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THE CONSTITUTIONAL COURT UPHOLDS THE RIGHT TO COMMUNICATE INFORMATION OF A JOURNALIST AND DECLARES THE INVALIDITY OF A JUDGEMENT THAT CONVICTED HIM FOR ILLICIT DISCLOSURE OF SECRETS

The First Chamber of the Constitutional Court has upheld an appeal for constitutional protection (*“recurso de amparo”*) filed by a journalist because it considered that his fundamental right to the freedom of information (article 20.1 D) of the Constitution) was violated. Accordingly, the Court has declared the invalidity of the judgement of the Provincial Court of León that confirmed his conviction on charges of illicit disclosure of secrets.

The judgement, which was drafted by President Juan José González Rivas, considers that the news published by the appellant in an online outlet containing *“an excerpt of several movements of the bank account”* of the former president of the provincial government of León complies with the constitutional case law about the freedom of information. As required by this case law, it is *“a truthful information of public relevance”*.

The factual matrix of the case resolved by the Court was the following one: the journalist at stake published, in an online outlet, an article where he revealed that the president of the provincial government of León *“receives, in her account, a reimbursement by Caja España [a regional savings bank] of the cost of the kilometres travelled with her official vehicle”*. The article also included an image of the bank account of the politician which showed the refunds perceived for that cause. The caption of the image read as follows: *“A list of the payments made to the personal bank account of the president of the provincial government to cover expenses of non-existent journeys in her private vehicle”*. Finally, a further text stated that: *“Up to eleven times, the President of the provincial government had received payments from the financial institution as if she had used her particular vehicle. However, she was in fact making use of the official vehicle assigned to her/ Carrasco [the politician at stake] was a member of the Local Council, not the provincial government / The President perceived more than 1000 euros due to her “fraudulent use of public funds”*”.

A Criminal Court of León and the Provincial Court located in that city convicted the appellant on charges of illicit disclosure of secrets, since they both considered that the economic data published by the media outlet belonged to the private realm of the person at stake.

However, the Constitutional Court has declared the invalidity of that conviction, since *“the excerpt of the bank account that was published does not include a complete view of the bank account owned by the provincial president. Rather, it only covers the payments made by the savings bank that are marked as due for the concept of “official travel expenses”, which were said to correspond to attendance to the Board of Directors of that savings bank and referred the date of the operation, the reference and the amount of the payment”*. Therefore, *“the information concerning the current balance of this account, other operations or the identification number and name attached to the bank account are not visible”*.

The First Chamber considers that the published news and the economic data related to it possess a “*social relevance*”, since they refer to a person that holds public office. In addition, the information disclosed is linked to economic payments and the use of public funds. The judgement goes on to underscore that the bank data published by the journalist reinforce the veracity of the news and, thus, strengthen the trustworthiness of the diffused information, so much so that they cannot be deemed to be “*irrelevant, gratuitous or unnecessary*”.

Madrid, 4 March 2019