



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

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FIFTH SECTION

Application no. 28299/25
Z against Spain
lodged on 13 September 2025
communicated on 24 August 2026

SUBJECT MATTER OF THE CASE

The applicant was the victim of a sexual assault in Pamplona in July 2016. Her attackers were convicted for rape and sentenced to fifteen years of imprisonment. The case attracted great media and public attention in Spain and became known as the *Manada* case. The *Manada* was the name of a WhatsApp group used by the convicted to communicate among themselves.

In December 2018, Mr. S. M. set up a website called “*Tourlamanada.com*” offering guided tours in Pamplona of the places where the sexual assault had taken place. The website included an account of the events and the possibility to buy T-shirts similar to those worn by the convicted at the time of the events.

The applicant brought actions against Mr. S.M., who was finally convicted by a criminal court (*Juzgado de lo Penal nº 1 de Pamplona/Iruña*) for an offence against moral integrity and sentenced to one year and a half imprisonment and disqualification for election. He was also convicted to pay 15.000 euros (EUR) to the victim for moral damage. Mr. S. M. then lodged an appeal with the *Audiencia Provincial de Navarra*, which confirmed the first instance judgement. The appeal on points of law with the Supreme court was furthermore declared inadmissible.

Mr. S. M. then lodged an *amparo* appeal with the Constitutional court. By a judgement of 13 May 2025, that court quashed the *a quo* judgements and

acquitted Mr. S. M. of all the charges. It found that the criminal court had omitted to assess the facts in the light of the freedoms of expression and artistic creation, as required by the case-law of the Constitutional court in respect of the offence against moral integrity. The court further observed that the lower courts had failed to include in their balance the analysis of the claimant's complaint that his intention was to be satirical and critical, which should be considered as falling within the scope of the artistic freedom. While acknowledging the painful emotional consequences for the victim, the court considered that no intention of humiliation could be observed, in particular taking into account the content of the website. Quoting the case-law in *Vereinigung Bildender Künstler v. Austria*, no. 68354/01, § 33, 25 January 2007; *Eon v. France*, no. 26118/10, § 60, 14 March 2013; and *Baldassi and Others v. France*, nos. 15271/16 and 6 others, § 78, 11 June 2020, as well as its own case-law on freedom of expression, the Constitutional court stressed the narrow margin of appreciation available for the interferences and exceptions to this right and recalled that the protection extended to expressions that could be considered harmful or provocative and also to inappropriate or distasteful messages.

The applicant complained under Article 8 on grounds that the Constitutional court did not perform a proper balance between the rights at stake and gave priority to Mr. S.M.'s freedom of expression over her right to respect for private life. Furthermore, she warned of the deterrent effect of the judgment on the victims of sexual offences as it granted protection to those who exploited the victims' suffering. In addition, the applicant submitted that the judgement of the Constitutional court was in breach of the positive obligations of the State.

The applicant further complained under Article 6 of the Convention that the Constitutional court did not hear her before granting the *amparo* appeal, which infringed her rights to immediacy, effective participation and adversarial proceedings.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicant's right to respect for her private life, within the meaning of Article 8 § 1 of the Convention, as a result of the judgement delivered by the Constitutional court on 13 May 2025?

2. If so, bearing in mind the particular circumstances of the case, have the domestic courts struck a fair balance between Article 8 and Article 10 of the Convention, in light of the criteria set out by the Court in *Von Hannover v. Germany* (no. 2) [GC], nos. 40660/08 and 60641/08, § 104-107, ECHR 2012; *Axel Springer AG v. Germany* [GC], no. 39954/08, § 85-88, 7 February 2012, and, more specifically, *M.L. v. Slovakia*, no. 34159/17, 14 October 2021? In particular, has there been a violation of the applicant's right to respect for her private life contrary to Article 8 of the Convention regarding the balancing between the right to dignity of a victim of sexual assault and the right to artistic expression in respect of Article 10 of the Convention?

3. Did the applicant have a fair hearing in the determination of her civil rights and obligations in accordance with Article 6 § 1 of the Convention, given that she was not heard in person during the proceedings before the Constitutional Court?