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# **Analysis: Financial compensation for violations of the right to honour in Spain**

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*Report translated from Spanish by: Scott Griffen*

## Subject of study

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In Spain, the legal provision establishing the criteria for determining the amount of compensation for damage to honour is found in Art. 9 of Organic Law 1/1982 of 5 May on Civil protection of the right to honour, personal and family privacy, and individual likeness. This civil law applies to both criminal and civil cases involving protection of honour.

Compensation extends to "damage and harm caused" (Art. 9. 2. C), for which it is necessary to prove and quantify any such damage, and to moral harm.

The third paragraph of Art. 9 states: "The existence of harm is always assumed in cases of unlawful interference. Compensation can also be ordered for moral harm, which is to be calculated according to the circumstances of the case and the seriousness of the actual injury caused, for which the reach or audience of the medium through which the interference occurred shall be taken into account where applicable."

This provision establishes a presumption *iuris et de iure* in the case of moral harm, meaning that it does not allow evidence to the contrary. If a type of interference noted in Art. 7 of Organic Law 1/1982 occurs<sup>1</sup>, it is assumed that harm has occurred; this applies equally to criminal cases involving an attack on honour, where compensation will likewise be awarded for both actual damage and moral harm. Criminal judges or courts can decide on criminal liability and civil liability arising from a criminal act in the same sentence; it is not necessary to initiate separate proceedings.

In determining the amount of compensation for moral harm, courts are to take the following legal criteria into account:

- the circumstances of the case;
- the seriousness of the actual injury caused; and, where applicable,
- the reach or audience of the medium through which the interference occurred.

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<sup>1</sup> Art. 7: 1. The placement in any location of listening, filming or optical devices or of any other medium capable of recording or reproducing the private life of persons.

2. The usage of listening devices, optical devices or any other medium to obtain knowledge of the private life of persons or of private declarations or letters not destined for the person making use of such media, as well as the recording, documenting or reproduction thereof.

3. Revealing facts related to the private life of an individual or family that affect the individual or family's reputation or honour, as well as the revelation or publication of the content of letters, personal records or other personal writings of a private nature.

4. Revealing private information about a person or family obtained through professional or personal activity.

5. The recording, reproduction or publication via photograph, film or any other medium, of the image of a person in his or her private locations or moments, or outside of them, except in the cases noted in Art. 8.2.

6. The usage of the name, voice or likeness of a person for advertising, commercial or similar purposes.

7. The allegation of facts or the expression of value judgments through actions or expressions that in any way harm the dignity of a person, damage his or her reputation or attack his or her self-regard.

8. The usage of a crime committed by a convicted criminal at final judgment to obtain public notoriety or obtain economic advantage, or the revelation of false information about criminal acts when this results in harming the victim's dignity.

In Decision no. 962/2011 of 9 February, the Spanish Supreme Court (Civil Chamber, 1<sup>st</sup> Section) listed some of the circumstances considered in the Court's previous judgments such as the " 'vague and complex' nature of the offended party's professional activity (Decision of 23 March 1987); 'image capture' and 'development and form of publicity' (Decision of 22 June 1988); 'possible claims by other relatives' filed posthumously (Decision of 25 April 1989); 'personal and social circumstances of the offended party' (Decision of 27 October 1989); 'correction published by the newspaper' (Decision of 11 December 1989); 'nature of the harmful allegations' (Decision of 23 July 1990); the 'correction printed in the third edition of the book' (Decision of 4 February 1993); 'accusations derived from the commission of a tax offence and from the political and economic position of the person harmed' (Decision of 24 July 1997, and others)". These circumstances are not exhaustive, as there are others that can be taken into account. The honour of a minor person, for example, enjoys special protection in Spain.

An additional criterion, the "benefit obtained" by the person who caused the damage to honour, was repealed by Organic Law 5/2010 of 22 June.

Some authors take the view that harm to honour is not quantifiable on the basis that honour is something intangible. According to this argument, compensation for moral harm should be merely symbolic, e.g., the publication of a court ruling declaring that a person's right to honour has been violated should suffice. In Spain, however, it is courts and judges who establish the amount of compensation for moral harm according to the criteria noted above and based on their discretion.

In some cases, compensation has been merely symbolic, but this has been based less on the argument that honour is too valuable to be quantified and more on the fact that the consequences of the harm were limited. See, for instance, a 2000 ruling from the Barcelona Provincial Court:

" ... It is not clear that the defendants' publication has a wide circulation. Not even the plaintiff herself has pointed to this, or to any benefit obtained by the defendants, as a basis for determining the amount of compensation. On the other hand, the fact that it is a specialised publication does not necessarily imply that the devaluation in the image is greater than it would be if we were dealing with a general interest publication, or even a financial news publication with a different editorial line, since it must be taken into account that the defining characteristic of the defendants' publication is its 'sensationalist' line, which, contrary to what the plaintiff claims, implies a lesser degree of interference, considering that [the publication] gives the same treatment to all news stories it provides, which leads this Chamber to order symbolic compensation in the amount of one peseta, with the understanding that the publication of this judgment is sufficient for repairing the damage done"<sup>2</sup>.

However, in Decision no. 872/2008 of 25 September, the Supreme Court (Civil Chamber, 1<sup>st</sup> Section), overturned and modified previous lower-court rulings that had held the publication of a court judgment to be sufficient, and instead ordered compensation in the – not particularly excessive – amount of €1,200 for the two plaintiffs. The Supreme Court reasoned as follows:

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<sup>2</sup> Decision of 12 December 2000 of the Barcelona Provincial Court (17<sup>th</sup> Section), confirmed by Decision no. 80/2005 of 18 February of the Spanish Supreme Court.

“The amount of compensation for moral harm resulting from the unlawful interference was indirectly set at zero euros, since the partial publication of the court’s judgment was considered sufficient. This decision runs contrary to what is set forth in Art. 9.3 of Organic Law 1/1982, as, considering that there exists a presumption of harm *iuris et de iure* with the existence of an unlawful interference, a harm that was not denied in the judgment under appeal, the reparation of such harm extends, according to the literal meaning of Art. 9.3 of Organic Law 1/1982, to moral harm, which must be quantified according to the criteria set forth in said article. The judgment under appeal analyses this moral harm and takes into account the criteria in Art. 9.3 of the Organic Law, since it highlights the local nature of the publication and the dissemination of a brochure by one of the plaintiffs, and yet it does not apply the legal consequence of awarding compensation for said moral damage, considering the publication of the court’s judgment to be sufficient, [thus] leading to a result that is lacking in logic and reason in every respect, since it is one thing for the judgment to be published, as set forth in Art. 9.2 of the Organic Law 1/1982, and another thing to order the defendant to compensate the plaintiff for the harm caused, which is also referred to in Art. 9.2 and the criteria for which are set forth in Art. 9.3.”

## **Judicial instances in Spain**

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We have conducted research into the levels of compensation awarded by Spanish courts. Normally, a case involving an award of compensation can be heard at three instances in the Spanish judicial system: a first-instance court (“*órgano jurisdiccional ad quo*”), after which an appeal can be made to a second-instance court (“*tribunal ad quem*”), followed by an appeal to the Supreme Court. As a general rule, the Supreme Court is not involved in determining the amount of compensation except in cases in which there has been “an infraction regarding the legal criteria, a notable error, arbitrariness or [an act of] disproportion” (Supreme Court [Civil Chamber, 1<sup>st</sup> Section], Decision no. 544/2016 of 14 September). As the Supreme Court has put it: “Or the law was applied in a totally arbitrary, inadequate or irrational manner, or a spectacularly disproportionate amount in damages was awarded<sup>3</sup>, either too much or too little<sup>4</sup>”.

In addition to the three court instances noted above, there is also the possibility of appeal to the Spanish Constitutional Court in cases in which a party claims that his or her constitutionally protected rights – those found in Arts. 14 – 29 of the Spanish Constitution – have been violated. These rights include the rights to honour, privacy, individual likeness, freedom of information, freedom of expression, and the right to an effective judicial remedy. The judgments of the Constitutional Court are also expected to refrain from setting the amount of compensation and should limit themselves to determining whether a right protected by the Spanish Constitution has been violated and to interpreting such rights.

## **Freedom of expression and freedom of information**

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With regards to the interpretation of the first paragraph of Art. 20 of the Spanish Constitution, Spanish constitutional jurisprudence has differentiated between “freedom

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<sup>3</sup> Supreme Court Decisions of 18 May 1994, 15 July 1995 and 27 March 1998.

<sup>4</sup> Supreme Court (Civil Chamber, 1<sup>st</sup> Section), Decision no. 677/2004 of 7 July (compensation awarded was €3,000 each).

of expression” noted in part (a) and “freedom of information” noted in part (d). The difference between these rights has to do with the type of message. Freedom of expression in part (a) refers to subjective messages, i.e., thoughts and opinions. Freedom of information in part (d) on the other hand refers to messages that are facts, i.e., messages that refer to a reality external to the speaker<sup>5</sup>.

### **Honour of legal persons**

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In Spain, legal persons are also considered to have honour according to the doctrine set in the Constitutional Court ruling of 26 September 1995<sup>6</sup>. This principle states that legal persons can be the subjects of fundamental rights, and therefore of the right to honour, as constitutionally protected by Art. 18 of the Spanish Constitution and regulated by Law 1/82 of 5 May and by the procedural norm established in Law 62/1978 of 26 December (the latter later repealed by a law establishing preferential procedures for the protection of fundamental rights). Other court judgments have confirmed this doctrine<sup>7</sup>.

This concept is not without controversy among those who believe that the right to honour is directly linked to human dignity and thus cannot be extended to legal persons. Spain’s preconstitutional jurisprudence offered one way of solving this issue, by means of Art. 1902<sup>8</sup>.

### **Conflict between press freedom and the right to honour**

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Also relevant is the evolution of jurisprudence related to the resolution of conflicts that arise between press freedom as set forth in Art. 20.1 of the Spanish Constitution and other fundamental rights, especially the rights to honour and privacy. Initially, the right to honour acted as an almost absolute limit for press freedom upon application of Art. 20.4 of the Spanish Constitution<sup>9</sup>. Due to the influence of the Constitutional Court, beginning in 1986, Spanish courts, when confronted with a case in which both fundamental rights are at stake, must now carry out a balancing exercise<sup>10</sup>. Courts

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<sup>5</sup> A critical view of this interpretation can be found in Manuel Sánchez de Diego Fdez. de la Riva, “La problemática interpretación del párrafo 1º del artículo 20 de la Constitución Española”, in Pilar Cousido González and Manuel Santiago Freda and others, *Medios de comunicación, mensajes y derecho a la información*, Colex (Madrid, 2011), pgs. 41 -66.

<sup>6</sup> Constitutional Court (First Chamber) Decision No. 139/1995 of 26 September, in the case *Asfaltos Lopesan*.

<sup>7</sup> Decision of 12 December 2000 of the Barcelona Provincial Court (17<sup>th</sup> Section), confirmed by Supreme Court Decision no. 80/2005 of 18 February. See also the Supreme Court decisions of 14 March 1996, 20 March 1997 and 9 October 1997.

<sup>8</sup> See one view, which differs from that found in jurisprudence, for example in FELIU REY, Manuel Igancio: “Do legal persons have honour?”, Tecnos, 1990.

<sup>9</sup> “Art. 20.4. These freedoms are limited by respect for the rights recognised in this Title, by the legal provisions implementing it, and especially by the right to honour, to privacy, to personal reputation and to the protection of youth and childhood.” Translation credit: <https://www.boe.es/legislacion/documentos/ConstitucionINGLES.pdf>

<sup>10</sup> “In this required balancing exercise, the criminal court judge should have considered, additionally, the content itself of the journalistic article, the greater or lesser intensity of his language, his humorous tone, the fact that the plaintiff’s honour was affected not in his private or intimate sphere but in that which derives from his holding of public office, and the intention of political criticism in forming public opinion, as well as the lack of existence of *animus injuriandi*”. Constitutional Court (First Chamber) Decision no. 104/1986 of 17 July, *Soria Semanal* case.

subsequently recognized the importance of press freedom to democracy in terms of shaping public opinion, something essential in a democratic system.

Hence, press freedom is considered to occupy a “prevailing” – albeit not absolute – position when three criteria are in place: when this freedom is exercised by a media outlet formed for the purpose of shaping public opinion, e.g., a newspaper or radio station; the information at issue is true, in the sense that the media outlet undertook a sufficient and responsible effort to verify the information; and the information is of wider public interest in the sense of being part of the formation of public opinion essential to a democratic system. In these cases, press freedom is given precedence over the right to honour unless other highly relevant circumstances are involved, such as the right to honour of a minor.

Finally, despite the wide margin granted to subjective messages as part of the right to freedom of expression<sup>11</sup>, Spanish courts have developed the idea that this freedom does not include the right to insult. Courts will take various circumstances into account here: the extent to which the offensive expression was unnecessary, the extent to which the offensive expressions focused on the private life of the offended party, and the temporal permanence of the expressions.

As such, in its decision of 21 May 2015 the Supreme Court stated:

“ ... even having in mind the social prominence of the subject being criticised and the greater level of protection granted to freedom of expression and the press when these rights are exercised by professional journalists (Decisions 105/1990 and 29/2009 of the Constitutional Court), neither factual information nor opinion or criticism can be disseminated using insulting and offensive phrases and expressions that are unnecessary to communicate the idea or opinion in question ... It can be inferred from the evidence that all of these expressions and accusations are completely unnecessary for the journalistic aim being pursued and that the excuse “*ius retorquendi*” does not apply ..., as this latter right would provide protection to the irony and wittiness in the reply, but never to coarseness or vulgarity, with notably insulting and humiliating language. It is this conception that forms the basis of the plaintiff’s complaint that his right to honour was harmed by the defendant’s referring to him as a “crook”, a “good-for-nothing” and an “asshole”<sup>12</sup>.

According to Spanish jurisprudence, an insult, as a vehicle for offending another person, is defined as “insulting or offensive phrases and expressions that have no relation to the ideas and opinions being expressed and, therefore, are unnecessary to this aim, since Art. 20.1 a) of the Constitution does not recognise a supposed right to insult.”<sup>13</sup>

### **Liabile parties and joint liability**

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In cases in which offence to honour constitutes a criminal act, and the offence is committed “using media or supports of mechanical diffusion”, the rules of criminal

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<sup>11</sup> The idea that a thought or opinion cannot be a crime (*Cogitationis poenam nemo patitur*) has generated a false impression that the expression of a thought or opinion also cannot lead to legal sanctions or orders of compensation.

<sup>12</sup> Ruling of the Madrid District Court No. 13 of 22/6/15.

<sup>13</sup> Decision no. 288/2015 of 13 May of the Supreme Court (Civil Chamber, 1<sup>st</sup> Section).

liability indicate that “neither the accessories, nor those who have personally or actually favoured these shall be held criminally accountable<sup>14</sup>”.

There also exist specific rules on civil liability, both as derived from a criminal act as well as from “civil wrongs”. In such cases, the application of the principles “culpa in vigilando” and “culpa in eligendo”<sup>15</sup> establishes joint liability among the author of the content in question, the editor of the media outlet or programme, and the publisher. This means that all of these persons are jointly liable for the entire claim, and the compensation ordered can be collected from any of the defendants according to the plaintiff’s preference. This joint liability has its legal basis in Art. 1903 of the Civil Code<sup>16</sup> and, more concretely, in the second paragraph of Art. 65.2 of Law 14/1966 of 18 March on the Press, which dates to the Franco era.

Sometimes a complaint is not directed at a media outlet but rather at the author of the content and the organisation that the author represents. The organisation, however, can be exempted from liability. This occurred, for example, with the union UGT [General Union of Workers], which was exempted from liability by the Supreme Court (Civil Chamber, First Section) in Decision no. 288/2015 of 13 May since the case involved a personal act by a union official and not an institutional declaration or statement on the part of the union.

### **“Neutral reporting” (dissemination of third-party statements)**

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We must also touch briefly on the theory of “neutral reporting”. According to this theory, when a media outlet has limited itself to the function of disseminating information [from third parties], the media outlet, editor or journalist will be exempted from liability as long as the media outlet has identified the source, has not manipulated the message, has not interfered in the flow of the content and has not made the content its own.

With respect to neutral reporting, the Constitutional Court established in Decision no. 76/2002 of 8 April that in order for media content to be considered as “neutral reporting”,

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<sup>14</sup> Art. 30 of Organic Law 10/1995 of 23 November on the Penal Code (excerpt taken from official English translation).

<sup>15</sup> Art. 65.2 of the Press law of 1966 remains in effect: “The authors, editors, publishers, printers and importers or distributors of foreign publishers can be held jointly civilly liable for unlawful acts or omissions, not for criminal [acts]”.

<sup>16</sup> Article 1903: The obligation imposed pursuant to the preceding article shall be enforceable not only as a result of one’s own actions or omissions but also of those of such persons for whom one is liable. Parents are liable for damages caused by children under their care. Guardians are liable for damages caused by minors or incapacitated persons who are under their authority and who live in their company. Likewise, the owners or managers of an establishment or undertaking shall be liable for damages caused by their employees, in the service in which they are employed or in the performance of their duties. Persons or entities which own an educational centre other than a centre for higher education shall be liable for the damages caused by its underage students during the periods in which the latter are under the control or supervision of the Centre’s teaching staff, or while conducting school, extracurricular or complementary activities. The liability provided in the present article shall cease if the persons mentioned therein should evidence that they acted with all the diligence of an orderly *paterfamilias* to prevent the damage. (Translation credit: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=221319](http://www.wipo.int/wipolex/en/text.jsp?file_id=221319)).

"... statements must be newsworthy and made in the name of the particular individuals responsible for them and the media outlet must be merely the transmitter of such declarations without altering the importance that they have in the totality of the news, reelaborating or provoking them; in this case the truth requirement extends to the objective truth of the existence of the statements; (iii) the dissemination of the news or reporting may not exceed the aim of disseminating information by giving the content an insulting, denigratory or disproportionate nuance, because, as the Constitutional Court has emphasised, the Spanish Constitution does not recognise a hypothetical right to insult (Constitutional Court Decisions nos. 112/2000, 99/2002, 181/2006, 9/2007, 39/2007, 56/2008 of 14 April; Supreme Court Decisions of 18 February 2009 and 17 June 2009). The requirement of proportionality does not require journalists to dispense with the need to be concise or with other linguistic requirements associated with oral or written journalism except when, going beyond the need of being brief in the headline, the later contains expressions that, without a direct connection with the rest of the content, are prone to create specific doubts about the honourability of persons (STC 29/2009 of 26 January 26).<sup>17</sup>"

## Truthfulness

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When it comes to allegations that harm a person's honour, the concept of truthfulness plays a very important role. Defendants will be exempted from liability if the accuracy of the information is proven in the sense that the defendant undertook a fact-checking procedure, but if a court considers that the impugned information is untrue, this is used as a criterion for holding the plaintiff liable. In the absence of truth, courts are inclined to find for the plaintiff and order elevated compensation.

The concept of truthfulness does not refer to the absolute accuracy of the message with respect to external reality, but rather to a subjective truth: that the speaker believes it is true and has arrived at that conclusion after a process of investigation and inquiry. Therefore, the concept of truthfulness ...

"is not directed at demanding a rigorous and complete exactness of the content of the information, but rather to deny constitutional protection to those that transmit as true facts what are simply rumours, lacking any confirmation, or mere inventions or insinuations without verifying the reality through the process of investigation and inquiry that is essential to diligent journalism; all of this is without prejudice to the fact that complete accuracy of information can be complicated and [journalistic work] may incur circumstantial errors that do not affect that essence of what is being reported ... when the Constitution requires that information be "true" it is not so much stripping protection from information that may turn out to be erroneous as establishing a duty of diligence on journalists, of whom it can be expected that the information they publish has been checked against objective facts."

In this sense, the requirement of truth should be understood as fulfilled in those cases in which the journalist has carried out, prior to publication, a process of fact-checking done with due diligence, in line with courts' requirement that information be "properly obtained and reasonably cross-checked"<sup>18</sup>.

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<sup>17</sup> Decision no. 658/2009 of 20 October of the Supreme Court (Civil Chamber, 1<sup>st</sup> Section).

<sup>18</sup> Decision no. 123/1993 of 19 April. RTC 1993/123.

In any case, it is important to keep in mind that the existence of truth, including objective truth, in the sense that the information disseminated corresponds to reality, is not a blank check for journalists, as even the truth can offend.

### **On compensation and its evolution**

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It is not possible to establish an exact correlation between certain expressions that affect honour and the amount of compensation. The Supreme Court has observed:

“Given the relative and circumstantial nature of the crime of insult, the offensive meaning of words and expressions uttered and the corresponding harm to honour or personal dignity, [the amount of compensation] is to be determined through a casuistical weighing-up of the concomitant or concurrent factors and circumstances that influence the weight given to the words or actions of the individual in question, such that the literal or grammatical meaning may lose all or parts of its injurious meaning in the case in question.<sup>19</sup>”

For the purposes of this study we analysed almost 300 sentences from Spanish courts (the table in the annex contains a selection of these, excluding those cases in which no compensation was awarded or the compensation was merely symbolic). This analysis has yielded a number of conclusions that we believe to be relevant.

It can be seen in the table that the amount of compensation for the violation of honour ranges from €600 to €125,000. It must be said that, in the original lawsuits, the compensation claims were much higher, even up to €600,000.

Organic Law 5/2010 of 22 June eliminated the criterion of “benefit obtained”, a formula that was employed to quantify moral damage and consisted in determining, in a radio or television programme, the income and production costs. The difference between these two concepts determined the benefit obtained from the programme.

In some cases, defendants’ own statements boasting of the benefit that they obtained<sup>20</sup> had led courts to increase compensation from, e.g., €6,000<sup>21</sup> to €100,000<sup>22</sup>.

Attacks against honour made on television can entail compensation of more than €100,000. Many of these cases involve coverage of topics related to sexuality and are connected to entertainment programmes of the so-called “yellow press” or “tabloid press”. Below are several examples from this group of judgments where the amount of compensation awarded was quite high:

- Madrid Provincial Court (13<sup>th</sup> Section) Decision no. 472/2010 of 5 October (€125,000)

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<sup>19</sup> Decision no. 139/2016 of 10 November of the Supreme Court (5<sup>th</sup> Chamber).

<sup>20</sup> According to an interview with the magazine *Closer*, “that’s where it all began”. In addition the defendant himself wrote in his book, alluding to another incident with a different well-known athlete, p. 91, states: “with everything from this affair I got a tidy sum of €100,000”.

<sup>21</sup> Set in the decision of the Gavá District Court No. 3 of 19/02/2006.

<sup>22</sup> Barcelona Provincial Court (Section 1), Decision no. 357/2011 of 18 July.

- Madrid Provincial Court (11<sup>th</sup> Section) Decision no. 31/2008 of 23 January (€120,000)
- Valencia Provincial Court (7<sup>th</sup> Section) Decision of 20 September 2004 (€120,000)
- Supreme Court (Civil Chamber, 1<sup>st</sup> Section), Decision no. 605/2015 of 3 November (€100,000)

The revelation of information about a person arrested for sexual abuse, paedophilia or corruption of minors can generate large compensation awards, such as in Supreme Court (Civil Chamber, 1st Section) Decision no. 337/2016 of 20 May of the Supreme Court (€60,000) or Supreme Court (Civil Chamber, 1st Section) Decision no. 715/2015 of 14 December (€12,000).

In one recent case that took place on the Canary Islands, a man was accused of raping and abusing a three-year-old girl, who was the daughter of his domestic partner and who later died. Later, it was proven that the girl's death was an accident and that the man was innocent. However, the media had already "convicted" him to the point that he appeared on the cover of a newspaper with national circulation under the title "the face of a killer". The judges in the case found a clear violation of honour and awarded compensation of €60,000<sup>23</sup>. Other media outlets were also found liable in the same affair, including a Canary Islands newspaper that was ordered to pay €50,000 to the man, whom it identified as a murderer and abuser of the girl<sup>24</sup>.

Except in exceptional cases, political debate allows for a wide margin of criticism and in this vein we can affirm that the honour enjoys a narrower space of protection<sup>25</sup>. Given this context, it is worth highlighting a recent judgment<sup>26</sup> awarding compensation of €20,000 to a Podemos official. The judgment found the editor of the online publication Periodista Digital liable for having called the official a "thief" and a "good-for-nothing" on 15 March 2014 on the television programme "La Sexta Noche", statements that were repeated on the editor's Twitter account and in the programme "El Cascabel" on 17 March. The word "asshole" was used on the latter two occasions. In addition to compensation of €20,000, the court also ordered publication of its judgment on the website "Periodista Digital" at the request of the offended party.

Below is a table of 144 judgments in which courts awarded compensation for harm to honour. The average award was €24,580. In some cases the compensation was obtained from various defendants when the court cases were joined on the basis of information carried in various media outlets. In others the compensation was divided among various plaintiffs. We have also illustrated the information by comparing the amounts in relation to the frequency with which they occur:

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<sup>23</sup> Supreme Court (Civil Chamber, 1<sup>st</sup> Section), Decision no. 53/2017 of 27 January (€60,000).

<sup>24</sup> Supreme Court (Civil Chamber, 1<sup>st</sup> Section), Decision no. 62/2017 of 2 February (€50,000).

<sup>25</sup> In accordance with what is stated in the first paragraph of Art. 2 of Organic Law 1/1982: "Civil protection of honour, privacy, and individual likeness will remain delimited by the laws and social uses for the environment that, by its own acts, each persons reserves for himself and his family."

<sup>26</sup> Madrid Provincial Court (11<sup>th</sup> Section), Decision no. 364/2016 of 30 June (€20,000).

Amount of compensation	Frequency
Up to €1,999	15
From 2,000 to 4,999	23
From 5,000 to 9,999	20
From 10,000 to 19,999	25
From 20,000 to 29,999	14
From 30,000 to 39,999	16
From 40,000 to 49,000	4
From 50,000 to 59,999	5
From 60,000 to 79,000	12
From 80,000 to 99,999	3
More than 100,000	7
	144

It is difficult to say what the evolution of jurisprudence in this area will look like. The improvement of the economy favours an increase in compensation, but the average salary of media employees in Spain is much lower than awards in the range from €30,000 to €60,000, for which reason judges and courts should get accustomed to the idea that compensation for moral harm should not be a means for unjust enrichment.

## **International Press Institute**

### **The global network for media freedom**

The International Press Institute (IPI) is a global network of editors, journalists and media executives who share a common dedication to quality, independent journalism. Together, we promote the conditions that allow journalism to fulfill its public function, the most important of which is the media's ability to operate free from interference and without fear of retaliation.

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