

**DECRIMINALIZATION OF INSULT AND DEFAMATION IN THE  
JOURNALISTIC PROFESSION IN THE REPUBLIC OF  
MACEDONIA THROUGH THE PRISM OF THE LAW ON CIVIL  
LIABILITY FOR INSULT AND DEFAMATION**

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**Abstract**

Freedom of expression is one of the most important human civil and political rights guaranteed by a number of international and regional legal instruments adopted by the UN, the Council of Europe, the EU, and others. Freedom of expression, in addition to encompassing freedom to state or express opinions and ideas, also means the freedom to search for information or ideas, to receive information or ideas and to transmit information and ideas. In many countries in the world, and in this context including the Republic of Macedonia, freedom of expression is limited, which in turn limits is the respect for the freedoms and rights of others. Journalists often, intentionally or unintentionally, while performing their profession, self-censoring and therefore limiting their freedom of expression to insult and libel others, particularly holders of public office. With their political power, politicians can influence judicial authorities to bring a court ruling in their favor. Because of this, journalists are subjected to strong pressure and are often sanctioned with prison sentences. Such an established system has become a serious limiting factor for the normal conduct of the journalistic profession in a number of countries, including the Republic of Macedonia. Self-censorship has become a frequent journalistic practice among journalists in order to avoid pressures from various centers of power.

Since 2012, insult and defamation in the Republic of Macedonia had the status of criminal offences punishable by imprisonment. By adopting the Law on Civil Liability for Insult and Defamation in 2012, insult and defamation no longer fall within the corpus of

delicts that are in the area of criminal law. Since then, insult and defamation have been treated as misdemeanor violation.

**Keywords:** law, insult, defamation, violation, prison sentence Macedonia.

### **1. General remarks on freedom of expression**

Before moving on to the analysis of the decriminalization of defamation, we will give some general remarks on the right to freedom of expression as a pillar of democracy in society. Freedom of expression is one of the most important civil and political freedoms, since this freedom applies to all other forms of individual freedoms. Almost all other guaranteed rights and freedoms depend on its realization.

John Locke is considered to be the founder of the theoretical thought on human rights and freedoms (*Skaric, pp 350-356*), and John Milton points out that limiting censorship is a prerequisite for the exercise of democratic rule. The realization of freedom of expression is the result of the long-lasting political struggle of the progressive forces of democracy and the advanced ideas of the new revolutionary class (the bourgeoisie) in XVII and XVIII century, which resulted in several declarations of human rights (Declaration of Independence of 1776 in USA, and Declaration on the Rights of Man and Citizens in France in 1789), which guaranteed the right to freedom of conscience and religion, freedom of speech, freedom of the press, freedom of association. (*Political Encyclopedia, pp 981-982*).

The Universal Declaration of Human Rights of the United Nations in 1948, Article 19 defines freedom of expression in the following way, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

This right is also protected by Article 19 of the *International Covenant on Civil and Political Rights*<sup>1</sup> from 1966 whereby freedom of expression may be subject to certain restrictions which must be explicitly determined by law and which are necessary for: 1) respect for the rights and reputations of others and 2) for the protection of national security, or public order, or public health and morality.

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<sup>1</sup>International Covenant on Civil and Political Rights of the UN came into force on March 23, 1976.

In Europe, the protection of the right to freedom of expression was established with the adoption of the European Convention on Human Rights<sup>2</sup> by the Council of Europe in 1950, where Article 10 § 1 of the Convention provides that: "Everyone has the right to freedom of expression". The content of paragraph 1 of Article 10 indicates that freedom of expression comprises three components:

- Freedom of thought
- Freedom to receive information
- Freedom to impart information or ideas.

The three above-mentioned aspects of freedom of expression should be exercised without interference by the public authorities.

In Art. 10 paragraph 2 of the European Convention on Human Rights, freedom of expression is restricted in particular if it is a matter of: "...public safety, the prevention of disorder or crime, the protection of health or morals, the protection of the reputation or rights of others, preventing the disclosure of information received in confidence, or maintaining the authority and impartiality of the judiciary."

Art. 10 not only protects expression through text or speech, but it also applies to images, ideas, films, broadcasting, drawings (cartoons).

According to this convention, in order for there to be a legitimate restriction of freedom of expression, to be any of the following: 1) the restriction to be prescribed by law; 2) the restriction to be directed towards achieving a legitimate goal,<sup>3</sup> explicitly prescribed by paragraph 2 of Art. 10; and 3), the restriction to be necessary in a democratic society.

## **2. Regulation on Freedom of Expression in the Republic of Macedonia**

Pursuant to the Constitution of the Republic of Macedonia (Article 8), fundamental values of the constitutional order of the Republic of Macedonia are, among other things, "*fundamental freedoms and rights of man and*

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<sup>2</sup>The European Convention on Human Rights came into force in 1953.

<sup>3</sup>It is considered a legitimate goal prescribed by Article 10 paragraph 2 of the Convention if freedom of expression is aimed at: endangering the interests of national security, territorial integrity or public security, order protection, preventing unrest and crime, protecting health and morals, protecting reputation or rights of others, protection from disclosure of confidential information and maintaining the authority and impartiality of the judiciary.

*citizen... Regarding the freedom of speech, Art. 16 guarantees freedom of conviction, conscience, thought and public expression of thought as well as freedom of speech, public appearance, public information and free establishment of public information institutions” (press, radio, TV). But Art. 16 of the Constitution must be considered in relation to provisions that guarantee civil and political freedoms and rights. Thus, according to Art. 11, “physical and moral integrity of man is inviolable and any form of torture, inhuman or degrading treatment and punishment is forbidden. In accordance with Article 25, every citizen is guaranteed respect and protection of the privacy of his personal and family life, of dignity and reputation.”*

In addition, the *Law on Audio and Audiovisual Media Services*, the *Law on Media* and the *Law on Civil Liability* have a significant contribution to the regulation of freedom of media, and thus to the freedom of the expression.

The *Law on Audio and Audiovisual Media Services* (Official Gazette of the Republic of Macedonia No. 183/13, 13/14, 44/14 and 101/14) states that one of the aims of the law is to ensure, in the Republic of Macedonia, the promotion of the freedom of expression (Article 2, indent 2), and the Agency for Audio and Audiovisual Media Services as a regulatory body has the authority to promote freedom of expression (Article 6, indent 2).

According to the *Law on Media* of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 183/13) "freedom of expression and freedom of the media is guaranteed".<sup>4</sup> According to the provisions of this law, the freedom of the media is defined comprehensively and it includes: *“freedom of expression, independence of the media, freedom of gathering, research, publication, selection and transmission of information in the direction of informing the public, pluralism and diversity of the media, freedom of information flow and openness of the media for different opinions, beliefs and various contents, accessibility to public information, respect for human personality, privacy and dignity, freedom of establishing legal entities for performing public information activities, printing and distribution of printed media and other media from the country and abroad, production and broadcasting of audio / audiovisual programs, as well as other electronic media, independence of the editor, the journalist, the authors or creators of content or program associates and other persons, in accordance with the rules of the profession”*.

Freedom of the media can be limited only in accordance with the Constitution of the Republic of Macedonia.

In the *Law on Civil Liability for Insult and Defamation* (Official Gazette of the Republic of Macedonia No. 143/12) Article 2 states: "It

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<sup>4</sup>See Article 3 paragraph 1 of the *Law on Media* (Official Gazette of the Republic of Macedonia No. 184/13)

guarantees the freedom of information and expression as one of the essential foundations of a democratic society".

In addition to the legal regulation, the Code of Ethics of Journalists of the AJM (Association of Journalists of Macedonia) should be mentioned, in which journalists are explicitly required to not knowingly create or process information that endangers human freedoms and rights (Article 10). One of those freedoms and rights is the respect for human dignity and the personality of each person, since with insult and defamation honor and reputation of an individual are attacked.

### **3. Definition of insult and defamation according to the Law on Civil Liability for Insult and Defamation**

Since 2012, insult and defamation in the Republic of Macedonia have been decriminalized with the adoption of the Law on Civil Liability for Insult and Defamation. The passing of the Law meant that a violation of the honor and reputation of any Macedonian citizen cannot be sanctioned by a prison sentence, but the injured party can initiate a procedure before a civil court to compensate for possible non-pecuniary damage. The basis for the existence of the legal institute of defamation is the need to protect the honor and reputation of entities (individuals and legal entities). Regulations determine where the limits of freedom of criticism are, and from where the criticism ceases to enjoy protection within the framework of freedom of expression and it turns into something that needs to be sanctioned, in order to protect the honor and reputation of others.

#### **3.1 Insult**

The definition of insult is given in the Law stating that: *"The person who, with the intention to belittle, with his statement, behavior, publication or in some other way expresses an undermining opinion that insults the honor and reputation of another person will be responsible for insult."*<sup>5</sup>

For insult distributed through media *"(newspapers, magazines and other press, radio and television programs, electronic publications, teletext and other forms of editorially shaped program contents that are published or broadcast daily or periodically in written form, sound or image, in a way accessible to the general public), the author of the statement, the editor or the person who replaces him in the public media and the legal entity may be held responsible for it. When filing a lawsuit, the plaintiff is free to decide against which of the persons from this paragraph he will file a lawsuit for establishing*

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<sup>5</sup>Article 6 (1) of the Law on Civil Liability for Insult and Defamation

*liability and compensation for damages for insult” (Article 6, paragraph 3). “As the author of the statement, a journalist is not responsible if it has obtained an abusive character by its equipping by placing headlines, subheadings, photographs, extracting parts of the statement from its wholeness, announcements or otherwise by the editor or the person replacing him” (Art. 6 paragraph 6).*

Art. 7 of the Law on Civil Liability for Insult and Defamation defines the grounds for exclusion of liability. According to this article, an entity will not be liable for insult if:

- transmitting a statement given in the work of the Assembly of the Republic of Macedonia, in the work of the councils of the municipalities, in an administrative or judicial procedure or before the Ombudsman, unless the plaintiff proves that it is given maliciously
- transmitting an opinion from an official document of all types of authority
- a communication is transmitted and other documents of international organizations and conferences
- a communication or other document for informing the public issued by competent state bodies, institutions and other legal entities
- a communication or other official document is transmitted from an investigation into committed offences or misdemeanors
- a communication is transmitted which transfers opinions expressed at a public gathering, court procedure or other public manifestation of the activity of state bodies, institutions, associations or legal entities, or
- a statement made publicly by another person is communicated.

Also, whoever expresses a degrading opinion about a public official of public interest is not responsible for insult if he proves that:

- it is based on real facts;
- he had reasonable grounds to believe in the truthfulness of the facts;
- the statement contains justified criticism or it encourages a public hearing;
- the statement is made in accordance with the professional standards and ethics of the journalistic profession.

Pursuant to the provisions of the Law, the person who gives negative opinion about another person with a sincere intention, is not responsible for insult if the criticism is expressed in a scientific, literary and artistic work, while performing official duties, journalism, or politics if he:

- defends freedom of expression, public interest
- does not mean to insult, if there is no significant damage and if it is not presented solely in order to humiliate a person.

### 3.2 Defamation

Defamation Definition: Unlike insult, pursuant to the Law on Civil Liability for Insult and Defamation, defamation is considered a more serious act that violates the honor and reputation of a citizen. In the Law, defamation is defined as follows: "For defamation will be responsible he who, about another person with a determined or obvious identity, with the intention of harming his honor and reputation, before a third person states or spreads false facts that are harmful to his honor and reputation, and knows or was obliged and can know that they are untrue".<sup>6</sup>

This definition contains the international standards of defamation, and accordingly, a person is responsible solely for publishing untruthful facts, which means that true facts cannot be considered defamatory, although they can be considered defamatory, if they can they violate the person's honor and reputation.

The second element that needs to be met in order to qualify an act as defamation is the intention to harm a person's honor and reputation, which is the key principle built into the European Court of Human Rights and Freedoms.<sup>7</sup> Otherwise, a defamatory statement will not be considered defamatory if the author of the statement shows that he did not intend to harm the honor and reputation of the person concerned.

The third principle covered by this definition is that the publisher of the statement does or could know that the content of the statement contains untrue facts. In this segment of the definition, the principle is emphasized that the author of the statement as a professional journalist was obliged to know about the actual situation in the area he was writing about and it calls for his professional obligation to check the facts in the statement before publishing them.

If stating or spreading false claims is done by means of public media (newspapers, magazines and other press, radio and television programs, electronic publications, teletext and other forms of editorially shaped program contents that are published or broadcast daily or periodically in written form, sound or image, in a way accessible to the general public), the author of the statement, the editor or the person who replaces him in the public media and the legal entity may be held responsible for defamation. When filing a lawsuit,

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<sup>6</sup>Article 8 paragraph 1 of the Law on Civil Liability for Insult and Defamation.

<sup>7</sup>Manual for defamation and insult (2015), AJM, Skopje, p. 43.

the plaintiff is free to decide against which of the persons from this paragraph he will file a lawsuit for establishing liability and compensation for damages for defamation (Article 8, paragraph 3).

As the author of the statement, a journalist is not responsible if it has obtained the character of defamation by its equipping by placing headlines, subheadings, photographs, extracting parts of the statement from its wholeness, announcements or otherwise by the editor or the person replacing him (Art. 8 paragraph 6).

### **3.3 Exclusion of liability for defamation**

Exclusion of liability for defamation is regulated in the Law on Civil Liability. Pursuant to the provisions of the Law, there are several grounds determined under which journalists can be released from liability. No one will be liable for defamation for claiming harmful facts about the honor and reputation of a person if the statement is given

- in a scientific, literary or artistic work
- in a serious review in performing official duties
- in performing the journalistic profession
- in carrying out political or other social activity
- in defense of the freedom of expression of thought or of other rights
- in the protection of the public interest or other justified interests.<sup>8</sup>

### **4. Reimbursement of damages and other legal consequences of liability for insult and defamation (mitigation of damages)**

Prior to submitting a claim for reimbursement of damages, the natural or legal person who has been injured by insult or defamation undertakes measures for mitigation of the damage with a request for apology and public withdrawal (Article 13, paragraph 1).

The apology or public withdrawal of the statement referred to in paragraph 1 of Article 13 shall be published in the same place and in the same volume in the printed media or on a website, or at the same time and in the same volume in an electronic media or on a website, as well as the information to which it is responding (title, header, subheading, text in written media or on a website, announcement in an informative program, article).

*“Likewise, if insult or defamation is committed by means of a public media or computer system, the injured party has the right to file a request for publication of an answer, denial or correction within seven days from the day*

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<sup>8</sup>Article 10 of the Law on Civil Liability for Insult and Defamation

*when he/she learned that it was published, but not later than one month after its publication” (Article 14, paragraph 1).*

The public media referred to in paragraph 1 of this Article shall publish the denial, reply or correction within two days of the submission of the request, in the first following number, if it is a periodical, or in other public media, if it is a non-periodical publication (Article 14, paragraph 2).

The denial, reply or correction shall be published at the same place or time and in the same scope as the information to which it is responding (title, header, subheading, text in written media or on a website, announcement in an informative program, article) (Article 14, paragraph 3).

#### **4.1 Reimbursement of damages for insult**

*“Reimbursement of non-pecuniary damage for insult shall be imposed only if the perpetrator of the insult has not apologized and publicly withdrawn the insulting statement or if he repeated the insult after the court decision prohibiting such a repetition” (Article 15, paragraph 1).*

“The amount of the monetary compensation of damages should be proportionate to the damage done to the reputation of the injured party, and when determining it, the court should take into account all the circumstances of the case, in particular the circumstances referred to in Articles 13 and 14 of this Law, as well as the financial situation of the defendant” (Article 15 paragraph 2).

The reimbursement of the proven pecuniary damage may consist of monetary compensation of the actual damage and the lost profit (Article 15, paragraph 3).

#### **4.2 Reimbursement of damages for defamation**

The reimbursement should be proportional to the damage caused and include the non-pecuniary damage inflicted on the honor and reputation of the injured party, as well as the proven pecuniary damage as real damage and lost profit (Article 16, paragraph 1).

In determining the amount of pecuniary reimbursement, the court should take into account all the circumstances of the case, in particular the circumstances referred to in Articles 13 and 14 of this Law, as well as the financial situation of the defendant (Article 16, paragraph 2).

## **5. Initiation of procedure**

The procedure is initiated with a lawsuit for determining responsibility and reimbursement for damages for insult or defamation, filed by the damaged natural or legal person or its legal representative or guardian (Article 19, paragraph 1). If the injured party is a child, his / her parent or guardian is authorized to file a lawsuit (Article 19, paragraph 2). If the insult or defamation is committed against a deceased person, his/her spouse, children, parents, brothers or sisters, adoptive parents, adoptee or other person with whom the deceased person lived in a common household is authorized to file a lawsuit, if damage was caused to their honor and reputation by the insult or defamation (Article 19 paragraph 3).

The deadline for filing a lawsuit is three months from the day the plaintiff learned of or should have learned about the insulting or defamatory statement and the identity of the person who caused the damage, but not later than one year from the day when the statement was given in front of a third party.

By filing a lawsuit for determining liability and reimbursement for damages, the injured party may submit to the competent court a request for the determination of a temporary court measure consisting of the prohibition of further publication of the insulting or defamatory statements.

## **6. Why decriminalization of defamation?**

The idea of decriminalizing insult and defamation was raised by the journalist community, which through the Association of Journalists lobbied for deleting these acts related to violation of honor and reputation from the Criminal Code and for adopting a special law that would regulate the responsibility for insult and defamation. The journalistic community had a number of arguments for requiring this.

One of the arguments was that there was a danger of imprisoning for defamation and insult, and that this could have negative implications on freedom of expression because journalists would avoid writing about sensitive issues where they would be at risk of being sued and sentenced with draconian imprisonment and fines. The European Court of Human Rights and Freedoms in Strasbourg also took the position about this legal situation in which the sentence of imprisonment for acts against honor and reputation was disproportionate and could have the effect of intimidating journalists and the media.

The second reason for the decriminalization of defamation was the large number of private criminal charges for defamation against journalists, for

which AJM claimed that they are used as a means of exerting pressure and intimidation.

Third, most of the defamation lawsuits against journalists were filed by holders of public office who had political power. Journalists complained that politicians use defamation lawsuits to silence journalists and deter them from writing about their work.

Fourth, defamation proceedings against journalists lasted for several years and this was one way to keep them under constant pressure and uncertainty. Such constant pressure from politicians and businessmen resulted in the use of self-censorship by journalists in order to avoid new lawsuits against them.

Fifth, with the application of the provisions of the Criminal Code, the judges imposed too high fines against journalists for reimbursement for defamation.<sup>9</sup>

Sixth, most often criminal courts required journalists to prove that the allegations in their published texts were correct, otherwise they were found guilty of defamation and they were imposed disproportionate penalties without taking into account the important role played by the media in a democratic society as a watchdog, as creators of public opinion and as inciters of debates on issues of public interest. Art. 5 of the Law, gives a broad definition of public interest, which covers almost all spheres of social life. The following are considered public interest issues: all forms, institutions and activities of performing state government and public institutions, local self-government, social activities such as health, culture, art, education, science, sports, media, legal system and application of law and economic system and economic relations and the environment.<sup>10</sup>

For the above-mentioned reasons, the Association of Journalists of Macedonia (AJM) vigorously demanded the abolition of the sentence of imprisonment for offenses of defamation and insult, as they considered it to be a disproportionate punishment for the protection of honor and reputation, and that the responsibility should be shared between the publisher, the editor and the journalist. This requirement was argued by the fact that in most of the lawsuits against media for defamation, only journalists are answerable, but not editors and publishers, who have the responsibility for approving and

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<sup>9</sup>Thus, for example, reimbursement for defamation was pronounced in the Crvenkovski case against Mladenov, when the journalist Nikola Mladenov was sentenced to a fine of 25,000 euros. For the same text, the owner of the weekly "Fokus", Nikola Mladenov, also lost the dispute from then Prime Minister Hari Kostov, for which the court ordered reimbursement of damages in the amount of 15,000 euros.

<sup>10</sup>Art. 5 paragraph 2 of the Law on Civil Liability for Insult and Defamation.

publishing possible defamatory information in the media. These penalties were most often paid by the journalists themselves.

Decriminalization of defamation is a tendency of international law stemming from the recommendation of the Council of Europe. In that sense, the Parliamentary Assembly of the Council of Europe adopted the Resolution 1577 (2007) "Towards decriminalization of defamation", which explicitly states that countries "need to precisely define the notion of defamation in their own laws, in order to avoid the arbitrary application of the law." This recommendation has been implemented in the legislation of several member states of the Council of Europe, that is, insult and defamation have been transformed from criminal offenses into civil (misdemeanor) acts that are sanctioned with a fine. Also, Recommendation 1814 (2007) of the Parliamentary Assembly urges all member states of the Council of Europe to review their laws, and wherever possible, make amendments and align them with the court practice of the European Court of Human Rights, in order to remove any obstacles to the abuse of defamation in order to restrict freedom of expression. However, the practice in a number of countries shows that the sentences for reimbursement of damages for defamation are too high, which in the opinion of experts is a serious obstacle to achieving the freedom of the media. In many countries, defamation and insult still fall within the corpus of delicts that are in the area of criminal law.

But, in a number of countries defamation is no longer subject to criminal legislation, that is, other types of sanctions are introduced appropriate to reimburse for the damage done to the reputation of a person,<sup>11</sup> while other states abolished prison sentences for defamation,<sup>12</sup> and still other countries abolished the notorious laws *desacato* which provided special legal protection to public persons.<sup>13</sup> In many countries in Europe, preference is given to civil laws as a means of reimbursing for damages from stating public defamation or insult, although criminal provisions have not yet been abolished.

Performing their profession, journalists sometimes intentionally or unintentionally, are not objective, that is, they violate the dignity and honor of citizens through defamation. Every legal system, including that of the Republic of Macedonia, provides indemnification for individuals whose reputation has been hurt by the speech of others. Freedom of expression

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<sup>11</sup>The criminal provisions for defamation or insult were completely abolished in Ghana (2001), Ukraine (2001), Bosnia and Herzegovina (2002), Sri Lanka (2002), Central African Republic (2004), Georgia (2004), Togo (2004) and other states.

<sup>12</sup>France, Bulgaria and Macedonia.

<sup>13</sup>Chile, Argentina, Costa Rica, Honduras, Paraguay and Peru.

implies the freedom of public speaking, but also the freedom of artistic expression.

Decriminalization of defamation in the past years was a central issue and topic of discussion between the Government of the Republic of Macedonia and the Association of Journalists of Macedonia (AJM). An intensive dialogue was conducted between the Government of the Republic of Macedonia and the AJM for decriminalization of defamation. In order to solve this problem on the part of the AJM, and with the support of the EU, an initiative was begun to amend the Law on Criminal Procedure under which the criminal act of defamation should be treated as a misdemeanor instead of a crime. An open dialogue was conducted between the Government and the Association of Journalists of Macedonia (ZNM) for resolving this problem. AJM's proposal was to decriminalize defamation, that is, instead of criminal sentences, that it should be transformed into a misdemeanor penalty. In doing so, we began to implement reforms in our legislation that dealt with the decriminalization of defamation. After several years of debate, the Macedonian Parliament adopted two legislative proposals of the Government and of the AJM in November 2012, amendments to the Criminal Code and the Law on Civil Liability for Defamation and Insult. The first law erased most of the acts against honor and reputation, meaning that there will be no prison sentence for such acts, and the second law establishes responsibility for these acts in civil law.

With entering into force of the Law on Civil Liability for Defamation and Insult, over 700 court cases of defamation and insult have been annested, half of which have been filed against journalists.

It introduces a graded (cascade) responsibility or defamation between the journalist, the editor and the media, and determines the maximum limit for reimbursement of non-pecuniary damage to 27,000 euros (2,000 for the journalist, 10,000 for the editor and 15,000 for the medium) (Media Law, Majhosev, p.223).

The Law on Civil Liability stipulates that reimbursement should be proportionate to the damage done to the reputation of the injured party, and when determining the reimbursement, the court is obliged to evaluate all the circumstances of the case, in particular all the measures taken by the perpetrator of the damage in order to alleviate the damage, such as: the publication of a correction, a public apology, the fact whether the perpetrator obtained a monetary benefit with his expression.

## Conclusion

Freedom of expression is the basic civil and political right of man and is the foundation and guarantor of democracy in a society. Freedom of expression is not absolute, and the limits of this freedom are the freedom and rights of others and the public interest of society. One of the basic principles underlying the Law on Civil Liability for Insult and Defamation is the guarantee of freedom of expression and information.

Today, freedom of expression as a universal democratic value in the world is threatened. If a journalist is attacked, it is an attack on the truth. The greatest danger comes from the centers of economic and political power that through various forms of pressure manage to control the media and journalists. A state is considered democratic if it respects freedom of expression. Freedom of expression is a battle that cannot be fully won, because while there is a state and government, there will be restrictions on freedom of the press and freedom of expression. The greatest danger to the restriction or suppression of media freedom and freedom of expression is the government. Censorship and self-censorship are forms of restriction of freedom of expression. When it comes to achieving higher social goals and higher social interest (security of the state, defense of the state), then the journalist should be able to establish a balance in the informing and the security of the state.

Until 2012, insult and defamation in the Republic of Macedonia had the status of a criminal offense and they were sanctioned with imprisonment. With the adoption of the Law on Amendments to the Criminal Code - Official Gazette of the Republic of Macedonia No. 142 dated 13th November 2012 and the Law on Civil Liability for Insult and Defamation in 2012, insult and defamation are no longer included in the body of offences that are in the area of criminal law. Since then insult and defamation have been treated as misdemeanor. An object of protection against insult and defamation are the honor and the reputation of a natural or legal person, as well as freedom of expression. The Law on Civil Liability for Insult and Defamation does not give the opportunity for the holders of public functions to sue in their official capacity (President of the State, Prime Minister, Minister etc.). They can sue in the capacity of a natural person.

On the day of entering into force of the Law on Civil Liability for Defamation and Insult, the legally pronounced sentences or reimbursements for the damage for committed criminal acts from Chapter XVIII "Crimes against Honor and Reputation" of the Criminal Code were suspended from execution ("Official Gazette of the Republic of Macedonia" No. 37/96, 80/99, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 87/2007, 7/2008, 139 / 2008, 114/2009, 51/11, 135/2011 and 185/2011) and according to the provisions of another law.

Criminal or civil proceedings for crimes referred to in Chapter XVIII "Crimes against honor and reputation" of the Criminal Code that were initiated before entering into force of this Law and have not been completed are terminated, and the plaintiff within one month of the receipt of the decision to stop the procedure may initiate proceedings for determining liability for insult or defamation and reimbursement for damages according to the provisions of this Law.

Also, the Law on Civil Liability provides for an opportunity before filing a lawsuit for reimbursement of damages, that the plaintiff whose honor and reputation have been violated with insult and defamation may require an apology or public withdrawal of the statement (Article 13), i.e. a denial, an answer and correction (Article 14) within two days. When a lawsuit is filed against a journalist or a medium, the procedure has an emergency character.

Exceeding the freedom of expression by journalists is also regulated in the Code of Ethics of the AJM. The Code of Ethics of Journalists pays proper attention to the institute of the right to answer and correction of published information, that is, the journalist is obliged to provide publication of correction, denial and response in case of inaccuracy of the information (Article 3). Thus a dispute in court about inaccurate information is avoided between the journalist and the party concerned.

## References

- Code of Ethics of Journalists of Macedonia (2001), AJM, Skopje;
- Criminal Code (Official Gazette of RM No. 37/96, 80/99, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 87/2007, 7/2008, 139/2008, 114/2009, 51/11, 135/2011, 185/2011);
- European Convention on Human Right, Council of Europe, 1950;
- Handbook for Insult and Defamation (2015), AJM, Skopje;
- International Covenant on Civil and Political Rights, OON, 1966;
- Law on Civil Liability for Defamation and Insult (Official of Gazette RM No. 143/12)
- Law on Media (Official Gazette of RM No. 184/13)
- Law on audio and audio and visual media services (Official Gazette No.184/13)
- Law on Amendments to the Criminal Code - „Official Gazette of RM“No. 142/12;
- Majhosev, A. (2015), Journalism Ethics, University of "Goce Delchev"-Stip;
- Majhosev, A. (2017), Media Law, University of "Goce Delchev"-Stip;
- Political Encyclopedia (1975), Savremena administracija, Beograd;
- Recommendation No. 1814 (2007), Council of Europe;
- Resolution 1577 (2007) "*Towards Decriminalization of Defamation*", Council of Europe;
- Universal Declaration on Human Rights, OON, 1948;
- Skaric, S. (2009), Constitutional Law, Culture, Skopje.