



JUDICIARY OF
ENGLAND AND WALES

SUMMARY

Corinna Zu Sayn-Wittgenstein-Sayn -v- His Majesty Juan Carlos Alfonso Víctor María de Borbón y Borbón

[\[2022\] EWHC 668 \(QB\)](#): Mr Justice Nicklin

24 March 2022

[References in square brackets are to paragraphs in the [judgment](#) of the Court]

1. The Court has handed down judgment in relation to the Defendant’s challenge to the jurisdiction of the English Court on the grounds of state immunity. The Court has rejected the claim of state immunity and found that the Court has jurisdiction over the Defendant in respect of the Claimant’s claim.
2. There will be a further hearing on Tuesday 29 March 2022 when the Court will consider any arguments as to the orders to be made consequent on the judgment.

The Claimant’s claim

3. The Claimant’s claim is for alleged harassment of her by the Defendant, contrary to the Protection from Harassment Act 1997 (see [5]-[10]).
4. The Court has not yet adjudicated upon the truth of any of the allegations, as the Court was concerned solely with the issue of state immunity. The Defendant denies what he calls “*unsubstantiated allegations*” made against him by the Claimant and any alleged wrongdoing by the Spanish State in the strongest terms: [12].

The claim of state immunity

5. The Defendant is the former King of Spain. He abdicated, in favour of his son, now King Felipe VI, on 18 June 2014. The Constitution of Spain does not regulate the legal status of an abdicated King. A Royal Decree, published on the day of the Defendant’s abdication, established that the Defendant would continue to use the title King for life on an honorary basis (“*King Emeritus*”), would be addressed as “*His Majesty*” and would receive military honours analogous to those provided to the Heir to the Throne. In the period from 19 June 2014 to 2 June 2019, the Defendant has continued to represent the Spanish State at several public events: [18] and [22]. The Defendant retired from public life on 2 June 2019. Since August 2020, he has lived in Abu Dhabi, United Arab Emirates: [3].
6. The Defendant claimed that he was immune from the jurisdiction of the English Court in respect of all or part of the Claimant’s claim under ss.1, 14 and 20 of the State Immunity Act 1978 (“the SIA”) (the relevant parts of the Act are set out in [24]). His claim to immunity arose from his capacity as a senior member of the Spanish Royal Family and Royal House of Spain, including in respect of the claims brought in these proceedings. The Defendant argued that this immunity did not place him above the law. He is subject to the jurisdiction of the Supreme Court of Spain, but that Court alone.

7. The claim for immunity was based on two grounds:
- (1) the Defendant was personally immune from the jurisdiction of the English Court as a result of his being a “sovereign” under s.20(1)(a) SIA and/or a member of the family of the current King of Spain, King Felipe VI, “forming part of his household” under s.20(1)(b) SIA; and
 - (2) the Defendant was immune for acts carried out by him in a public capacity, before his abdication, under s.14(1) SIA.

Decision on the claim for immunity

8. The claim for immunity was rejected by the Court.
9. In respect of the claim to personal immunity as “sovereign” or member of King Felipe VI’s family forming part of his “household”, the Court found that:
- (1) whatever special status the Defendant retained under the law and Constitution of Spain, he was no longer a “sovereign” or “head of state”, so as to entitle him to personal immunity under s.20(1)(a): [56]-[60]; and
 - (2) the Defendant was also not a member of the “household” of King Felipe VI so as to entitle him to immunity under s.20(1)(b): [61]-[64].
10. The definition of “household” under s.20(1)(b) is to be determined in accordance with English Law, and the decision of the Court of Appeal in ***Apex Global Management Ltd -v- Fi Call Ltd & Others* [2014] 1 WLR 492** determined that, to qualify as a part of the “household” under the subsection, the “*central criterion... is dependence, rather than the performance by any such persons of diplomatic duties or functions...*”: [46]-[47]. The Defendant was not a dependent of King Felipe VI but, in any event, since his retirement from public life, the Defendant has discharged no Royal, constitutional and/or representational functions: [64].
11. In respect of functional immunity claimed in respect of acts of the Defendant carried out in his public capacity, the Court rejected this ground of immunity for acts of harassment alleged against the Defendant prior to his abdication. The Claimant’s claim is based on a course of conduct of alleged harassment by the Defendant. Such acts do not fall within the sphere of governmental or sovereign activity: [68]. Acts of surveillance alleged by the Claimant, if carried out by agents of Centro Nacional de Inteligencia (“CNI”) (the Spanish National Intelligence Agency), *might* potentially attract state immunity, but no such immunity had been claimed by the Spanish State and it was unclear precisely what role CNI agents played in the alleged acts of harassment: [72]. On the Claimant’s behalf, an offer was made to make clear that she was not alleging that acts alleged against the head of CNI were carried out by him in a personal, not official capacity. The Court will direct that this is made clear in the Claimant’s claim: [75].
12. The effect of the Court’s decision is that the civil claim brought by the Claimant will be allowed to proceed: [78].

NOTE: This summary is provided to help in understanding the Court’s decision. It does not form part of the judgment. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: www.judiciary.uk and www.bailii.org