[ES] Court Obliges TVE to Broadcast a Communiqué from a Journalist

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In February 2007, the Spanish national public service broadcaster TVE had widely advertised a programme to be shown during its primetime: an interview conducted by journalist Jesús Quintero, who had a weekly show on TVE, with another journalist, José María García, formerly one of the most popular and controversial Spanish journalists who had been out of the spotlight for several years due to illness. The interview had already been recorded, and TVE used some clips from this in the advertising for the programme.

However, shortly before the beginning of the programme, TVE decided not to broadcast the interview because the channel considered that it included insults and denigration of several prominent personalities. TVE only showed a fragment of the interview in which José María García criticised the newly appointed Director of RTVE. TVE said that by showing that part of the interview, it wanted to demonstrate that TVE was not removing the programme to prevent the airing of this criticism, but to protect the reputation of other people allegedly insulted during the interview.

TVE' s decision was very controversial and strongly contested by both the interviewer, Jesús Quintero (who decided to end his collaboration with TVE a few days later) and by the interviewee José María García. Mr. García had been condemned several times during his career for insulting public people, but he insisted that it was obvious in this instance that while he had expressed strong opinions about different politicians, that those opinions could not in any case be considered as insults.

The interview was later shown by el mundo.es, the online version of one of Spain's most popular newspapers, El Mundo. There were no subsequent press reports that would indicate that any of those persons who allegedly were insulted had started proceedings against Mr. García for any of the opinions he expressed during the programme. After these images were shown, there was an intense public debate over whether or not the criticisms of José María García amounted to insults, and as to whether or not the decision of TVE had been justified.

José María García decided to exercise his right of reply, as regulated in Spain by the Organic Law 2/1984, of 26 March 1984. In May 2007, the relevant Court upheld his request, so TVE was obliged to broadcast, during its primetime, the

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reading of a communiqué from José María García in which he rebutted the accusations of TVE and denied having insulted anyone. TVE has appealed that judgment and insists that the right of reply only implies giving that the other party has the right to express their view, but that it does not mean that their claims are accepted, which is an issue that still remains undecided.

Sentencia 71/2007 del Juzgado de Primera Instancia e Instrucción nº 2 de Pozuelo de Alarcón, José María García c. TVE, S.A. y Javier Pons

http://estaticos.elmundo.es/documentos/2007/05/29/pozuelo.pdf

Judgment 71/2007 of the Tribunal of First Instance and Inquiry n 2 of Pozuelo de Alarcón, José María García c. TVE, S.A. y Javier Pons

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