

[ES] Spanish court clarifies the limits on the reuse of viral television footage

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The Madrid Provincial Court (*Audiencia Provincial de Madrid*) has confirmed and partially expanded a judgment against Spanish broadcaster Atresmedia, finding that the repeated reuse of footage featuring a private individual over a period of more than fifteen years infringed her right to her own image and, in certain instances, her right to honour. The Court increased the damages awarded from EUR 40 000 to EUR 50 000 and ordered the broadcaster to remove the contested recordings from its platforms and avoid any further similar use.

The case concerns a television interview broadcast by Antena 3 in 2008 with a lifeguard following an incident at a public swimming pool. During the interview, the interviewee used the expression "*la he liado parda*" (I've really messed things up), which rapidly became one of Spain's best-known television catchphrases and was subsequently circulated across television programmes, online platforms and social media.

According to the Court, the claimant had consented solely to the original interview and had not authorised the subsequent reuse of her image and voice for other purposes. While the initial broadcast fell within the legitimate exercise of freedom of information, the repeated use of the recording in entertainment programmes was considered to exceed the scope of the original consent.

The judgment draws a clear distinction between informational and entertainment uses of previously broadcast material. The Court considered that rebroadcasts in programmes with a genuine journalistic or documentary purpose, including retrospectives on television history, remained justified by the public interest. However, repeated use of the footage in entertainment formats relying primarily on the video's viral popularity lacked sufficient informational value and therefore constituted an unlawful interference with the claimant's image rights.

The Court was particularly critical of two broadcasts of the satirical programme *El Intermedio*, in which the claimant's voice was used to parody public officials for comic effect. In those instances, the Court found that the broadcaster had infringed not only the claimant's right to her own image but also her right to honour. The judges held that the claimant, a private individual with no role in the political debate, had been turned into an object of ridicule and that her voice had

been used in a manner that undermined her dignity. The decision emphasises that the *animus iocandi* (humorous intent) cannot justify any form of parody where it disproportionately affects the rights of private persons.

The appellate court also considered evidence concerning the long-term impact of the repeated broadcasts on the claimant's personal and professional life. A psychological report submitted during the proceedings described episodes of anxiety, workplace harassment and panic attacks linked to her continued public identification with the viral clip. Although the Court acknowledged that Atresmedia could not be held responsible for the entire online spread of the recording, it concluded that the broadcaster had significantly contributed to maintaining the video's notoriety through repeated broadcasts on high-audience television programmes.

A key legal aspect of the judgment is the distinction between the protection provided to honour and to image rights. Whereas only the two satirical broadcasts were found to have infringed the claimant's honour, the Court held that the vast majority of the subsequent reuses of the interview constituted unlawful interferences with her right to control the use of her image and voice. The judges rejected the argument that consent granted for the original interview could be interpreted as a green light for future exploitation in different contexts.

The decision provides additional clarity on the limits of broadcasters' ability to reuse archival material featuring private individuals whose appearances later gain viral significance. It confirms that the public interest justifying an initial news broadcast does not necessarily extend to subsequent entertainment uses and that prolonged commercial exploitation of such material may require renewed consent. The judgment also illustrates the growing willingness of Spanish courts to distinguish carefully between editorial uses protected by freedom of expression and entertainment uses primarily intended to capitalise on the popularity of viral audiovisual content.

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https://www.derechoartificial.com/fuentes/SAP_M_5940_2026.pdf

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