InDret

Freedom of Speech and Power Struggles between Courts

Defamation, Privacy and Freedom of Speech in the Cases Decided by the First Chamber of the Supreme Court between 1998 and 2000

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Summary

• *Introduction*

In this issue, *Indret* analyzes, in three different ways, 113 rulings handed down by the First Chamber of the Supreme Court with regard to defamation, privacy and freedom of speech: a) to show how the excessive number of trivial cases that come to the attention of the Supreme Court for cassation, or to that of the Constitutional Court for constitutional protection (*amparo*, protection against violation of Bill of Rights included in Spanish Constitution) could be limited with relatively simple modifications to the *Ley de Enjuiciamiento Civil* (code of civil procedure) and the *Ley Orgánica del Poder Judicial* (basic laws and statutes governing the operation of the judiciary) and the *Ley Orgánica del Tribunal Constitucional (*basic laws and statutes governing the operation of the Constitutional Court); b) to tackle the long-standing question raised by the existence of two Supreme Courts in Spain (as also occurs in other culturally close countries); and, finally, c) to select for readers the cases that are seen as most relevant within the period under consideration. In a second installment, *InDret* will analyze two particularly noteworthy rulings within this constellation of cases, the SSTS, 1st, 2.6.2000, *Enrique Rodríguez Galindo v. Fermín Muguruza and others*, and 8.3.1999, *Carlos Trías Bertran's children v. the "Corporació Catalana de Radio i Televisió" and others.* These cases make clear the difficulty of applying constitutional principles on freedom of speech to situations of civil conflict.

• **"De minimis non curat Iudex"***: a body of case law plagued by trivial cases*

In addition to the cases to be reviewed in the second part of this paper and some others whose legal relevance for a democratic state cannot be disputed, in the 1998-2000 period, the First Chamber has been flooded with dozens of trivial cases that lack any interest from the point of view of cassation.

It is, for example, worth raising the question of whether the following actions merit being judged by the Court of Cassation:

- Publishing remarks referring to the chairman of a savings bank, which included expressions such as "playing all the angles", "self-interested manipulator" or "financial emperor" (STS 26.2.2000: 0 € compensation).
- That a journalist wrote of a colleague using the expressions "pathetic libel monger", "the foolishness of an overgrown child with very bad taste" and "physically and mentally underdeveloped" (STS 18.10.1999: 3,005.06 €.
- Referring to the plaintiff as "alias Colombo" (STS 13.6.2000: 0 €), alluding to a fictional character who had a glass eye.
- Having described the plaintiff or plaintiffs as "thief!" (STS 14.4.2000: 6,010.12 €), "good-for-nothing!" (STS 11.10.2000: 901.52 €), "a shameless gang" (STS 12.5.2000: 0 €), "straight from the toilet (...) pestilent stench (...), "feces that you make us expel" (STS 30.11.1998: 6.010,12 €).

- Having said of two ill-fated athletes that "one turned out to be a slacker and the other got mixed up with drugs" (STS 27.3.1998: compensation awarded for the second remark, 1,502.53 €).
- Having described as an "enigma" the manner in which the plaintiff's deceased brother, a priest, had increased his fortune (STS 26.1.1998: 0 €).
- Or, finally, having made obvious errors of transcription when, in a letter of apology, "May I ruin (*desgraciar*) Don León?" was written instead of "May I make amends to (*desagraviar*) Don León?" (STS 27.6.2000: 0 €), in a context that made it clear that this was an error.

Like the Supreme Court, the Constitutional Court is also being asphyxiated by an overload of trivial cases. During the three-year period under consideration, the Constitutional Court has had to resolve many cases that could easily have been settled by the regular Courts without any need whatsoever for the Constitutional Court to reaffirm principles that were already well established. The Court has had to apply these principles to simple cases that did not require changes to or the creation of new constitutional case law, and, therefore, which should not have come to the attention of this body.

It is doubtful whether the following should be judged in the context of constitutional protection (*amparo*):

- A media publication, its director and a journalist published references to the plaintiff, a member of the Spanish diplomatic delegation to Holland, stating that he had been involved in trafficking in arms, automobiles and drugs, as well as being linked to the terrorist group ETA (STC, 1st, 144/1998, April 30, 1998: the constitutional protection (*amparo*) sought by the Spanish magazine "*Interviu*", the author of the report and the publisher, "*Ediciones Zeta, S.A.*", was denied).
- That a client should say of his lawyers that they "intended to charge him fees (…) contrary to what had been agreed prior to the trial (…) greater than the compensation received (…), which the Provincial Court had definitively (sic) set in appeal (…)" (STC, 2nd, 232/1998, December 1, 1998: constitutional protection (*amparo*) sought by the two lawyers was denied).
- That a lawyer should say of a senior judge that "this writ is a real mess. It clearly fails to conform to what a piece of legal text should be, and to include the minimal terms that a decision must contain. It demonstrates a serious lack of knowledge of the law (…). Citizens should not have to tolerate judges with a faulty knowledge of the law (…) This lady's vocation for passing rulings is to be admired. I can't understand her insistence on working in a field of which she knows nothing" (STC, 2nd, 46/1998, March 2, 1998: constitutional protection (*amparo*) sought by the author of the remarks was denied).
- Journalists and a media publication that published a report entitled "Socialist Falcon Crest: a shady story of love, power and money", in which it was said of the plaintiff that "Along the way, Angela got pregnant by [Alfonso] Guerra's secretary (…), that was a party", "Fali didn't want to marry Angela and disappeared from the family scene" (STC, 1ª, 112/2000, May 5, 2000: request for constitutional protection (*amparo*) by the director of the Spanish magazine *Época*, the author of the article and the publisher, "*Difusora de Información Periódica,SA*", was denied).
- Reporters and a media publication that had reproduced the image of the plaintiff's bar in a report on "hostess bars" (where prostitutes offer their services), in which the arrest of several businessmen was reported (STC, 2nd, 77/1999, April 26, 1999: constitutional protection (*amparo*) sought by the director, the editor and a Spanish magazine "*Cambio 16*" writer was denied).
- A property administrator who had offered his services to eleven property owners' groups, sending them various written documents in which he encouraged them to discontinue using the services of

their administrator: "Current account interest should be paid to the property owners' group. This also applies to commissions and discounts that are often obtained from suppliers. The client, in both cases, is the property owners' group, not the administrator" (STC, 2ª, 180/1999, October 11, 1999: constitutional protection (*amparo*) sought by the administrator of the eleven property owners' groups was denied).

– The reporters and the media publication that had published statements made by the biological mother of the son of Sara Montiel: "Zeus's natural mother speaks: I'll never take my son away from Sara Montiel", together with the information that the biological mother had worked as a prostitute, and that the son, at that time a minor, had been sold to his adoptive parents (STC, 1st, 134/1999, July 15, 1999: constitutional protection (*amparo*) sought by the publisher of the magazine, "*Publicaciones Heres, S.A.*", was denied).

– Finally, in a case of conviction for a public health offence, in which the applicant for constitutional protection (*amparo*) had alleged violation of the right to privacy in telephone communications, when the evidence obtained by this means was not considered in the decision to convict (STC, Plenary meeting, 81/1998, April 2, 1998: constitutional protection denied).

What is questionable in these cases is not whether or not those involved deserved judicial protection: without doubt, all of them did. What really raises serious concerns is the fact that it is still seen as necessary to establish constitutional principles to resolve cases such as those cited, the majority of which readily fit the terms of established constitutional principles and should have been easily dealt with within that framework. The triviality arises from the number of, for the most part, easily resolved cases that can be listed. This function of the Court has grown out of control because there are two bodies that have competence to exercise it – and not just one. Furthermore, the Supreme Court has no filtering mechanism to determine which cases merit re-examination, and the Constitutional Court lacks clearly defined competences for the selection of the cases which it must later resolve.

> The Constitutional Court extends constitutional protection (*amparo*) in few of the cases that come to its attention. For instance, constitutional protection (*amparo*) was extended to one of the journalists who had published of José María Ruiz Mateos and Misericordia Miarnau Salvat, wife of José María Sabater, "Ruiz Mateos and his girlfriend spend 4 days in Jamaica," "intimate female friend", "a grotesque episode with virgins, sex and currency dealing", "the Virgin switched sides", "to run off with the wife of one's Secretary, even if the lady is called Misericordia (mercy)". The journalist had been charged with slander by the Supreme Court (STC, 2nd, 200/1998, October 14, 1998). The Court acted in the same manner in a case in which the Provincial Court of Murcia had charged the appellant as the perpetrator of an act of contempt for having stated of a senator and mayor, "Oh, Juanico – you'll throw in your cards with anyone now!", "so there's more land zoned for development for Promosa (a developer) or pro-fucking-whatever", "so the birds – who no doubt are left wing – can screw themselves", "and if you want more, then you'll damn well get it" (STC, 1ª, 112/2000, May 5, 2000).

Our view that the cases outlined are trivial finds confirmation in the court decisions that quantify damages in monetary terms. We have complete information about the amounts sought in the suit and those finally awarded or validated in 43 of the 113 cases resolved by the First Chamber of the Supreme Court in the three-year period being considered. The arithmetic mean of the compensation finally collected by complainants is 25,947.23 €.

However, for the sample analyzed, there is a great deal of variation around the mean. In a few cases the Supreme Court awards or validates an amount of compensation far higher than this mean, and in many others compensation for complainants is much less than the indicated mean. There exists, therefore, a great dispersion around the mean (50,181.88 €), as a result of which, it becomes an unrepresentative figure.

> The dispersion is a result of the extensive margin of discretion our procedural system gives to those making judgment in the determination of compensation. The uncertainty surrounding compensation leads to the inflation of damages claimed in the suit and the fact that different quantities are awarded in analogous cases makes it impossible for potential complainants to calculate *ex ante* the benefits of the process (see in *InDret*, *Efectos de la variabilidad sobre la resolución de conflictos – Effects of variability on the resolution of conflicts*).

The median provides more reliable information. The median is a figure which resists movement away from the center, and, therefore, is little influenced by the existence of extreme values. For the cases analyzed, the median is 15,025.3 €, astonishingly low if compared to the median of compensation sought by the complainants in their suits: 150,253.02 €.

The fact that the Supreme Court must deal with so many matters, and the general lack of interest of these matters from the perspective of cassation can be explained by the existence of a procedural system that has historically placed a higher priority on lawsuits having access to cassation than on breach of the fundamental rights of art. 18.1 CE (article 18.1 of the Spanish Constitution).

> Before Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil (LEC, a code of civil procedure) entered into force on the 8th of January, 2001, civil jurisdiction for protection against defamation and invasion of privacy, fundamental rights included in art. 18.1 CE, could be exercised through:
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> i) The corresponding trial according to the quantity of the suit (arts. 481 y ss. R. D. de 3 de febrero de 1881, de promulgación de la Ley de Enjuiciamiento Civil - LEC 1881-).
>
> ii) The brief and preferential special procedure established in Ley 62/1978, de 26 de diciembre, de protección jurisdiccional de los derechos fundamentales de la persona (Ley 62/1978, a law addressing jurisdictional protection of fundamental rights). The Disposición Transitoria Segunda de la Ley Orgánica 1/1982, de 5 de mayo, de protección civil del derecho al honor, a la intimidad personal y familiar y a la propia imagen (LO 1/1982, a temporary provision for civil protection against defamation and invasion of privacy). This provision included these rights in the catalogue of fundamental rights, the violation of which allowed recourse to the special procedure.
>
> Within the terms of this regulation, any breach of fundamental rights recognized in art. 18.1 CE and dealt with through the civil procedure outlined in Law 62/1978, could accede to cassation based on the nature of the case and regardless of the quantity of the suit:
>
> Art. 15.2 Ley 62/1978: "A recourse to cassation, or, where appropriate, to revision can be brought against the ruling made in appeal".

> Art. 1687.4 LEC 1881: "The following can be subject to cassation: (...) 4. The decisions for which it is expressly allowed in the circumstances defined and subject to the requirements that have been established".

LEC 2000 repealed arts. 11-15 Ley 62/1978, which concerned the civil protection of fundamental rights (Disposición Derogatoria Única, 2. 3º LEC, the repeal provision referred to). Consequently, petitions for jurisdictional protection of fundamental rights are now dealt with through ordinary declarative procedure, except in cases which involve the right to rectification (art. 249. 2º LEC).

In the final analysis, though, the effect of the reform has been limited: the terms determining access to cassation are still so broad that any suit involving the right to freedom of injury to honor, banal as it may be, can accede to the Supreme Court. In effect, in accordance with art. 477.2 LEC:

> "Rulings made on appeal by Provincial Courts can be subject to cassation in the following cases:
>
> 1. When they are made in accordance with principles of civil judicial protection of fundamental rights, with the exception of those recognized in article 24 of the Constitution".

The criterion established in the regulation is not reasonable: it contributes significantly (we calculate 3%) to the collapse of civil cassation, now inundated with a backlog of 10,000 cases. In the three-year period being examined, an average of more than four years passed between the issuing of a ruling and the cassation hearing sought. Justice delayed is justice denied.

It is the view of *InDret* that solutions to this problem exist. For example, in cases in which recourse to cassation is not possible, one measure that could be taken would be to impute to the Civil and Criminal Chambers of the High Courts of Justice knowledge of the grounds for cassation for normal protection (*amparo*) against rulings made on appeal. In cases in which recourse to cassation *is* possible, it might be possible to create a special chamber within the Supreme Court ("Chamber of Protection"-*amparo*-) with the objective of holding hearings on violations of fundamental rights by jurisdictional bodies. In this manner, the High Courts of Justice would generally be the last recourse for ordinary protection (*amparo*). Cases would only reach the Supreme Court if they met the criteria which made recourse to cassation possible. The reduction in the workload could be even greater if, along the lines of other legislative proposals that are currently receiving a positive response, access to cassation was restricted in such a way that the process focused exclusively on ensuring the uniform application of the law and the establishment of applied case law (see Pascual SALA SÁNCHEZ, 1994, p. 170).

> In 2001, the Government and the Ministry of Justice have pursued a political and legislative process to reform the Spanish justice system. Some of the proposals being debated in this process

> of change suggest reducing the workload of the Supreme Court by having the High Courts of Justice hear the cases which they are competent to deal with. This would not imply any diminishment of effective judicial protection if the process of cassation recovered and limited itself to its original functions: ensuring that the law is interpreted correctly, and the creation of applied case law.

The proposal made above and other similar ones could contribute to the resolution of problems associated with ordinary judicial protection (*amparo*). Nevertheless, they do not resolve the questions raised in relation to constitutional protection (*amparo*). Neither do proposals of this type deal with the important issue of establishing substantive criteria to distinguish one from the other. This is the matter that we will now address.

- ***Duplication of functions: two Supreme Courts. Isabel Preysler v. Hymsa and others: STS, 1st, 31.12.1996; STC, 2nd, 115/2000, May 5, 2000; STS, 1st, 20.7.2000; STC, 2nd, 186/2001, September 17, 2001.***

In effect, in addition to ordinary protection (*amparo*), the responsibility of the ordinary Courts, our system also includes a provision for constitutional protection (*amparo*), the responsibility of the Constitutional Court. As article 53.2 CE states in its opening paragraph:

> "All citizens are entitled to seek protection of the liberties and rights recognized in article 14 and the first section of the second chapter in the ordinary Courts through a procedure based on the principles of preference and brevity, and, where appropriate, through recourse for protection (*amparo*) before the Constitutional Court. The latter recourse will be applicable to conscientious objection recognized in article 30".

This duality is explained by the coexistence in many continental European States of a Supreme Court and a Constitutional Court.

> In the countries of the south of Europe, the Supreme Courts are the final arbiters in questions of cassation. In other words, they ensure that laws are applied correctly and unify applied case law, but they do not generally address, at least explicitly, declarations of demonstrated facts made by those Courts. In practice, the distinction between fact and law in cassation is often a matter of form, particularly when rulings are reviewed not to ensure the correct interpretation of the law or for the unification of applied case law, but in response to the demands of material justice in a specific case. In contrast, in some countries in the north of Europe (Germany is an example worth noting) the Supreme Court is clearly a Court of revision, and can hear questions of fact.
>
> The Spanish Constitution (1978) established constitutional jurisdiction independent of the judiciary, following the principles applied in post-war Germany and Italy for similar specific reasons (distrust of a generation of judges and magistrates who had applied laws passed by a dictatorial regime and incompatible with the legislation of a liberal democratic state). Similar generic reasons were also behind the system adopted (skepticism about a judicature made up of

career civil servants intent on defending their interests; preference for a concentrated constitutional jurisdiction – not diffuse – and for one exercised by magistrates selected by the highest powers in the state).

As is to be expected, the duality of the Courts and competence over protection (*amparo*) means that contradictory decisions are possible for the same case, and, historically, comparative law shows that the duality of case law does periodically lead to an attempt by one of the Courts to impose its own interpretation at the expense of one made by the other (see Rosario SERRA CRISTÓBAL, 1999, *passim*).

The problem comes most clearly into focus precisely in the matter of protection (*amparo*) because "in matters of constitutional protection (*amparo*) against jurisdictional acts, the Constitutional Court acts as if it were a court of cassation" and "it is difficult not to find a point of contact between any juridical question that is being debated in a legal process and a fundamental right" (Rosario SERRA CRISTÓBAL, 1999, pp. 68-69).

During the three-year period that this paper is concerned with, both Courts heard the same case four times, and, on each occasion reached different and conflicting decisions: when the ***STS, 1st, 31.12.1996 (Isabel Preysler v. Hymsa and others)*** was reversed by ***STC, 2nd, 115/2000, May 5, 2000 (Isabel Preysler v. STS, 1st, 31.12.1996),*** the conflict between the two Courts arose once again.

The weekly Spanish magazine *Lecturas* had published, beginning in issue 1942 (23.6.1989), a series of ten installments entitled "The secret face of Isabel Preysler" (the plaintiff in the suit). The first installment offered various statements about Ms. Preysler, a celebrity, made by María Alejandra M.S., a former nanny of a daughter of the plaintiff: "the pimples that often appear on her face…", she uses "a particular crocodile skin diary"; along with references to dermatological problems, the negative effects of a pregnancy on her beauty, her reading habits, her wardrobe (including mention of certain items used in privacy), the family routines; her relationships with ex-husbands, her current spouse and her parents; and, a great deal about the lives of her children.

The plaintiff filed a suit against her former employee; against Mr. Julio B.G., director of the weekly; against Mr. Enrique S. Ll., journalist; and against "*El Hogar y la moda, S.A.*" ("*Hymsa*"), publisher of "*Lecturas*", for breach of the right to personal and family privacy (art. 18.1 CE) and asked for 300,506.05 € in compensation, among other measures. JPI 32 of Barcelona, in a ruling made on 23.5.1991, awarded damages for part of the value of the suit, ordering the defendants to jointly pay the plaintiff 30,050.61 €, among other pronouncements. The Provincial Court of Barcelona, Section 11, made a ruling on 12.1.1993. denying appeals made by the defendants with the exception of Enrique S. Ll., who was absolved. The plaintiff's appeal was allowed, and the SJPI (ruling) was partially revoked, only in that the amount of compensation was increased to 60,101.21 €.

The STS, 1st, 31.12.1996 allowed the appeal for recourse to cassation made by "*Hymsa*" and the director of the weekly, who alleged the breach of articles 20.1.d) CE in relation with art.

18.1 CE and arts. 2.1 and 7.3 LO 1/1982. The ruling was revoked and the appellants were absolved.

In the Fundamental Point of Law 1, the Supreme Court said:

> "[T]he sentences that appeared in the magazine report (…) cannot be classified, by any measure, as serious offences against privacy, though they may be an affront, annoying, or simply unworthy from the perspective of social equality. They simply constitute a spreading of gossip of little importance. Comments of this type may in some cases justify the termination of an employment contract for service in the home, but they should never be accepted as a serious offence or prejudicial to a person's privacy".

The plaintiff appealed for the protection (*amparo*) of the Constitutional Court on the basis of a breach of her constitutional right to personal and family privacy (art. 18.1 CE) and of the principle of equality in the application of the law (art. 14 CE). STC, 1st, 115/2000, 5 May, granted the protection (*amparo*) sought, declared that the appellant's right to personal and family privacy had been violated, and annulled the appeal ruling:

> "[T]he statements in the [report], by publicly communicating information and circumstances of a private nature, have illegitimately invaded the sphere of personal and family privacy of the appellant" (F. D. 5th).

> "[T]he observance of the duty to maintain secrets [professional, on the part of the worker] is a guarantee that information about the personal and family sphere of the householder will not be divulged. Divulgence of this kind of information constitutes a breach of the trust that made it possible to obtain this information" (F. D. 6th).

> "[A] simple reading of the report is enough (…) to see that the information divulged lacked any public relevance: Details related refer to (…) various private aspects of the appellant's personal and family life – from her supposed or real physical defects and her efforts to lessen them or to avoid having them become known, to an exhaustively detailed description of her home and of the family members living with her" (F. D. 10th).

However, less than three months later, on 20.7.2000, the First Chamber of the Supreme Court made a new ruling based on art. 5.1 Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial (LOPJ, laws and statutes governing the judiciary). The new ruling replaced that which had been annulled by the Constitutional Court, and declared invalid the motives for the original appeal for cassation, which referred to the conflict between freedom of information and the right to privacy. The Court then proceeded to reduce compensation to an amount 400 times less than that conceded by the Provincial Court:

> "The sentences [in the report] can be described as insignificant given the extent to which the affected party leads a public life – a fact which is well known. Accordingly, the valuation of moral damages incurred can be set at 150 €" (F. D. 2nd).

The second ruling made by the Supreme Court was appealed for protection (*amparo*) by the plaintiff, now alleging also right to privacy (18 CE) and due process of law (24.1 CE), for incorrect application of STC 115/2000, and the Constitutional Court granted again the protection, ***STC, 2ª, 186/2001, de 17 de septiembre (Isabel Preysler c. STS, 1ª, 20.7.2000)***: in his decission, declared that the appellant's right to personal and family privacy had been violated, annulled the appeal ruling of Supreme Court of July 20, 2000, and awarded the plaintiff with 60.101,21 €.

> "The appellate opinion omits some essentials data affirmed in our STC 115/2000 (...); Neither considered basic parameters legally necessaries referred to other violations of personal rights aspects of the plaintiff (…), without considering the diffusion of the magazine in which the report was published (F.J. 5).
>
> In this case, our decision implies to overrule the Supreme Court Decision [art. 55.1 a) LOTC]. But we can not limit to return the case back to the Supreme Court for a new decision, because i) we are before a defect *in iudicando* and ii) the Supreme Court has decided twice in this case (...). In order to reestablish the violated personal right and not delay the final decision of this case, we overrule the Supreme Court Decision of July, 20, 2000 and affirm the opinion of the Court of Appeals of Barcelona, January 12, 1993" (F.J. 9).

It could be worst: two Constitutional Court Justices Muñoz issued a dissenting opinion in which they proposed return the case back to the Supreme Court, once more. InDret and the taxpayers still hope that one day they will no longer have to bear the costs of this recurring institutional conflict.

In Spanish constitutional case law concerned with freedom of speech (art. 20 CE), the conflict between the judiciary and the Constitutional Court has a long history, as has been discussed in other papers. The conflict arose for the first time on the occasion of STC, 2nd, 104/1986, July 17, 1986, issued by Magistrate Francisco Tomás-Valiente. On that occasion, the journalist who sought constitutional protection (*amparo*) had been charged with slander for remarks in a local weekly ("*Soria Semanal*", 14.4.1984) criticizing certain aspects of the management of urban development by the local mayor. The Constitutional Court granted the appellant protection (*amparo*), but when the case was sent back to the Court in Soria and the decision of the Constitutional Court was known, the judge in Soria recognized that he must make a new ruling and, unperturbed, on 15.12.1986 reiterated the original decision. The journalist who had been charged appealed once again for protection (*amparo*) and in STC, 2nd, 159/1987, October 26, 1987, it was granted: the ruling stated that a judge can interpret the content of a ruling of constitutional protection, but "he/she cannot contradict its terms or issue decisions that diminish the subjective legal status declared therein (…). It is unacceptable (…) that after a ruling charging a criminal offence has been annulled for intrinsic faults in the reasoning it expounds, the same judicial body should reach a decision, reiterating in this manner the exercise of *ius puniendi* of the State" (F. D. 3rd).

> There were some loose ends: The majority ruling was opposed by Magistrate Eugenio Díaz Eimil ("The new ruling made by the judge does not imply that *ius puniendi* is being exercised twice (…), nor does it violate the principle of *non bis in idem* because the annulment of the first [ruling] means that it loses any legal effect").
>
> Though it is beyond the scope of this brief review to examine them at length, similar situations arise with a certain regularity. See, for example, STC, 1st, 7/1994, January 17, 1994, which annulled STS, 1st, 30.4.1992, which in turn had revoked in cassation a ruling of the Provincial Court (SAP), Madrid, 26.2.1990, according to which the refusal of the defendant to subject himself to paternity tests constituted substantial evidence for the Court in demonstrating that the defendant was the father of the son who had taken action to claim filiation.

The prevalence of constitutional case law over ordinary case law established by the Supreme Court through cassation is based on art. 164.1 CE:

> "The rulings of the Constitutional Court will be published in the Official State Bulletin. If there are dissenting votes, they will also be included. Rulings have the value of *res judicata* from the day following their publication, and no further recourse against them is allowable. Those which declare unconstitutional a law, or a regulation with force of law, and all those which are not limited to a subjective evaluation of a right, have full effect before all others".

Similarly, in art. 5.1. LOPJ:

> "The Constitution has precedence within the legal system. It is the link binding all judges and courts, who will interpret and apply laws and regulations according to constitutional precepts and principles, and in a manner which conforms with the interpretation of these articulated in the decisions issued by the Constitutional Court in processes of all types".

Nevertheless, arts. 54 y 55.1 Ley Orgánica 2/1979, de 3 de octubre, del Tribunal Constitucional (LOTC, laws and statutes governing the operation of the Constitutional Court) make matters more complicated. The first article seems to strictly limit the function of constitutional protection (*amparo*):

> "When the Chamber hears an appeal for protection (*amparo*) with respect to the decisions of judges and courts, its function will be limited to specifying whether rights or liberties have been violated. The Chamber will not consider any other matter with regard to the actions of jurisdictional bodies".

According to the second article, the role is not as strictly limited:

> "The ruling that grants protection (*amparo*) will contain one or more of the following pronouncements:

a) The annulment of the decision, order or resolution that has impeded the full exercise of protected rights and liberties, with determination, where appropriate, of the extent of its effects.

b) Recognition of the right or public liberty, in conformance with its constitutionally stated content.

c) Restoration of the appellant to the full possession of his right or liberty, with the adoption of appropriate measures, where appropriate, for the conservation of that right or liberty".

Constitutional case law, from the initial position recognizing the prevalence of constitutional protection (*amparo*), has quickly incorporated limitations in response to an extrajudicial appeal for self-restraint on the part of the Constitutional Court. This is not surprising: The conflict is not a legal one, but one which is intrinsically political. In fact, a comparison of different solutions makes the extrajudicial nature of the conflict apparent. Solutions consist of formulas (made explicit to varying degrees) that introduce an element of self-restraint, and come from outside of the legal sphere, and outside of the sphere of case law. This is the case for the "Constitutional Diplomacy" of Germany, the so-called "Peace of the Wise" in Italy, Belgian "Constitutional Prudence", etc. (Rosario SERRA CRISTÓBAL, 1999, pp. 77-83).

There are a plethora of doctrines concerned with Constitutional interpretation and with statutory construction that are normative; they indicate how the relevant sections should be interpreted; subjective and objective doctrines; those which give precedence to interpretation in accordance with certain principles and values, and those which give preference to interpretations coming from specific bodies. It is the view of *Indret* that these doctrines do not shed light on the nature and probable evolution of conflicts in this area: legal doctrines concerned with the interpretation of laws are ***normative***; they indicate how statements of law ***should*** be interpreted. They are not ***positive*** theories that make it possible to explain or predict factually possible interpretations. This is particularly true when the conflict, as in the case we are examining, is one that is essentially political, between institutions that share power and compete for it within the state. It seems reasonable to put aside for a moment the normative doctrines and turn to the analytic models of positive political science (***Positive Political Theory***: see Ken SHEPSLE / Mark BONCHEK, 1997). These models are concerned with the interpretation of laws and make explanation of this phenomenon possible. Some show how the limits of the possible interpretations made by the Courts are set by the probability of reaction by other State players and not by the terms of the Law. In other words, limits are not set in the usual sense by possible meanings of the Constitutional or statutory sections which are being interpreted, as is maintained by the dominant legal scholarship on the Constitutional interpretation and statutory construction (Brian A. MARKS, 1988; John A. FEREJOHN / Richard R. WEINGAST, 1992, pp. 263 ff, and 1992, pp. 565 ff; Pablo SALVADOR CODERCH, 1992; MCNOLLGAST, 1995, págs. 1631-1683; and, recently, Robert D. COOTER, 2000, pp. 215 ff).

Readers interested in these models can consult the works referred to, or the following brief summary:

Assume a perfect bicameral legislative system, composed of a lower chamber based on popular representation, and an upper chamber (senate) based on territorial representation. Neither members of the house of commons nor senators are subject to strict party discipline in voting. The judiciary is independent, and the judges, J, of which it is made up, cannot be removed from their posts, serve life terms, and retire with full salaries.

Suppose that a judge is called upon to rule on a case and can decide among various interpretations of the law, which occupy a one-dimensional political space X, and that within that space:

The historical political decision on the matter under consideration, Q – the status quo – incorporates the substance of a prior legislative decision: Q translates in legislative terms the preferences of legislators.

At present, the political positions of the members of the two chambers that occupy the median position in each are, respectively, H and S.

This requires some clarification: If all data are ordered by magnitude, the median is the value for which exactly half the values are less, and the other half greater. The median is the central value of the distribution. So, a member of the house of commons or a senator with complete freedom of vote occupies the median position when, in relation to a question about which a decision must be made, he takes a political position that leaves as many members of the house of commons or senators at his left as it does at his right. Knowing where the median legislator is positioned in the political space is obviously important in that it serves as a line of demarcation that indicates when to pause before politically leaning to one side or the other on a decision.

X _____K´_____H_____Q_____K_____S_____

Assume then that a judge decides a case adopting a resolution, K, in the H-S range. K displeases the majority of senators, as it is to the left of the median senator, S. But neither does it please the majority of members of the house of commons, as it is to the right of the median member of the house of commons, H. Nevertheless, it is clear that K will not provoke any counter-reaction on the part of legislators; it can become part of a stable body of case law: Either of the two chambers would reject a proposal by the other to suppress the precedent created by K, in favor of a more conservative legal decision (the preference of the majority in the upper chamber), or a more progressive one (the preference of the majority in the lower chamber). There will be no agreement on the direction of change and K will stabilize as a new judicial interpretation of the legislation.

In contrast, note what would occur if the judge in question had decided to adopt the position K´: K´ is a very progressive position situated to the left of the preferred position of the median member of the house of commons, H, and that of the median senator, S – outside of the H-S range. In this case it is clear that the two chambers would be in concordance in their reactions, and that a new law would be passed to explicitly

counteract the case law precedent set by K´.

When the interpretations in conflict are those of legislators and the Constitutional Court, the model is similar, but the key legislator is not the median one, but the one that occupies the decisive position in the relevant majority required to modify the constitutional text (cf. art. 167 CE: 3/5 majority in both chambers, with subsequent conditions). In Spain, however, the matter is further complicated by various factors, notably i) the fact that members of the house of commons and senators are subject to strict party discipline, and ii) the fact that political parties play a decisive role in the appointment of the twelve members of the Constitutional Court, and that those appointed serve 9-year terms -and a third of them are renewed every three years-. In these circumstances, those in the leadership of the political parties control the Parliament and the Constitutional Court. In contrast, magistrates of the Supreme Court cannot be removed from their posts, and the political filter is activated only when they are appointed through a decisive intervention on the part of the General Council of the Judiciary, the governing body of the judiciary (art. 122 CE), whose composition, in turn, depends mainly on Parliament (cf. arts. 107 y ss. LOPJ).

In accordance with a highly simplified version of the theory in question, when the Supreme Court is going to interpret a basic law or statute (art. 81 CE), and, in so doing, adopt a particular decision, it will take into account the possible reactions of:

i) The Spanish Parliament, which can modify the law in question in view of the ruling that interprets it.

ii) The Constitutional Court, which can annul the ruling.

The Supreme Court will not adopt a decision that is far removed from the political preferences of the political group situated in the central (median) point of the parliamentary range of positions: this would produce a majority reaction against the decision, which would in turn lead to the passage of a modification to the law.

Neither will the Court adopt a position far removed from the interpretive preferences of the median magistrate of the Constitutional Court, that is, the one who has as many magistrates to his left as to his right or vice versa (with twelve magistrates, there is no median magistrate in the strict sense). Such a position would lead to the Constitutional Court annulling the ruling of the Supreme Court.

> The conflict between the Constitutional Court and the Supreme Court shows the tension between cooperation and personal interest. The existence of two Supreme Courts creates a situation similar to that which exists when two economic agents share the market for a product. This situation, referred to as a duopoly in economic terms, has a point of equilibrium that bears the name of the American mathematician who formally stated it for the first time: John F. Nash (1928-). A Nash equilibrium is a set of choices in which the choice of each of the agents is optimal given the choice of the others. A Nash equilibrium is a situation in which the interacting economic agents each

choose their best strategy in the context of the strategies that the other agents have adopted. The result is a more efficient allocation of resources than in a monopoly, but one that is less efficient than would occur in a free market (Gregory N. MANKIW, 1999, p. 318 and Hal R. VARIAN, 1997, p. 559).

The set of possible interpretations will be situated between the sets of preference of the bodies that can modify the content of the norm being interpreted. In the short term, the Constitutional Court has more influence over the Supreme Court than Parliament does: to pass an ordinary law, in principle, all that is required is the votes of half plus one of the members of the Chamber of Deputies (lower chamber of the Spanish Parliament); to change the Constitution, three fifths of the votes in each chamber are needed (art. 167 CE). It is, moreover, easier to issue rulings than to modify laws.

See for example SSTS, 1st, 20.3.1991, concerning the invalidity of *claims made* clauses; 1st, 25.4.1991, concerning witnesses in wills; and 1st, 4.5.1998, concerning the unconstitutionality of the extrajudicial mortgage foreclosure. These rulings resulted in the passage of several reaction-laws by Spanish parliamentarians: Law 30/1991 of 20 December, altering the civil code with regard to wills, modified art. 685 CC; the Disposición Adicional Sexta Ley 30/1995, de ordenación y supervisión de los seguros privados (concerning regulation and supervision of private insurance), added a new paragraph to art. 73 Ley 50/1980, de 8 de octubre, del contrato de seguro (concerning the law of insurance contracts); and the Disposición Final Novena de la LEC modified art. 129 Ley Hipotecaria.

This model, which has simply been outlined here, implies the need for basic corrections, which in our system would have to focus on the political parties, which play a key role in parliament and in the voting behavior of members of both chambers. Nevertheless, for the purposes of this review, this question can be put aside for the moment and left to the attention of political scientists.

Suffice it to say that in the ***Isabel Preysler*** cases, the real object of the conflict between the two main Courts is not the scope of the right to personal and family privacy, or of the duty of those working for her to maintain the confidentiality of certain matters: What is at stake is the ***power to decide how laws are interpreted***. From this perspective, it is reasonable to predict that the points of view of the Constitutional Court (a Court of political guarantees, whose members are appointed based on negotiation between the leadership of the various parties controlling parliament) will tend to predominate over those of the Supreme Court: the Constitutional Court will readily align itself with the legislative power (the majority of whose members belong to parliamentary groups controlled by the parties). However, as practically any case of appeal for protection (*amparo*) that reaches the Supreme Court, trivial as it may be, can spark a new institutional conflict, this Court has an appreciable capacity to interfere with the aims of the Constitutional Court. As a result, it is likely that in the future the Constitutional Court will pursue a policy of self-restraint, limiting open conflict to cases in which the outcome is politically important, and which cannot be resolved by a simple modification to laws.

A legislative policy that made it possible to reduce the number of cases of ordinary protection (*amparo*)that can be subjected to cassation by the Supreme Court would also make occasions of conflict less frequent (and, incidentally, reduce the power of the Supreme Court). These results would have an even greater impact if accompanied by an increase in the power of the Constitutional Court to reject appeals for constitutional or extraordinary protection (*amparo*, currently, cf. arts. 41 y ss. LOTC). However, although a reduction in the occasions of conflict may reduce their frequency, it does not eliminate the causes of conflict: This would be achieved only if the number of Supreme Courts were odd and less than three.

- ***Indret's selection: 10 noteworthy cases***

In the preceding pages, analysis has focused on the case of Isabel Preysler v. *Hymsa* and others. In the next issue of *InDret*, as mentioned in the introduction, two other cases will be analyzed: SSTS, 1st, 2.6.2000, *Enrique Rodríguez Galindo v. Fermín Muguruza and others*, and 8.3.1999, *Children of Carlos Trías Bertran v. "Corporació Catalana de Radio i Televisió" and others*. From the remaining 110 cases on which rulings were made during the three-year period 1998-2000 by Spanish cassation, *InDret* has selected and will now outline 10 others, which, in the view of the authors of this paper, merit inclusion in the first level of this text.HIPERVÍNCULO

1. ***STS, 1st, 5.2.1998. Enrique Múgica v. Silex Media (publisher of the newspaper "Claro") and others***

This ruling heads the list for more than one reason: First, it includes the highest compensation for defamation that has been awarded by the Supreme Court to date (300,506.05 €); and second, it raises the recurring question of where to strike the judicial balance between the right to honor and the right to freedom of speech.

"*Claro*", a Valencian newspaper, published a report with headlines that stated: "Valencian judge sends case to Supreme Court. Múgica's palms greased with forty-five million? And ten for his lover?" and "Múgica and his beloved planned to share fifty-five million for supporting the concession of a lottery in Valencia. A judge sends the case to the Supreme Court". Enrique Múgica Herzog, former Minister of Justice, sought compensation of 1,202,024,21 € and the publication of the ruling. The Supreme Court set aside the lower Court rulings that had rejected the claim: the information, based on the statement in trial of a drug trafficker, had been obtained through a violation of the *sub judice* rule, and could not form the basis of any accusation against Enrique Múgica (F. D. 1st).

2. ***STS, 1st, 24.9.1999. Juan Miguel S. C. and Antonio R. L. v. "R., S.A." and Encarna Sánchez***

In a radio interview with Encarna Sánchez (30.3.1989), a military recruit claimed to have been sodomized in the barracks showers by the plaintiffs (the colonel in charge of the

regiment, and a captain). This accusation was later declared false by the Court. The plaintiffs sought compensation of 450,759.07 € and 240,404.84 € for the colonel and the captain respectively. The Provincial Court revoked the ruling made in the initial hearing that had dismissed the case, and ordered the defendants to pay, jointly, 90,151.82 € to the colonel and 60,101.21 € to the captain. The Supreme Court set aside the Provincial Court ruling and set compensation at 60,101.21 € for each of the plaintiffs: Encarna Sánchez had not taken the minimum care required (F. D. 1st).

> Magistrates Antonio Gullón Ballesteros and Xavier O'Callaghan Muñoz issued a dissenting opinion in which they set aside and annulled the ruling of the Provincial Court and confirmed the ruling made in the initial hearing: accusations declared false subsequent to the interview are not grounds for responsibility.

3. STS, 1st, 27.1.1998. Enrique-Ramón A. R. v. "Sociedad Española de Radiodifusión, SA" and others

"*Radio Melilla*" (16.11.1990) had broadcast a false news item claiming that the plaintiff, Enrique-Ramón A. R., a well-known businessman in Melilla, had been arrested in possession of 25 kg of cocaine. The item was corrected almost two hours later. The plaintiff sought compensation of 120,202.42 € and to have the ruling broadcast. In three instances, the defendants were found liable and ordered to jointly pay the plaintiff 60,101.21 € and broadcast the ruling.

> Based on the same circumstances, Antonio V. A., the other individual implicated in trafficking in cocaine sought compensation to be determined on the issuance of a ruling. As in the previous case, the suit was allowed in three instances.

It is worth noting that all of those judging the case insisted that information published be truthful, whereas that which led to the suit was clearly defamatory and easily checked (F. D. 2nd). The minimal effect of the correction on the amount of compensation should also be noted. Neither the lower Court rulings, nor that of the Supreme Court, make it possible to evaluate the reasons justifying the precise amount awarded, apart from the clearly defamatory nature of the information broadcast. It is to be hoped that the application of the new LEC will reduce the frequency of cases in which the reader of case law cannot form a sound idea of the seriousness of the harm done.

4. STS 15.11.1998. Joseph Emmanuel T., Abraham B. S. and others v. "Unidad Editorial, S.A." and Pedro J. R.

A case similar to those above, but which provoked more discussion in the Courts themselves as a result of the contradictory decisions it led to, was that which was ruled on in STS 15.11.1998. The newspaper "*El Mundo del Siglo XXI*" (24.6.1990) published a report on "Who's who in Spanish drug trafficking" under the headline "The drug men – The drug route", and under the heading "The money launderers": "'Triay & Triay', a Gibraltar law firm, will be investigated in proceedings opened by Garzón". "Triay & Triay" lawyers

sought damages of 90,151.82 € and publication of the ruling. The initial ruling ordered the defendants to jointly pay 60,101.21 € and publish the ruling. This decision was revoked by the Provincial Court, then reinstated by the Supreme Court: the information had not been properly obtained (F. D. 6th).

5. STS 23.4.1999 (A. 4248). Inmaculada S. G. v. "Mercantil Edicrónica, S.A." and others

"La Crónica del Sur" and "E*l Caso Criminal"*, two Spanish newspapers, along with various "*Cadena SER"* radio programs, divulged that the plaintiff had been caught practicing a sexual act during her wedding reception with a man who was not the one whom she had just married. The plaintiff sought damages to be set in the initial ruling, and the publication and broadcast of the ruling. The initial ruling and the Provincial Court found the defendants jointly liable and ordered them to pay 66,111.33 €, as well as publishing and broadcasting the ruling. The Supreme Court reduced compensation to 48,080.97 €.

The case is noteworthy in that it is unclear how the action by which the information was obtained can be classified as an offence on the basis of art. 197 (concerning the discovery and revelation of secrets), or corresponding sections of the criminal code. Nevertheless, it is the view of the Supreme Court that illegitimate interference in the plaintiff's privacy took place, though it is questionable whether a wedding reception is an event that falls within the sphere of personal and family privacy.

6. STS 16.2.1999 (A. 1243). Olegario S. C. v. Agustín V. F. and "La Región"

The newspaper "*La Región"* published statements made in the course of a press conference by Agustín V. F., a senator. The statements said of the plaintiff: "I've accused him of reaching an agreement with another judge to settle a matter concerning a private property belonging to one of them and of a thousand other strange goings-on…" and "he's usually had a few by the afternoon, so he needs quite a bit of time to get things done". The plaintiff sought compensation of 360,607.26 € and the publication of the ruling. In three instances, Agustín V. F. was ordered to pay 48,080.97 €. The comments offered by Agustín V. F. were offensive and untruthful (F. D. 2nd).

> The Supreme Court is very deferential with plaintiffs who are judges or magistrates. Along the same lines, see SSTS 11.4.2000, 17.4.2000 and 5.7.2000 which resolve the suit brought by the President of the High Court of Justice of Cantabria and his wife against various media organizations. In all cases, the claimants partially achieved their objectives, obtaining a total of 78,131.57 €.

7. STS 31.12.1998 (A. 9771). Miguel Ángel P. B. v. "TISA" and others

The newspaper *"La Vanguardia"* (24.10.1991) published a report on sexual harassment of women in the workplace. In the report, it was stated that the plaintiff, Court Clerk in the Court where Mª Ángeles P. was employed, had sexually harassed her. The plaintiff sought damages of 150,253.02 € and the publication of the ruling. In the three instances, the three

defendants were found liable and ordered to jointly pay 15,025.3 € and to publish the ruling. The newspaper had attributed lascivious conduct to the plaintiff, which had brought him into disrepute, and the information regarding Mª Ángeles P. was neither of general interest nor true (F. D. 6th and 7th).

The ruling presupposes that it is the reporter who is responsible for demonstrating the truth of the information published. It should be stressed, however, that the Supreme Court is very flexible in the application of this case law.

8. STS 15.12.1998 (A. 9638). Samuel Adaramewa A. and Daniel A. G. v. "Unidad Editorial, S.A." and others

"*El Mundo Magazine*" (3 and 4.8.1991) published a report about illegal immigration that included a photograph of two Spanish citizens legally engaged in commercial activity in a street market. The caption of this photograph stated: "Two African 'illegals' set up their stall in the Madrid Flea Market". The two men who appeared in the photograph sought compensation of 30,050.61 € and publication of the ruling. In the three instances, the claimants were awarded compensation of 15,025.3 €: The caption for the photograph was untrue (F. D. 1st).

The classic case of the inaccurate caption has been examined in a paper published by *InDret* (see in *InDret*, *Pies de foto*).

9. STS 21.2.2000 (A. 751). Nuria Patricia C. C. v. "Cantábrico de Prensa, SA" and others

The regional newspaper "*Alerta*" (6.10.1990) published information that the plaintiff had been raped and that she was a virgin at the time of the assault. The report included a photograph of the scene of the crime. The plaintiff sought damages of 150,253.02 €, the publication of the ruling, and an order banning defendants from publishing further information about her private affairs. The initial ruling found the defendants jointly liable and ordered them to pay 36,060.73 €. The director of "*Alerta*" was ordered to publish the ruling. The Provincial Court absolved the photographer and reduced compensation to 9,015.18 €. The Supreme Court reinstated the compensation awarded in the initial ruling: the publication of the identity of the victim and the fact that she was a virgin was not information of general interest (F. D. 6th).

10. STS 25.10.1999 (A. 7622). Gaudencio Inocencio L .P. v. "E., S.A.", Santiago B. B. and Ángela M. A.

The regional newspaper **"***Diario de Las Palmas*" (18.3.1992) published news of a double murder, including extracts from a police report that ruled out the plaintiff as a suspect and indicated that he had a criminal record for an offence of sexual assault (rape) committed 12 years earlier. The Supreme Court reviewed the case and annulled the initial rulings denying the claim: The defendants were found jointly liable and ordered to pay 6,010.12 € and publish the ruling.

It is not clear that there is illegitimate interference in the privacy of the plaintiff. The information is defamatory but true, and, despite this, it is regarded as illegitimate interference: bear in mind that LO 1/1982 does not expressly restrict defamation to circumstances involving the divulgation of false and prejudicial information presented as fact. This is a point where LO 1/1982 and other legal guidelines differ (art. 7.7 LO 1/1982). Well-established Constitutional Court case law protects the right to disseminate true information if it is of general interest. The ruling of the Supreme Court implies that the facts of this suit lacked any such interest. The information was, in any case, irrelevant for readers, as the plaintiff had been ruled out as a suspect.

Recently the question of the public and even official dissemination of information regarding the criminal records of sex offenders has been the subject of a *Ley autonómica* (regional law) (Ley 5/2001, Castilla la Mancha, de 17 de mayo, de Prevención de malos tratos y de protección a las mujeres maltratadas – for the prevention of abuse and the protection of abused women).

- ***Table of rulings referred to***

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Chamber and Date	*Ar.*	*Judge delivering the opinion*	*Parties*
1ª, 20.3.1991	2267	Antonio Fernández Rodríguez	Colegio Oficial de Médicos de Barcelona v. "Aseguradora Central de Seguros, SA"
1ª, 25.4.1991	3030	Alfonso Villagómez Rodil	Madre de M.ª Luisa A. R. v. D. Máximo A. M.
1ª, 31.12.1996	9226	Ignacio Sierra Gil de la Cuesta	Isabel Preysler v. "Hymsa" y otros
1ª, 26.1.1998	109	José Almagro Nosete	Hermano de sacerdote v. "La Voz de Galicia, SA"
1ª, 27.1.1998	551	Alfonso Villagómez Rodil	Enrique-Ramón A. R. v. "Sociedad Española de Radiodifusión, SA" y otros
1ª, 5.2.1998	405	Ignacio Sierra Gil de la Cuesta	Enrique Múgica v. Silex Media (editora del periódico "Claro") y otros
1ª, 27.3.1998	2192	Eduardo Fernández Cid de Temes	Jorge G. O. y Jorge P. V. v. Francisco Fernández Ochoa, "Cambio 16" y otros
1ª, 4.5.1998	3464	José Almagro Nosete	Juan S. P. v. Jesús R. G.
1ª, 15.11.1998	8744	Alfonso Barcalá Trillo-Figueroa	Joseph Emmanuel T., Abraham B. S. y otros v. "Unidad Editorial, SA" y Pedro J. R.
1ª, 15.12.1998	9638	Jesús Marina Martínez-Pardo	Samuel Adaramewa A. y Daniel A. G. v. "Unidad Editorial, SA" y otros
1ª, 30.11.1998	9699	Jesús Marina Martínez-Pardo	Salvador A. S. v. Oceano Abdelkader N. V.
1ª, 31.12.1998	9771	Alfonso Barcalá Trillo-Figueroa	Miguel Ángel P. B. v. "TISA" y otros

1ª, 16.2.1999	1243	Xavier O'Callaghan Muñoz	Olegario S. C. v. Agustín V. F. y "La Región"
1ª, 8.3.1999	1407	Xavier O'Callaghan Muñoz	Hijos de Carlos Trías Bertrán v. "Corporació Catalana de Radio i Televisió" y otros
1ª, 23.4.1999	4248	Antonio Gullón Ballesteros	Inmaculada S. G. v. "Mercantil Edicrónica, SA" y otros
1ª, 24.9.1999	6606	Ignacio Sierra Gil de la Cuesta	Juan Miguel S. C. y Antonio R. L. v. "R, SA" y Encarna Sánchez
1ª, 18.10.1999	7333	Luis Martínez Calcerrada y Gómez	"Moncolpa, SL", Antonio C. G. y Jorge C. v. "E., SA"
1ª, 25.10.1999	7622	Luis Martínez Calcerrada y Gómez	Gaudencio Inocencio L. P. v. "E., SA", Santiago B. B. y Ángela M. A.
1ª, 21.2.2000	751	Francisco Morales Morales	Nuria Patricia C. C. v. "Cantábrico de Prensa, SA" y otros
1ª, 26.2.2000	1021	José de Asís Garrote	José Luis M. C. v. "José Luis T. y Sociedad Editora Heraldo de Aragón, SA"
1ª, 11.4.2000	1824	Ignacio Sierra Gil de la Cuesta	Elisa P. T. y Claudio M. A. v. "Cantábrico de Prensa, SA" y otros
1ª, 11.4.2000	1825	Ignacio Sierra Gil de la Cuesta	Elisa P. T. y Claudio M. A. v. "Cantábrico de Prensa, SA" y otros
1ª, 17.4.2000	2567	Ignacio Sierra Gil de la Cuesta	Elisa P. T. y Claudio M. A. v. "Cantábrico de Prensa, SA" y otros
1ª, 14.4.2000	2565	Francisco Marín Castán	Lluis P. G. v. M., "Ediciones Transparencia, SA" y otros
1ª, 12.5.2000	3927	Xavier O'Callaghan Muñoz	Miguel B. S. v. "Tribuna de Ediciones de Medios Informativos, SA" y otros
1ª, 2.6.2000	3998	Pedro González Poveda	Enrique Rodríguez Galindo v. Fermín Muguruza y otros
1ª, 13.6.2000	4007	Ignacio Sierra Gil de la Cuesta	Manuel E. M. v. Salvador A. S.
1ª, 27.6.2000	5908	Luis Martínez-Calcerrada y Gómez	José León H.-C. H.-E. v. Juan Carlos A. T.
1ª, 5.7.2000	4666	Ignacio Sierra Gil de la Cuesta	Claudio M. A. y Elisa P. T. v. "Cantábrico de Prensa, SA" y otros
1ª, 20.7.2000	6184	Ignacio Sierra Gil de la Cuesta	Isabel Preysler v. "Hymsa" y otros
1ª, 11.10.2000	7722	Ignacio Sierra Gil de la Cuesta	José Manuel P. G. v. Miguel A. M., Segundo A. G., "Antena 3 de Radio, SA" y el Ministerio Fiscal

Constitutional Court Decissions

Number and Date	*Chamber*	*Judge delivering the opinion*	*Parties*
104/1986, 17.7.1986	2nd	Francisco Tomás y Valiente	Antonio Hernández García v. SJI Soria 29.3.1985
159/1987, 26.10.1987	2nd	Francisco Rubio Llorente	Antonio Hernández García v. SJI Soria 5.12.1986

7/1994, 17.1.1994	1st	Pedro Cruz Villalón	Sra. E. D. A. N. v. STS, 1ª, 30.4.1992
46/1998, 2.3.1998	2nd	José Gabaldón López	Luis María Damborenea González v. SAP Vitoria 23.6.1993
81/1998, 2.4.1998	Pleno	Tomás S. Vives Antón	Juan Salvador Domínguez Durán v. STS, 2ª, nº 523/1994
144/1998, 30.6.1998	1st	Pablo García Manzano	"Ediciones Zeta, SA" v. STS, 1ª, 19.12.1994
200/1998, 14.10.1998	2nd	José Gabaldón López	Pedro J. Ramírez, "Información y Prensa, SA" y otros v. SSTS, 2ª, 4.10.1993
232/1998, 1.12.1998	2nd	Carles Viver Pi-Sunyer	Emilio Calderón Arnedo y Abilio Gerardo Mira Ros v. Auto AP Alicante 21.4.1995
77/1999, 26.4.1999	2nd	Carles Viver Pi-Sunyer	Tomás Bordoy Mora, José María Rodríguez Montero y «Rey Sol, SA» v. STS, 1ª, 12.6.1996
134/1999, 15.7.1999	1st	María Emilia Casas Baamonde	"Publicaciones Heres, SA" v. STS, 1ª, 7.12.1995
180/1999, 11.10.1999	2nd	Carles Viver Pi-Sunyer	Enrique Pablo Juan Román v. STS, 1ª, 28.3.1996
110/2000, 5.5.2000	2nd	Tomás S. Vives Antón	Pedro L. R. v. SAP Murcia 16.5.1996
112/2000, 5.5.2000	1nd	Pablo Manuel Cachón Villar	Jaime C. D. R., don Juan Carlos S. A. y "Difusora de Información Periódica, SA" v. STS, 1ª, 21.10.1996
115/2000, 5.5.2000	2nd	Julio Diego González Campos	Isabel Preysler v. STS, 1ª, 31.12.1996
186/2001, 17.9.2001	2nd	Julio Diego González Campos	Isabel Preysler v. STS, 1ª, 20.7.2000

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