemporary society “*par excellence*” she cannot – in the name of freedom of the press and the public interest – rely on protection of her private life unless she is in a secluded place out of the public eye and, moreover, succeeds in proving it (which can be difficult).

Solution of the ECHR

- ▶ Where that is not the case, she has to accept that she might be **photographed at almost any time, systematically**, and that the photos are then very widely disseminated even if, as was the case here, the photos and accompanying articles relate exclusively to details of her private life.

Solution of the ECHR

- ▶ 2. In the Court's view, the **criterion of spatial isolation**, although apposite in theory, is in **reality too vague** and **difficult** for the person concerned **to determine in advance**.

Solution of the ECHR

- ▶ The Court considers that the **decisive factor** in balancing the protection of private life against freedom of expression should lie in the **contribution** that the published photos and articles make **to a debate of general interest**.

Solution of the ECHR

- ▶ It is clear in the instant case that they made no such contribution, since the applicant exercises **no official function** and the photos and articles related exclusively to details of her private life.

Solution of the ECHR

► This means:



► **Forbidden!**

Solution of the ECHR

▶ This means:



▶ **Forbidden!**

Solution of the ECHR

► This means:



► **Forbidden!**