European Court of Human Rights: Rubio Dosamantes v. Spain

IRIS 2017-4:1/1

Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

The European Court of Human Rights (ECtHR) has, once again, clarified that media freedom and entertainment news must respect the right of privacy of individuals, including when commenting on the private life of media celebrities. The case of Rubio Dosamantes v. Spain deals with an application by the Mexican pop singer whose artist name is Paulina Rubio, complaining that her reputation and private life had been harmed by remarks in various Spanish TV programmes. The ECtHR held that the dismissal of Dosamantes' claims by the Spanish courts was a breach of Article 8 of the European Convention on Human Rights (ECHR). The fact that the singer was well known to the public and that rumours about her private life and sexuality had been widely circulated, including on the Internet, did not justify the broadcast of interviews about her relationships and sexuality, merely repeating such rumours. The ECtHR found that Ms. Rubio's fame as a singer did not mean that her activities or conduct in her private life should be regarded as necessarily falling within the public interest.

In 2005 Ms. Rubio's former manager gave interviews on three television programmes concerning various aspects of the singer's private life. Ms. Rubio brought a civil action, seeking protection of her right to honour and to privacy, against her former manager and various television presenters and staff members, television production companies, and television stations. The first-instance court, and later the court of appeal, dismissed Ms. Rubio's claims. They found that the comments concerning the drug use of Ms. Rubio's boyfriend, R.B., had related solely to the state of their relationship and had not alleged that Ms. Rubio had incited him directly to take drugs. As to the references to Ms. Rubio's sexual orientation, the Spanish courts considered that they had not impugned her honour, as homosexuality should no longer be considered dishonourable. Furthermore Ms. Rubio herself had tacitly consented to the debate on the subject. Lastly, the Spanish courts found that the remarks concerning Ms. Rubio's alleged ill-treatment of R.B. were likewise not damaging to her reputation. Further appeals were declared inadmissible by the Supreme Court, and finally also by the Constitutional Court.

In her complaint lodged with the ECtHR, Ms. Rubio alleged that the remarks made about her during the disputed TV programmes had impugned her honour and breached her right to respect for her private life, as protected by Article 8 of the

© European Audiovisual Observatory (Council of Europe) 2026

Convention. As in former cases dealt with by the ECtHR (see IRIS 2012-3/1 and IRIS 2016-1/3), the question was whether a fair balance had been struck by the national courts between the right to respect for private life, including her right to reputation, and the right of the opposing party to freedom of expression. The ECtHR refers to the relevant criteria applied in other cases in this balancing, and focuses on (1) the contribution to a debate of public interest and the degree of notoriety of Ms. Rubio; (2) the prior conduct of Ms. Rubio; and (3) the content, form, and consequences of the comments uttered in the TV programmes at issue.

The ECtHR observed that the domestic courts had based their decisions merely on the fact that Ms. Rubio was famous, while emphasising that a public figure well known as a singer also has a right of privacy with regard to activities or conduct in his or her private life. According to the ECtHR, the TV programmes in question, based as they were on strictly private aspects of Ms. Rubio's life, did not have any public interest that could legitimise the disclosure of the information, in spite of her fame, as the public had no legitimate interest in knowing certain intimate details about her private life. Even assuming that there had been a public interest, in parallel to the commercial interest of the television channels in broadcasting the programmes, the ECtHR found that those interests were outweighed by a person's individual right to the effective protection of his or her privacy. Next the ECtHR found that the fact that Ms. Rubio had earlier benefitted from extensive media attention did not authorise the TV channels to broadcast unchecked and unlimited comments about her private life. It reiterated that certain events of private and family life were given particularly careful protection under Article 8 of the Convention, and that therefore journalists and media had to show prudence and precaution when discussing them. The Spanish courts had therefore had a duty to assess the TV programmes in question, in order to distinguish between, and to weigh in the balance, those matters which were intimately part of Ms. Rubio's private life and those which might have had a legitimate public interest. The ECtHR however observed that the national courts had not carefully weighed those rights and interests in the balance, but had merely taken the view that the comments in question had not impugned Ms. Rubio's honour. They had not examined the criteria to be taken into account in order to make a fair assessment of the balance between the right to respect for freedom of expression and the right to respect for a person's private life. Having regard to the margin of appreciation afforded to the domestic authorities when it came to weighing up the various interests, the ECtHR found unanimously that they had failed in their positive obligations to ensure the protection of Ms. Rubio's privacy. There had therefore been a violation of Article 8 (see also IRIS 2016-6/1).

Arrêt de la Cour européenne des droits de l'homme, troisième section, affaire Rubio Dosamantes c. Espagne, requête n° 20996/10, 21 févier 2017

© European Audiovisual Observatory (Council of Europe) 2026

Judgment by the European Court of Human Rights, Third Section, Rubio Dosamantes v. Spain, Application no. 20996/10, 21 February 2017

https://hudoc.echr.coe.int/eng?i=001-171528

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026