

Freedom of Expression and Information in Norway – recent cases and development

JUSTICE FOR FREE EXPRESSION IN 2015

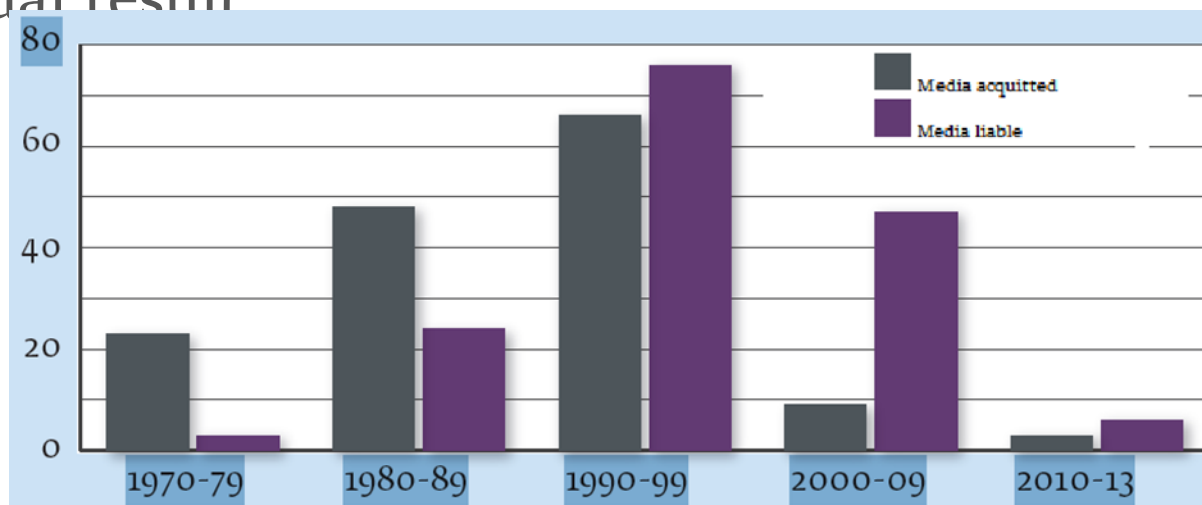
COLUMBIA UNIVERSITY, 4 AND 5 APRIL 2016

April 5, | Vidar Strømme
2016

SCHJØDT

BACKGROUND: INCORPORATION OF ECHR, AND 3 LOST CASES IN STRASBOURG

- Norway lost 3 cases on defamation in ECtHR in 1999/2000
- Norway incorporated ECHR into national law in 1999
- Actual result:



2015 CHANGES IN DEFAMATION AND PRIVACY LEGISLATION

- Decriminalization of defamation. Defamation is now only subject to torts in civil cases
- New regulation more or less a reference to ECHR Article 10, in order to keep up with ECtHR's dynamic interpretation
- Violation of *privacy*, still criminalized with a theoretical maximum of one year in prison

SUPREME COURT ON TERROR AND SOURCE PROTECTION – "ROLFSEN CASE"

20/11/2015

- Seizure by the Norwegian Police Security Service («PST») of documentary footage from filmmaker
- Documentary was to identify the motives of Norwegian citizens who become foreign fighters in Syria
- Seizure invalidated based on the protection of unpublished material which may expose unidentified journalistic sources, as established by Article 10
- Wide “source” concept
- Accepting importance of documentary work for society’s understanding
- Acceptance of “chilling effect”, in particular in matters related to terror

SUPREME COURT ON RIGHT TO INFORMATION – CLINIC FILM, 18/11/2015

- Access to a film from a surveillance camera in a clinic, that was a part of police investigation documents
- Psychotic person in custody by police resisted during transport to a clinic. Ambulance driver intervened with force, resulting in death of patient. Investigated, but no charges
- Supreme Court accepted broadcaster's demand to see the film – right to information ECHR Article 10
- High degree of public interest, no public hearing would occur, relatives' consent, covering of faces and film “ready and available”

2015 MONITORING PROJECT ON FREEDOM OF SPEECH - SOCIAL AND CULTURAL ASPECTS

- *Actual* Freedom of Speech, with contributions from major authors, journalists and institutions
- Progress in the legal affirmation of the freedom of the press, and opening up for participation in public debate by large groups of the population
- Negative tendencies in expansions of law enforcement's powers to conduct surveillance, in the possibility to discuss working life issues in the public, for whistleblowers, and in processes within unedited debate that might lead to self-limitations among groups such as women, ethnic minorities and people holding some political views.