

## Legal basis of the media

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**"The law of self preservation is much higher, than the written law".  
(Jefferson)**

**Abstract:** The rule of law is the most important condition of a democratic society. Compared to other branches of law, media law emerged relatively late. Its origin is related to the growing development of modern technologies, and Also today we can already consider it an interdisciplinary field. It should be noted here that the legislation related to media law is not conveyed by one specific norm and is regulated by separate legal acts in the legislation of Georgia.

**Keywords:** court, judge, legal norms, trial, media, freedom of expression, rule of law.

Media law is directly related to the professional activity of the media, which is primarily regulated by the constitution. In order to correctly define the essence of media law, it is necessary to differentiate between the definition of media and its activity. One direction is the means of mass communication, and the other conditionally, can be considered as an alternative media, which can be implemented by people of other professions (internet bloggers, social media users and online media representatives). Accordingly, the concept of media law is defined as follows: "the field of law that regulates legal relations established with the participation of the media". (Jorbenadze, Bakhtadze, Macharadze, 2014).

The role of media law at all stages of modern development is so great that people sometimes do not even realize how closely they are connected with the process of receiving and transmitting information. In each case, it is important to protect the legal aspects of the parties involved in it. Forms of accuracy, objectivity and providing information in understandable language are mandatory from the side of the media. It is unacceptable for the media not to give listeners, viewers, or readers the opportunity to draw their own conclusions and provide information as the subjective side of the story. The main principles of media law are: 1. Freedom of mass information, publicity of information; 2. Freedom of mass media, inadmissibility of censorship; 3. Rule of law, protection of legality; 4. Equality of citizens before the law; 5. Protection of citizens' rights and freedoms; 5. Liability for violation of law. Observance of each principle for

media representatives should be reflected in objective activity, which is the main determining criterion of the degree of independence.

As a source of media law, we can also consider the ethical norms adopted by the authorized administrative body on the basis of Georgian legislation.

Judicial practice as a source of media law as well as legal norms should be considered on the basis of domestic and international judicial practice. From the point of view of the internal practice of the country, the practice of the General Courts of Georgia, the Constitutional Court of Georgia and the National Communications Commission of Georgia is important, and from the aspect of international practice, the practice of the European Court of Human Rights is important, first of all, which deals with media activities and related freedom of expression or information.

Legal regulation in the field of mass information, on the one hand, should be directed to the proper functioning of the media as a democratic institution, and, on the other hand, to the protection of the interests of society and the state.

The legal foundations of journalism are closely related to the existing legislation on mass media. Even in the 20th century, the rules defining public events were in force in the press. In the 1990s, the "Ethical Rules of the American Newspaper Guild" were adopted, and in 1935 the French "Law of Conscience".

Legal protection of freedom of speech and expression was first implemented in the United States of America in the 1776 American Declaration of Independence, the 1789 American Constitution, and the 1791 Bill of Rights, which was the first amendment to the Constitution. Of the international legal norms related to the activities of the media, the norms related to freedom of information are of primary importance. This basic principle is reinforced by the following legal acts: the Universal Declaration of Human Rights (1948), the European Convention on Human Rights and Fundamental Freedoms (1966), the resolution adopted within the framework of the 4th European Convention "Journalistic Freedom and Human Rights" (1994), Resolution 748 of the Parliamentary Assembly of the Council of Europe "On the role of the national broadcaster and its management" (1975), the recommendations of the London Information Forum (1989), the declaration of the Council of Europe of April 22, 1982, which "The European Charter of Information Media" are called

It is worth noting when talking about the legal norms of freedom of speech

Those international documents that concern the protection of human rights, in particular - freedom of expression, and are documents confirming the right to receive and disseminate information, are universally recognized. In this regard, first of all, the "International Declaration of Human Rights", which was adopted by the United Nations on December 10, 1948, should be noted. It entered into force in Georgia by the resolution of the Supreme Council of September 15, 1991. In the preamble of the declaration, it is stated that, "The General Assembly declares this Universal Declaration of Human Rights as a task that all peoples and all states must strive to fulfill, so that

every person and every organ of society, the soil, takes into account this declaration, strives to promote it through learning and education. respecting these rights and freedoms and ensuring their universal and effective recognition-implementation through national or international progressive measures both among the peoples of the member states of the organization, as well as among the peoples of the territories subject to the jurisdiction of these states". "Universal Declaration of Human Rights". (1948)

Freedom of expression and information is discussed in Chapter 10 of the European Convention on Human Rights, which was signed on November 4, 1950 and entered into force on September 3, 1953. According to Article 10 of the Convention, everyone has the right to freedom of expression. This right includes freedom to hold opinions, receive and impart information and opinions without interference from public authorities and regardless of frontiers. This article does not prevent states from requiring licensing of radio broadcasting, television or cinematographic productions. („Freedom of expression..." 2003). But at the same time it contains certain limitations that should be recognized like this right, since freedom of expression is not absolute and unconditional. That is why in the 10th chapter of the same declaration it is also stated that "the exercise of these freedoms, insofar as it imposes obligations and responsibilities, may be subject to such formalities, conditions, restrictions and sanctions as are provided by law and are necessary in a democratic society for national security, territorial integrity or In the interests of public safety, the prevention of disorder or crime, the protection of health or morals, the protection of the reputation or rights of others, the prevention of disclosure of classified information, or the maintenance of the authority and impartiality of the judiciary." („Freedom of expression"...2003)

Georgia's media legislation is based on the Constitution of Georgia adopted on August 24, 1995, the main law of the country, Articles 19 and 24 of which are the first guarantees of the essential meaning of freedom of speech. Article 19 of the Constitution of Georgia states that every person has freedom of speech, opinion, conscience, confession and belief. It is not permissible to persecute a person because of them, and it is also unacceptable to force him to express his opinion, conscience, confession and faith. According to Article 24 of the Constitution, every person has the right to receive and disseminate information, express and disseminate his opinion orally, in writing or by any other means. The constitution clearly states that the means of mass information are free, and censorship is not allowed: "The state and individuals do not have the right to monopolize mass information and or the means of its dissemination". Article 24. Basic principles such as freedom of speech, opinion, conscience, and access to information are reinforced in the constitution. The main goal of the state is to legislate and establish relevant rules in the field of media law, to ensure the protection of individual, public and state interests, as well as freedom of speech and expression, morality and ethical norms. Also the most important normative acts are the Law on Freedom of Speech and Expression adopted on the basis of the Constitution (this law repealed the Law on Press

and other means of mass information), the Law of Georgia on Broadcasting, the Law of Georgia on Electronic Communications. "Professional standard of the media" (2003), principles of the Journalistic Ethics Charter of Georgia.

Legal norms of the media give rise to legal relations. In this relationship, all parties have their own rights and duties. An important subject here is the state itself, which is the author of the main information resource and creates the information space. "The media is the object of legal relations and represents a certain behavior of the subjects of the law. An object can also be refraining from a certain action. This happens when the media legal norm, which regulates the media legal relationship, prohibits this or that action that harms others. (Alpaidze, 2008).

The Law "On Freedom of Speech and Expression" adopted in 2004 is an expression of general fundamental legal values in the country and derives from the Constitution of Georgia, international legal obligations assumed by Georgia, including the European Convention on Human Rights and Fundamental Freedoms and the precedent law of the European Court of Human Rights. The 10th article of the Universal Declaration of Human Rights specifically states about freedom of expression and information: "Everyone has the right to freedom of expression." This right includes freedom to hold opinions, to receive and impart information and opinions without interference by public authorities and regardless of frontiers."

The Law of Georgia "On Freedom of Speech and Expression" practically repeats the postulates of this European Convention and fills it with even more specific nuances, where it talks about the inadmissibility of censorship, editorial independence and pluralism of the media, protection of the secrecy of the source of information on the part of the journalist. When discussing the existing law, one article, which is considered the main "value" of this law, has a special weight for the media community. We are talking about the burden of proof, which, according to this law, no longer rests with the author of the article, that is, a journalist who discloses any fact against a public official, in case of an appeal to the court, this official himself will be obliged to prove that the published facts are not true. The positive side of this law is also indicated by the fact that it applies to both print and electronic media. The "Law on Broadcasting", which is considered one of the obligations to be fulfilled by Georgia before the Council of Europe, can be considered as a special innovation. All international obligations and recommendations in the field of media law are called to create the general standards that are so necessary and necessary for the Georgian media. Secondly, with what accuracy and quality will the legislation written by our journalists be implemented.

### **Conclusion:**

It is a reality, when high-profile processes are taking place, naturally, no one can prohibit the media from covering them. Interest in a journalist's article or a television

story significantly decreases when the promptness of a high-profile case decreases or is delayed. At such a time, the media has the most important role in the correct formation of public opinion. A journalist's freedom of expression is not absolute. It has rights and responsibilities. In this case, the term "rights" is interpreted as the journalist's prerogative to carry out his professional duties and to cover events and issues of interest to the public, while the term "responsibilities" means to act in good faith to provide accurate and reliable information to the public in accordance with journalistic ethics.

It is desirable to adopt a legal regulation of the journalist's status, which will not contradict the "professional standards" and the provisions of the code of ethics. On the contrary, it will contribute to the elimination of the existing problems that exist today between mass media and society.

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