



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF SIC - SOCIEDADE INDEPENDENTE DE COMUNICAÇÃO, S.A v. PORTUGAL (No. 2)

(Application no. 2746/21)

JUDGMENT

Art 10 • Freedom of expression • Applicant television company ordered by Supreme Court to pay damages to two private individuals for broadcasting a prior recording of them at a stand-up comedy show for promotional purposes without their express consent • Absence of any matter of public interest in depicting the individuals • Doubtful nature of the individuals' tacit consent • Use of the individuals' images and voices embarrassing and capable of tarnishing or causing prejudice to their reputation with possible adverse effects on both their professional and personal lives • Applicant company's failure to take steps to minimise such effects • Nature and severity of damages not excessive in case-circumstances • Injunction appropriate and capable of preventing any additional inappropriate disclosure or exposure of the individuals' images and voices • Wide margin of appreciation not overstepped • Interference "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

13 January 2026

FINAL

13/04/2026

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

**In the case of SIC - Sociedade Independente de Comunicação, S.A
v. Portugal (no. 2),**

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Lado Chanturia, *President*,

Jolien Schukking,

Faris Vehabović,

Anja Seibert-Fohr,

Ana Maria Guerra Martins,

Sebastian Rădulețu,

András Jakab, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 2746/21) against the Portuguese Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 16 December 2020 by a Portuguese company, *SIC - Sociedade Independente de Comunicação, S.A.* (hereinafter, “the applicant company”), incorporated on 6 October 1992 and based in Oeiras, Portugal, represented by Ms R.S. Gomes, a lawyer practising in Lisbon;

the decision to give notice of the application to the Portuguese Government (“the Government”), represented by their Agents, Mr. Ricardo Bragança de Matos, Public Prosecutor, and Manuel Aires Magriço, also Public Prosecutor;

the parties’ observations;

Having deliberated in private on 30 September and 9 December 2025,

Delivers the following judgment, which was adopted on that last-mentioned date:

INTRODUCTION

1. The case concerns a judgment against the applicant company in proceedings brought against it by two individuals, M.G. and M.C., who had claimed compensation for the prejudice caused to them by a broadcast which included their images and voices. The recording had been made during a stand-up comedy show and was later broadcast on television and made available on the internet without their express consent. Relying on Article 10 of the Convention, the applicant company complained of a breach of its right to freedom of expression.

THE FACTS

2. The applicant company owns several Portuguese television channels, including *SIC Radical*, which is known for broadcasting programming

targeted at a younger audience, often featuring content with an irreverent tone such as comedy shows, talk shows, or music.

3. On 18 January 2012 M.G. and M.C. attended a stand-up comedy show in a theatre in Lisbon.

4. At the entrance to the auditorium, a notice said that video recording would be taking place during the show. At the start of the performance, comedian J.C. began by informing the audience that the show was being recorded. Throughout the performance, three video cameras could be seen filming both the comedian and the audience.

5. At the midpoint of the performance, the comedian J.C. made the following comment:

“Fritzl, Joseph Fritzl, that Austrian guy, would come in handy here. Do you know who Joseph Fritzl is? That Austrian guy who locked up his grandchildren in the basement and then, bam bam [he made gestures of a sexual nature], come here you dog, bam here, bam here, quiet, do not make any noise because your grandmother is upstairs ironing. Bam, bam, always there, on the knees, bam, he didn’t even use cream, bam, there on the knees, until [they] can bear it.”

6. Comedian J.C. then addressed someone in the audience and made the following comment:

“You like this after all... yesterday you were here with a guy, and today you have come here with a black [woman]”

7. Disturbed by such comments, M.G. and M.C. stood up and, as they were leaving, became engaged in a heated exchange with the comedian:

M.G.: You should follow the proverb “The person who gives you a warning is your friend.” Have you noticed that the audience is not laughing? They are warning you that you are not funny.

Comedian J.C.: This [show] is not intended for certain age [groups], in any event. There are certain age [groups] that do not understand [this show]. Maybe you come from before the April 25 [Revolution].

M.G.: No, no...

Comedian J.C.: No, no, you must think, you probably think that I do not have the freedom to say what I want.

M.G.: Look, since I have the freedom to buy the ticket, I also have the freedom to not be here and not to have to listen to you and your xenophobia.

Comedian J.C.: You probably even bought a concessionary ticket...

M.G.: And you can give other people a certificate of stupidity because everyone...

Comedian J.C.: You probably come from before the April 25 [Revolution]. Perhaps you think that people do not have freedom. Freedom belongs to everyone; the world is free...

M.G.: If you have freedom, I also contributed to it.

Comedian J.C.: Oh, the world is free, you see?

M.G.: You know what? You should follow another profession, you will not make it in this one.

Comedian J.C.: Ok. No problem, you are probably already retired from some job, in any event, I am sure.

M.G.: Actually, you are mistaken.

Comedian J.C.: Maybe you are a freemason, maybe you are a freemason.

M.G.: I wouldn't mind being one, no. I would prefer being a freemason to being stupid like you.

Comedian J.C.: Please...

M.G.: Goodbye, have a good one.

Comedian J.C.: I'll explain. Next time I'll bring audiovisual [material] to explain the jokes. Please my friend, get going, please.

M.C.: I do not understand how you perform in shows. I do not understand.

Comedian J.C.: Because I am good, my lady, because I am good.

M.C.: Because you... you are the show.

Comedian J.C.: Because I am good.

M.C.: You are the show.

Comedian J.C.: Because I am good.

M.C.: It is a pity that he was treated badly....

Comedian J.C.: My friends, because I am good, because I am good, you understand?

M.C.: Because you are terrible at this...

Comedian J.C.: Because I am good. Envy is a very bad thing. Apologies, Luciano, call security, take these people away from here please.

M.C.: No, no, but listen, you do not know who is watching your show. You said serious things to people who were here. This is an offence to the good name of theatre.

Comedian J.C.: I spoke about black people; I did not speak about fat people or old people. I did not offend anyone.

M.C.: Look, look, you are the worst thing in the world.

Comedian J.C.: The worst thing...ok, ok....

M.C.: Out of respect for the memory of the artist this theatre was named after, you do not even deserve the [respect] of being allowed to be here...That is the biggest offence to the good name of this theatre...

Comedian J.C.: ... Please, close the door, I must get on with the show.

8. On 23 January 2012 the applicant company entered into a licensing agreement with C.F., the company producing the show. Under this agreement, the applicant company acquired the television broadcasting rights, while C.F. assumed responsibility for any third-party image rights associated with the show. C.F. also provided assurances that all necessary authorisations for broadcasting images and sound would be obtained in advance. The above-

mentioned comedy show was then included as part of a six-episode documentary series named “The Humourist”, about the career of the comedian J.C., which was broadcast on *SIC Radical*.

9. On 29 January 2013 a promotional video advertising the documentary series began airing on *SIC Radical*, in which an extract of the exchange involving M.G. and M.C. appeared briefly (see paragraph 7 above). M.G. appeared on screen for a few seconds, with both his image and his voice captured as he complained that the show was not funny. As he spoke, a close-up of his face was shown. His comment was reproduced:

“You should follow the proverb “The person who gives you a warning is your friend.” Have you noticed that the audience is not laughing? They are warning you that you are not funny.”

10. On 4 February 2013 episode 1 of “The Humourist” was aired on *SIC Radical*. This episode included an extract of the exchange involving M.G. and M.C., in which the image of M.C. and the image and voice of M.G. were reproduced for a few seconds (see paragraph 7 above).

11. On 26 February 2013 episode 4 of “The Humourist” was aired on *SIC Radical*. This episode featured an extract of the exchange which was nearly three minutes long (see paragraph 7 above) and in which both the images and the voices of M.G. and M.C. were reproduced.

12. In June 2013 M.G. and M.C. contacted the applicant company seeking to have their images removed from the broadcast. The applicant company replied by rejecting any responsibility for the matter.

13. The promotional video was broadcast on *SIC Radical* for at least 45 days, several times a day (see paragraph 9 above). Episode 1 of the series was broadcast 12 times, while episode 4 was broadcast 13 times (see paragraphs 10-11 above). The content was also made available on *SIC Radical*’s website and on the comedian’s YouTube channel.

14. On 25 April 2014, M.G. and M.C. brought proceedings against the applicant company in the Cascais Civil Court, claiming that their images and voices had been broadcast by *SIC Radical* without their consent. They alleged that clients, family and friends had seen extracts of the series and of the promotional video in which they appeared (see paragraphs 9-11 above), causing them significant humiliation and distress.

15. On 9 July 2018, the Cascais Civil Court dismissed the case, finding that the applicant company had not acted unlawfully. The court held that the assurances in the licensing agreement with the production company that they would obtain all necessary image rights (see paragraph 8 above) were sufficient and that no further action could reasonably have been expected of the applicant company.

16. Following an appeal by M.G. and M.C., the Lisbon Court of Appeal upheld the lower court’s decision on 26 September 2019. The court found that it could be presumed from both the factual context and the conduct of the claimants that the definition of consent in Article 3 (h) of Law no 67/98, of

26 October 1998 (the “Personal Data Protection Law”, see paragraph 22 below), namely “the expression of free, specific and informed will”, had been fulfilled (see paragraphs 2-7 above).

17. On 16 June 2020, following a request for an exceptional judicial review filed by M.G. and M.C., the Supreme Court overturned the judgment of the Lisbon Court of Appeal and ordered the applicant company to pay them 40,000 euros (EUR) in damages for broadcasting their images and voices unlawfully. Of this amount, 15,000 EUR was awarded as compensation for moral damage, while the remaining 25,000 EUR was awarded by way of punitive damages, which were imposed to discourage and deter. The Supreme Court further instructed the applicant company to delete any video-recordings containing the image of M.G. or M.C. (see paragraphs 9-11 above), including those on its website, and to take steps, through third parties, to ensure the removal of any video-recordings available on YouTube.

18. In giving reasons, the Supreme Court began by affirming that the comedian’s right to freedom of expression was not at issue, but rather whether valid consent had been given by the claimants. It went on to explain that any tacit consent to being filmed would extend only to the normal course of the show. It found that the consent could not therefore reasonably be construed as permission for the claimants’ images and voices to be edited and used out of context, especially in a promotional video which portrayed them negatively by highlighting a heated exchange between them and the comedian (see paragraph 9 above). Given the specific circumstances of the case, the Supreme Court concluded that Article 79, paragraphs 1 and 3 of the Civil Code, interpreted in the light of Article 3 (h) of the Personal Data Protection Law (see paragraphs 21 and 22 below), required express and unequivocal consent. It further held the applicant company and C.F. jointly and severally liable in damages, while preserving the applicant company’s right to indemnity from C.F. The relevant parts of the judgment of the Supreme Court read as follows:

“...the events recorded and broadcast on television and by video occurred following an unexpected situation which, regardless of the comedian’s right to freedom of expression and the role of humour in the perpetuation or dismantling of racist, sexist, or homophobic prejudices—which are not the subject under discussion here—understandably shocked the claimants who got angry since it involved humour targeting vulnerable people: children who are victims of appalling offences and groups who are discriminated against because of the colour of their skin ... It therefore could not be said that the dissemination of those images without any authorisation, especially when the images were taken out of context and edited using musical and graphic effects, was doing so with the tacit consent of any person who had attended a show. A company that wishes to reproduce, edit, and disseminate those images must therefore obtain authorisation from the persons concerned ...

..., those images — in close-up, with the speakers’ own words and voices — should never have been reproduced or disseminated without the consent of the people involved. The conduct of the programme’s production company ... is further aggravated by the fact that they took the images out of context, edited them, and inserted them into a

graphic and musical context designed to promote their programme. For this reason, even if it were accepted that there was tacit consent to the images being recorded ... subsequent consent would always be necessary for any editing and dissemination. This is aggravated by the way the montage was done as it was aimed at giving a comic edge to the images which the authors felt ridiculed them and offended against their reputation and dignity ... something which anyone would have felt if they had been put in that situation and seen their image, words, and voice reproduced in close-up on television and on the internet showing them in an altercation with another person ...”

19. On 2 July 2020, the applicant company applied for leave to appeal to the Constitutional Court, contending that the interpretation of Article 79 of the Civil Code – specifically, the finding that tacit consent could not be presumed in the present case – was unconstitutional. It argued that that interpretation violated its right to freedom of expression and precluded any balancing exercise between the two competing rights of freedom of expression and the right to one’s image. On 15 September 2020 the Supreme Court declined leave to appeal.

RELEVANT LEGAL FRAMEWORK

DOMESTIC LAW

A. The Constitution

20. The relevant provisions of the Constitution provide as follows:

Article 26 **Other personal rights**

“1. Everyone has the right to a personal identity, to the development of his or her personality, to civil capacity, to citizenship, to his or her good name and reputation, to his or her own image, to speak freely, to the privacy of his or her personal and family life, and to legal protection against any form of discrimination.
...”

Article 37 **Freedom of expression and information**

“1. Everyone has the right to freely express and divulge his or her thoughts in words, images or by any other means, as well as the right to inform others, inform himself or herself and be informed without hindrance or discrimination.

2. The exercise of these rights may not be hindered or limited by any type or form of censorship.

3. Offences committed in the exercise of these rights shall be subject to the general principles of criminal law or the law governing administrative offences, and courts of law or an independent administrative entity shall have power to adjudicate on them as laid down by law.

4. Every natural and legal person shall be equally and effectively ensured the right of reply and the right to make corrections, as well as the right to compensation for damage suffered.”

Article 38
Freedom of the press and media

“1. Freedom of the press shall be guaranteed.

2. Freedom of the press implies:

(a) freedom of expression and creativity for journalists and other staff, as well as journalists’ freedom to take part in deciding the editorial policy of their media entity, save when the entity is doctrinal or religious in nature.

(b) the right of journalists, as laid down by law, to have access to sources of information and to the protection of professional independence and secrecy, and the right to elect editorial boards.

(c) the right to found newspapers and any other publications without the need for any prior administrative authorisation, bond or qualification.

...”

B. The Civil Code

21. The relevant provisions of the Civil Code provide as follows:

Article 70
General protection of personality

“1. The law shall protect individuals against any unlawful interference or threat of harm to their person or character.

...”

Article 79
Right to image

“1. The image of a person may not be exhibited, reproduced or launched into the public sphere without their consent; after the death of the person portrayed, the right to authorise publication shall devolve to the persons designated in Article 71(2), in the order indicated therein.

2. The consent of the person portrayed shall not be required if publication would be justified by their already being well known to the public, by the position they hold, by police or judicial requirements, or if publication is for scientific, educational or cultural purposes, or when the image was captured in a public place, or in the context of a matter of public interest or an event which has taken place in public.

3. The image may not, however, be reproduced, exhibited or launched into the public sphere if this results in damage to the honour, reputation or social propriety of the person portrayed.”

Article 217

Express and tacit declarations

“1. A declaration may be express or tacit: it is express when it is made in words, in writing or by any other direct means of expressing one’s will, and it is tacit when it is deduced from facts that, in all probability, reveal one’s will.

...”

Article 483

General Principle

“1. Anyone who, whether through wilful intent or mere negligence, unlawfully breaches a right of another person or any legal provision designed to protect third-party interests, shall be obliged to compensate the injured party for the damage that results from that breach.

...”

Article 484

Damage to reputation and good name

“Anyone who states or disseminates a fact capable of damaging the reputation or good name of a natural or legal person shall be liable for any damage caused.”

Article 487

Fault

“1. The injured party has the burden of proving the fault of the person who caused the damage, unless there is a legal presumption of fault.

2. Fault is assessed, in the absence of any other legal criterion, by the diligence expected of a prudent person, according to the circumstances of each case.”

Article 497

Joint and several liability

“1. If several persons are responsible for the damage, they are jointly and severally liable.

2. There is a right of redress between those responsible to the extent of their individual responsibility and the consequences arising therefrom, the fault of the persons responsible being presumed to be equal.”

C. Law no. 67/98 of 26 October 1998

22. The relevant provisions of the Law no. 67/98, of 26 October 1998 – the Personal Data Protection Law - as in force at the material time, provide as follows:

Article 3

Definitions

“For the purposes of this law:

...

h) ‘Consent of the data holder’: any expression of free, specific and informed will by which the holder accepts that his or her personal data may be processed.

...”

THE LAW

ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

23. The applicant company complained that the Supreme Court’s judgment against it amounted to a breach of its right to freedom of expression as provided for in Article 10 of the Convention, which reads as follows in its relevant parts:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers....

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, ..., for the protection of the reputation or rights of others, ..., or for maintaining the authority and impartiality of the judiciary.”

A. Admissibility

24. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties’ submissions

(a) The applicant company

25. The applicant company submitted that the Supreme Court’s judgment of 16 June 2020 (see paragraph 17 above) constituted a disproportionate interference with its right to freedom of expression, and specifically its freedoms of satire, parody and content programming. It maintained that the interference lacked a lawful basis, as M.G. and M.C. had given their tacit consent to the recording of their image under Articles 79 (1) and 217 of the Civil Code (see paragraph 21 above). It further argued that the notion of consent as defined by the Personal Data Protection Law - and applied by the Supreme Court - did not apply in the present case, as that regime had been created to establish a lawful basis for the treatment of personal data and not to protect personality rights such as the right to one’s image.

26. Furthermore, the applicant company contended that the interference did not pursue the legitimate aim of “the protection of the reputation or rights

of others” as two-thirds of the compensation it had been ordered to pay was punitive damages (see paragraph 17 above), which had had a purely repressive purpose with no basis in domestic law. It also submitted that the interference in question was not necessary in a democratic society since the Supreme Court had failed to identify what element of the right to freedom of expression was involved, to adequately assess all the relevant competing interests or to consider the potential chilling effect of its decision. It also argued that the sanction imposed had been excessive.

(b) The Government

27. The Government acknowledged that the compensation imposed on the applicant company (see paragraph 17 above) constituted an interference with its right to freedom of expression, namely its right to broadcast cultural and artistic content. Nevertheless, it maintained that it had had a basis in both civil and constitutional law - namely Article 79 (1) of the Civil Code and Article 26 (1) of the Constitution - and had pursued the legitimate aim of protecting the rights of M.G. and M.C. to their image and to respect for their private life.

28. The Government further contended that, when assessed against the criteria laid down in *Von Hannover v. Germany (no. 2)* ([GC], nos. 40660/08 and 60641/08, §§ 108-113, ECHR 2012), the interference had clearly been necessary. They began by asserting that the television series was in the nature of entertainment content, primarily intended to attract viewers. It argued that therefore no debate of general interest was involved. The Government also observed that M.G. and M.C. were private individuals who had not been known to the public before these events. Given their prior conduct and the specific circumstances of the case (see paragraphs 2-9 above), it could not reasonably be concluded that they had tacitly consented to the editing and subsequent broadcasting of their image for promotional purposes, portraying them in an exceptional and unpredictable situation. Lastly, the Government underlined the way the recording had been edited, taking the events out of context and ridiculing M.G. and M.C. (see paragraphs 9 and 13 above), and emphasised that the broadcast had led to serious and grave consequences for their private lives (see paragraph 14 above).

29. The Government pointed out that the applicant company had been contacted by M.G. and M.C. (see paragraph 12 above), but had failed to take any steps to address their concerns. They argued that its conduct had been reprehensible, and that the use of M.G. and M.C.’s images solely for comedic and commercial purposes, and without their consent, could not qualify for protection under the right to freedom of expression. The Government therefore concluded that the sanction imposed had been proportionate to the legitimate aim of protecting M.G. and M.C.’s right to their private life.

2. *The Court's assessment*

(a) General principles

30. The Court would first point out that Article 10 guarantees freedom of expression to “everyone”. No distinction is made in it according to whether the aim pursued is profit-making or not (see *Casado Coca v. Spain*, 24 February 1994, § 35, Series A no. 285-A; *Neij and Sunde Kolmisoppi v. Sweden* (dec.), no. 40397/12, 19 February 2013; and *Bohlen v. Germany*, no. 53495/09, § 46, 19 February 2015). Article 10 does not apply solely to certain types of information or ideas or forms of expression, in particular those of a political nature; it also encompasses artistic expression (see *Müller and Others v Switzerland*, 24 May 1988, § 27, Series A no. 133), information of a commercial nature (see *Casado Coca*, cited above, §§ 35-37, and compare *Krone Verlag GmbH & Co. KG v. Austria* (no. 3), no. 39069/97, §§ 19-20, ECHR 2003-XII; *Mouvement raëlien suisse v Switzerland* [GC], no. 16354/06, § 49, ECHR 2012 (extracts); and *Sekmadienis Ltd. v. Lithuania*, no. 69317/14, § 62, 30 January 2018). Article 10 therefore applies even in situations where there is no intention of imparting any message, opinion, or idea, or of taking part in any debate on a matter of public interest (compare *Sigma Radio Television Ltd v. Cyprus*, nos. 32181/04 and 35122/05, § 204, 21 July 2011, and *C8 (Canal 8) v France*, §§ 45-47, nos. 58951/18 and 1308/19, 9 February 2023). However, in such cases, the Court will accord the Contracting State a wide margin of appreciation in assessing the necessity of given interference (see *C8 (Canal 8)*, cited above, § 47).

31. The Court will thus analyse whether there was an interference and whether it was “prescribed by law”, “pursued one of the legitimate aims” within the meaning of Article 10 § 2 and was “necessary in a democratic society” (see paragraph 35 below). The Court will examine these points in turn (see *Perinçek v. Switzerland* [GC], no. 27510/08, § 124, ECHR 2015 (extracts)).

(b) Application of the above principles to the present case

(i) *Whether there was an interference*

32. It is a common ground between the parties that the Supreme Court’s judgment of 16 June 2020 (see paragraphs 17 and 18 above) constituted an interference with the applicant company’s right to freedom of expression. The Court sees no reason to hold otherwise (compare *C8 (Canal 8)*, cited above, § 72).

(ii) *Whether the interference was prescribed by law*

33. The parties disagreed as to whether the interference in question was prescribed by law. In this connection they presented conflicting arguments as

to the proper interpretation and application of the concept of consent as set out in Article 79 of the Civil Code (see paragraphs 25-28 above).

34. The Court reiterates that it is not its role to interpret domestic law or settle disputes over its interpretation, except in cases where an interpretation is manifestly unreasonable or arbitrary (see *Cangı v. Turkey*, no. 24973/15, § 42, 29 January 2019). In this regard, the Court finds that the Supreme Court's application of Article 79 of the Civil Code to justify awarding compensation against the applicant company (see paragraphs 17-18 above) cannot be considered manifestly unreasonable or arbitrary. The Court therefore accepts the Government's contention that the impugned interference had a basis in law.

(iii) Whether the interference pursued a legitimate aim

35. The Court accepts the Government's contention (see paragraph 27 above) that the interference in question was aimed at protecting the right of M.G. and M.C. to respect for their private life, which corresponds to one of the legitimate aims set out in paragraph 2 of Article 10, namely the protection of the rights of others.

36. It therefore remains to be determined whether the interference complained about was necessary in a democratic society.

(iv) Necessary in a democratic society

(α) The general principles

37. The general principles concerning the question of whether an interference is "necessary in a democratic society" are well established in the Court's case-law and have been summarised in *NIT S.R.L. v. the Republic of Moldova* ([GC], no. 28470/12, § 177, 5 April 2022). The general principles applicable to cases in which the right to freedom of expression under Article 10 of the Convention has to be balanced against the right to respect for private life under Article 8 of the Convention were set out by the Grand Chamber in *Axel Springer AG v. Germany* ([GC], no. 39954/08, §§ 78-95, ECHR 2012) and *Von Hannover v. Germany (no. 2)* ([GC], nos. 40660/08 and 60641/08, §§ 95-113, ECHR 2012). The relevant criteria in this regard are:

- (a) the contribution to a debate of general interest;
- (b) how well known the person concerned is and what the subject of the report is;
- (c) the conduct of the person concerned prior to publication of the article;
- (d) how the information was obtained and how accurate it was;
- (e) the content, form and consequences of the publication; and
- (f) the severity of the sanction imposed (see *Axel Springer AG*, cited above, §§ 89-95).

Where a balancing exercise has been undertaken by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its view for that of the domestic courts (see *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, §§ 92-93, ECHR 2015 (extracts), with further references).

38. In exercising its supervisory function, the Court's task is not to take the place of the national courts, but rather to review, in the light of the case as a whole, whether the decisions they have taken fall within their margin of appreciation and are compatible with the provisions of the Convention relied on (see *Axel Springer AG*, cited above, § 86). The breadth of a State's margin of appreciation varies depending on a number of factors, among which the type of speech at issue is of particular importance. While there is little scope under Article 10 § 2 of the Convention for restrictions on political speech (see *Ceylan v. Turkey* [GC], no. 23556/94, § 34, ECHR 1999-IV), States have a broad margin of appreciation in the regulation of speech in commercial matters or advertising (see *markt intern Verlag GmbH and Klaus Beermann v. Germany*, 20 November 1989, § 33, Series A no. 165, and *Casado Coca*, cited above, § 50).

39. With respect to audiovisual media, the Court has held that the task of service providers to impart information necessarily brings "duties and responsibilities" which include a duty to impose limits on themselves, and that wherever information brings a person's image into play, the media are required to take into account, in so far as possible, the impact of the information, pictures or video recordings to be published prior to their dissemination (see *I.V.T. v. Romania*, no. 35582/15, § 48, 1 March 2022). Where the "duties and responsibilities" of journalists, service providers and television channels are concerned, the potential impact of the medium of expression involved is an important factor in assessing the proportionality of the interference. In this context, the Court has acknowledged that account must be taken of the fact that the audiovisual media have a more immediate and powerful effect than the print media. The former have means of conveying through images meanings which the print media are not able to impart (see *NIT S.R.L.*, cited above, § 182). This applies *a fortiori* to publications on the internet, since the capacity of the internet to store and transmit information, and the risk of harm to the exercise and enjoyment of human rights and freedoms posed by content and communications on the internet – particularly harm to the right to respect for one's private life – is certainly higher than that posed by the press (see *Bild GmbH & Co. KG v. Germany*, no. 9602/18, § 28, 31 October 2023).

40. The notion of "private life" within the meaning of Article 8 of the Convention is a broad concept which extends to a number of aspects relating to personal identity, such as a person's name or image, and furthermore includes a person's physical and psychological integrity (see, for instance, *Von Hannover*, cited above, § 95, and *Paradiso and Campanelli v. Italy* [GC],

no. 25358/12, § 159, ECHR 2017). A person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics and distinguishes the person from his or her peers. The right of each person to the protection of his or her image presupposes the right to control the use of that image. While in most cases it means the individual must be given an opportunity to veto publication of the image, it also covers the individual's right to object to the recording, conservation and reproduction of the image (see *López Ribalda and Others v. Spain* [GC], nos. 1874/13 and 8567/13, §§ 87 and 89, 17 October 2019).

41. In order for Article 8 to be engaged, however, an attack on a person's reputation must attain a certain level of seriousness and must be carried out in a manner causing prejudice to personal enjoyment of the right to respect for private life (see *Bédat v. Switzerland* [GC], no. 56925/08, § 72, 29 March 2016, and *Axel Springer*, cited above, § 83).

42. The Court also reiterates that a distinction has to be made between private individuals and persons acting in a public context as political figures or public figures. Therefore, while a private individual unknown to the public may claim protection for his or her right to private life, the same is not true of public figures (see *Minelli v. Switzerland* (dec.), no. 14991/02, 14 June 2005, and *Petrenco v. Moldova*, no. 20928/05, § 55, 30 March 2010). The limits of critical comments about public figures are wider, as they are inevitably and knowingly exposed to public scrutiny and must therefore show a particularly high degree of tolerance (see *Milisavljević v. Serbia*, no. 50123/06, § 34, 4 April 2017, and *Couderc and Hachette Filipacchi Associés*, cited above, § 121).

(β) Application of these principles to the present case

43. In the present case, it is noted at the outset that the domestic courts did not weigh up the conflicting interests. Rather, they focused exclusively on the legal question of consent (see paragraphs 15-18 above). Even though the domestic courts have failed to apply the criteria laid down in the Court's case-law for balancing freedom of expression with the right to private life, in view of the circumstances of the case (see paragraphs 5-6 and 18 above), the Court will carry out the required balancing exercise (for a similar approach see *Mesić v. Croatia*, no. 19362/18, § 93, 5 May 2022; *Khural and Zeynalov v. Azerbaijan*, no. 55069/11, § 54, 6 October 2022; and *National Youth Council of Moldova v. the Republic of Moldova*, no. 15379/13, § 78, 25 June 2024). It will therefore examine the necessity of the interference with the applicant company's freedom of expression against the criteria mentioned above (see paragraph 37 above), that is, whether the TV show and its promotional video (see paragraphs 9-13 above) contributed to a debate of public interest, how well known the person affected was, the content and form of the videos, the way the disputed images were obtained, and the nature and severity of the sanction imposed.

44. In the present case, the Court notes that it is not the comedian's right to freedom of artistic or satirical expression (see paragraphs 3-7 above) that is at issue but rather the applicant company's right to both advertise and broadcast one of its shows in order to increase its audience figures, using recordings of the voices and images of two private individuals attending a live stand-up comedy show (see paragraphs 8-11 above).

45. As to whether there was a debate of general interest, the Court notes that, according to the Government's submissions, there is no discernible issue of public interest in the present case (see paragraph 28 above and compare *C8 (Canal 8)*, cited above, § 84 and contrast *Bohlen*, cited above, § 50). It also takes note of the Supreme's Court concerns about the racist and offensive tone of the comedian's remarks which provoked the heated altercation between him and M.G. and M.C. later used in the promotional video of the show and in episodes 1 and 4 of the documentary series (see paragraph 8 and 18 above and compare *Sigma Radio Television Ltd*, cited above, § 208). In these circumstances, the Court finds that the respondent State afforded a wide margin of appreciation in assessing the necessity of the impugned interference (see paragraph 30 above). Nonetheless, such margin is not unlimited, and the Court has to assess whether the national authorities overstepped it (compare *Sekmadienis Ltd.*, cited above, § 76).

46. As to how well known the persons concerned were and their prior conduct, it is undisputed that M.G. and M.C. are both private individuals, not known to the public. Furthermore, it does not appear that, by merely attending a stand-up comedy show, they had sought exposure, courted publicity to further their own interests or entered the public domain (see, *a contrario*, *Bohlen*, cited above, § 53, and compare, *Flinkkilä and Others v. Finland*, no. 25576/04, § 83, 6 April 2010, and *Hájovský v. Slovakia*, no. 7796/16, §§ 34-35, 1 July 2021).

47. The Court further finds that, notwithstanding the written and verbal notices and the presence of cameras during the show (see paragraph 4 above), the conduct of M.G. and M.C. did not clearly or unequivocally demonstrate their tacit consent to the recording and prominent use of their images and voices during their heated discussion with the comedian for the broadcast of the documentary series about the career of the comedian J.C. on the SIC Radical channel and its commercial promotion (see paragraphs 8-13 above).

48. Moreover, even accepting that it may be normal, or even to be expected, that stand-up comedy shows will be recorded, it cannot be assumed that M.G. and M.C. should have reasonably expected that their images and voices would be extracted from a heated altercation and edited and taken out of context for commercial purposes (see paragraph 9 above and compare *Hájovský*, cited above, §49 and *Bohlen*, cited above, § 55). The fact that M.G. and M.C. expressly contacted the applicant company in an attempt to resolve the issue (see paragraph 12 above) constitutes further evidence of the absence of clear and unequivocal consent.

49. The Court observes that the promotional video and episodes 1 and 4 of the documentary series (see paragraphs 8-11 above) focused on the irreverent character of the show, with the intention of increasing the company's audience figures. Although the extract in which M.G. and M.C. appear is only brief, it was broadcast by *SIC Radical* in its promotional video for at least 45 days, several times a day, and episode 1 and 4 of the series were broadcast 12 and 13 times each. The content was also made available on *SIC Radical*'s website and on the comedian's YouTube channel (see paragraph 13 above). The Court therefore accepts that the broadcasting of these videos was embarrassing and capable of tarnishing or causing prejudice to the reputation of M.G. and M.C., with possible adverse effects on both their professional and personal lives. It therefore finds that the broadcasting of their images and voices without their consent attained a sufficient level of seriousness to threaten the personal enjoyment by M.G. and M.C. of their rights under Article 8 of the Convention (see *Stancu and Others v. Romania*, no. 22953/16, § 121, 18 October 2022).

50. Moreover, the Court finds that the applicant company failed to take steps to minimise any adverse effects by not seeking the explicit consent of M.G. or M.C. and by not blurring their faces or distorting their voices (compare *Peck v. the United Kingdom*, no. 44647/98, § 85, ECHR 2003-I, and *Hájovský*, cited above, § 49), thus creating a feeling of being ridiculed and increased public exposure (see paragraph 18 above). The Supreme Court's injunction (see paragraph 17 above) was therefore appropriate and capable of preventing any additional inappropriate disclosure or exposure of the images and voices of M.G. and M.C.

51. Turning to the nature and the severity of the sanction, the Court observes that the applicant company was ordered to pay EUR 40,000 in damages to M.G. and M.C. for having unlawfully broadcast their images and voices (see paragraph 17 above) which does not appear to be excessive in view of the overall circumstances of the case (compare *C8 (Canal 8)*, cited above, § 102).

(γ) Conclusion

52. Having regard to the foregoing considerations, in particular the absence of any matter of public interest in depicting M.G. and M.C. (see paragraph 45 above), the fact that the claimants were private individuals whose private life was affected by the broadcasting of their images (see paragraphs 46 and 49 above), the doubtful nature of their tacit consent (see paragraph 47 above), and the appropriate sanction and restrictions imposed on the applicant company (see paragraphs 50-52 above), the Court concludes that in the present case the domestic authorities have not overstepped the wide margin of appreciation allowed to them in achieving a reasonable proportionality between the applicant company's right to freedom of expression on the one hand and the rights of M.G. and M.C. to respect for

their private life (see paragraphs 35 and 49 above) on the other. The interference was therefore “necessary in a democratic society” (compare *C8 (Canal 8)*, cited above, § 103).

53. There has accordingly been no violation of Article 10 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 10 of the Convention.

Done in English, and notified in writing on 13 January 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski
Deputy Registrar

Lado Chanturia
President