European Court of Human Rights: privacy at shows and concerts – implications for video recording and broadcasting

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In *SIC – Sociedade Independente de Comunicação, S.A. v. Portugal* (No. 2), a judgment of 13 January 2026, the European Court of Human Rights (Fourth Section) examined the right to privacy of audience members at a comedy show whose recorded images and voices were subsequently broadcast on television and made available online by a commercial company without their express consent. The company, which held the rights to the recording of the show, relied upon its right to freedom of expression. The Court held, unanimously, that the fine imposed on the company by the domestic courts did not amount to a violation of the company's rights under Article 10 of the European Convention on Human Rights (ECHR).

In 2012, M.G. and M.C. attended a stand-up comedy show in a theatre in Lisbon. There was a notice at the entrance to the auditorium stating that a video recording would be made of the show. The comedian, J.C., also announced at the start of the show that it would be recorded. Halfway through the show, M.G. and M.C. became disturbed at some of the comments made by J.C. As they left their seats and made their way to leave the auditorium, a heated altercation took place between them and J.C.

A few days after the show, the applicant company acquired television broadcasting rights for the show. The applicant company owns several Portuguese television channels, including SIC Radical – a channel with a somewhat irreverent tone targeting a youthful audience. The show was subsequently included in a six-episode documentary about J.C. that was broadcast on *SIC Radical*. Parts of the altercation featured in episodes 1 and 4 and in a promotional video for the series. Episode 1 was broadcast 12 times and episode 4, 13 times. The promotional video was broadcast several times a day for at least 45 days. The content was also placed on *SIC Radical*'s website and on J.C.'s YouTube channel.

M.G. and M.C. requested the applicant company to remove their images from the broadcast. When this request was rejected, they initiated legal proceedings, claiming their images and voices had been broadcast without their consent. The domestic courts found in favour of the applicant company at lower instance and on appeal. The Supreme Court overturned the judgment of the Lisbon Court of

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Appeal and found in favour of M.G. and M.C. and ordered the applicant company to pay them EUR 40 000 in damages.

In its assessment of the case, the European Court of Human Rights noted its well established general principles that are applicable when the right to freedom of expression under Article 10 is balanced against the right to private life under Article 8. As set out in the *Axel Springer* and *Von Hannover (No. 2)* judgments (IRIS 2012-3:1/1), the relevant criteria are:

"(a) the contribution to a debate of general interest;

(b) how well known the person concerned is and what the subject of the report is;

(c) the conduct of the person concerned prior to publication of the article;

(d) how the information was obtained and how accurate it was;

(e) the content, form and consequences of the publication; and

(f) the severity of the sanction imposed".

The Court also noted the relevance of the medium used, as different media such as audiovisual media and the Internet, can have different types of impact. Moreover, audiovisual media service providers have the duty, when it comes to the transmission of a person's image, to "take into account, in so far as possible, the impact of the information, pictures or video recordings to be published prior to their dissemination".

The Court pointed to other relevant considerations concerning the right to private life, as guaranteed by Article 8 ECHR, for instance that a "person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics and distinguishes the person from his or her peers". The right to protect one's image therefore "presupposes the right to control the use of that image", which covers "an opportunity to veto publication of the image" and the ability "to object to the recording, conservation and reproduction of the image".

The Court noted that the national courts had not weighed up the conflicting interests at play in the case, but "focused exclusively on the legal question of consent". In its own examination of the wider interests, the Court referred to the applicant company's undisputed assertion that M.G. and M.C. are private individuals. Their mere attendance at the show did not indicate that they sought exposure or publicity. Notwithstanding,

"*the written and verbal notices and the presence of cameras during the show [...], the conduct of M.G. and M.C. did not clearly or unequivocally demonstrate their*

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tacit consent to the recording and prominent use of their images and voices during their heated discussion with the comedian for the broadcast of the documentary series about the career of the comedian J.C. on the SIC Radical channel and its commercial promotion."

Nor could they have reasonably assumed that their images and voices would be edited and taken out of context for commercial purposes. Their request to have their images and voices removed from the relevant content "constitutes further evidence of the absence of clear and unequivocal consent".

Furthermore, the Court found that the applicant company:

"*failed to take steps to minimise any adverse effects by not seeking the explicit consent of M.G. or M.C. and by not blurring their faces or distorting their voices [...], thus creating a feeling of being ridiculed and increased public exposure*".

It considered the nature and severity of the sanction not to be excessive in light of the overall circumstances. It accordingly held, unanimously, that the applicant company's right to freedom of expression under Article 10 had not been violated.

SIC – Sociedade Independente de Comunicação, S.A. v. Portugal (No. 2), No. 2746/21, 13 January 2026 ECLI:CE:ECHR:2026:0113JUD000274621

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