

Tolerance and Non-Discrimination - Fundamental Obligations of the Journalist Activity in the Republic of Moldova

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Abstract

Respect for tolerance and non-discrimination in press materials represent two fundamental legal and ethical obligations of the journalist from the Republic of Moldova. On the one hand, the tolerant treatment of each person, regardless of ethnicity, gender, age or opinion, and regardless of whether the journalist shares the same values and ideas as that person or not, has the power to transform his job into an effective tool to combat the worst stereotypes and prejudices that have plagued our society. On the other hand, developing articles and reports in violation of these important obligations can have negative consequences for different categories of people and lead to the creation of new stereotypes or the entrenchment of old ones. This work proposes to analyse the international and national regulations, as well as the provisions of the Journalist's Code of Ethics in terms of tolerance and non-discrimination, to discover the content of the obligation to tolerate and not to discriminate that belongs to each representative of the mass media, and to find out the sanctions what applies in case of non-compliance with this obligation ordered by the decisions of the Council for the prevention and elimination of discrimination and ensuring equality.

Keywords: tolerance, non-discrimination, obligations, journalist

INTRODUCTORY CONSIDERATIONS

In a democratic society, tolerance and non-discrimination of the fundamental value area are subject to increased protection through various international and national normative acts and imposed to respect public parts, as well as citizens, including journalists. In the production of press materials, media representatives must ensure the protection of all human rights, personal life, the presumption of innocence, the protection of people in vulnerable situations, the protection of children, but also tolerance and non-discrimination. The journalist exercises a profession with a high degree of importance in society. He has the power to shape and mould public opinion, destroy existing stereotypes, or even create and entrench new ones. It is precisely for these reasons that the lessons of tolerance and non-discrimination must be constantly taught so that ethnicity, gender, age etc. are not disclosed when they are not editorially relevant.

The reporting works on the theoretical and practical aspects of the journalist's obligation to tolerate and not discriminate, being based, in particular, on the provisions of international regulations and the Council's decision to prevent and eliminate discrimination and ensure equality.

I. INTERNATIONAL AND NATIONAL NORMATIVE ACTS ON TOLERANCE AND NON-DISCRIMINATION

Tolerance and non-discrimination are values protected by a series of normative acts at the international level, such as the Universal Declaration of Human Rights, the European Convention on Human Rights, the Convention on the Rights of the Child, as well as at the national level, such as the Constitution of the Republic of Moldova, Law no. 121/2012, the Audiovisual Code of the Republic of Moldova:

- According to Art. 2 of the Universal Declaration of Human Rights[1], “everyone can avail himself of all the rights and freedoms proclaimed in this Declaration without distinction of any kind, such as, for example, race, colour, sex, language, religion, political opinion or any other opinion, of national or social origin, wealth, birth or any other circumstances”, and according to art. 7 of this Declaration, “all people have the right to equal protection against any discrimination that would violate this declaration and against any challenge to such discrimination”.
- Art. 14 of the European Convention on Human Rights[2] states that “the exercise of the rights and freedoms recognized by this Convention must be ensured without any distinction based, in particular, on sex, race, colour, language, religion, political opinions or any other opinions, national or social origin, membership of a national minority, wealth, birth or any other situation”.
- Art. 2 of the Convention on the Rights of the Child[3] stipulates that “state parties undertake to respect and guarantee the rights established in this Convention to all children within their jurisdiction, regardless of race, colour, sex, language, religion, political opinion or other opinion, nationality, ethnicity or social origin, material situation, physical incapacity, status at birth or acquired status of the child or his parents or legal representatives.”
- According to art. 16 para. (2) of the Constitution of the Republic of Moldova[4], “all citizens of the Republic of Moldova are equal before the law and public authorities, regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin” . According to art. 31 para. (1), (3) of the Constitution of the Republic of Moldova, “every citizen is guaranteed freedom of thought, opinion, as well as freedom of expression in public by word, image or by any other possible means” and “are prohibited and punished by law (. ..) incitement to discrimination”.
- Art. 6 of Law no. 121 of 25.05.2012 regarding ensuring equality[5] (hereinafter, Law no. 121/2012) provides that “any form of discrimination is prohibited” and that “the promotion of a policy or the performance of actions or inactions that violate the equality of rights of persons it must be removed by the competent public authorities and sanctioned according to the law”.
- According to art. 11 paragraph (2) lit. a) from the Audiovisual Code of the Republic of Moldova[6], “audiovisual programs are prohibited: a) likely to propagate, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance or discrimination based on sex, of race, nationality, religion, disability or sexual orientation”. Art. 13 para. (6) lit. b) from the Audiovisual Code of the Republic of Moldova stipulates that “within the audiovisual programs of news and debates, information on issues of public interest, of a political, economic, social or cultural nature, the following requirements must be respected: b) avoiding any forms of discrimination”.

II. TOLERANCE AND NON-DISCRIMINATION IN THE CODE OF ETHICS OF JOURNALISTS FROM THE REPUBLIC OF MOLDOVA

Along with the other international and national normative acts, it is necessary to mention the provisions of the Code of Ethics, a necessary tool to align journalistic activity with ethical principles and values, unanimously accepted by the journalistic environment. Therefore, according to point 3.18 of the Code of Ethics[7], “the journalist treats fairly all the people he comes into contact with in the exercise of his job and does not discriminate based on gender, age, ethnicity, disability, religion, social status, sexual orientation, etc.” However, “the journalist mentions the ethnicity, political opinions, religious beliefs, sexual orientation and other sensitive information of a person only when this is relevant from an editorial point of view”, according to point 3.19. from the Code of Ethics. For example, one can mention in press materials the ethnicity, age or other particularities if the subject of the journalistic material has achieved success in a certain field and this article or report can help combat the stereotypes that have formed in society about the category of people from which is part.[8]

III. GENERAL ASPECTS REGARDING THE JOURNALIST'S OBLIGATION TO BE TOLERANT AND NOT TO DISCRIMINATE

The profession of a journalist must be practised per the ethical principles of tolerance and non-discrimination so that press materials do not harm the rights and freedoms of other people. Journalists must be tolerant and avoid any form of discrimination based on race, nationality, ethnicity, gender, language, religion or other protected criteria, acting in accordance with the ethical principles governing their activity. The legal definition of discrimination can be found in art. 2 of Law no. 121/2012, which stipulates that this represents “any distinction, exclusion, restriction or preference in rights and freedoms, legitimate interests and benefits of the person or of a group of persons, as well as the support of discriminatory behaviour based on the protected criteria, real or assumed, unless they are objectively and reasonably justified by a legitimate aim and if the means to achieve that aim are proportionate, appropriate and necessary”. In a report published by the Council for the Prevention and Elimination of Discrimination and Ensuring Equality (hereinafter, the Council), carried out for 10 years, most decisions concern discrimination based on “disability - 119 findings; sex/gender/maternity- 94; language- 90; pensioner status- 33; age- 28; ethnicity- 31; opinion- 24; religion/beliefs-21 etc.”.[9]

Therefore, the journalist has the obligation to treat every person equally, avoiding turning press material into an unfounded discriminatory tool directed against all categories of people, including fellow journalists. For example, in Case no. 121/20, the actions of a journalist constitute incitement to discrimination on the basis of language against another journalist, because “in the respective material, offensive wording was used for Russian speakers from the Republic of Moldova and the residents of UTA Gagauzia”.[10]

Broadly speaking, tolerance refers to “humanistic coexistence, free choice of value orientations, and non-conflictual acceptance of the rights of others.”[11].

Regarding journalistic activity, the author Georgeta Stepanov states that “tolerance represents the intelligence of journalists to discover and analyse the causes of a conflict, to forecast its evolution and effects, it is the patience to initiate and maintain social dialogues in order to

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resolve conflicts, it is the power to refrain from assumptions, accusations and stereotyped judgments”.[12]

The tolerant treatment of people also involves avoiding the creation or use of stereotypes, i.e. “preconceived, accepted and circulated ideas without reflection or analysis, which convey an attitude or belief towards certain categories/groups of people, which may cause the appearance of discriminatory or hostile behaviours”.[13]

For example, it is a common gender stereotype that “in a family, it is the woman's responsibility to do the housework and take care of the other family members”[14], when in reality the household work falls on both husbands. Another specific stereotype with serious consequences is “the victim is to blame in case of rape”.[15]

In this sense, in the Decision of February 10, 2017 (Case no. 503/16), the Council for the Prevention and Elimination of Discrimination and Ensuring Equality found that the journalist's actions constitute discrimination based on gender, after analysing the articles “The Rape of Orhei a farce invented by civil society” and “Repeat there is no evidence that the rape in Orhei took place”, emphasising that “the use of the expression “most likely the victim dragged her rapists to bed alone” confirms the presence of a prejudice” and noting “bad faith, which results from the fact that the journalist he did not issue a value judgment or an idea, but publicly transmitted in the press a prejudice against women as if their behaviour and personality would be culpable for a possible rape”.[16]

One source indicates that “the effects of discrimination against women can be diverse, from unequal pay and underrepresentation in politics and leadership to serious forms of abuse and domestic violence.”[17]

Thus, the journalist has a legal and ethical obligation to treat any person tolerantly in his material, regardless of whether he has opposing beliefs or does not sympathise with that person, as well as the obligation to avoid using stereotypes in press materials.

The development of articles or reports must be governed by the principles of tolerance and non-discrimination. This assumes that the journalist will avoid the use of phrases, expressions, ethnonyms, locutions, and combinations that discriminate against the subjects of journalistic materials. For example, the “Style Guide with Ethical Norms for Journalists” contains valuable rules in this matter and recommends the adoption of a specific vocabulary, which denotes the tolerant and non-discriminatory spirit of the journalist. Thus, the author of the guide, Petru Macovei, recommends that, instead of “black”, we use the words “African-Americans” or “people of colour”; instead of “Jidan”, let's use the word “Jew” or instead of “Gypsy”, let's use the word “Roma”.[18]

The Council for the Prevention and Elimination of Discrimination and Ensuring Equality mentions in a 2021 report that “the highlighting of ethnic origin in a negative context in press articles and TV shows is one of the main problems identified in this area”.[19]

For example, in Decision no. April 30, 2021 (Case no. 50/21), the Council stipulated that emphasizing the Roma ethnicity on a television station “in the context of harsh criticism of a politician's activity does nothing but justify and reinforce the prejudice against this ethnicity, an attitude which in a society democratic, it cannot be tolerated”.[20]

The Council draws the attention of journalists that the title and content of journalistic material must respect ethical principles. Therefore, in the Decision of March 19, 2019 (case no, 02/19), it was noted that “both the title of the articles and their content use “Comrat separatists”” and that “the use of such an expression, taking into account the current social

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climate has a destructive effect on social cohesion and on people belonging to the Gagauz ethnic group”, all of which presupposes incitement to discrimination on the basis of ethnicity”.[21]

In another case, taken from the Decision of November 6, 2017 (case no. 107/ 17), ethnic discrimination was found to have occurred when the host of a radio show “tolerated discriminatory messages about Moldovans, while at the same time retaliating against discriminatory messages about Jews, suggesting that a group - would enjoy greater protection than the other”.[22]

In order to combat discrimination, the Council for the Prevention and Elimination of Discrimination and Ensuring Equality trained 10,123 people, among whom were also representatives of the mass media, since the most frequently encountered problem in the analysed complaints was also “highlighting the ethnic origin in a negative context” in press materials.[23]

If the subject of the journalistic material is a person suspected or convicted of committing crimes, media representatives must present the information accurately and not reveal certain particularities, if they are not important from an editorial point of view, because they risk creating stereotypes. In the Decision of January 19, 2022 (Case no. 260/21), the Council found that the mention in press materials of the Chechen origin of some suspects, several times, constitutes incitement to discrimination based on ethnic origin and emphasizes that “the accentuation of belonging ethnicity of the subjects of the report, in the general context of the investigation, creates prejudice in society towards people of Chechen ethnicity, leads to the stigmatization of the ethnic group and incites discrimination and inter-ethnic hatred”.[24]

Likewise, journalists must not attract public contempt towards this category of persons by using ethically impermissible words. For example, by the Decision of November 13, 2020 (Case no. 188/20), the Council found that a journalist discriminated based on social status against people in detention by characterizing the entire category of convicts with the words “maniacs and paedophiles”.[25]

The journalist will avoid revealing details about the ethnicity or social status of the children, if they are not necessary to achieve a legal goal, being editorially irrelevant, because such exposures can cause the child a state of shame.[26]

It is important to note that, in relation to children, the journalist still has a specific obligation in this regard, namely to respect the rights of children in journalistic materials, according to international and national normative acts.

The diversity of situations in which the journalist may be placed determines the need to inform him in advance about the actual content of the obligation to promote tolerance and non-discrimination, in order to avoid any sanctions. It can often happen that, during press conferences, guests make discriminatory statements, and the journalist is trapped into either delivering the guest's message to the public as it was presented at the event, or ethically shaping the guest's message, according to the ethical principles of tolerance and non-discrimination. For example, in Case no. 284/2015, the Council for the Prevention and Elimination of Discrimination and Ensuring Equality found that the respondent, during a press conference “through his statements, showed sexism towards men and women in politics by making use of prejudices regarding what it is proper for a man and improper for a woman in politics”.[27]

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In such situations, the journalist must omit discriminatory statements, because the purpose of his material is not to subject to public attention the stereotypes and prejudices encountered but to present the main message ethically, following the principles crystallized in the Code of Ethics, including that of promoting tolerance and non-discrimination. In other situations, public authorities can provide the media with material containing direct references to the ethnicity of a person who has broken the law. Such a case happened in 2019, and thanks to the promptness and professionalism of the journalists, the ethnicity was removed from the article.[28]

Therefore, the journalist is urged to notify the public authority and request the remedy of the irregularity, so that the rights and freedoms of other people are not prejudiced.

IV. SANCTIONS APPLIED IN CASE OF NON-COMPLIANCE WITH THE OBLIGATION TO TOLERATE AND NOT TO DISCRIMINATE

Regarding the solutions applied by the Council to prevent and eliminate discrimination and ensure equality, we note that it ordered “the exclusion from published articles of information about the personality and private life of the petitioner” (Case No. 503/16);[29] “apologizing to Russian-speaking journalists for expressions inciting discrimination through the same ways or means by which they were spread” and the defendant must “edit or remove the disputed article from the platform”, as well as “draw up a regulation on to the non-admission of discrimination and to place him on the platform” (Case no. 121/20)[30], “making a public apology to the Roma community for highlighting ethnicity in an inappropriate context” (Case no. 50/21);[31] “the defendant will exclude from the published articles discriminatory phrases against people of Gagauz ethnicity and will do all the diligence to avoid similar situations in the future”, “the defendant will present a public apology”, “the defendant will order the organization of a training session in the field of non-discrimination for his staff” (Case no. 02/19)[32]; making a public apology, making his employees aware of the text of this decision and carrying out “training for its staff with the aim of avoiding similar situations in the future” (Case no. 107/17);[33] “the exclusion of discriminatory phrases against people of Chechen ethnicity from the reports placed online” and “doing all due diligence in order not to admit in the future situations of promotion and support of discrimination through mass media” (Case no. 260 /21).[34]

CONCLUSIONS

The obligation to tolerate and not discriminate in press materials rests with every media representative, who must show a tolerant attitude to any person with whom they interact, regardless of their ethnicity, religion or gender and even though they agree or disagree with the ideas he shares in the article or report. Since journalists contribute to the formation and shaping of public opinion, they must exercise their profession with maximum responsibility and in good faith, to combat old stereotypes and not contribute to the formation of new stereotypes. However, the journalist can mention certain particularities in his press materials, if they are important from an editorial point of view and contribute to the disappearance of some stereotypes in society. The decisions of the Council for the prevention and elimination of discrimination and ensuring equality give the present work an increased practical value, as

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it represents clear evidence that violations of this obligation attract negative consequences for media representatives. If the journalist violates these legal and ethical obligations, he will have to apologize publicly through the same means where the discriminatory information was published or broadcast, he will have to exclude the discriminatory phrases from the press materials and order the organization of training in the field of tolerance and non-discrimination for its employees. In conclusion, this work offers readers the opportunity to find out the international and national regulations in the matter of tolerance and non-discrimination, to discover both the content of the obligation to tolerate and not to discriminate, as well as the sanctions involved in the event of its violation.

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