



The Journal of *News Science*

Vol. 14, No. 3, Ser.55, Autumn 2025, P. 5- 10

Journal homepage: <https://www.mjourcom.ir/>

DOI : <http://doi.org/10.22034/lrsi.2024.485125.1274>

Open Access

ORIGINAL ARTICLE

The Right to Inform Versus Image Publication: The Role of Media Freedom in Disseminating Public Figures' Images (With Emphasis on the Jurisprudence of the European Court of Human Rights)

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Received: October 23, 2024

Accepted: March 2, 2025

EXTENDED ABSTRACT

Interdiction:

This article provides a comprehensive analysis of the right to freedom of expression in the context of media dissemination of images depicting public figures, as interpreted within the jurisprudence of the European Court of Human Rights (ECtHR). Specifically, it examines how the ECtHR balances the media's right to freedom of expression against public figures' right to protection of their image and privacy.

Research Questions:

1. What is the legal status of public figures' right to their image?
2. Is the privacy afforded to public figures equivalent to that of private individuals, or is it limited?
3. If limitations exist, what is the underlying rationale in the ECtHR's case law?

Method:

This study employs a descriptive and analytical approach, drawing on legal documents, ECtHR judgments, and scholarly articles in both Persian and English, alongside reputable online sources.

Findings:

Freedom of expression constitutes a fundamental right in democratic societies. Since the last century, it has been enshrined internationally in instruments such as the Universal Declaration of Human Rights, regionally in the European Convention on Human Rights, and in foundational texts like the French Declaration of the Rights of Man and of the Citizen. The right to receive information and ideas is also implicitly recognized. Historically, journalists have exercised the freedom to gather and disseminate news, fulfilling the public's legitimate interest in being informed about events that affect them. The media thus play a vital democratic role by facilitating public awareness, enabling informed discourse, and promoting participation in civic debate. For instance, in *Sunday Times v. The United Kingdom*, the ECtHR underscored the media's role in informing the public about matters of societal concern, such as the effects of pharmaceuticals on children's health.

Advances in communication technologies have introduced new forms of media and modes of expression, including visual imagery, which present distinct legal challenges. The proliferation of photographic technology allows individuals to capture and distribute images with ease. Photographs often convey significant meaning and can serve as powerful vehicles of information, thereby falling within the scope of freedom of expression. However, the capacity to photograph individuals without consent raises legal questions regarding the right to privacy. Unauthorized photography may intrude upon private life, as images can expose personal spheres that individuals are entitled to keep confidential. Consequently, individuals possess a right to protect their image as an aspect of privacy, though this protection is not absolute. The central legal dilemma, therefore, lies in determining when individuals, particularly public figures, may legitimately be subjected to media photography.

The right to one's image, as a component of privacy, frequently conflicts with the right to freedom of expression. This tension has generated substantial jurisprudence, particularly within European legal systems. The ECtHR, as the principal judicial organ of the Council of Europe, has adjudicated such conflicts by applying a public interest test, striving to balance these competing rights in a manner that respects both. According to this test, the privacy of public figures is protected unless there is a prevailing public interest in disclosing aspects of their private lives. The Court assesses each case on its specific facts, weighing factors such as the contribution to public debate, the nature of the information, and the context of publication.

For example, in cases involving the Hannover family, the ECtHR evaluated whether the publication of personal photographs served a legitimate public interest. The Court recognized that, in certain circumstances, the public may have a justified interest in aspects of a public figure's private life—such as the health conditions of political leaders like Prince Albert, President Mitterrand, or Prince Rainier—when these matters have implications for governance or public affairs. Similarly, politicians and high-profile individuals may be subject to heightened scrutiny and criticism, including through imagery, without necessarily violating their privacy, given their influence on societal developments.

Nevertheless, the ECtHR has also affirmed that public figures retain a legitimate expectation of privacy in their personal lives, particularly outside the exercise of their public functions. When individuals are engaged in ordinary daily activities, unrelated to their public roles, their privacy deserves robust protection against intrusive media practices.

Conclusion:

The European Court of Human Rights is committed to safeguarding both freedom of expression and the right to privacy, including the image rights of public figures. In striking a balance, the Court consistently employs a public interest criterion, rendering nuanced and influential judgments that remain subject to ongoing judicial refinement. However, the precise contours of the public interest test lack explicit definition, leading to uncertainty in its application. To enhance legal predictability, support journalistic practice, and ensure more effective protection of privacy, it is imperative for the ECtHR to articulate a clearer and more structured framework for applying this test. Such clarification would reinforce legal certainty, better delineate the boundaries of personal privacy in relation to media freedom, and provide clearer guidance for both public figures and the press.

Data Availability Statement

Data available on request from the authors.

Acknowledgements

The authors would like to thank anonymous reviewers.

Ethical considerations

Not applicable.

Funding

Not applicable.

Conflict of interest

The authors declare no conflict of interest.

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Cite this article: Sadat Dashti, T. & Motamednejad, R. (2025). The Right to Inform Versus Image Publication: The Role of Media Freedom in Disseminating Public Figures' Images (With Emphasis on the Jurisprudence of the European Court of Human Rights), *News Science*, 14 (3), 5-10. DOI: <http://doi.org/10.22034/lrsi.2024.485125.1274>



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DOI : <http://doi.org/10.22034/lrsi.2024.485125.1274>
