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Journalistic Ethics as a Study Discipline and Some Issues Related to Journalist's Rights (By Georgia's example)

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Abstract

The influence of the media on the modern state and society is so great that it is impossible for a journalist's activity not to be subject to strictly defined rules. A journalist should not be unfamiliar with such concepts and definitions as journalistic ethics, integrity, respondent's rights, etc. Therefore, in addition to rights, significant attention should be paid to assuming duties. At the same time, the public should know that the law will punish not only the journalist but also any person who interferes with the media representative in the process of carrying out their duties. In this direction, higher education institutions play an important role in raising the level of professional and civil knowledge of society.

Key words: Journalistic ethics, inviolability of private life, covert filming, interference in journalists' activities, media and education, high public interest.

Introduction

On the path of European integration of Georgia, the deepening of cooperation in the educational field and the introduction of innovations have become more and more important. In this direction, adapting the European experience to the Georgian reality is a field of special interest. Grigor Robakidze University (Georgia, Tbilisi) devotes significant time to the internationalization of education, cooperation with leading European universities, and mutual sharing of experience. A large part of working visits, international conferences, and training in Europe is devoted to receiving and processing the information related to the management of the learning process, assessment, and self-evaluation system in the post-covid period, the use of the latest teaching methods, interdisciplinary approaches in the process of solving various problematic issues, etc. No less attention is paid to the introduction of new study disciplines or the renewal of already existing courses. For example, such academic disciplines as medical law, journalistic ethics, tourism law, science, and education of the occupied territories, conflictology and modernity, international space law, hotel business management, and others have appeared. In this article, I would like to

draw your attention to important issues related to journalistic ethics, journalists' rights, and duties, which are given a lot of attention at our university. I think the discussion of this topic will be interesting both for the academic staff and students of the Faculty of Journalism, as well as for all those who directly connect the journalist's professional activity with the field of high public interest.

Main part

The Impact of Technology and Media on Public Opinion

Why is a special role assigned to journalistic ethics, journalists' honesty, and knowledge of mass media representatives' rights in modern society and the state? The answer is clear. Modern technologies and media have a serious influence on the formation of public opinion, on people's attitude towards this or that public event, political orientation, and mood towards a specific political organization. This influence is so great that it often creates a political agenda and even appears as a guarantee of state and public security. That is why it is important, during the performance of professional duty, for a journalist to use modern technologies in compliance with the law, to obtain information in good faith, to accurately determine the high public interest, not to neglect his duties and not to have a negative impact on public opinion.

Who is a Journalist?

Before directly addressing the specific rights and duties of a journalist, it is preferable to clarify who a journalist is. In Georgia, there was a law on the Georgian press and other means of mass information [1], which defined the status of a journalist (Article 21). "A journalist is a person who collects, creates, edits or prepares materials for publication in the mass media and has the appropriate credentials or is a member of a registered association of journalists." Currently, this law is considered invalid. It was replaced by the law on freedom of speech and expression [2], where the concept of journalism is not defined at all. In the amended law, this profession is discussed only in Article "O" of the first article (concerns professional secrecy and information that includes personal data) and in Article 3 (concerns the journalist's right to protect the confidentiality of the source of information and to make editorial decisions per his conscience). According to the standard established by the United Nations, the Committee of Ministers of the Council of Europe, and the European Court of Human Rights, only professional journalists are not considered journalists. This term also includes other actors who contribute to the public discussion, carry out journalistic activities, or perform the functions of a public interest watchdog association. For example, bloggers, creators of high-ranking social pages, and representatives of non-governmental organizations inform the public about issues of high public interest. However, it should be emphasized here that in a specific case, all media actors may not be able to enjoy the privilege of protecting the confidentiality of the

journalist's source at all, which means that to adjust the journalist's specific right, it is still necessary to have a proper certificate or to be a member of a registered union of journalists.

Inviolability of Private Life and High Public Interest

Before talking about the superiority of high public interest over privacy, it is appropriate to clarify the meaning of privacy itself. At the beginning of the article, we paid particular attention to the importance of Georgia's European integration, getting closer to the European Union, therefore, this time, we will cite as an example the most important document adopted under the auspices of the European Union, the European Charter of Human Rights [3] and its 6th and 7th articles. (The European Charter of Human Rights, The Charter of Fundamental Rights of the European Union (CFR) was adopted in 2007, is considered an integral part of the Treaty of Lisbon and entered into force together with the latter in 2009). The inviolability of both personal and family life is protected by the charter. "We have to treat people's residence, correspondence, and other forms of communication with respect." The obligation to protect personal data is determined by the charter. Information about this data must be obtained in good faith, for specific purposes, and with the consent of the person to whom this data relates. As an exception, only the possibility defined by law will be allowed. Everyone has the right to receive information about their data and to request clarification. According to the Constitution of Georgia [4]: "A person's personal and family life is inviolable. Limitation of this right is allowed only by the law, to ensure the state or public security necessary in a democratic society or to protect the rights of others" (Article 15. Rights to inviolability of private and family life, personal space and communication, paragraph 1). A person's personal space and communication are also inviolable. As in the previous case, the restriction of these rights is allowed only by the law, to ensure the necessary state or public security in a democratic society or to protect the rights of others, with or without a court decision, in the case of urgent necessity provided for by the law (Article 15. Inviolability of personal and family life, personal space, and communication Rights. Clause 2). Both international and domestic legislation provides for cases when a person's personal space, inviolability of private life, is restricted to protect the rights of others or to ensure public safety. It is unequivocally difficult to prove whether the prerequisite for ensuring public safety is the satisfaction of the high interest of the same society, but the fact is that both in the decisions of the European Court and in the Georgian legislation, we find many provisions where the priority of the high public interest about the inviolability of private life is emphasized. For example: according to the 10th principle of the Charter of Journalistic Ethics of Georgia: "A journalist must respect a person's private life and not invade his private life unless there is a special public interest." It turns out that the public interest is always higher than the private life of a particular person, even though the dissemination of such information may lead to a more harmful result, and public awareness, the satisfaction of the public interest (through the disclosure of specific information) may lead to encroachment on an individual's life. I think, until the decision is made by the court, it is not appropriate for a journalist, even if it is of high public interest,

to allow himself to invade the space of a specific person (including a public official), which is called private life. By such an action, the journalist may cause harm to the parties, for example, to push the alleged perpetrator to suppress the evidence. Therefore, the right action of the journalist and his cooperation with the investigative bodies is of great importance. Even before the start of the court proceedings, the information disseminated by the journalist should not be a condition for hindering the investigation. In addition, it is quite difficult to determine exactly how high public interest is in this or that event. What is of interest to one part of society may be completely uninteresting and irrelevant to another part of society. Therefore, I support the opinion that if the only purpose of information dissemination is to satisfy the reader's curiosity about the details of an individual's personal life, then it cannot be considered that such public awareness serves the high interest of the same society. I think it is agreeable that the target of journalists is mainly public figures, since publishing the details of their personal life helps to increase the sales of the information product. Therefore, in this direction, the journalist should have a more solid idea of the clearly defined high interest of the public. Personal information disclosed must serve some important purpose. When public figures are presented in a negative light, there is a higher probability that such coverage will violate privacy. A journalist should understand that the principle of freedom of expression protects not only the content of expression but also the form and methods of expression. For example, publishing a moment of tragedy is unethical, even if there is increased public interest. Therefore, it is important where, in what volume, in what period, and through which program the information is disseminated. For example, audio–video and online media often have a more immediate and powerful impact than print media. Based on the material published by the journalist, the impact of society can be so negative that it forces the whole family to leave their place of residence and move to another place, and family members change school, work environment, etc. Unfortunately, in some countries, being in opposition to the government can lead to life–threatening situations. We must agree that detailed analysis is necessary before disseminating information. At the same time, it should be considered that information is often available to minors, who most painfully and emotionally perceive the dissemination of information of similar content through mass media. Although some of the specific information may already be in the public domain. Special attention should be paid to stories about the children themselves. According to the 8th principle of journalistic ethics: "The journalist is obliged to protect the rights of the child; In professional activities, give priority to the interests of the child, do not prepare or publish such articles or reports about children that will be harmful to them." There are often cases when this or that TV show attracts children, and at this time an interview is taken, a photo is taken, and then the material is published., which is not allowed unless there is written consent from a parent or guardian of a teenager under 16 years of age. The issue is more acute when considering specific cases or in general, issues of adolescent welfare. The journalist's code of ethics (6.3) also draws attention to this: "The principle of

respecting the future of minors limits the publication of the names or images of juvenile offenders." Except for the cases when, according to the procedure established by law, a search warrant has been issued for such a person. This rule also applies to cases where the victim is a minor" [5]. From this, we conclude that the decisions regarding what is considered a private matter and partially what has become or may become available to the public should be considered by journalists on an individual basis. The more intimate the story, the stronger the justification for airing it. It is generally accepted that personal information should not be made public without the express consent of the individual concerned. Consent is an important element in determining whether the publication of a particular detail of private life violates privacy. But again, we must not forget the overriding interest of society. It is possible to publish information about individuals without their consent when there is an overriding public interest, i.e., Disclosure of information is justified by high public interest. Thus, the principle of high public interest may represent an "alternative justification" for publication. For example, the case of Von Hannover 2 v. Germany concerned the publication of a photo of the princess on vacation at a ski resort next to an article about her father's illness, which the court judged contributed to the discussion of a matter of public interest. Thus, despite the lack of consent, the Strasbourg Court found that the said publication was justified [6]. This is quite a delicate topic since I repeat, it is difficult to define the public interest precisely. That is, what does society want, and what are its expectations from receiving this information? It is difficult to definitively determine the effect of public disclosure of personal information obtained on a particular individual. Shut up, there are often cases when a journalist purposely disseminates specific information (based on secretly obtained video, audio material, and photos) to create desired moods in society and political circles. Practice shows that information and images published based on the consent of the interested parties generally do not cause problems. Judicial proceedings are preferably initiated in cases where such consent has not been obtained. However, as we have seen above, in practice there are court cases where the material was published without the consent of the person, but the court acquitted the journalists.

Obligation not to Disclose the Source of Information

The principles and goals of journalism should be aimed at developing humanity, raising awareness, or satisfying a higher interest. A journalist, in the process of carrying out his professional activities, obtains information through his efforts or with the help of others. In the aspect of freedom of expression, it is of great importance to protecting the confidentiality of the journalist's source. In this part of the article, I would like to discuss whether the journalist's right to protect the confidentiality of his source is equated with an absolute right and what kind of measures/actions may be followed by identifying the journalist's source. Before directly addressing the Georgian legislation, I would like to quote the explanations of the European Court of Human Rights regarding this issue. Protecting the confidentiality of the journalist's source is one of the main prerequisites for ensuring

the freedom of the press. Without such robust protection mechanisms in place, sources may be intimidated into providing information of high public interest, which in turn undermines the important role of the press as a watchdog of the public interest and limits its ability to provide accurate and reliable information to the public. However, identifying the source is justified by a requirement that outweighs the privacy of the journalist's source. Especially when it comes to the prevention of serious crimes against minors. Such formulation of the issue by the court implies that the journalist's right to protect the confidentiality of his source is not absolute and may be subject to limitations to achieve a legitimate goal. Such a legitimate goal can be protecting the interests of national security, and public safety, preventing public disorder or crime, or ensuring the authority and impartiality of the court (European Convention on Human Rights [7] Article 10. Second paragraph). Therefore, the Convention, which is the legal basis of the proceedings of the Strasbourg Court, gives the Contracting Parties to the Convention the possibility to determine at the (national) level themselves what can be considered as a prerequisite for the disclosure of a source. The European Court of Human Rights is checking to what extent it is permissible to impose the obligation to disclose the journalist's source under national legislation. If interference is not allowed, the question of the existence of a legitimate purpose and the admissibility of identifying the source is not even discussed! As for the legislation of Georgia, the Law of Georgia "On Freedom of Speech and Expression" provides for absolute protection of professional secrecy and its source. "The source of professional secrecy is protected by absolute privilege, and no one has the right to demand the disclosure of this source. The defendant in a legal dispute on the restriction of freedom of speech cannot be obliged to disclose the source of confidential information" (Protection of professional secrecy and its source, Article 11). According to the definition given in the same law, absolute privilege means the complete and unconditional release of a person from the responsibility provided by the law. The moral responsibility of a journalist not to disclose the source of confidentially obtained information is also indicated by the 6th principle of the Charter of Journalistic Ethics [8] (the Charter is based on Article 10 of the European Convention on Fundamental Human Rights and Freedoms of the Council of Europe and the Declaration on the Principles of Conduct of Journalists recognized by the International Federation of Journalists). Therefore, according to Georgian legislation, interfering with the journalist's right to protect the confidentiality of the source is excluded in all cases, but there is no real, solid legislative mechanism, or guarantees, which will be directly related to the protection of the latter in case of disclosure of the source. The legislation of Georgia also speaks of an exceptional case when "the court has the right to issue a ruling on providing evidence in connection with the disclosure of only that part of confidential information, the need for disclosure of which has been proven" (Georgian Law on Freedom of Speech and Expression. Protection of professional secrecy and its source. Article 11. Paragraph 3). Here, it should also be considered that: "Confidential information obtained by disclosure can be used only for the purpose for which it was disclosed" (Law of

Georgia on freedom of speech and expression. Protection of professional secrecy and its source. Article 11. Clause 4). In such a case, the judge must be very careful, since the decisions of the European Court of Human Rights show that the removal of the unpublished part of the information may lead to the identification of the journalist's source. Therefore, in this direction, the Grand Chamber of Strasbourg attaches crucial importance to the existence of adequate legal guarantees at the national level. Source confidentiality issues are also addressed by: Resolution on Journalist's Rights and Freedoms [9], Resolution on Journalist's Source Confidentiality [10], Recommendation No. R(2000) 7 on the right of journalists not to disclose the source of information [11]. The latter attracts our attention by giving us a precise definition of some terms. For example, according to the Recommendation, "information" means any statement of fact or opinion in textual, audio, or visual form. "Source" means any person who provides information to a journalist. "Source-identifying information" includes any of the following information that may be used to identify the source: • Name, surname, and personal data of the source, as well as his voice and image; • Factual circumstances in which the journalist obtained information from the source; • Unpublished part of the information provided by the source; • The personal data of the journalist and their employer that concerns their professional activities, with which it is possible to determine the source. I would like to touch on one more issue in this part of the article, this is the issue of identifying the journalist's source when the journalist is not carrying out his professional activities. At this time, in case of seizure and search, the protection of confidentiality of the journalist's source is not considered. When a journalist is not engaged in official work, it is permissible to conduct a secret investigative action against him.

A Journalist as a Witness and as a Carrier of Information About a Crime

Can a journalist be a witness? The Criminal Procedure Code of Georgia [12] considers a journalist as a person who is not obliged to be a witness, but only about the case related to his professional activity (a person who is not obliged to be a witness. Article 50). As for the Civil Procedure Code of Georgia [13], journalists are not mentioned among the persons exempted from giving explanations or testimony (Article 129, Article 141 of the Civil Procedure Code of Georgia). As for the Code of Administrative Offenses [14], the latter does not recognize the concept of professional secrecy at all. It is one thing to be a witness in connection with this or that case, and another to possess information about the commission of a crime. In such a case, the journalist is obliged to inform the relevant services, according to the Criminal Code [15], non-reporting of the crime is punishable (Article 376), and no exception can be made to those who obtained information about the preparation of the crime or the already committed crime while carrying out journalistic activities. However, there are often cases when a journalist points to the facts of alleged violations with a specific story and creates a public division about this or that (in his opinion negative) event. Currently, he does not inform law enforcement authorities. Later, it may turn out that there was no violation, and it was a journalist's subjective assessment, which

in turn resulted in a violation of the rights of individuals. It is a fact that the story has already been launched, and therefore, the public has already reacted to a specific "journalistic investigation". It is good when a journalist, program/broadcaster finally apologizes for a story prepared on unverified news or for some terms, photos, and audio materials used in this story. But you will agree, there are many cases when there is no apology and no explanation of what happened and how the events developed, whether there was any crime on the face, which, in my opinion, is completely unacceptable. That is why we must distinguish responsible journalism from tabloid journalism. According to the 5th principle of the charter of journalistic ethics: "The media is obliged to correct the published essentially inaccurate information that misleads the public."

Does the End Justify the Means? (Covert filming and high public interest)

Georgian legislation considers it permissible to use and/or distribute personal information or personal data through a mass broadcaster or public speech. The mentioned action becomes punishable only when the information was obtained illegally and it caused significant damage, as determined by the court. The provision of Article 157 of the Criminal Code (tampering with personal information or personal data) is questionable since it follows from its content that it is not directly illegal acquisition, storage, use, distribution, or provision of another kind of access to personal information that is punishable. Doing significant harm to a particular person in this way. In addition, the law does not provide a precise definition of the form in which such information must be obtained and disseminated for it to be considered illegal. Nor is it about when we are dealing with exceptional cases, for example, why secretly filming by a journalist should not be considered an illegal act and what is the basis for it. We don't have an answer to the question of what factors determine the extent of significant damage to a person. The same questions arise about Article 157 (Prima), which refers to the violation of privacy. The law of Georgia on normative acts establishes a hierarchy among normative acts. The Criminal Law Code is higher than the resolution of the National Communications Commission of Georgia on the approval of the "Code of Conduct of Broadcasters", but at first glance, the Code of Conduct of Broadcasters gives us relatively more information on the issues that are not fully explained by the law. Our attention is drawn to Article 5. Definition of terms – "C". Surreptitious recording refers to recording or continuing to record a conversation using various technical means without informed consent. At this time, the object of recording does not know that it is being recorded or it assumes that the recording has ended; Using or leaving recording equipment or a video camera on private property without the consent of the tenant or his representative is considered to be covert filming or recording. Here is how the resolution justifies obtaining and transmitting information using covert methods: Chapter X. Inviolability of personal life, Article 35. Requirements (Rules) imposed by the broadcaster to ensure the inviolability of personal life. "A) When the event is a matter of public interest, there is a reasonable assumption that new evidence will be obtained, and this is necessary to ensure the accuracy of the program; B) To conduct sociological research

on issues of public interest, when it is impossible to reveal the attitude or opinion that is the subject of the research in any other way; C) For the preparation of comedy and entertainment programs, where a covert recording is one of the usual methods, does not constitute a gross interference with a person's private life and does not cause significant irritation, stress, or inconvenience.” Point 15 of the same article is interesting, there we read that covert recording, including in privately owned territory, can be justified only by public interest, this interest can be supported by the existence of a reasonable assumption that evidence of a crime will be discovered. There, in point 17, we read: "Materials filmed or recorded by covert methods can be aired only if such an action is justified. Here, we do not see an explanation regarding the extent to which it is justified to release such material when the case concerns a committed crime, and the investigation has not even started yet. However, if we are guided by Article 157 (prima) of the Criminal Code with a note: the case will not be considered a violation of the secret of a private life when after obtaining and storing the material that replaces such information, which also included information about the committed/anticipated criminal act, the person handed over to the investigative body. Note that the terms "retrieval/retention" are used, so it is necessary to take this step before publishing this information to avoid criminal liability. However, it would be good if the legislator used the word "immediately", i.e., immediately handed over to the investigative body. As for the presentation of the information obtained secretly by the journalist as information, it depends on the specific case and the decision of the court. Let's get acquainted with the definitions of the principles of the charter of journalistic ethics about this issue: Principle 4. When obtaining information, photos, or documents, a journalist must use only honest and fair methods. A "good faith and fair method" may include, but is not limited to, covert filming, recording of conversations, impersonation, or other methods to obtain information when all other means of obtaining information have been exhausted and the public interest is high. A high public interest (which cannot be measured by hard parameters) ethically justifies an unscrupulous way of obtaining information, a photograph, or a document, if there is no other way. An agreement was reached that the secret recording should be published with the name and surname of the respondent (not anonymously) and with the comment of the recorded person, that is, even in the case of a secret recording, the recorded respondent should be allowed to comment before the recording is published. At the same time, we must emphasize that it is the responsibility of the journalist how conscientiously obtains the material about a person's personal life; The responsibility of the editor and broadcaster is what to print (broadcast) and what not. Conclusion With the most important reforms carried out in recent years, with a specific attitude towards this or that public event, with openly expressed approaches to European values, Georgia is getting closer to the European Union. Of course, there are areas where there is still a lot of work to be done, however, I hope that the unwavering will of the Georgian people – to connect their debt to Europe, will be correctly seen and evaluated. In the process of moving towards Europe, special attention is paid to state policy

in the field of media and education. Georgia's activity in this process is the subject of interest to our European partners. It is welcome that important steps have been taken in both directions and the legal framework of Georgia has become closer to European standards. Freedom of speech and expression, inviolability of personal life, non-interference in journalists' activities, inviolability of dignity, and others were subjected to the mechanism of special protection. More time was devoted to issues such as journalistic ethics, journalistic investigation, journalists' rights and duties, respondents' rights, and others. As it was said at the beginning, higher education institutions joined the process and where future journalists are trained, they devoted more time to the disciplines where these issues are taught. Of course, Grigol Robakidze University is not an exception either. I expect that our higher education institution will be an important factor that will make its contribution to Georgia's path to obtaining the status of a candidate for the European Union.

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