



UNIVERSITY OF PERUGIA
DEPARTMENT OF PUBLIC LAW

“The Effectiveness of Rights in the Light of European Court of Human Rights
Case Law”

Section:	Principles of Criminal Law - Crimes – <i>Crimes of opinion and crimes against the honour</i>
Title:	<i>The borders of lawfulness of chronicle, between facts and opinions</i>
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Judgment:	European Court of Human Rights, Second Section, Decision of the 17th of July 2007, <i>Ormanni vs. Italia</i> (Application n° 30278/04)
Conventional Parameter:	Article 10
Key Words:	Freedom of expression; right of chronicle

The decision of Strasbourg subject of the research stands on two self-evident previous statements. The first: the press carries out a fundamental role in the construction of democratic society, in the way it has to communicate the information and the ideas about every matter of general interest and however in the observance of duties and of its responsibilities. The second: the valuation of lawfulness of the State interferences at the freedom of press avails itself of a peculiar way where the chronicle and the journalistic criticism turn against the judicial power, fundamentally for the necessity to guarantee the trust of the public opinion in the independence and in the impartiality of the respective members in the unwinding of their functions. The European Court therefore weighed the lamented violation of the art. 10 CEDU (right to the freedom of expression) with regard to the crime of defamation through the press provided by the art. 595 Italian penal code, considering the incriminating case in point conformable to the lawfulness and the suitability of the State interference as regards the freedom of expression. Then the European Court synthesized the qualifications of the right of chronicle suited to justify the defamatory facts, in harmony with the trend of the national jurisprudence with regard to the art. 51 of the penal code, recognizing in this case all the grounds able to legitimate this freedom, because the used expressions were considered equipped with a sufficiently close relation with the happened facts - of evident general interest in the way they involved the working of the judicial activity - and they weren't recognized as having the consistence of a personal and professional attack to the magistrate, in the end considering disproportionate the punishment that was inflicted to the claimant as regards to the lawful purpose of tutelage of other people's reputation.

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