[ES] Constitutional Court overturns Supreme Court´s ruling due to violation of freedom of expression

IRIS 2020-4:1/22

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In 2017, the Supreme Court convicted an artist of the crime of glorifying terrorism and humiliating its victims because of several comments he posted on the social network Twitter between November 2013 and January 2014. Specifically, it found that the messages posted were humiliating and that they fed hate speech by legitimising terrorism.

Now, the Plenary of the Constitutional Court has upheld the appeal for protection filed by the convicted person and has annulled the sentence of the Criminal Chamber of the Supreme Court. In its ruling, the Constitutional Court considered that the appellant´s right to freedom of expression had been violated. Although it was not unaware of the reprehensible aspects of the tweets, the Constitutional Court considered that the published tweets were likely to be interpreted as the product of critical intent in the political and social field of people who were public figures. That is, according to the Constitutional Court, the communicative intention of the appellant prevailed in relation to the authorship, context and circumstances of the messages issued, and by omitting this assessment, the fundamental right to freedom of expression had been violated.

It should be noted that the judgement prompted a dissenting opinion; one judge concluded that there had been a second victimisation of those offended by the crime of terrorism, which multiplied their suffering by forcing them to recall such painful episodes. In his opinion, therefore, the appeal on the grounds of unconstitutionality should have been rejected.

Sentencia del Pleno del Tribunal Constitucional en el recurso de amparo núm. 2476-2017

https://www.tribunalconstitucional.es/NotasDePrensaDocumentos/NP_2020_035/2017-2476STC.pdf

Ruling of the Plenary of the Constitutional Court on Appeal No. 2476-2017

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