

European Court of Human Rights: *Atresmedia Corporacion de Medios de Comunicacion S.A. v. Spain*

IRIS 2026-9:1/5

Melinda Rucz
Institute for Information Law (IViR)

On 8 October 2026, the European Court of Human Rights (the Court) held that a regulatory restriction on the format of an election debate broadcast by a Spanish private television channel did not violate the right to freedom of expression (Article 10 of the European Convention on Human Rights). The case provided an opportunity for the Court to examine potential tensions between private media outlets' editorial freedom and states' positive obligations to safeguard pluralism in the audiovisual media sector during election periods.

In the run-up to the national parliamentary elections in Spain in April 2019, the television channel Antena 3, part of the Atresmedia group, planned to organise an election debate. It invited the leaders of the five political parties that were expected, on the basis of polling data, to receive the most votes in the upcoming elections. Four of the five parties had already secured parliamentary seats in the previous general election held in 2016. The fifth party, Vox, had not received enough votes to secure a seat in that previous election.

Three parties that had not been invited to the election debate complained to the Central Electoral Commission (CEC) about the criteria used by the television channel to determine which parties to invite to the debate. These three parties had not received enough votes to win any parliamentary seats in the previous election. They argued that the planned debate violated the principles of pluralism, proportionality, equality and neutrality as it gave more airtime to a party that had no seats in the parliament than to parties that were represented in parliament.

The Spanish law on the electoral system (Institutional Law no. 5/1985) obliges private broadcasters to respect pluralism, equality, proportionality and neutrality in media coverage of election debates and interviews. Instruction no. 4/2011, adopted by the CEC, seeks to clarify how private media organisations should meet this obligation. It stipulates that, while private broadcasters are not obliged to organise election debates, when they do so, they "must take particular account of the results obtained by each political formation in the most recent equivalent elections". Parties that secured no seats in the previous election cannot receive more airtime than parties that did secure seats.

In its defence, the applicant company, Atresmedia, argued that it was planning to organise more debates and election programmes to which the three parties that had lodged the complaint with the CEC would be invited. It also pointed out that the political landscape had significantly shifted since the previous election. The popularity of Vox had increased rapidly, demonstrated by the fact that it had received 10.96% of votes in a regional election a few months prior to the national election. The polling data underpinning Atresmedia's selection criteria had been derived from a survey conducted by the Spanish Centre for Sociological Research, an independent public body which, according to the applicant company, underscored the objective and verifiable nature of its assessment of Vox's popularity. As a result, the applicant company argued that the debate in its planned form clearly had a strong informative value for the public.

The CEC rejected the applicant company's reasoning and prohibited the debate in its proposed format. It stressed that Spanish law laid down in clear terms the criteria that should guide private broadcasters' plans for election debates and these could not be replaced by alternative considerations such as polling data. Moreover, it was irrelevant that the three complainants would be invited to participate in other debates and election programmes, since the principles established in the relevant law applied to each debate individually.

In its appeal to the Spanish Supreme Court, the applicant company argued that the CEC's decision interfered with its right to impart complete information to voters ahead of the general election. The Supreme Court dismissed the appeal, stressing that the regulatory framework unequivocally prescribed the preferential treatment of established political parties in election debates, leaving no room for shifts in the political landscape to change the application of the relevant criteria. As a result, Antena 3 withdrew Vox's invitation and held the debate with the remaining four parties. It subsequently brought a case before the Court under Article 10 of the European Convention on Human Rights (right to freedom of expression), read in light of Article 3 of Protocol No. 1 (right to free elections).

At the outset of its judgment, the Court recalled its well-established principles regarding press freedom. It stressed that it was the media's duty to impart information of public interest, and their freedom of expression extended both to the substance and the format of the expression. Political debate surrounding elections played a particularly important role as a "discussion of candidates and their programmes contributes to the public's right to receive information and strengthens voters' ability to make informed choices between candidates for office". At the same time, the Court insisted that the crucial role of the press in facilitating political debate could only be realised in a climate of pluralism. Since audiovisual media was a "sensitive sector", states had a positive obligation to guarantee true effective pluralism through their legal and administrative frameworks. In this light, the principle of pluralism, along with those of equality of

opportunity between political competitors and neutrality of the electoral process, could legitimise restrictions on media activities in election periods that "would not usually be acceptable".

Applying these general principles, the Court first considered the scope of the margin of appreciation to be afforded to Spain. On the one hand, it emphasised that "there are numerous ways of organising and running electoral systems" reflecting different historical traditions and social contexts, pointing to a wide margin of appreciation. Moreover, states had considerable leeway in determining the means by which they fulfilled their positive obligations. On the other hand, the Court insisted that there was "little scope" for restrictions on freedom of expression in relation to matters of public interest. The Court concluded that the margin of appreciation in the case should be "relatively narrow", although subsequently it continued to refer to the broader margin of appreciation afforded to states in ensuring pluralism during election times in its assessment.

The Court then assessed whether the reasons provided by the national authorities for the interference were relevant and sufficient. In terms of their relevance, it observed that the CEC had merely applied the generally applicable rules set out by the relevant law. The proportional equality rule based on previous election results, established in Spanish law, was considered justified as it also reflected the approach recommended by the Venice Commission's Code of Good Practice in Electoral Matters. Moreover, the Court was persuaded by the Supreme Court's reasoning that reliance on polling data to determine media coverage would introduce subjectivity and uncertainty to the matter. As a result, the Court found "no reason to depart" from the assessment of the national authorities.

With regard to the sufficiency of the reasons, the Court stressed that the CEC had only intervened after the complaint was lodged by affected political parties, and was satisfied with its efforts to balance the editorial freedom of the applicant company with the interest of other political parties not to be excluded from the election debate. It also found that the measure was not a "permanent and absolute ban" as the applicant company was free to organise an eight-party debate featuring Vox as well as the three complaining parties. The Court insisted that the CEC had not imposed a single format for the debate. The applicant company could have also hosted its planned five-party debate via radio or the internet as the rules in question only applied to television. The Court considered it unnecessary to examine whether these options were equivalent alternatives, and ultimately found that the "applicant company retained editorial discretion to adapt the format of the debate so as to comply with the relevant legal framework".

Accordingly, the Court concluded that the reasons provided by the national authorities for the interference were relevant and sufficient, and held, unanimously, that there had been no violation of Article 10.

European Court of Human Rights, Atresmedia Corporacion de Medios de Comunicacion S.A. v. Spain, application no. 29807/23, 8 October 2026

[https://hudoc.echr.coe.int/eng#{%22appno%22:\[%2229807/23%22\],%22itemid%22:\[%22001-252665%22\]}](https://hudoc.echr.coe.int/eng#{%22appno%22:[%2229807/23%22],%22itemid%22:[%22001-252665%22]})

