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What is the latest judicial thinking on harassment claims in cases involving privacy and reputational issues? Does the Protection from Harassment Act 1997 add anything to such claims?

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Protection from Harassment Act 1997

- (1) A person must not pursue a course of conduct—
 - (a) which amounts to harassment of another, and
 - (b) which he knows or ought to know amounts to harassment of the other

“Harassment is a persistent and deliberate course of unreasonable and oppressive conduct, targeted at another person, which is calculated to and does cause that person alarm, fear or distress”.

Hayes v Willoughby [2013] 1 WLR 935 (SC), at [1].

PHA 1997 s.7(4)

“Conduct” includes speech

“To cross the border from the regrettable to the objectionable, the gravity of the misconduct must be of an order which would sustain criminal liability...”

Hayden v Dickenson [2020] EWHC 3291 (QB) Nicklin J, at [44(ii)]

Is there a 'course of conduct'?

R v Hills [2001] 1 FLR 580, two domestic assaults six months apart were held not to be a course of conduct.

AVB v TDD [2014] EWHC 1442 (QB) events including emails and messages, nearly a year apart, did not form part of a course of conduct, but communications within a two-week period did.

Sube v News Group Newspapers Ltd [2020] EMLR 25 (at [99]) separate articles published '*many weeks later, prompted, on their face, by new events and new information*' with '*different content*' did not constitute a single '*course of conduct*'

“Most publications to the world at large are not targeted at another person, even if they are about another person.”

McNally v Saunders [2022] EMLR 3 Chamberlain J at [68]

“The Court must guard against the use of harassment as a way of getting round the principles that apply in defamation.”

Siddiqi v Aidiniantz [2019] EWHC 1321 (QB) Warby J, at [103]

“The harassing element of oppression is likely to come more from the manner in which the words are published than their content.”

Hayden v Dickenson [2020] EWHC 3291 (QB) Nicklin J, at [44(ix)]

“the focus of the harassment claim must be on the cumulatively oppressive quality of the statements rather than individually defamatory quality”

Corinna Zu Sayn-Wittgenstein-Sayn v His Majesty Juan Carlos Alfonso Victor Maria De Borbón Y Borbón [2023] EWHC 2478 (KB) Collins Rice J, at [83]

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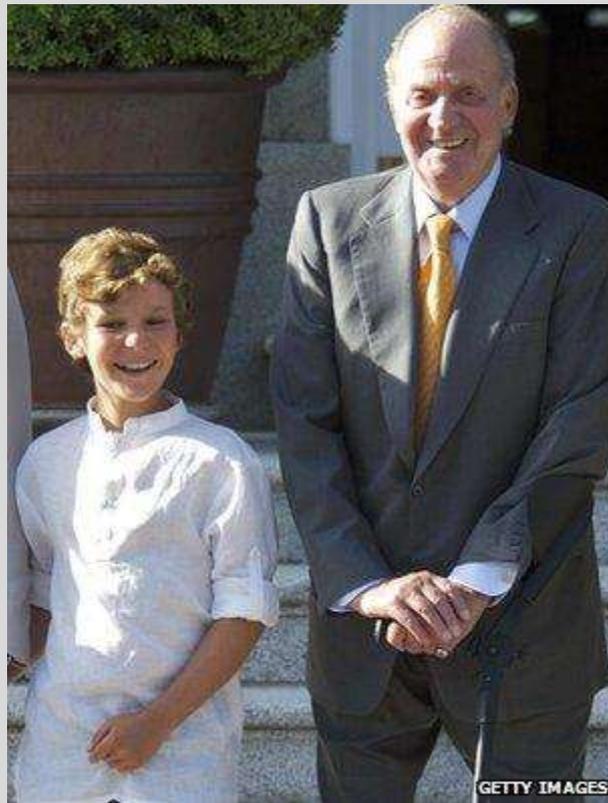
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Spanish king's teenage grandson shoots himself in foot



Brussels Recast Convention (2012)

Article 7

A person domiciled in a Member State may be sued in another Member State:

....

(2) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur

“[The alleged harassing course of conduct) was on its own terms an elusive project, which proceeded at a leisurely pace over long intervals, in which the Defendant’s hand was largely hidden from her sight, and which relied on impacting her in some distinctly bizarre and exquisite ways...”

Corinna Zu Sayn-Wittgenstein-Sayn v His Majesty Juan Carlos Alfonso Victor Maria De Borbón Y Borbón [2023] EWHC 2478 (KB) Collins Rice J, at [301]

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“well dressed, clean cut, and of a Mediterranean appearance”

“The grouping of a series of defamation claims into an alleged course of conduct does not enable a claimant simply to sidestep all the requirements and limits of defamation law but claim general and special damages for reputational harm caused by publication anyway”

Corinna Zu Sayn-Wittgenstein-Sayn v His Majesty Juan Carlos Alfonso Victor Maria De Borbón Y Borbón [2023] EWHC 2478 (KB) at [298]

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