

Polish Moot Court 2023- case brief

The present dispute is brought before the European Court of Human Rights. The Republic of Zeeland is a party to the European Convention on Human Rights.

Fred Jones is a popular Tik-Tok creator from a country in North America, who is related to the noble family of the Colryut from the Republic of Zeeland in Europe. Fred is an environmental activist, fighting for the implementation of the rights for trees around the world. He is even a director of “Forests’ Constitution” NGO, which focuses on implementation of rights for trees into different countries’ constitutions. The NGO’s representatives devote much time for meetings with different governmental institutions in order to promote their ideas. Since 1st of April he has been on vacation in Zeeland, where he mostly spends his days drinking coffee, playing golf and recording Tik-Tok videos about his daily life and environmental causes.

Velma Dinkley is a citizen of Zeeland, who works as a journalist for the Republican Journal of News. The company has many channels of publications, which currently include paper newspapers, online versions of the journal, and video-versions of the articles published on YouTube. Velma is a strong supporter of introducing rights for environment but she is also a fighter against class-divided society. As such she is always skeptical when persons from the nobility claim to be doing anything out of their good will. Her journalistic investigations often revolve around proving that the nobility cannot do any good for the society. Since Fred came to Zeeland and it’s been loudly announced by the media, as well as clearly known from his Tik-Toks, and manifestations he organizes every day, Velma has been following him.

So far, Velma has been very successful in gathering material. On the 8th of April she found out that Fred has been growing marijuana on his balcony and smoking it right before recording his Tik-Toks about social responsibility! She took plenty of photos of his plants – marijuana is not illegal in Zeeland but it is not legal either – it’s only tolerated, and its planting is not advised. And to her amazement – on Monday, the 10th of April she found him having a joint during a break from his work – he was standing right in front of his NGO’s building, which is directly next to a primary school. This time, Velma made sure to not only take photos but also record him smoking. Velma doesn’t know a lot about marijuana, but who knows if it’s environmentally friendly to smoke anything? It must produce toxic substances!

Fred has been quite stable in his routine – meeting with officials and manifesting for the rights of trees every day, spending plenty of time drinking coffee, doing sports... Only on the 15th of April has something interesting taken place – Velma caught Fred dressed up really formally and going out to the most expensive restaurant in the whole city. He was eating dinner with the Minister of Finances of Zeeland, Taylor Rogers, known as the greatest critic of the radical environmentally-friendly

movements in the whole of Zeeland! The men seemed to really enjoy each other's company, like friends or maybe even something more... And then, Fred gave some envelope to Taylor, who shook his head at first, but accepted the gift at last. Velma was wondering, what could be inside. When on the following Tuesday, Taylor Rogers announced that he would be voting in favor of the rights of nature being a new principle added to the Constitution, Velma could swear that the envelope was a bribe! She could not let it slip.

The following day, Velma, having received green light from the Journal, published a 30 minutes long video article on YT, where she discussed Fred's legal problems – she mentioned that he had been caught with a joint and growing marijuana, showed the photo of him smoking close to a primary school, and alleged that he might face legal sanctions. She insinuated that he might have even been a dealer since he had his own plantation in his apartment. She also showed the photos of his meeting with Taylor, she made some not so friendly comments about their possible romantic relationship, and then suggested that the meeting was Fred's tactic consisting in bribing the minister into endorsing Fred's environmental ideas. The video went viral on Tik-Tok and other social media, the links to it were also published in the online Republican Journal. Other journals and news platforms keep writing articles about the video and its content to this day.

It's been 2 months since this happened. Fred is devastated. He was actually in love with Taylor with whom he had gone on a date on that feral day with him and in the envelope there was nothing else than a romantic letter, but the public couldn't know that. Many platforms have forwarded misinformation about the fact that he had bribed the Minister. Now, Taylor doesn't want to have anything to do with him – and Fred already treated Taylor as his family! To make it worse, Taylor has lost his chair as the Minister.

Fred hasn't lost his position as the head of the NGO but he's lost many thousands of followers on Tik-Tok. Although he is very wealthy and gets monthly allowance from a family trust, he enjoys making money on Tik-Tok. Now, he is unsure whether that will be possible, since Tik-Tok warned him about a ban if the allegations of him smoking marijuana in public are true. And they are.

Fred was sure that Velma had no right to publish so many intimate aspects of his life and make plenty of speculations about his life which were not even true. On the 20th June, he decided to bring legal action against the Journal, whom he believes to be responsible for Velma's behavior. He filed a claim before the District Court in Zeeland, arguing that the publication of the photos, and the commentary made by Velma infringed his right to respect for private life, protected by the Constitution of Zeeland and by ECHR and that it amounted to defamation for which he should be compensated. His application was rejected on merits. Simply put, the Court decided, when hearing the Journal and Velma, that due to the noble family connotations of Fred and his involvement in the public life, these matters were of public interest.

Moreover, there is no tolerance for LGBT in Zeeland, and so the public should know if some persons, incl. the Ministers are a part of this group. The Court presented that art. 25 of the Code of Freedoms of Public Life of the Republic of Zeeland states that “nothing may take away a person’s freedom of expression if the person exercises it as part of their journalistic profession”, hence Velma could not be prevented from publishing the article in questions. There were also other arguments put forward, but most importantly, the Court reasoned that since the matters were public, and the Journal is the biggest Journal in the state of Zeeland, it was only fulfilling its function as a public watchdog and was justified in publishing the video. Any limitation would deter them from continuing their function and interfere with their freedom of expression. Even if the statements made against Fred were exaggerated, none of his rights were infringed.

Now, Fred is wondering, what he could do. He believes that through these judgments, Zeeland has infringed his rights under art. 8 ECHR. He is wondering whether he can file a claim before the ECtHR and what could be the outcome of the case.

The parties to the dispute are Fred Jones and the Republic of Zeeland. The parties are asked to prepare to answer the following questions:

1. Whether the Republic of Zeeland violated article 8 ECHR (the right to private life) by not sanctioning the actions of the Republican Journal.
2. Whether the Republican Journal was justified in publishing the private life’s details of Fred in light of art. 10 ECHR – freedom of expression.
3. Whether, in light of art. 14 ECHR, Fred was discriminated due to his sexual preferences?