

## **Photo Captions**

### **Pablo Salvador Coderch and Juan Antonio Ruiz García**

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#### **I**

### **Freedom of Speech and the Color of Citizenship**

“El Mundo Magazine” published a story on illegal immigration, “La Pesadilla de la Tierra Prometida” (nightmare of the promise land), on August 3 and 4, 1991. The report included a photo of an adult and a boy at a stand of the “Rastro,” a well-known fleamarket in Madrid. The photo caption read: “Two ‘illegal’ Africans have a stand at the Madrid Rastro.”



However, the subjects of the photo were Spanish citizens who ran a legal clothing business. The adult, Samuel Adaramewa, was of African origin and was married to a Spanish woman.<sup>1</sup> He appeared in the photo with his son, Daniel. They both had the necessary licenses and paid the taxes that correspond to the legal sale of merchandise.

Samuel and Daniel agreed to be photographed but were not informed that the photo would be included in a report about illegal immigration. They sued “Unidad Editorial, SA” (publisher), Alfonso de Salas (president), Pedro J. Ramírez (director), and Julio Fuentes (reporter and photographer). The plaintiffs asked that the defendants i) pay compensation of 5,000,000 pesetas (US\$ 31,250)<sup>2</sup> and ii) publish the decision in the newspaper in question.

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<sup>1</sup> At present, foreigners who marry a Spanish citizen may acquire Spanish nationality if they have: resided in Spain for over a year, a good civil conduct record, and adjusted well into Spanish society (article 22.1 d. of the Civil Code, according to Law 18/1990, December 17):

“The applicant may be considered if he/she has lived in Spain for at least one year at the time of submitting an application. The applicant must also be married to a Spaniard for one year, without a legal or of actual separation.”

Prior to Law 51/1982, July 13 (Boe 7.30.1982, num. 181) there was no required time period: marriage with a Spanish citizen was sufficient in principle to acquire Spanish nationality.

<sup>2</sup> 1 U.S. Dollar = 160.93045 ptas. <http://www.vanguardia.es/noticias/economia/labolsa.html> (June 21, 1999, at 15:01).

In Spain, defamation lawsuits can follow one of two paths:

a) The most serious cases may be criminally prosecuted based on the 1995 Penal Code, articles 205 and following (libel and slander, private crimes that can be tried only after the aggrieved party files suit). The case is decided in a criminal process by either a judge or court, and the defendant may also be held liable for the compensation of damages.

b) Cases that are less serious, or that are similar to the preceding ones but the plaintiff does not pursue a criminal lawsuit, may be tried as civil lawsuits. The judge or a court without a jury may require the defendant to provide compensation, publish the resulting decision, and/or abstain from future acts of defamation.

In Spain, a criminal case of this type follows a two step legal process: it is first tried before a judge, and then before a court. The case may be appealed before the Second Chamber of the Supreme Court and may eventually be reviewed in the Constitutional Court. It is difficult to explain the coexistence of two Supreme Courts in Europe: the Supreme Court and the Constitutional Court. Judicially speaking, continental Europe is not monotheistic. A civil lawsuit is similar.

Lawsuits usually last between five and six years, initiating with a claim and ending with the Supreme Court's decision. The lawsuit may take at least two years longer if it is sent to the Constitutional Court.

The first instance court sentenced the defendants to pay joint and severally 2,500,000 pesetas (U.S. \$15,625) to the plaintiffs for pain and suffering damages and to publish the decision (February 25, 1992).

The tort of defamation is regulated by the law of 1982 (LO 1/1982), whose article 9.3 establishes that once defamation is proven, the judge may sentence the defendant to pay presumed damages.<sup>3</sup> The article specifies that the compensation is to include pain and suffering damages. It is appropriate to distinguish between patrimonial, compensatory, and pain and suffering damages. There are no punitive damages in Spain: the penal guardianship is sufficient or more than sufficient.

The Court of Appeals (April 13, 1994) acquitted Alfonso de Salas and upheld the rest of the first instance court's decision.

The remaining plaintiffs appealed but the Supreme Court rejected the cases (**Supreme Court Decision, First Chamber, December 15, 1998**. Samuel Adaramewa A. A. and Daniel A. G. versus "Unidad Editorial, SA," Alfonso de Salas, Pedro J. Ramírez Codina and Julio Fuentes. *Judge ponente: Jesús Marina Martínez-Pardo*). The information published was found to be false and harmful. The lawsuit could have been avoided, had the reporter asked the plaintiffs a simple question:

"The report's author expressed his opinion on immigration. This is legitimate based on

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<sup>3</sup> Art. 9.3: "If there is an illegitimate interference, then it is assumed that there is harm. The compensation includes pain and suffering damages, assessed based on the circumstances and the seriousness of the injury in each case. The benefit to the tortfeasor is also taken into consideration."

freedom of speech. However, the author used a photo without confirming the truthfulness of the photo caption. Therefore, he made a false statement that this Chamber (...) believes to have caused annoyance and serious personal problems for those involved. Furthermore, the mistake could have been avoided by asking the plaintiff a simple question (Fundamento de Derecho 1º)."

The cost of obtaining the relevant information was very small in comparison to the probable extent of damages caused by the publication of false information. The Court intuitively applied a standard of negligence similar to that of Hand's formula ( $B = P \cdot L$ ).<sup>4</sup>

Spanish defamation law is ruled by a standard of negligence inspired by *New York Times v. Sullivan* (376 US 254 1964):<sup>5</sup>

The following case's decision is well-known (Constitutional Court, 6/1988, January 21, BOE 5.2.1988, num. 31):<sup>6</sup>

"False statements are inevitable in a free debate. If truth were imposed as a necessary condition, then silence would be the only guarantee of legal security (...). Liability for the publication of false or unverified information ... is not strict: the informant is solely responsible for making a reasonable effort to ... confirm his/her statements ... The constitution does not allow the right to information to be damaged by the truth or falseness of that communicated (F.J. 6)."

The liability standard for publishing false and defamatory information is negligence, not strict liability.

The thesis is supported in article 20.1 d, of the Spanish Constitution of 1978:

"The following rights are recognized and protected:  
To freely communicate or receive **truthful** information through any medium. The law regulates the right to the conscience clause and to professional secrecy in the exercise of these liberties."<sup>7</sup>

In Spanish, "truthful" signifies "one who always says, uses or professes the truth." Although "true" means "that which contains truth," "real and effective," "ingenuous and sincere", "that

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<sup>4</sup> *U.S. v. Carroll Towing Co.* (159 F. 2d 169 2d Cir. 1947). This case deals with the negligence of the owner of a barge that sunk at the mouth of the Hudson River (New York).

<sup>5</sup> Sullivan, the Alabama police commissioner, sued the "New York Times" because it had published an article about him that he considered defamatory. The Supreme Court constitutionalized the defamation *tort* and established a canon for the next responsible person in cases involving gross negligence.

<sup>6</sup> A government agency dismissed a reporter for supposedly doing a favor for a newspaper.

<sup>7</sup> Section 4 of the article establishes that:

"These liberties are limited based on the rights recognized under this Title, the laws that develop it, and particularly, by the right to honor, privacy, personal image, and protection of children."

one always says the truth, truthful," etc.,<sup>8</sup> both expressions are practically synonyms. Nevertheless, it is occasionally argued that the use of "truthful" instead of "true" in the section 20.1.d) shows that the Constitution's Fathers distinguished between the person who tries, perhaps mistakenly but always in good faith, to speak truthfully, with sincerity, and the person who tells the truth, who effectively tells the true statements from a semantic point of view.

## II

### **Photo Captions and Defamation: Ordinary People and Enemies of the State**

- **Ordinary People**

On both sides of the Atlantic, defamation lawsuits from erroneous photo captions are textbook examples. The methodology used to resolve them is simple but may result expensive in practice: first, it should be proven that the defendant made a mistake, a strictly objective empirical task. ("The question is not who was aimed at, but who was hit." *Laudati v. Stea*, 1922, 44 R.I. 303, 117 A. 422).<sup>9</sup> Then the mistake is proven, the costs associated with its prevention and those with its consequences must be assessed. Finally, the two sets of costs are compared. If the mistake could easily have been avoided, as in the previous case, then there is no excuse.

The liability standard is not Strict Liability, but negligence. The precaution taken is compared with what could and should have been done in order to avoid damages to a third party. Often the third party is involuntarily involved in the events that lead to the final result.

#### **a) From Son to male Prostitute**

In Spain, the leading case is the **Supreme Court Decision, First Chamber, April 22, 1992**, Carlos Marcos Sánchez versus Pedro J. Ramírez Codina and others.<sup>10</sup> The Sunday issue of the Madrid newspaper "Diario 16" (July 18, 1982) published a report on male prostitution titled, "When teenagers have a career." It included a photo of a young man speaking to an

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<sup>8</sup> Real Academia Española (Spanish language dictionary), 21st edition. Madrid, Espasa Calpe S.A., 1992.

<sup>9</sup> William L. Prosser and W. Page Keaton, *The Law of Torts*, 5th edition, Hornbook Series, West Publishing Co., St. Paul, Minnesota, 1984, § 113, note 90 and other citations.

<sup>10</sup> Juan Tomas de Salas Castellano, María de los Ángeles Mínguez Gutiérrez and the Attorney's Office.

adult, both fully identifiable. The photo caption read:

“The teenager has no other option but to work on the ‘corner’ and to offer his ‘services’ in exchange for money.”

The photo was of a father and his son waiting for the bullring’s ticket office to open.

Almost ten years later, the defendants were imdemned to pay 3,000,000 pesetas (U.S. \$18,750) to the plaintiffs of the photo. Also in this case, it would have sufficed to ask.

### ***b) False culprit = guilty***

The following case is along the same lines: **Supreme Court Decision, First Chamber, January 25, 1999**, Luis V.J. versus "Editorial Extremadura S.A.," Francisco P. de T. and Salvador V.M., January 1993. A daily newspaper published an article about an exhibitionism case. The accompanying photo showed the face of the suspect covered with a black cloth and the plaintiff’s face uncovered. A compensation of 5,000,000 pesetas (US \$31,250) was awarded and a correcting statement was published. In the first instance, the publisher and its journalists were sentenced to provide a compensation of 2.5 million pesetas (US \$15,625) and to correct the article. The defendants’ appeal resulted in an acquittal. The plaintiff appeals against The Court of Appeal's decision and The Supreme Court reversed but reduced the damage award to 500,000 pesetas (US \$3,125):

"The publication’s negligence is evident and ... contrary to good practice." A published photo usually "partially hides the faces of those not implicated" (Fundamento de Derecho 2º).

The case is not strictly related to those dealing with photo captions but its content is very similar to the two preceding cases.

### ***c) False sick Person***

Another *ordinary people* case is the **Supreme Court Decision, First Chamber, July 18, 1998**. In the summer of 1992, a freely distributed newspaper of the Canary Islands published an article titled, "U.S.A.: Physicians with Aids are not Obligated to Reveal Their Health Condition." A photo of a doctor consulting a patient accompanied the article. Although the photo was taken with backlighting, both subjects were perfectly identifiable. The photo caption read: "Health professionals also have the right to privacy with regard to their illness, according to the National Commission." The doctor in the photo claimed a damage award of 60,000,000 pesetas (US\$ 375,000) from the newspaper’s management firm and its director. The Supreme Court upheld the Court of Appeal’s compensation of 100,000 pesetas (US\$ 625): "The fact that the (image) is blurry did not prevent the perfect identification of the person photographed" (Fundamento de Derecho 4º).

The three previous cases involved ordinary people. The awards favored the plaintiffs and the compensations were relatively high given Spanish standards.

We already mentioned that Spanish courts award very low compensations.

The 1<sup>st</sup> Chamber of the Spanish Supreme Court resolved 114 cases of defamation between 1995-1997. Of these, the plaintiffs prevailed in 40 cases. The total amount of compensation was 90,801,590 pesetas (US\$ 567,510) or an average of 2,522,266 pesetas (US\$ 15,764) per case. These figures exclude four cases: three of them because the compensation was not determined, and the remaining one because it resulted in a new trial.

- **Enemies of the State**

Nevertheless, it would be a mistake to assume that photo caption cases decided in Spain prior to the 1990s followed the same pattern as those discussed above. We will now look at Spanish photo caption cases in which the plaintiffs received no redress. Why? The answer is simple: the previous cases dealt with ordinary people. The following cases involve Spain's worst enemies: activists, relatives, or simply namesakes, of the armed terrorist group, E.T.A. (*Euskadi ta Askatasuna = Euskadi and freedom*). According to the Spanish association "Victims of Terrorism," E.T.A. killed 810 people between June 28, 1960 and June 25, 1998.<sup>11</sup>

**a) Wanted**

In October 1986, the *Dirección General de Seguridad del Estado* (a government agency similar to the FBI and part of the Home Office) published Wanted posters. The posters showed photos of four presumed E.T.A. activists, identified in each photo caption by first or last name, and other information. One of the photos reproduced the image of the plaintiff, Francisco Javier Soares Gamboa. However, the corresponding photo caption confused him with his brother who was wanted by the police, Juan Manuel. The plaintiff was alarmed because the mistake put his life in danger. He demanded an immediate correction and sued both the public officials responsible for the campaign and the State. He claimed a compensation of 200,000,000 pesetas (US\$ 1,250,000) but lost the case for procedural reasons. The civil courts declared their lack of jurisdiction (**Supreme Court Decision, First Chamber, June 18, 1993**, Francisco Javier Soares Gamboa versus Julián Sancristóbal Iguarán, Rafael Vera Fernández-Huidobro and the State).<sup>12</sup>

In Spain, defamation can be qualified as i) a generic tort that falls under the civil courts' jurisdiction. However, if the defendant is the government, then it falls under the administrative courts' jurisdiction; ii) a specific tort that violates the current Bill of Rights, which falls under the rules of civil jurisdiction (LO 1/1982); iii) a criminal offence that falls under the criminal courts' jurisdiction. Occasionally, courts use procedural arguments related to jurisdiction in order to avoid taking a decision on the underlying issues. The following case exemplifies this tendency.<sup>13</sup>

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<sup>11</sup> <http://www.avt.org/eta/victimas.html>

<sup>12</sup> See Pablo SALVADOR CODERCH, Marc Roger LLOVERAS FERRER and Joan Carles SEUBA TORREBLANCA. *Comentario a la Sentencia del Tribunal Supremo de 10 de junio 1993* (Commentary on the Supreme Court Decision of June 18, 1993). Cuadernos Cívitas de Jurisprudencia Civil num. 34. January-March 1994, pgs. 19-38.

<sup>13</sup> Refer to the cited commentary.

**b) Deported persons**

In May of 1989, the principal Spanish information agency (EFE) divulged that ten E.T.A. members were forced to leave Algeria and sent to Cape Verde. The press note included various photos. One reproduced the image of the plaintiff, José Román Sagarzazu Echaide, and identified him in the photo caption as the activist, Ramón Sagarzazu Olazaguirre. The plaintiff sued the media agencies that reproduced and published the press note, but EFE was not sued. He claimed a compensation of 15,000,000 pesetas (US\$ 93,750). His claim was evaluated in the first instance court and dismissed in the second instance court. The Supreme Court considered the mistake unsubstantial, immaterial (**Supreme Court Decision, September 28, 1996**, D. José Román Sagarzazu Echaide versus the company, director, and a journalist of "El Correo-Español- El Pueblo Vasco," the Attorney's Office and others<sup>14</sup>):

The text of the article: "It was true (...) that one of the ten individuals was Ramón Sagarzazu Olazaguirre (...) the only thing that did not coincide with the truth was ... the photo of the defendant ... who has a first and last name that are similar to those of the other individual" (Fundamento de Derecho 7º).<sup>15</sup>

The newspaper that published the false information placed all the blame on the news agency EFE.<sup>16</sup> They pointed out that EFE had access to the correct photo because the police gave it to them in 1987, when they were trying to arrest the commando *Udalaitz* of the E.T.A. terrorist group. The Court also believed that the reproduction of EFE's press note was not carried out with enough diligence,<sup>17</sup> given that the media agencies did not have reasonable ways to check the authenticity of the published photo. The confidence they placed in EFE was justified, "given the rush to publish articles and strong public interest, particularly during the time period that the deported persons were located in Cape Verde" (Fundamento de Derecho 7º).

Nevertheless, the situation is not that simple: to appear in an article, identified as a member of an armed organization that is the number one public enemy of Spain, implies obvious risks that go beyond damaging the plaintiff's reputation. In addition, highly trusted professionals compiled the information. In addition, the decision did not address why the victim had to bear the costs created by a third party's mistake.

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<sup>14</sup> Information and Press, S.A. and Juan T. de S. (publisher and director), Sociedad Vasca de Publicaciones, S.A. (Vasque publication) and D. Miguel L. Z. (publisher and director, respectively of "El Diario Vasco"), Editorial I., S.A. and D. Anton E. C. (publisher and director, respectively of "Deia"), Radio Televisión Vasca -"Euskal Irrati T., S.A." and its director, D. Josu O. L., Televisión Española, S.A. and its director, D. Luis S. N.

<sup>15</sup> Obviously, the first statement contradicts the second one.

<sup>16</sup> As stated, some agencies were not sued in this lawsuit because they printed "EFE Photos" or "EFE" below the photo.

<sup>17</sup> "(A)cting in good faith," says the Court (Fundamento de Derecho 7º), but good faith excludes malice, and not negligence.

- **Ordinary Enemies**

Halfway between ordinary people and worst enemies are common criminals: ordinary people who are enemies of the social order. Two cases from the last ten years exemplify where this issue stands:

**a) *Feeble dog***

The plaintiff appeared handcuffed to a police officer in the report's photo. The caption read: "The Trián stabbed the Guinean Nguema in March". The information was false and the Supreme Court (**Supreme Court Decision, First Chamber, March 28, 1989**, Miguel M.S. versus Pedro C.B. and "Última Hora S.A.") upheld the Court of Appeal's decision, which awarded a compensation of 200,000 pesetas (US\$ 1,250). The Supreme Court found the defendant negligent because he should have checked the identity of the person in the photo.

Nevertheless, compare the small damage award with those in the preceding cases (that awarded compensations ten or fifteen times higher). Consider the case in terms of the Libel Proof Plaintiff<sup>18</sup> doctrine. The plaintiff is clearly not treated, as another member of the community would be.

**b) *Beginners***

In 1986, a newspaper published a photo of the plaintiff, Elisa Fernández Calvo, alongside a photo of five men. The caption read: "Six criminals participated in the *Banco Central* (bank) robbery." The report stated that the plaintiff did not have a criminal record. The plaintiff claimed a compensation of 1,000,000 pesetas (US\$ 6,250). The Supreme Court (**Supreme Court Decision, First Chamber, June 14, 1995**, Elisa F. C. versus D. Manuel Angel C. P. (director of the daily paper, "Montañés") and Editorial C., S.A.) upheld the Court of Appeal's decision which awarded a compensation equal to half of the amount claimed:

The title was misleading: "The title of the article that followed the photos ... one of which reproduced the image of the plaintiff, presented the six individuals as 'habitual criminals'. However, the article stated that the plaintiff did not have a criminal record, which proves that the title was false and offensive to the plaintiff" (Fundamento de Derecho 3º).

A further distinction could have been made. If the mistake was caused by falsely attributing the title 'habitual criminal' onto an innocent person, then the sentence is undoubtedly correct. However, if the mistake solely consisted in attributing the quality of habitual to one who is only a novice, then the doctrine of substantial truth should have been applied - the information would be fundamentally true and would consist of a detail that the reader

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<sup>18</sup> See Pablo Salvador Coderch, *Comentario a la Sentencia del Tribunal Constitucional 297/1994*, November 14, 1994. Cuadernos Civitas de Jurisprudencia Civil num. 39, September-December 1995, pgs. 851-867.

would discover after reading the entire article.<sup>19</sup> An exaggerated photo caption is not necessarily an erroneous one. Although the sentence's text does not allow much room for further discussion, the small compensation reflects its place.

### III

#### Shoah and Photo Captions

The *Bundesverfassungsgericht* (Federal German Constitutional Court) decided a photo caption case<sup>20</sup> (August 25, 1998), which illustrated old methodological problems of social sciences, particularly of History.

The case involved the historian Hannes Heer (plaintiff), who organized an exhibit, "*Vernichtungskrieg. Verbrechen der Wehrmacht 1941-1944*" (War of extermination. Wehrmacht Crimes, 1941-1944). In the beginning of 1998, the plaintiff withdrew a photo from the exhibit titled, "*Juden werden exekutiert*" (Jews are executed). Doubts arose as to whether the scene depicted in the photo was actually of an execution. The photo had been taken from the Central Office for the Administration of Justice, for investigation of Nazi crimes, in Ludwigsburg. The photo was the second in a group of four at the Central Office. The photo caption between the first two read:

"After the Jews were forced to dig a common grave, they were stripped and thrown into the grave. Among them were children (first image on the right). Members of local self-defense organizations, presumably latvians, participated in the execution. Time and place of the events: presumably Latvia, summer of 1941."

The weekly magazine "Focus" (defendant) published the article (issue num. 11, March 9, 1998, pg. 13) titled "Counterfeited Photo replaced". The article described Heer as a Philistine and provincial, who lied about the reason why the photo was withdrawn. The accusation arose because Heer had indicated that the photo caption in the exhibit (*Juden werden exekutiert*) was similar in content to the information found in the Central Office. The article claimed Heer's indication was false and that the photo was archived without any accompanying information.

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<sup>19</sup> Even though it is common knowledge that many people only read the titles.

<sup>20</sup> NJW 1999, Heft 7, pg. 483.

## WEHRMACHTSAUSSTELLUNG

## Verfälschtes Bild ausgetauscht

Die umstrittene Wehrmachtsausstellung wird an der neuen Etappe Salzburg ohne eines der vermeintlich „bekanntesten Bilder des Holocaust“ (Ausstellungsleiter Hannes Heer) gezeigt. Die Aufnahme, deren Deutung als Exekutionsszene FOCUS schon vor knapp einem Jahr als Fälschung enttarnt hatte, wurde jetzt ersetzt.

Doch Heer, der Kritiker als „Philister und Spießbürger“ bezeichnet, lügt und fälscht selbst in der Begründung für den Bilderwechsel. In seiner Errata-Liste behauptet Heer, die von ihm erfundene Bildzeile „Juden werden exekutiert“ sei durch ähnliche Angaben in der Zentralen Stelle zur Aufklärung von NS-Verbrechen in Ludwigsburg dokumentiert. Das ist falsch. Das Foto, so hatte FOCUS bereits im April '97 berichtet, ist dort ohne jeden Hinweis archiviert. Es taucht erstmals in einem NS-Propagandabuch auf und wird dort zynisch als Badeszene einer „jüdischen Mannschaft“ betitelt.

Heer verschweigt nun das Ergebnis einer von ihm in Auftrag gegebenen Recherche in der Holocaust-Gedenkstätte Yad Vashem in



**Erzwungene Korrektur: In Salzburg fixiert ein Ausstellungsmitarbeiter das eingewechselte Bild**

Israel. Die Fotoarchiv-Leiterin Judith Levin hatte anhand des NS-Pamphlets geurteilt, daß es sich bei der Szene nicht um eine Exekution zu handeln scheine.



**Urteil aus Israel: „scheinbar keine Erschießung“**

In March 20, 1998 Heer demanded a correction (*Gegendarstellung*) and asked "Focus" to publish two texts: the text he found between the first two photos at the Central Office (reproduced above) and the text found between photos 25 and 26 at the Central Office. The latter text read: "The following information was found above the photo." It was the second photo in a group of four, and the text was between the first and second photo.

The Landesgericht rejected the claim because it considered the correction to be manifestly mistaken. Heer had said that the text was found **above** the photo when it was actually **between** the photo in question and another one. Therefore, the Court decided that the *Gegendarstellung* should not qualify itself as a statement of facts (*Tatsachenbehauptung*) rather as an opinion (*Wertung*) of the photo in question.

In the appeal process, Heer agreed to modify the text of his *Gegendarstellung*, in order to clarify that the text was between two photos, the second of which was the photo in question. The Oberlandsgericht rejected the appeal because it found that the "Focus" report

expressed an opinion on the falsity of Heer's statements. Therefore, the lack of information on facts in the report did not justify Heer's demand for a correction.

Heer appealed before the Constitutional Court for a violation of article 2.I, with regard to article 1.I of Basic Law. The Court found that: the magazine could easily have informed its readers of the circumstances underlying its statement that the text did not refer to the photo in question. Since the report did not offer readers the facts that would have allowed them to contrast its statements, the report could only have been understood as one of fact and not of opinion. Therefore, the correction demanded should have been conceded.

Due to the complexity of the case, the German Constitutional Court's thesis is clear: "Focus" published that Heer lied and also omitted something that was well within its: to offer its readers the relevant information they had at their disposal and that would have allowed a test the truth or falsity of the information. If "Focus" had published this information the case may have ended with a different decision: the reader can only make an informed assessment if all of the material is presented.

- **Spanish Constitutional Court Decisions**

Date	Ar.	Judge Ponente	Parties
21.1.1988	6	Luis Díez-Picazo	Javier C. M. v. SSC, 6 <sup>th</sup> , 22.09.1986.

- **Spanish Supreme Court Decisions**

Chamber and Date	Ar.	Judge Ponente	Parties
1st, 28.3.1989	2277	Latour Brotons	Miguel M. S. v. Pedro C. B. and "Última Hora, S.A."
1st, 22.4.1992	3317	Almagro Nosete	Carlos M. S. v. Pedro J. R. and others.
1st, 18.6.1993	4686	Fernández-Cid de Temes.	Francisco Javier S. C. v. Julián Sancristobal I., Rafael Vera F-H. and <i>Administración del Estado</i> .
1st, 14.6.1995	4854	Gullón Ballesteros	Elisa F. C. v. Manuel Ángel C. P., director of <i>Diario Montañés</i> , and "Editorial C., S.A."
1st, 28.9.1996	6819	Morales Morales	José Román S. v. publisher, director, and reporter of "El Correo-Español-El Pueblo Vasco, <i>Ministerio Fiscal</i> and others.
1st, 18.7.1998	6278	Barcalá Trillo-Figueroa	José Luis A.-C. S. v. "Medios Informativos de Canarias, S.A." and Jorge B. G.
1st, 15.12.1998	9638	Marina Martínez-Pardo.	Samuel Adaramewa A. A. and Daniel A. G. v. "Unidad Editorial, S.A.," Alfonso de S., Pedro J. R. and Julio F.
1st, 25.1.1999	518	Menéndez Hernández	Luis V. J. v. "Editorial Extremadura, S.A.," Francisco P. de T. and Salvador V. M.

- **First Instance Court Decisions**

<b>Court and Date</b>	<b>Parties</b>
JPI num. 6 Madrid, 25.2.1992	Samuel Adaramewa A. A. and Daniel A. G. v. "Unidad Editorial, S.A.," Alfonso de S., Pedro J. R. and Julio F.

- **U.S. Decisions**

<b>Case</b>	<b>Year</b>	<b>Reference</b>
<i>Laudati v. Stea</i>	1922	( 44 R. I. 303, 117 A. 422).
<i>U. S. v. Carroll Towing Co.</i>		(159 F. 2d. 169 (2d. Cir. 1947).
<i>New York Times v. Sullivan</i>	1964	( 376 U. S. 254).

- **German Decisions**

<b>Court</b>	<b>Date</b>	<b>Reference</b>
Constitutional Court (BVFGe)	25.8.1998	(NJW 1999, Heft 7 pg. 483).