

Right to honour, to privacy and to one's own image

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Departamento de Derecho Privado

Yolanda Bergel Sainz de Baranda
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Degree in Journalism. Faculty of Humanities
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Organic Law 1/1982, of May 5

- Critics
- The Law in practice
- Fundamental rights (art. 18 SC) / Freedom of speech and freedom to inform (art. 20 SC)

Organic Law 1/1982, of May 5

- Art. 1: (i) Civil and criminal protection; (ii) inalienable and imprescriptible.
- ART. 2. Protection: the civil protection of these rights shall be defined by the law and social usages, according to the scope that by his or her own acts each person has reserved for him or herself or family

Types of violations (art.2):

- Right to honour: (i) defamation, slander; (ii) vexation, disregard
- Right to privacy: revelation of facts of someone's private life by any means (even if it is true)
- Right to one's own image: reproduction by any means of someone's image (interferences allowed in particular cases or when consent is granted)

Particular infringements (art. 7):

- installing devices capable of listening to or recording people's private lives;
- using devices to gain knowledge of people's private lives and private statements or documents not intended for the user, and recording and reproducing same;
- disclosing details of a person's or family's private life that affect his or her reputation and good name, and disclosing the content of private written documents;
- disclosing a person's or family's private details gained through the business or official activities of the disclosing party;
- using any process to capture, reproduce or publish a person's image in a private place or at a private time or otherwise, except where the persons involved hold a public position and the limitations established by law are respected;
- using a person's name, voice or image for advertising, commercial or similar purposes;
- attributing deeds or making value judgments in a manner that damages another's dignity, discrediting his or her fame or attacking his or her self-esteem; and
- a guilty party's use of his or her offence to achieve public notoriety or for financial gain, or the disclosure of false information on the criminal deed where this damages the victim's dignity.

The concept of “public interest”

When the rights enter into conflict with the right to freedom of speech or the freedom of information the right to inform prevails if there is public interest or the news are of public relevance, but the information needs veracity

Interferences allowed by the law when authorised by the competent authority according to law nor when historic, cultural or scientific interest prevails.

E.g. interferences allowed in the right to one's own image (art. 8.2):

- Public profession or public office (image taken in public place)
- Caricature
- information about a public new when the image appears as only accessory

The consent of the affected person

Interference with the rights to honour, privacy or image ceases to be unlawful when the person concerned has given express consent (art. 2.3)

Minors consent by themselves if sufficiently mature. If not sufficiently mature the legal representative shall give consent (with ok of the Public Prosecution) (art. 3)

Remedies: All remedies necessary to stop the illegal interference.

- Back to previous scenario
- Publication of court decision (rectification)
- Prevent future interferences
- Compensation of damages (importance of moral damages). The existence of illegitimate intromission presumes the existence of damage
- Payment to the aggrieved person of the money obtained due to the illegitimate interference
- 4 year term to start proceedings