



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

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FIFTH SECTION

Application no. 29807/23

ATRESMEDIA CORPORACION DE MEDIOS DE COMUNICACION,
S.A.

against Spain

lodged on 26 July 2023

communicated on 11 March 2025

SUBJECT MATTER OF THE CASE

The application concerns a decision of the Central Electoral Body (*Junta Electoral Central*) not to accept the terms of a political debate broadcast by a private television channel during the electoral campaign for the national parliamentary elections in 2019.

The applicant is a private media broadcast company. It decided to organise a televised debate between potential candidates for the presidency of the government (seeing that the President is nominated by the King of Spain after the parliamentary election and must obtain the confidence of the Parliament). It invited five participants based on their membership of political parties with national presence, expected to obtain over 10 % of the vote, which made the candidates likely to run for the presidency. At the time before the 2019 elections, four of the parties concerned had parliamentary representation.

Three regional parties challenged before the Central Electoral Body the applicant's criteria for choosing the participants in the debate. They complained that the forthcoming televised debate was in breach of the principles of pluralism, proportionality, equality and neutrality, because one of the five guests to the debate did not have parliamentary representation, whereas the regional parties had deputies in parliament but had not been invited to the debate. The Central Electoral Body accepted the claim. It held that the debate could not be hosted under the proposed terms and that the

applicant should modify the criteria to comply with the principle of proportionality.

The applicant modified its criteria and hosted the debate inviting only the four candidates with parliamentary representation. Nevertheless, it challenged the decision before the Supreme Court and the Constitutional Court, complaining of a breach of its right to impart information. The courts rejected the applicant's claims. In particular, the Supreme Court held that private medias were free to organise electoral debates but must consider the results of the last relevant elections in choosing the participants.

Relying on Article 10 of the Convention, the applicant argues that the State had a narrow margin of appreciation in this case and complains that the interference with its right to impart information was not necessary in a democratic society.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicant's right to freedom of expression, in particular its right to impart information, contrary to Article 10 of the Convention?

In particular, did the impugned limitation on the applicant's Article 10 rights fall within the State's margin of appreciation (see *Orlovskaya Iskra v. Russia*, no. 42911/08, § 130, 21 February 2017) and was it "necessary in a democratic society"? To what extent are the "duties and responsibilities" inherent in the activities of the applicant, a media corporation, relevant to its claim under Article 10?

2. Did the domestic authorities strike a fair balance between the rights of the applicant and any competing rights or interests?