



# **HUMAN RIGHTS DEFENDER OF THE REPUBLIC OF ARMENIA**

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## **RA Human Rights Defender's Address to Judges**

Honorable judge,

As a result of amendments made to the RA Criminal Code on May 18 2010 defamation and insult were decriminalized; whilst the order and terms of compensation of damages caused by insulting or defamatory statements to honor, dignity and business reputation of a person have been prescribed in the RA Civil Code. The idea of those changes were welcomed by the OSCE Representative on Freedom of the Media, Ms. Dunja Mijatovic<sup>1</sup>, who considered it as a good model of solution of the issue; this was also mentioned in the issue paper of T. Hammarberg, CoE Commissioner for Human Rights<sup>2</sup>.

However, in the light of the purpose of envisaging legal provisions on the protection of honor, dignity and business reputation of a person, we should assign particular importance to their strict interpretation and proper implementation. Consequently, I would like to once more underline some principal approaches deriving from the practice of the European Court of Human Rights which need to be applied in the judicial practice of the Republic of Armenia.

- “Politicians should be expected to be more tolerant of media criticism. The limits of acceptable criticism are much wider as regards a politician as such than as regards a private individual”,
- “In case of freedom of expression abuse, the compensation defined by the Court should be proportionate to the harm done to the reputation of the person”,
- “Not only are the information or ideas favorably received or regarded as inoffensive or as a matter of indifference protected, but also those that offend, shock or disturb”,
- “A journalist may resort to a degree of exaggeration or even provocation”,
- “Not only is the substance of the ideas and information expressed protected but also the form in which they are conveyed”,
- “Unlike factual data, it is unacceptable to require from a journalist to prove the truth and credibility of his/her opinions, value judgments and commentaries”,
- “The right to freedom of expression may be subject to restrictions for the purposes of protection of the reputation or rights of others, public interest, the authority and impartiality of the judiciary, which, yet, should be subject to a very restricted interpretation”,
- “Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfillment”, etc.

For the purpose of observing the above mentioned principles and maintaining professional ethics of journalism, I highly appreciate the establishment of media self-regulatory mechanisms and development of codes of conduct for journalists. Since 2007 through the initiative of “Yerevan Press Club” public organization Media Ethics Observatory has been operating in the RA aimed at monitoring the Code of Conduct, considering the complaints regarding the violation of the latter and adopting respective conclusions. It is desirable that disputes regarding the protection of honor, dignity and business reputation are resolved by this very body having aim to effectively promote the standards of the ethics of journalism, eliminate violations as well as maintain the independence of mass media.

However, if one prefers to initiate court proceedings, I am certain that the aforementioned principles and case law interpretations of the European Court of Human Rights will lay the basis for your judgments.

**RA HUMAN RIGHTS DEFENDER**

**K. ANDREASYAN**

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<sup>1</sup> Dunja Mijatovic's Report to the OSCE Permanent Council, 2010

<sup>2</sup> “Ethical journalism and human rights”, T. Hammarberg, CoE Commissioner for Human Rights, 2011