



DEFAMATION AND INSULT IN CRIMINAL PROCEDURES AGAINST JOURNALISTS



Defamation and Insult in Criminal Procedures Against Journalists

Skopje, December 2006

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For the publisher: *Trajce Pelivanov, president*

Editor: *Vesna Stojkovska*

Technical editing and printing: *Studio EMITER - Skopje
tel./faks: (02) 3115-111
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Supported by



Organization for Security and Co-operation in Europe
Spillover Monitor

Mission to Skopje

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Summary

The Coalition “All for Fair Trials” was established in May 2003 for the purposes of: increasing the public confidence in the legal system and in the judiciary; identifying the problems in the judicial system and pointing to the need for legal and institutional reforms; increasing the compliance with the standards for fair trials before the domestic courts; and introducing the public to the standards for fair trials.

With the financial support provided by the OSCE Spillover Monitor Mission to Skopje, the Coalition implemented the project "Monitoring the prosecution of journalists before the domestic courts" in the period between 15 January and 30 November 2006.

A total of 27 criminal cases were identified and monitored in the scope of the project, as follows:

- 25 criminal cases initiated against journalists and editors-in-chief accused of defamation and insult;
- 2 cases initiated upon private criminal charges for defamation brought by a journalist.

After the cases have been identified, the teams of the Coalition observed the criminal procedures in these cases, with a total of **101 court** hearings observed before three courts of first instance: Basic Court Skopje 1 - Skopje, Basic Court Skopje 2 – Skopje and the Basic Court Bitola.

Among the criminal procedures observed during the implementation of the project, a total of 20 journalists and 3 editors-in-chief have appeared in the capacity of defendants, as follows:

- 19 journalists were accused of defamation;
- 1 journalist was accused of insult;
- 3 editors-in-chief were accused of defamation.

Among the observed criminal cases, 20 journalists from 7 media in total have appeared in the capacity of defendants (5 printed media: the daily newspapers: "Vest", "Utrinski vesnik" and "Vreme" and the weekly magazines "Fokus" and "Kapital", as well as 4 electronic media: "A1" television and "Kanal 5" television from Skopje, and TV "Orbis" and TV "Medi" from Bitola). The majority of the defendants were journalists from "A1" television, 5 journalists from "Kanal 5", 2 journalists each from "Vest", "Fokus" and "Vreme", and one journalist each from "Utrinski vesnik" and "Kapital".

With regard to the sanctioning of the journalists, out of 27 identified criminal cases, 8 criminal procedures have been completed and resulted with a first instance court verdict (one had second degree courts decision) as follows:

- Two criminal procedures have been terminated based upon court decision due to the withdrawal of the private charges by the plaintiff;
- Four criminal procedures have ended in sentences whereby the accused journalists were fined;
- One criminal procedure ended in a decision of a second instance court confirming the decision of the first instance court whereby the defendant was fined;
- One case ended in acquittal (sentence whereby the accused journalist was acquitted by the court).

THEORETICAL - METHODOLOGICAL APPROACH

1. SUBJECT AND OBJECTIVES OF THE PROJECT

The Coalition "All for Fair Trials" implemented the project "Monitoring the prosecution of journalists before the domestic courts" from 15 January until 30 November 2006.

The Coalition implemented this project with view of making serious efforts to provide verified information for the prosecution and the sanctioning of journalists accused of defamation and insult, which would be serving the primary goal of the project – amending the Criminal Code of the Republic of Macedonia in the direction of decriminalization of defamation and insult, i.e. exclusion thereof from the criminal legislation and transfer to the civil legislation and assessment of the penal policy and the respect of the international fair trial standards by the courts prosecuting the crimes against honour and reputation i.e. criminal acts: defamation and libel allegedly committed by journalists.

Several project activities were undertaken in order to achieve the goal of the project:

- Identification of criminal procedures conducted against journalists accused of defamation and insult;
- Observation of the court procedures conducted in these criminal cases;
- Cooperation with the courts of first instance, media, the Macedonian Institute for Media, the Journalist Association of Macedonia, journalists whose criminal procedures were monitored etc. for the purpose of collecting data about the criminal cases initiated against journalists accused of defamation and insult;
- Statistical processing and analysis of the data contained in the questionnaires, as well as of the data obtained through other information channels.

During the implementation of the project, the Parliament of the Republic of Macedonia passed the Law on Amendment of the Criminal Code¹, thus amending several provisions of the Criminal Code regulating the criminal offences "defamation" and "insult". Pursuant to the amendments, there is no longer legal possibility in the Republic of Macedonia for sentencing perpetrators of the criminal offences "defamation" and "insult" to imprisonment, except in cases of a qualified form of defamation and insult. On the other hand, unlike the previous arrangement, defamation and insult expressed through the press, radio, television, other public media or at a public gathering are no longer qualified (severe) forms of defamation and insult.

This report has been developed on the basis of statistical processing and analysis of the data provided during the implementation of the project. It will be submitted to all relevant institutions. In this way, the Coalition "All for Fair Trials" will make a modest contribution to the continuation of the process of defamation and insult decriminalization in Macedonia.

2. METHODOLOGICAL APPROACH

One of the methods of implementation of the project and of its Terms of Reference was the **method of observation** of the criminal procedures conducted against Macedonian journalists accused of defamation and insult.

Starting from the goal of developing a thorough analysis of the criminal prosecution and sanctioning of Macedonian journalists accused of defamation and insult, the then questionnaire of the Coalition was amended according to the Terms of Reference of this project, thus creating a basic instrument for providing impartial and verified information.

In order to be able to observe the criminal procedures, it was first necessary to identify the criminal cases compiled against journalists accused of defamation and insult. Regarding the above mentioned, request for data was submitted to: all 27 courts of first instance, the Macedonian Institute for Media, the Journalist Association of Macedonia, and to 60 media in total. Four cases were identified based upon the information provided by 8 courts of first instance. The OSCE Spillover Monitor Mission to Skopje helped us to identify 7 cases, whereas 6 cases were identified based upon the information provided by three media (the weekly magazine "Fokus", "A1" television and the daily newspaper "Vest"). The observers also contributed to the identification process through identifying one case. The majority of cases (8) were identified through direct contacts with the journalists accused of defamation and insult.

After the identification of the cases, the Coalition teams observed the criminal procedures in front of three courts of first instance (court of first instance Skopje 1 Skopje, court of first instance Skopje 2 Skopje and court of first instance Bitola).

¹ Law on Amendment of the Criminal Code (Official Gazette of the Republic of Macedonia No. 60/06).

Out of a total of 27 criminal cases identified in the project, they were observed as follows:

- 23 cases compiled against journalists and editors-in-chief accused of defamation and insult;
- The case compiled upon private criminal charge for defamation brought by the editor-in-chief of the weekly magazine "Fokus" against a former President of the Government of the Republic of Macedonia;
- The remaining cases were not observed since no hearings for these cases were scheduled during the project implementation period.

In the first phase of the project lasting until June 2006, 9 observers with an extensive experience in court procedure monitoring performed the observation. The observers' teams composed of two observers each monitored all court hearings in relation to the identified cases. For every hearing observed, the observers' teams filled in a questionnaire and submitted it to the Project Coordinator. Their number got reduced for during the period from June till December, but the observation exercise retained the same quality.

The data about the criminal prosecution and the penalization of the Macedonian journalists accused of defamation and insult, with the help of which this Report was developed, relate to the period 15 January - 30 November 2006.

Chapter I

Defamation and insult in the Macedonian legislation

The Macedonian Constitution guarantees the freedom of personal conviction, conscience, thought and public expression of thought, the freedom of speech, public address, public information and free establishment of institutions for public information, free access to information and freedom of reception and transmission of information, as well as the right to protect a source of information in the mass media.²

The freedom of the media in Macedonia is an inviolable right, and journalists are obliged to act according to the principles of behavior established in the Code of the Journalists of Macedonia.

"The basic task of the journalists is to respect the truth and the right of the public to be informed pursuant to Article 16 of the Constitution of the Republic of Macedonia.

Journalists have the role to transmit information, ideas and opinions, as well as the right to make comments. By respecting the ethical values and the professional standards when transmitting information, the journalists shall be honest, objective and accurate.

It is both right and duty of the journalists to try to prevent censorship and distortion of the news.

By following their role in the field of building of democracy and civil society, the journalists shall defend the human rights, dignity and freedom, respect the pluralism of

² According to Art. 16 of the Constitution of the Republic of Macedonia.

ideas and attitudes, and contribute to the strengthening of the rule of law and to the control over the authorities and other entities from the public life."

Journalists have the right to free access to all sources of information that are of public interest, and in case when a journalist is prevented to come to the requested information, he/she has the right to inform the public about that. The journalist shall designate the source of the information, but if the source requests to remain anonymous, the journalist shall protect the source. Moreover, journalists are obliged to publish accurate³ and verified information; they must not conceal any essential data nor falsify documents. With regard to information that can not be confirmed, or information being assumptions/speculations, the journalist is obliged to make this known, and verify the accuracy of the information to the extent possible.

In order to provide for protection of the reputation and honor, the Code of the Journalists stipulates an obligation for them to respect the privacy of the person, except when this is in contradiction of the public interest. Moreover, journalists must not consciously create or process information that jeopardize the human rights or freedoms, must not incite to violence and discrimination on any grounds (nationality, religion, race, sex, social status, language, sexual orientation, political affiliation...). Journalists are obliged to comply with the generally accepted social standards for decency and respect the ethnic, cultural and religious differences in Macedonia, as well as to cherish the culture of speech and ethics.

Given the fact that the Council of Honor sees to the compliance with the principles and the provisions of the Code, an attempt was made within the project to provide data on the procedures that the Council of Honor has initiated and conducted in cases of non-compliance with the professional principles and norms provided in the Code of the Journalists of Macedonia. Unfortunately, the answer we received was that the Council of Honor had no statistical data available about procedures conducted as a result of violation of the Ethical Code by journalists.

In order to provide for a harmonious and stable social life, and humane interpersonal relations based on full respect for the personality and human dignity, the Constitution guarantees each citizen in the Republic of Macedonia the respect and protection of the privacy of his/her personal and family life and of his/her dignity and reputation.⁴ Reputation and honor are treated in the Macedonian legislation as protected goods from a criminal legislation point of view. In Chapter 18 of the Criminal Code of the Republic of Macedonia (Official Gazette No.37/96, 80/99, 4/02, 43/03, 19/04 and 60/06), defamation and insult are stipulated as criminal offences against the honor⁵ and the reputation⁶.

³ Journalists shall endeavor to provide for the publishing of a correction, denial or answer in case when inaccuracy of information is identified. (Code of the Journalists of Macedonia).

⁴ According to Art. 25 of the Constitution of the Republic of Macedonia.

⁵ Honor, as a concept, is a collection of several properties, values and characteristics of an individual that are of non-material nature. When present together, they picture a concrete person owning those properties as someone who is honest, humane and ethical both as a human and as a personality. These sub-concepts, however, are not precise enough, and each one per se and all of them together do not provide a sufficient explanation as to what the content

1. THE LEGAL FRAMEWORK OF DEFAMATION STIPULATED AS CRIMINAL OFFENCE IN MACEDONIA

During the project implementation phase, the Macedonian Parliament passed the Law on Amendment of the Criminal Code (Official Gazette of the RM No.60/06), thus amending several provisions of the Criminal Code regulating the criminal offences "defamation" and "insult".

The legal essence of the criminal offence "defamation" did not change following the amendment of the Criminal Code, i.e. a person who expresses or spreads some untruth about another, which could damage his/her honor and reputation, commits the criminal offence "defamation"⁷.

The action of committing the criminal offence "defamation" is given alternatively, i.e. this offence can be accomplished by either expressing or spreading some untruth. Expressing means stating/communicating the things said as one's own knowledge, communicating something, certain event or fact that one has come to on his/her own through his/her own observation; it is an assertion about a certain event that objectively took place, i.e. statement of the basic factual elements about a certain objective situation. Spreading means communicating someone else's information; it is a certain matter that the person spreading it did not arrive at on his own, and therefore it is not his/her but someone else's knowledge - something that he/she also found out about and is now spreading it as such. Expression and spreading as actions of committing defamation can be executed orally or in writing, with gesticulations, drawings or similarly.⁸

The criminal offence "defamation" is committed when the facts that are being expressed or spread are concrete and pertain to a specific person, and when the very assertion is serious.

"Any statement attacking the honor and the reputation of a certain person or a certain group of people in which he/she or they can be recognized is eligible for being considered as statement committing a crime against the honor and the reputation. Nondescript, generalized statement is not eligible for being considered as action committing a criminal offence against honor and reputation.

of honor is. Therefore, the concept of honor is observed from both objective and subjective aspect. Objectively, honor means opinion and valuation by a certain environment of certain properties of a person, which this environment evaluates in their entirety as properties representing and reflecting honesty (the opinion of the others about the value of the individual). The reputation of the concrete person in that environment is also determined according to the external valuation of those properties. Subjectively, honor is something different – it is the internal valuation of particular and of all properties together according to one's own judgment. It is the opinion of a person about himself/herself, and evaluation of one's own values. Accordingly, honor can be defined as a totality of human, ethical and social values of the person as an individual and as a social being, from which arises the request for respect and for treating the person in conformity with the socially determined totality of those values. (Vlado Kambovski "Criminal law-special part", Skopje 1997).

⁶ The concept of reputation is derived from the concept of honor, and it reflects the attainment of honor in a certain environment, i.e. reputation represents an acquired honor.

⁷ According to Art. 172 Par. 1 of the Criminal Code (Official Gazette of the Republic of Macedonia No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

⁸ Vlado Kambovski "Criminal law-special part", Skopje 1997.

However, it is not a case of nondescript statement, when the statement by its form is defined like that, but by its content represents a concealed concrete attack on the honor and reputation of certain person's or group of people." (Ruling of the Supreme Court of Croatia VSH Kz.413/67). The person whom the defamation refers to should be named, or able to be recognized from the circumstances stated in the statement. On the other hand, the facts being expressed or spread should belong to the past or the present, and should not refer to properties not belonging to mankind or to things that are impossible.

The legal essence of defamation has a few important components: untrue assertion; the statement should be harmful to the reputation and honor of another person; and a third person should have learnt about the statement.

Untrue is the assertion in which the events, the processes or the situations are not based on facts demonstrating that they had really taken place or that they exist at present, i.e. assertions or situations that were invented and therefore can not be verified.

Second important component is the requirement that what is being expressed or spread should be harmful to the honor and reputation of another person. Until 7 April 2006⁹, it was not necessary in Macedonia that the honor of another person be endangered in order for the criminal offence "defamation" to be committed, i.e. it was enough for what was expressed or spread to have the potential to damage the honor and the reputation of another person.

The third important component of the legal essence of the criminal offence "defamation" – that a third person finds out about the statement – means that in order for the criminal offence "defamation" to be committed, it is necessary that the statement be directed towards a third person, that it be given in the presence of a third person that understood the content of the statement, or that the statement be contained in a document intended to serve as evidence in the legal or social relations which the defamed person engages into. If the statement was given only in the presence of the person it related to, here there is no "defamation", but "insult".

In order for the criminal offence "defamation" to be committed, it is not necessary for the perpetrator to have had the intention to defame another person, but it is enough that he/she be aware that he/she is expressing or spreading in the presence of a third person something untrue that is harmful to the honor or reputation of another person.

With the adoption of the Law on Amendment of the Criminal Code¹⁰, Par. 2 of Art.172 of the Criminal Code, whereby the public defamation i.e. defamation stated through the press, radio, television, other public media or at a public gathering was stipulated as a qualified (severe) form of the criminal offence "defamation", was deleted. According to these amendments, the Macedonian criminal legislation presently provides for only one qualified (severe) form of the criminal offence "defamation", and this is in the case when the issues that the perpetrator of defamation expresses or spreads are of such importance that they bring about severe consequences for the damaged person.

⁹ When the Law on Amendment of the Criminal Code came into force (Official Gazette No. 19/04).

¹⁰ Official Gazette of the Republic of Macedonia No. 60/06.

These legal changes are positive, especially in view of the fact that it was not justified for the penalties envisaged for journalists to be more severe than the penalties for other perpetrators of the criminal offence "defamation". As things stand now in Macedonia, a prison sentence may be pronounced on all those that expressed or spread something which brought about severe consequences for the injured person, without making any differentiation as to if this was done by journalists or by someone else.

2. THE LEGAL FRAMEWORK OF INSULT STIPULATED AS CRIMINAL OFFENCE IN MACEDONIA

In Macedonia, a person who insults another person commits the criminal offence "insult", which is stipulated in Art.173 Par.1 of the Criminal Code of the Republic of Macedonia. From a legal and ethical point of view, the insult is a negative judgment about another person from the point of view of values, which is expressed in a statement or otherwise as detraction, inflicting damage on the person's honor and reputation, disrespect, disdain, scolding, profanities, dishonesty, irony or another negative judgment.

Insult can be committed in several ways:

- With words expressed orally or in writing - **verbal insult**;
- With gesticulations, i.e. by demonstrating signs with arms, legs or other parts of the body - **symbolic insult**;
- With an attack, slapping, pinching, spitting, pulling ears, pulling nose, pulling hair, splashing with water and other similar actions and devices whereby another person is being put down - **real insult**.

In order for the criminal offence "insult" to be committed, it is not necessary for the person to be named, but it is sufficient that one be certain from the very content of the statement whom the insult refers to. In case when the detraction is directly addressed to the injured person (**direct insult**), there is perpetration of the criminal offence "insult" no matter if a third person found out about the detraction. However, criminal offence "insult" is also committed when the perpetrator spoke in an insulting manner about somebody in the presence of a third person (**indirect insult**).

With the adoption of the Law on Amendment of the Criminal Code¹¹, Par. 2 of Art.173 of the Criminal Code, whereby the public insult i.e. insult stated through the press, radio, television, other public media or at a public gathering was stipulated as a qualified (severe) form of the criminal offence "insult", was deleted. According to these amendments, the Macedonian criminal legislation now provides for only one qualified (severe) form of the criminal offence "insult", which is committed by the one who exposes another to derision by means of an information system because of the other person's affiliation to a certain community, ethnic or racial group or religion.¹²

¹¹ Passed during the implementation of the project (Official Gazette of the RM No. 60/06).

¹² According to Art. 173 Par.3 of the Criminal Code (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

3. CRIMINAL RESPONSIBILITY FOR CRIMINAL OFFENCES COMMITTED THROUGH PUBLIC MEDIA

In Macedonia, in cases when information is published through a public medium whereby criminal offence is committed, the criminally responsibility for this offence lies with the author and the other entities involved in the publishing of the information - in the capacity of executor, co-executor, instigator or accessory – provided that the appropriate assumptions for criminal responsibility are fulfilled.

In the case when criminal offence has been committed through a newspaper or another periodic printed publication or through radio or television, criminally responsible then is the editor-in-chief, or the person who was substituting for him/her when the information was published, if:

1. The author has remained unknown until the completion of the main hearing before the Court of first instance;
2. The information was published without the consent of the author; and
3. There were factual or legal hindrances to prosecute the author during the publishing of the information, and these hindrances are still there.

The editor-in-chief, or the person substituting for him/her, shall not be criminally responsible if he/she did not know about one of the circumstances listed above.¹³

In case when the three above-mentioned circumstances are fulfilled, the Criminal Code provides for criminal responsibility of the publisher, the printer and the producer, as follows¹⁴:

- The publisher - for a crime committed through a non-periodically printed publication. If there is no publisher or if actual or legal hindrances exist for his/her prosecution – criminally responsible is the printer who knew about it;
- The producer - for a crime committed through a record, a tape, a film for private or public presentation, slides, phonograms, video and audio means or similar communication means intended for a wider group of people.

If the publisher, printer or producer is a legal entity or a state agency, criminal responsibility lies with the person responsible for the publication, printing or production¹⁵.

If the criminal offence was committed in a public medium that is published, printed, produced or broadcast abroad, but distributed in the country, the criminal responsibility lies with the importer or the distributor of that medium, if the three above-mentioned conditions are fulfilled. If the importer or the distributor is a legal entity or a state agency, criminal responsibility shall be born by the responsible or official person in the legal entity or in the state agency¹⁶.

¹³ According to Art. 26 of the Criminal Code (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

¹⁴ According to Art. 27 of the Criminal Code (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

¹⁵ According to Art. 27 Par. 2 of the Criminal Code (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

¹⁶ According to Art. 27-a of the Criminal Code of the RM (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

Among the cases identified during the project, one editor-in-chief was accused of defamation in only one case, not as author of the text, but because of his legally based criminal responsibility in case when defamation was committed through a text the author of which had remained unknown until the completion of the main hearing before the court of first instance.¹⁷ This specific case was about the editor-in-chief of the daily newspaper "Vest".

4. OSCE COMPARATIVE ANALYSIS OF THE CRIMINAL OFFENCES "DEFAMATION" AND "INSULT"

The OSCE in Vienna developed a comparative study during 2005, including all of its member-states. The study was developed as a result of the survey undertaken in the period January 2002 - 30 June 2004, including data obtained from the member-states with regard to the situation with defamation and insult in their legislations.

The study goes into two directions in the process of observation. The information obtained relate to defamation and insult as criminal offences, as well as defamation and insult as offences regulated by the provisions of the civil law. This is the reason for having different attitudes towards this issue in the study, depending on the specific country. The information included in this study were obtained from the governments of the OSCE member-states, as well as from other sources, including the OSCE field offices and their activities implemented in cooperation with international and local media and the NGO sector. These sources provided data by using their knowledge, but some of the countries do not have enough information due to the absence of judicial statistics. Each country report indicates the sources used for obtaining information. Information on the criminal and civil procedures for defamation and insult, as well as for the judicial practice, were obtained for some of the member-states, and these information were published. In spite of everything, the information published in this OSCE study can not be considered as accurate because they are not complete, so in the meantime they have been subjected to correction.

It is interesting to mention that defamation and insult are treated as criminal offences, but also as offences that are regulated by the provisions on the civil procedure in a large number of the countries. Taking into consideration the defamation and insult as criminal offences, it is obvious from the available information that the states have no special provisions for protection of public figures and politicians in the majority of cases.

¹⁷ In the daily newspaper "Vest" dated 19 May 2003, the following text was published under the title "The VMRO member Goranco Lazov - new owner of the Veles oil factory": "Under the plan to get hold of the enterprise, one also counts on real estate owned by the oil factory and pledged with "Stopanska banka" bank - subsidiary in Bitola. Unofficially, with a transaction worth around two million EURO, the bank will need to get rid of the pledge in favor of Lazov." The initials E.C. stood below this text. Thinking that the published text contains untruths, libels, lies and accusations, stated with the view to damage his reputation and dignity, Lazov tried to find out which author stood behind those initials. After he was informed that there was no journalist with such initials in the Editorial board of the daily newspaper "Vest", and that E.C. meant Economic Column, Lazov brought private criminal charge against the editor-in-chief of "Vest".

Regarding the judicial practice during the observation period, the maximal prison sentence that was pronounced was 7 years. With regard to the fine, it varied according to the living standard in the member-state, with the highest one being around 30.000 EURO. The maximum number of defendants was around 700 persons. The number of convicts varies from 2 (Albania) to 160 people. In this respect, the situation is interesting with Switzerland, which is an example of a democratic society where 50 to 100 people are sentenced for these criminal offences.

Concerning the length of the prison sentence, it varies from 4,5 months to the maximum one amounting to 1460 days (4 years). With regard to the fine, its amount depends on the standard of the member-state, but the report indicates the fine amounting to 30.000 EUR as a maximum one.¹⁸ In addition, there is a characteristic fact of punishment for these offences in daily fines, such as is the case in Croatia, Kazakhstan, Liechtenstein, Estonia, the Russian Federation, Uzbekistan etc.

¹⁸ OSCE report, comparative analysis of OSCE member-states with regard to defamation and insult, Vienna 2005.

Chapter II

Court procedures against journalists accused of defamation and insult in the Republic of Macedonia

In the report of the US organization dedicated to promoting democracy "Freedom House", Macedonia was ranked 105 according to the freedom of the media in 2005, with "partially free" media. According to the report, even though the freedom of the press in Macedonia is guaranteed in the Constitution, the media are not fully independent; they are under the influence of different political interests; and there are journalists sentenced to imprisonment due to defamation¹⁹.

According to the data of the Ministry of Justice, about 454 criminal charges for insult and defamation were brought between 2003 and 2005 in Macedonia, of which 126 were against journalists and media organizations.

The texts published in the electronic and printed media due to which journalists in Macedonia have been criminally prosecuted for defamation and insult relate to different topics:

- *Nepotism in the authorities*

Criminal procedure was instituted against a journalist in a printed medium following a private charge brought by the Director of the Bureau for Public Security within

¹⁹ "Dnevnik" - 3 May 2006.

the Ministry of Interior, under the accusation of committing the criminal offence “defamation” as author of a text entitled as: “There is no end to the nepotism in the authorities”. In this text, the journalist wrote about the employment of the wife of the Director of the Bureau for Public Security at the position of a Head in the analytical sector of the Administration for Security and Counter Intelligence.

- *Giving and receiving bribe*

A surgeon-urologist in the City general hospital in Skopje brought a private lawsuit against a journalist, who wrote in a feature that a certain person stated that the doctor had taken from them 900 EURO to operate on his wife.

- *Misuse of official position by public officials*

In the daily newspaper “Vest”, under the title: “The Clinical Center continues with wastefulness. The Surgery Clinic buys three times more expensive knives”, the journalist-author of the text indicated that the Surgery Clinic under the Clinical Center purchased for the second time in a period of less than a year surgical knives at a three times higher price; although the management of the Clinic was offered knives of the same quality for 10.000 EURO, the choice was, without any explanation, ultrasonic knives worth 30.000 EURO. Thinking that the journalist said untruths, the Deputy Director of the Surgical Clinic – Skopje brought a private lawsuit against her under the accusation of committing the criminal offence “defamation”.

- *Negligent execution of the doctor’s function*

A female journalist that published four features about deaths of children treated by a certain pediatrician, including statements of the parents of the children in the features, was accused of “defamation” upon a private lawsuit.

Within the project, a criminal procedure against a female journalist initiated upon a private criminal charge brought by a doctor-specialist of abdominal surgery was observed. The doctor accused the journalist of committing the criminal offence “defamation” by presenting news that the Ministry of Interior had brought criminal charges against him for issuing a false doctor’s certificate.

- *The attitude of domestic politicians towards international diplomats*

During 2001, following the signing of the Ohrid Agreement, the Secretary General of NATO stated the following in an interview for the daily newspaper “Dnevnik”: “He (the President of the Parliament of the Republic of Macedonia) promised me that the next session of the Parliament would be held three days after the completion of the disarmament, but here we are 20 days later and he has not kept his promise yet. The Macedonian people does not deserve to put their reputation in the hands of such individuals.” This statement, formulated differently, was published several days later in a commentary of a reporter from “Utrinski vesnik” when she reported after the briefing with the President of the Macedonian Parliament. According to what the President of the Parliament said in the briefing, the Secretary General of NATO was the one who accepted the responsibility for the non-implementation of the full disarmament within the designated period. The reporter commented on this in the following way: “This means

that the President of the Parliament is actually a hero rather than an unprincipled liar – the latter being heard in the interview with the Secretary General of NATO.”

In Macedonia, there are also journalists against whom multiple criminal procedures for defamation and insult have been conducted.

The largest number of private charges for defamation and insult²⁰ (73 in total) has been brought against the co-owner and deputy editor-in-chief of one daily newspaper. For texts published in several daily and weekly newspapers, with a total of 12 effective sentences, this journalist was declared guilty and sentenced as follows: with 2 probationary sentences he was sentenced to 6 months imprisonment during a period of 2 years, and with 9 sentences he was fined the total amount of 436.610 denars. This journalist was also sentenced to 3 months imprisonment, which he was supposed to start serving on 22 May 2006. After several attempts of his lawyers to postpone the serving of the prison sentence, the journalist is now in the prison Shutka where he was brought by the special mobile unit of the Police on 18 November 2006²¹.

With regard to the case of this journalist, the South East Europe Media Organization (SEEMO), an affiliate of the International Press Institute based in Vienna, addressed a protest letter to the highest state leadership of the Republic of Macedonia on 22 May 2006. The letter points to the fact that SEEMO adopted a Declaration on Strengthening and Building Media in the SEE Region on 6 May 2006 in Vienna, which states that prison terms for defamation represent a gross violation of internationally accepted standards, and believes that defamation should be treated under civil law, not as a criminal offence subject to punishment. SEEMO also finds the sentence passed by the court in Kumanovo unacceptable because, on 10 May 2006, the Macedonian Parliament adopted the amendments to the Criminal Code, which abolished imprisonment as a punishment for defamation.²²

²⁰ “Official prosecution, prison sentence and lack of transparency” - Mile Bosnjakovski, training coordinator of the Macedonian Institute for Media.

²¹ “Dnevnik” of 20 November 2006.

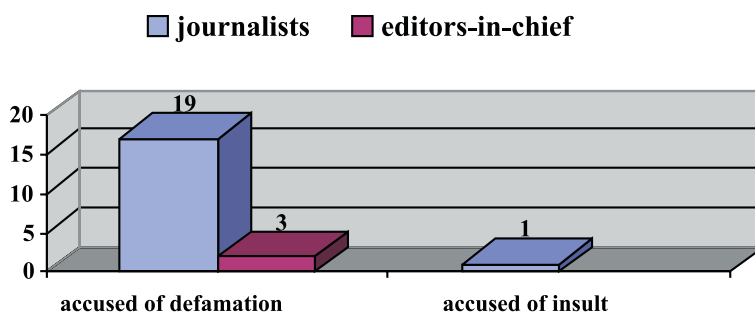
²² www.seemo.org.

Chapter III

Legal analysis of the observed criminal procedures

During the implementation of the project "Monitoring of the prosecution of journalists before the domestic courts", the observer's teams of the Coalition observed the court procedures in a total of 27 criminal cases for defamation and insult.

Among the observed criminal cases, a total of 20 journalists have appeared in the capacity of defendants²³ (19 journalists accused of defamation and 1 journalist accused of insult), as well as 3 editors-in-chief accused of defamation.



²³ The accused journalists are from 7 media (5 printed media: daily newspapers "Vest", "Utrinski vesnik" and "Vreme" and the weekly magazines "Kapital" and "Fokus"; and two electronic media: "A1" television and "Kanal 5" television).

1. INITIATION OF A CRIMINAL PROCEDURE AGAINST JOURNALISTS FOR DEFAMATION AND INSULT

The principle *quivis praesumitur bonus* (Everyone is presumed to be honest) is accepted in Macedonia, according to which defamation and insult can be committed against any person. In this respect, the Macedonian Criminal Code provides that any person thinking that he/she was subject of defamation or insult (passive subject) may initiate a criminal procedure (i.e. undertake criminal prosecution) by bringing private lawsuit²⁴ against the one that committed the defamation/insult (active subject).

The person thinking that he/she was subject of the criminal offence "defamation" or "insult" may bring a private lawsuit within three months from the day when he/she found out about the criminal offence and the perpetrator. If a private lawsuit was brought because of the criminal offence "insult", the defendant may, by the completion of the main hearing and following the expiration of the previously mentioned term, bring a lawsuit against the plaintiff who had reciprocated with an insult at the same time (counter suit)²⁵.

Significant changes were introduced with the Law on Amendment of the Criminal Code (Official Gazette of the RM No. 19/04) that entered into force on 7 April 2004, as follows:

- The possibility for initiating a criminal procedure for defamation and insult ex officio was excluded, i.e. the provision according to which the Public Prosecutor's Office should undertake prosecution ex officio or upon proposal if defamation or insult were directed against the President of the Republic of Macedonia, concerning the execution of his function, was deleted²⁶;
- The possibility for legal entities to initiate a criminal procedure for defamation and insult²⁷ was excluded. This means confirmation of the vital importance in a democracy of the open criticism of the Government and public authorities, of the limited and public nature of any reputation these bodies may have, and of the broad opportunities available to the public authorities to defend themselves from criticism.

Concerning the question as to who in Macedonia accused the journalists of defamation and insult in most of the cases, a number of examples from the past and the present indicate that it is the most often public figures (politicians, businessmen, directors of public enterprises etc.) that initiate criminal procedures against journalists.

²⁴ According to Art. 184 Par. 1 of the Criminal Code (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/03, 19/04 and 60/06)

²⁵ According to Art. 48 of the Criminal Procedure Code (Official Gazette No. 15/05).

²⁶ In line with these changes in the Macedonian criminal legislation, the President of the Republic of Macedonia brought a private lawsuit against the editor-in-chief of the weekly magazine "Fokus". This legislative change is positive, because now, with the exclusion of the possibility for the State to initiate criminal prosecution in case of damage to the reputation of the President, there are no longer higher standards for protection of the reputation of the public officials than the standards for the "ordinary" citizens of Macedonia.

²⁷ Until 7 April 2004, there was a possibility in Macedonia to undertake criminal prosecution upon proposal when defamation or insult was directed against a state authority or a representative thereof, at an official person or a military, with regard to their service or the execution of their function.

This conclusion got confirmed in this project as well, since the following people appeared as plaintiffs bringing private criminal charges in the criminal cases we observed: the current President of the Republic of Macedonia²⁸, the current President of the Government of the Republic of Macedonia, former Prime Minister, current Mayor²⁹, former Member of Parliament, judges, directors of state institutions etc.

It was concluded based upon the statistical processing of the data that out of 21 private lawsuits, as many as 90% were brought by public figures.

Here the following question imposes: Why do holders of public offices appear the most often in the role of plaintiffs bringing private criminal charges against journalists? The reason for this may be the fact that the holders of public offices are often subjects of critiques in the public media.

It is notably the critique of the political figures and public authorities/holders of public offices (state authorities which are holders of legislative, executive and judicial power) through the media that is an important aspect in the process of decriminalization of defamation and insult.

The freedom of political debate requires that the public should be informed about issues of public importance, which implies the right of the media to publish negative information and critical views about political figures and public officials, as well as the right of the public to receive them. The State itself or any institution in the area of the legislative, executive and judicial power may be a subject of critique in the media. Because of their predominant position, these institutions per se should not be protected against defamation and insult with the Criminal Code. If these institutions enjoy such protection, it should be applied in a restrictive manner. Given the fact that they execute functions of public interest, the political figures should accept the status of being subject of a public political debate, thereby subject of scrutiny by the public and of a potentially strong public criticism through the media concerning the way in which they executed or are executing their functions, to the extent to which this is necessary for ensuring transparency and responsible execution of the function. Public figures should have tolerance for a higher degree of criticism than the ordinary citizens; in systems in which they enjoy special protection, they bring the journalists in a situation of being a sort of information suppliers and public controllers. Media should also inform of events that are of public interest, including cases when they disclose a poor performance by the authorities, since this increases the accountability of the public figures through supervision and higher level of informing about their activities.³⁰

²⁸ The current President of the Republic of Macedonia brought a private criminal lawsuit against the editor-in-chief of the weekly magazine "Fokus", thereby accusing him of committing the criminal offence "defamation", as he damaged his reputation and honor by writing about the existence of secret Swiss accounts in the name of the President.

²⁹ The current Mayor of one municipality brought a private lawsuit against a journalist because he thought that she, when reporting about an alleged abduction of a minor by the Mayor, expressed untruths and lies thus destroying his reputation and authority.

³⁰ 13-14 July, Vienna, Recommendations given by the Executive Director of the NGO, Article 19, at the OSCE meeting on the freedom of media: Protection of the journalists and access to information.

Political figures should not enjoy greater protection of their reputation and other rights than other individuals; therefore, the national law should not provide for stricter penalties for the media when they criticize political figures.³¹

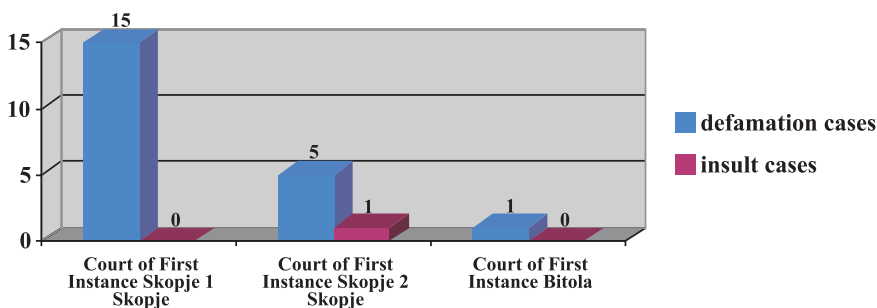
2. COMPETENCY OF THE COURTS FOR CRIMINAL OFFENCES COMMITTED THROUGH THE PRESS

In case when a criminal offence was committed through the press, the competency, according to the Macedonian criminal legislation, lies with the court within the area of jurisdiction of which the libel was printed³². If this locality is unknown or if the libel was printed abroad, the competency lies with the court within the area of jurisdiction of which the printed libel is distributed. If the Law provides that the author of the libel is responsible, it is also the court in the area of jurisdiction of which the author resides that is competent, or the court in the area of jurisdiction of which the event described in the libel took place. All this also applies to cases when the libel or the statement was published on radio, television or Internet.

According to this competency, as well as based upon the written notifications provided by the Presidents of 8 Courts of first instance³³ and the notifications provided by the media, a total of 27 criminal cases before three courts of first instance were identified in the project, from which 20 were followed during the courts procedure.

The majority of cases (15) for defamation were observed in the Court of first instance Skopje 1 - Skopje, 5 cases for defamation and one case for insult were observed before the Court of first instance Skopje 2 - Skopje, and 2 cases, one for defamation and another for disclosing family circumstances, were compiled and observed before the Court of first instance - Bitola.

Graphical presentation about the number of criminal cases for defamation and insult observed before the Courts of first instance:



³¹ Article 10 of the Convention on the Protection of Human Rights and Fundamental Freedoms.

³² According to Art. 25 of the Criminal Procedure Code (Official Gazette of the RM No. 15/05).

³³ With view of identifying the criminal procedures conducted against journalists accused of defamation and insult, the project submitted a request to all 27 Courts of first instance in Macedonia for data on this kind of criminal procedures that are underway. Unfortunately, only 8 Courts of first instance sent an answer back, thus helping to identify 4 court cases.

3. DURATION OF THE CRIMINAL PROCEDURE

It was mentioned many times in the media³⁴ that court procedures against journalists were completed in an express manner. Therefore, the project made an attempt to reach a conclusion about the duration of the criminal procedures conducted against journalists in Macedonia. Unfortunately, out of 27 identified cases, the criminal procedure ended at first instance only in 8 cases during the project implementation period, whereas the duration of the procedure for the remaining 21 cases can not be determined because they are still underway.

Concerning the duration of the procedure in the finished cases, the data are not in line with the viewpoint of the journalists about the prompt completion of the procedures against them. Namely, the procedure in 2 cases lasted for 3 months, in another case the procedure lasted for 2 years, in a third case 2 years and 9 months (from 11 July 2003 until 4 April 2006). On the other hand, concerning the remaining observed cases, they can be said to be long especially if account is taken of the fact that those procedures are not over yet, and they started at the same time as the monitoring exercise. This means that a large portion of the observed criminal procedures lasted for more than 5 months.

Given the fact that the absence of the defendant from the main hearing can be a reason for adjournment of the procedure, the project collected data about the ways in which the presence of the accused journalists during the procedure was secured. The processing of the data showed that within all 22 observed criminal procedures, the presence of the accused journalists was secured by summoning them. In no case were the accused journalists tried in absence, which means that the journalists gave no reason for using the other measures for securing the presence, which are applied in cases when the presence of the defendant can not be secured by summons.

In one of the observed cases, the court pronounced the verdict in the absence³⁵ of the accused journalist, according to the Law. Of particular interest is the fact that this case ended in acquittal. When the verdict was pronounced, the observers' team of the Coalition noted that the judge expressed regret to announce the verdict in the absence of the journalist because he wanted to address the journalist in person, especially because of the fact that during the procedure she (the journalist) was demonstrating mis-

³⁴ "Justice in Macedonia is fast and efficient only when journalists are tried, and reporting has become a criminal offence – reacted journalists from several media a propos the increasingly frequent court sentences and criminal charges against them."- "Dnevnik" - 28 November 2005.

"The Journalist Association will organize protests if the repression against the journalists continues, announced yesterday Robert Popovski, Secretary of the Journalist Association of Macedonia. Judges don't take into consideration the arguments of the journalists, what they do is just pronouncing express sentences. We want to confront such procedures - highlighted Popovski"- "Dnevnik" dated 29 November 2005.

³⁵ "(2) The Chairman of the Chamber shall read publicly the pronouncement and communicate briefly the reasons for the verdict in the presence of the parties, their legal representatives, proxies and the counsel for the defense.

(3) The pronouncement will be done also when the accused party, the legal representative, the proxy or the counsel for the defense is not present. The Chamber may order the accused, who is absent, to have the verdict communicated to him/her orally by the Chairman of the Chamber or that the verdict be delivered to him/her."- Art. 370 Par. 2 and 3 of the Criminal Procedure Code (Official Gazette of the RM No. 15/05).

trust in the objectivity of the courts and was speaking about the freedom of speech instead of speaking about the criminal offence she was accused of.

4. PRESUMPTION OF INNOCENCE AND PROVING OF THE GUILT

Both the Macedonian Constitution³⁶ and the Criminal Procedure Code³⁷ guarantee the presumption of innocence, meaning that any person charged with a criminal offence will be presumed innocent until proved guilty by a legally valid verdict.

With regard of to evidence of guilt, one of the basic principles of the criminal procedure is the principle of establishing the material truth, according to which the court and the state authorities participating in the criminal procedure are obliged to establish the facts that are of importance for reaching a lawful verdict truthfully and fully. The court and the state authorities are obliged to investigate and establish both facts in support of the defendant and facts against him with equal attention.³⁸

When a criminal procedure for defamation is conducted, the defendant shall not be punished for defamation if he/she proves the trustworthiness of his/her assertion, or if he/she proves that he/she had a justified reason to believe in the trustworthiness of what he/she was expressing or spreading.³⁹

The processing and analysis of the data contained in the questionnaires showed that the accused journalists suggested evidence to prove their allegations during the main hearing. However, **in no observed case was a journalist accused of defamation acquitted because he/she managed to prove the trustworthiness of his/her assertion, or managed to prove that he/she had a justified reason to believe in the trustworthiness of what he/she was expressing or spreading.**

5. PUBLIC NATURE OF THE CRIMINAL PROCEDURE

The public nature of the main hearing is one of the basic principles of the criminal procedure⁴⁰. Pursuant to Article 304 of the Criminal Procedure Code, the Chamber may exclude the public from the main hearing as a whole or from a part thereof at any time between the opening of the session and the completion of the main hearing, *ex officio*

³⁶ According to Art. 13 of the Constitution of the Republic of Macedonia.

³⁷ According to Art. 2 of the Criminal Procedure Code (Official Gazette of the RM No. 15/05).

³⁸ According to Art. 14 of the Criminal Procedure Code.

³⁹ Unlike in the past, more precisely until 7 April 2004, until when the Criminal Code used to stipulate: “the one accused of defamation, if he/she proves the trustworthiness of his/her assertion, or proves that he/she had a justified reason to believe in the trustworthiness of what he/she was expressing or spreading, shall not be punished for defamation, but may be punished for insult, i.e. for detraction by means of shifting the accusation for a criminal offence”.

⁴⁰ According to Art. 303 of the Criminal Procedure Code (Official Gazette of the RM No. 15/05).

or upon suggestion of the parties, but always after having listened to them, if this is necessary for the sake of:

- Keeping a secret;
- Keeping the public order;
- Protecting the ethics;
- Protecting the personal and intimate life of the defendant, witness or injured party; and
- Protecting the interests of the minor⁴¹.

Taking into consideration that the parties in the observed criminal procedures are public figures (journalists, businessmen, directors of public enterprises, the current President of the Republic of Macedonia, the current Prime Minister, former Prime Minister etc.), the project also investigated if the principle of public nature of the criminal procedure was respected, i.e. if the public was excluded in the criminal procedures conducted against journalists accused of defamation and insult.

The data about the public nature of the court procedures provided during the project demonstrated that out of 101 observed court hearings, only in one court hearing did the judge exclude the public from the main hearing.

This was about a hearing within the criminal case against the editor-in-chief of the weekly magazine "Fokus", compiled upon a private criminal charge brought by the current President of the Republic of Macedonia. The trial judge in the Court of first instance Skopje 1 - Skopje excluded the public by means of a court decision for the sake of keeping the public order.

6. CLAIM FOR DAMAGES

A particularly interesting aspect of the criminal procedure against journalists accused of defamation and insult is the damages requested by the private plaintiffs as a compensation for the damage suffered because of their harmed reputation and honor.

According to the Macedonian criminal legislation, the person who thinks that criminal offence "defamation" or "insult" was committed against him/her, may initiate a criminal procedure against the perpetrator, and if he/she wants to be compensated (for the damage suffered because of the damaged reputation and honor due to the defamation or the insult), he/she should claim damages before the Court of first instance in the period until the main hearing is completed⁴².

Because of the above-mentioned, the project also investigated the type and the amount of the claims for damages submitted by the private plaintiffs, and the type and the amount of the damages that the courts awarded in the criminal procedures conducted against journalists accused of defamation and insult. This investigation was carried out with view

⁴¹ According to Art. 304 of the Criminal Procedure Code (Official Gazette No. 15/05).

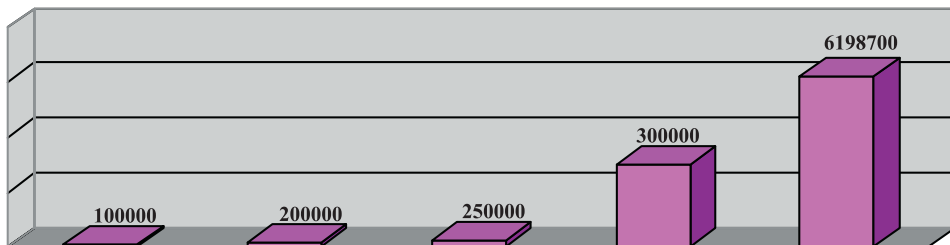
⁴² According to Art. 97, 98, 99 and 100 of the Criminal Procedure Code (Official Gazette No. 15/05).

of ascertaining if the Macedonian courts award to the plaintiffs as high amounts of damages as requested by them.

The statistical processing and analysis of the data on the claims for damages submitted by the private plaintiffs in the observed criminal procedures showed that out of a total of 21 private plaintiffs (damaged parties), 6 submitted claims for damages. The remaining 15 private plaintiffs did not submit a claim for damages, and given the fact that the criminal procedures initiated by them are underway and that the damages may be requested until the completion of the main hearing, one can not be sure at this point of time whether they will submit a claim for damages or not.

Concerning the amount of the damages requested by the 5 private plaintiffs, it ranged from 100.000 denars to 6.198.700 denars.

■ **The amount of the legal property claim submitted by the plaintiffs**



The largest claim for damages amounting to 6.198.700 denars is for the following:

- For psychological anxiety and embarrassment in front of the friends in the country and abroad - claim for damages in the amount of 3.065.000 denars;
- For psychological anxiety and embarrassment at the workplace - claim for damages in the amount of 1.533.000 denars;
- For psychological anxiety and embarrassment in front of the immediate and broader family - claim for damages in the amount of 919.000 denars;
- For suffered psychological pains of strong intensity due to which he was subjected to medical therapy - claim for damages in the amount of 613.000 denars.

The court decides on the claim for damages and determines the amount of the damages independently from the amount requested by the injured party. Regarding the question how the court decided on the claims for damages submitted in the 5 criminal cases, the analysis of the data demonstrated the following:

- The court procedure in two cases is not over yet, so one can not say at this moment how the court will decide with regard to the damages;
- One case ended in acquittal, thereby the court did not decide on the claim for damages⁴³;

⁴³ According to Art. 102 of the Criminal Procedure Code (Official Gazette No. 15/05), when the court decides to acquit the defendant, it shall instruct the injured party that he/she may achieve his/her claim for damages through a litigation.

- In one case the private plaintiff submitted a claim for damages in the amount of 50.000 EURO in the counter value of denars. The court of first instance awarded him damages in the amount of 25.000 EURO⁴⁴. This verdict was confirmed by the Appeal Court in Skopje.
- In one case the injured damaged party (private plaintiff) submitted a claim for damages in the amount of 6.198.700 denars, and the court passed a sentence at first instance declaring the defendant guilty and obliging him to pay to the private plaintiff (injured damaged party) damages in the amount of 950.000 denars within 15 days.

The two cases above show a large discrepancy between the amount of the damages requested by the plaintiff on the one hand and the amount of the damages awarded by the court on the other hand. More specifically, the court has awarded damages twice smaller (in the first case), and 6 times smaller (in the second case) than the one requested by the plaintiff.

7. PRONOUNCEMENT OF THE VERDICT

Since criminal prosecution for defamation and insult is initiated on the basis of a private lawsuit, summary procedure is conducted against the persons accused of these criminal offences, wherein the judge is obliged to pronounce the verdict immediately after the conclusion of the main hearing and to announce it together with the essential reasons. In addition, the judge is obliged to produce the verdict in writing within 8 days from the day of pronouncement.⁴⁵

During the observation period, out of a total of 27 observed cases, only 7 cases ended at first instance and 1 ended at second instance, as follows:

- Two criminal procedures ended in with a **Decision on termination of the procedure**. This is about criminal cases compiled against one same journalist accused of defamation by different private plaintiffs. In both criminal cases, the private plaintiff withdrew the charge during the main hearing, so the court passed a Decision on termination of the procedure in both cases;
- One case ended in **acquittal** (sentence acquitting the defendant);
- Five cases ended in **condemning sentences**, whereby the accused journalists were declared guilty and fined.

Within the project, the observers' teams of the Coalition attended the pronouncement of the sentences. The following was concluded based upon the analysis of the data provided by the teams:

⁴⁴ In this case, the private plaintiff suggested and the court accepted the suggestion that 50% of the awarded damages be transferred to the account of the Skopje orphanage, and the rest of 50% to the account of the Journalist Association of the Republic of Macedonia.

⁴⁵ According to Art. 455 Par. 3 of the Criminal Procedure Code (Official Gazette No. 15/05).

- In the cases in which the private plaintiff withdrew the private charge in a hearing, the judge, as required by the law, adopted a Decision on termination of the procedure at the very hearing.
- Only in one case⁴⁶ did the trial judge fulfill the obligation to pronounce the sentence immediately after the completion of the main hearing.
- In three cases the judge failed to fulfill his/her legal obligation to pronounce the sentence immediately after the completion of the main hearing. Namely, in two cases the judge pronounced the sentence 3 days after the completion of the main hearing, and in one case the sentence was pronounced after 4 days.

⁴⁶ This is about the criminal procedure against the editor-in-chief of "Fokus", upon a private lawsuit brought by the current President of the Republic of Macedonia.

Chapter IV

Legal basis for the criminal penalties and the meting out thereof by the courts

1. SANCTIONING OF JOURNALISTS AND EDITORS-IN-CHIEF ACCUSED OF DEFAMATION

During the implementation of the project, important legal changes were implemented with regard to the penalization of the perpetrators of the criminal offences "defamation" and "insult". Accepting the Government's proposal, the Parliament passed the Law on Amendment of the Criminal Code (Official Gazette of RM No.60/06), according to which the court may **fine** the perpetrator of the criminal offence "defamation", unlike in the past when the court could punish the perpetrator of the criminal offence "defamation" with a fine or with imprisonment of up to 6 months.

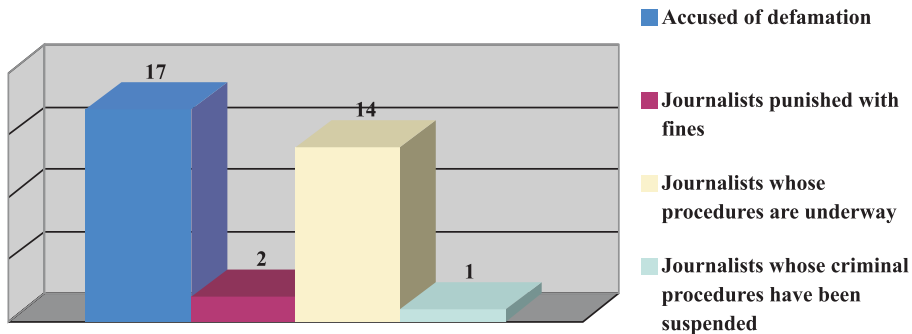
Following the amendment of the Criminal Code, public defamation, i.e. the case when the offence was committed through the press, television, other public media or at a public gathering, is no longer treated as a qualified (severe) form of the criminal offence "defamation", and perpetrators of public defamation may be punished with a fine, unlike in the past when the court had the legal possibility to pronounce a fine or prison sentence of up to one year.

After the Parliament has adopted the amendments to the Criminal Code, the most rigorous penalty in Macedonia (**prison sentence of three months up to three years**) may be pronounced by the court on the perpetrator of a qualified (severe) form of the criminal offence "defamation", which is committed in the cases when the things that are untruthfully expressed or spread were of such importance that they resulted in severe consequences to the injured party.

The court may pronounce a **court reprimand** on the perpetrator of the criminal offence "defamation", especially if the perpetrator was provoked by indecent or rude attitude of the injured party. If the insulted returned the insult, the court may punish both or just one party, or pronounce a court reprimand.⁴⁷ During the monitoring, the observers' teams of the Coalition noted no pronouncement of court reprimand in any of the observed cases.

Concerning the issue of the penalization of journalists accused of defamation whose criminal procedures were monitored during the project, the processing of the data demonstrated the following:

- Two journalists were suspended from prosecution with a decision on termination of the procedure;
- As for the remaining 14 journalists accused of defamation, there are no data at this point of time about the penalization thereof because the criminal procedures against them are still underway.



A very important issue is the amount of the pronounced fines, especially in view of the fact that there are no legal limits on the fines for defamation and insult in Macedonia.

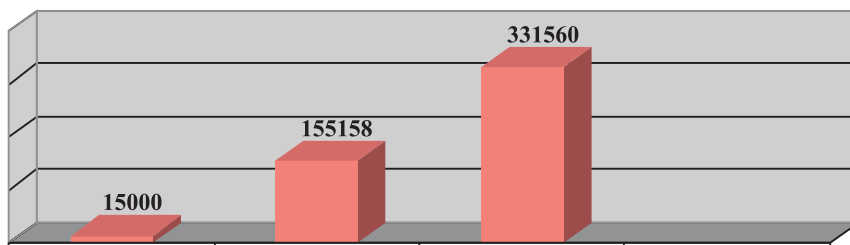
Among the observed criminal procedures, three fines were pronounced, as follows:

1. One criminal procedure ended in a first instance sentence fining the journalist 10 daily fines (250 EURO in the counter value of denars);
2. Two criminal procedures against the editor-in-chief of "Fokus", initiated by different private plaintiffs, ended in fines at first instance, as follows: in one case he was fined 150 daily fines (155.158 denars) or imprisonment not longer than 6 months if he failed to pay the fine within 15 days, and in the other case he was fined 331.560 denars (360 daily fines of 15 EURO each) or imprisonment not longer than 6 months if he failed to pay the fine within 3 months⁴⁸. In the second case, a second instance sentence was passed by the Appeal Court, which fully confirmed the first instance sentence.

⁴⁷ Pursuant to Par. 1 and 2 of Art. 177 of the Criminal Code (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

⁴⁸ The total sum of the two fines imposed on the editor-in-chief of "Fokus" is 486.718 denars.

■ Amount of the fines pronounced in the observed cases



It can be seen from the above that the accused journalists were not punished with imprisonment among the observed cases, but on the other hand the amount of the pronounced fines (especially the fine in the amount of 331.560 denars) leads to the question whether these fines are too high for Macedonian media and if they can lead to a serious burden on their budgets or to the bankruptcy thereof.

Taking into account the abovementioned, the following conclusion was drawn:

When fining journalists accused of defamation and insult, the court should be careful about the amount of the fine, taking into account the fact that the goal of the punishment won't be achieved if a fine that will cause bankruptcy of the respective medium is imposed.

2. PENALIZATION OF JOURNALISTS AND OF EDITORS-IN-CHIEF ACCUSED OF INSULT

Upon the entry into force of the Law on Amendment of the Criminal Code, new penalties for the criminal offence "insult" were introduced in Macedonia. Following the adoption of the amendments, the perpetrator of the criminal offence "insult" may be **fined**, unlike in the past when there was a legal possibility for the perpetrator to be fined or sentenced to imprisonment of up to three months.

Following the adoption of the amendments to the Criminal Code, it is only in one case that the perpetrator of the criminal offence "insult" may be sentenced to **imprisonment**. Namely, the court may pass a prison sentence of up to 1 year only on an individual who publicly exposes another person to derision by means of an information system because of the other person's affiliation to a certain community, ethnic or racial group or religion. Instead of a prison sentence, the court may fine the perpetrator of such qualified (severe) form of the criminal offence "insult" if the court determines that the goal of the punishment will be achieved with a fine. Among the observed cases, there was none with this severe form of the criminal offence "insult".

The court may pronounce a **court reprimand** on the perpetrator of the criminal offence "insult" in case when it can be expected that the goal of the punishment can be achieved only with a warning, especially if the perpetrator of the criminal offence "insult" was provoked by indecent or rude attitude of the injured party. If the insulted re-

turned the insult, the court may punish both or just one party, or pronounce a court reprimand.⁴⁹

On the other hand, the perpetrator of the criminal offence "insult" **shall be acquitted** if he/she apologized before the court to the injured party and withdrew before the court what he/she was expressing or spreading.⁵⁰

The Macedonian criminal legislation provides also for cases of **non-penalization** of the perpetrator of the criminal offence "insult". In Macedonia, the one who speaks slightly of another person in a scientific, literary or artistic work, in a serious critique, while performing an official duty, journalist profession, political or another societal activity, while defending the freedom of public expression of thought or other rights, or while protecting the public interest or other justified interests will not be punished, if it turns out from the manner of expression or from the other circumstances of the act that the critique has no meaning of insult or that it did not cause a significant damage to the honor and reputation of the person. In this case illegality is excluded, since when put in the context of performing certain socially useful activities, such statement loses the character of insult and becomes a form of allowed critique.

Within this investigative project, we identified and observed only one criminal case for insult, which was a public insult stipulated as a qualified form of insult at the time of bringing the private lawsuit. The criminal procedure in this case ended in **acquittal** for the accused journalist. Acquittal was passed by the court because it found that the statement of the journalist had no meaning of insult, nor did the journalist have any intention to insult and denigrate the personality or the honor and the reputation of the plaintiff.

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Given the fact that the Law on Amendment of the Criminal Code provided for more lenient penalties for the perpetrators of the criminal offences "defamation" and "insult", and given the numerous ongoing criminal procedures against journalists accused of defamation and insult, the following question can be asked:

What penalties will the Macedonian courts impose on these journalists?

There is a principle of obligatory implementation of a more lenient criminal law (provided in Art.3 of the Criminal Code of the Republic of Macedonia): "h The law that was applicable at the time when a crime was committed shall be applied upon the person who has committed the crime. If the law has changed once or several times after the crime was committed, the law that is more lenient towards the offender shall be applied." If the Macedonian courts are to comply with this principle, they will pronounce penalties on the journalists according to the Law on Amendment of the Criminal Code, which are more lenient in comparison with the penalties provided in the Criminal Code prior to the amendment thereof.

⁴⁹ According to Art. 177 Par. 1 and 2 of the Criminal Code (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

⁵⁰ According to Art. 177 Par. 3 of the Criminal Code (Official Gazette of the RM No. 37/96,80/99, 4/02, 43/0319/04 and 60/06).

Chapter V

Macedonia on the road to decriminalization of defamation and insult

1. INITIATIVE FOR DECRIMINALIZATION OF DEFAMATION AND INSULT

Pursuant to Article 10 of the European Convention on Human Rights⁵¹, and with view of providing an appropriate balance between the human right to freedom of expression and the need for protecting the reputation of individuals, the Council of Europe adopted a decision according to which defamation and insult are no longer considered as criminal offences at the regional conference on defamation and freedom of expression held on 17 and 18 October 2002. One year later, in October 2003, a conference was held in Ohrid under the sponsorship of the Council of Europe, where representatives of the Ministry of Justice, the Public Prosecutor of the Republic of Macedonia, representatives of the Government, experts and other active participants confirmed the Strasbourg conclusions.

⁵¹ 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

However, at that time Macedonia missed the opportunity to place itself among the European countries that first implemented the decisions of the Council of Europe. On the other hand, there have been a large number of journalists accused and sentenced for defamation and insult in the past couple of years. According to the data of the Ministry of Justice, about 454 criminal charges for insult and defamation were brought between 2003 and 2005 in Macedonia, of which 126 were against journalists and media organizations.

With the support of the OSCE Spillover Monitor Mission to Skopje and the OSCE representative for freedom of the media from Vienna, the Macedonian Institute for Media and the Journalist Association of Macedonia organized an international conference on 9 and 10 February 2006 entitled as: "Decriminalization of defamation: Exchange of positive experiences", where Government officials, legislators, legal experts, journalists, activists for freedom of media and other participants⁵² from Macedonia and other OSCE member-states focused on the legal aspects of the decriminalization of defamation⁵³, on the role of the civil society in the promotion of those legal changes, on the balance between the freedom of expression and the protection of reputation, on the efficient functioning of the journalist self-regulation mechanisms, and on journalist's ethics. The conference ended in a Resolution⁵⁴ adopted by the participants. The Resolution has a positive influence especially because of the fact that the participants at the conference agreed to offer assistance to the Government to establish a Working group under

⁵² The project coordinator and the executive director of the Coalition "All for Fair Trials" participated at the conference as well.

⁵³ Roland Bless, Senior Advisor to the OSCE Representative on Freedom of the Media, stated in his presentation that out of a total of 55 OSCE member-states, half of them have already decriminalized defamation and insult, whereas in 18 countries the process of decriminalization is underway.

⁵⁴ According to the Resolution, the participants of the conference:

- Will support the Ministry of Justice in the continuation of the activities for preparation of the amendments to the Criminal Code with view of amending the penal provisions on defamation, more specifically abolishing the prison sentence and limiting the penalty. The Ministry expects assistance from legal experts and experts in other areas;
- Will offer assistance to the Government, to the legal experts, to the activists for the freedom of media and to the civil society by getting involved in the process and establishing a Working group under the lead of the Ministry of Justice tasked to draft concrete amendments to be submitted to the Parliament for the sake of full decriminalization of defamation and transfer of the penalties to the civil legislation;
- Will strengthen the cooperation between the journalists and the legal experts in direction of continuation of the public debate and education of their peers and the general public about the practice of decriminalization of defamation and about the principles of the freedom of expression;
- Will emphasize how important it is to transfer the issue of defamation to the civil legislation sphere, and that the compensation for inflicted damage should also be part of the civil legislation;
- Will work on strengthening of the will of the responsible persons and will support the establishment and the efficient operation of the self-regulation body for independence of the media;
- Will make an assessment whether there is interest among the legal experts and the judges to improve their knowledge in relation to the court procedures and the case law of the European Court for Human Rights;
- Will note the important role of the independent judiciary in the appropriate application of all regulations about issues related to the media;
- Will be resolute in the continuation of the improvement of the professional standards and knowledge of journalists as well as of other media professionals with regard to the ethics related to reporting and the responsibility of the journalists in the society.

the lead of the Ministry of Justice tasked to develop specific legislative changes aiming at full decriminalization of defamation and insult in Macedonia.

As a result of the determination of the Republic of Macedonia to integrate into the European streams, and with view of harmonizing the Macedonian criminal legislation with the legislation of the developed European countries with regard to the crimes against reputation and honor, especially with regard to the criminal offences "defamation" and "insult", a proposal for amending the Criminal Code was submitted to the Government of the Republic of Macedonia in March 2006. In this proposal, the Ministry of Justice assessed the current situation and the goal that would be achieved with the enactment of the law in the following way:

"Taking into consideration that we are building European standards with the reform of the judicial system, when it comes to the criminal offences "defamation" and "insult", we are following the experiences of the EU countries and are trying to find appropriate norms applicable to our conditions and circumstances by way of amending the penalties for these criminal offences. In many countries, the protection of one's own reputation is treated primarily as a private interest, and the experience has shown that criminalization in terms of pronouncing a prison sentence for statements damaging reputation is not necessary in order to provide an adequate protection of the reputation. The threat with stricter criminal penalties, especially prison sentence, has a negative impact on the freedom of expression."

The Government adopted the proposal in the first half of April 2006 and submitted it to the Parliament of the Republic of Macedonia. Following the discussion on the Government's proposal, with 53 Members of Parliament voting "for" and no one reserved nor "against", the Macedonian Parliament passed the Law on Amendment of the Criminal Code (published in the Official Gazette of the RM No. 60/06 dated 15 May 2006).

Following the entry into force of the Law on Amendment of the Criminal Code, several provisions of the Criminal Code regulating the criminal offences "defamation" and "insult" were amended.

Conclusions

1. According to the data of the Ministry of Justice, about 454 criminal charges for insult and defamation were brought between 2003 and 2005 in Macedonia, of which 126 were against journalists and media organizations.

2. In the framework of the project, a total of 27 criminal cases were identified, as follows:

- 25 criminal cases compiled against journalists and editors-in-chief accused of defamation and insult;
- 2 cases compiled upon private criminal charges for defamation brought by a journalist.

3. Among the criminal procedures observed, the following 23 have appeared in the capacity of defendants:

- 19 journalists were accused of defamation;
- Private criminal charges for insult were brought against 1 journalist;
- 3 editors-in-chief were accused of defamation and 1 of disclosing family circumstances.

4. On the basis of the data received during the implementation of the project, it was concluded that the holders of public offices initiate criminal procedures for defamation and insult against journalists in most of the cases in the Republic of Macedonia. In 90 % of the observed cases for defamation and libel against journalist, the holders of public offices, like the current President of the RM, the current Prime Minister of the RM, former Prime Minister of RM, former Member of Parliament, current Mayor, judges etc appear as submitters of private criminal lawsuits.

5. Respecting the basic principles of the criminal procedure, the following conclusions were drawn based upon the data received through the observation of the court procedures:

- Only in one case did the trial judge fulfill the legal obligation to pronounce the Coalition "*All for Fair Trials*"

sentence immediately after the completion of the main hearing. On the other hand, this obligation was not fulfilled in three cases, as follows: in two cases the judge pronounced the sentence 3 days after the completion of the main hearing, and in one case the sentence was pronounced after 4 days.

- Only during one court hearing did the trial judge decide to exclude the public from the main hearing for the reason of keeping the public order and peace, whereas all remaining hearings were public.

6. Among the observed criminal cases, out of a total of 20 private plaintiffs (injured parties), 5 submitted a claim for damages. As for the remaining 15 private plaintiffs, given the fact that the criminal procedures initiated by them are underway, one can not be sure at this point of time whether they will submit such a claim or not. The private plaintiffs requested relatively high amounts for damages. The lowest damages requested were 100.000 denars, whereas the highest 6.198.700 denars.

7. Based upon the data received, it was concluded that the private plaintiffs (injured parties) requested high amounts for damages, especially if account is taken of the fact that the court has awarded damages twice smaller (in the first case), i.e. 6 times smaller (in the second case) than the ones requested by the private plaintiffs.

8. The journalists accused of defamation and insult, whose court procedures were observed, were punished in the following way:

- Five cases ended in **condemning sentences**, whereby the accused journalists were declared guilty and fined;
- Two criminal procedures ended in a **Decision on termination of the procedure**;
- One criminal procedure ended in **acquittal** (sentence acquitting the defendant).

9. No prison sentence was pronounced among the observed cases, only fines amounting to 250 EURO (around 15.158 denars) and 331.560 denars.

10. The process of decriminalization of defamation and insult has begun in Macedonia. Upon proposal of the Government, the Parliament passed the Law on Amendment of the Criminal Code (published in the Official Gazette of the RM No. 60/06 dated 15 May 2006), whereby several provisions regulating the criminal offences "defamation" and "insult" were amended:

- In Art. 172 Par. 1 and Art. 173 Par. 1, the wording providing for prison sentence of up to six months for the perpetrators of the criminal offence "defamation" and for prison sentence of up to three months for the perpetrators of the criminal offence "insult" was deleted. According to these changes, the perpetrators of the criminal offences "defamation" and "insult" may be punished with a fine.
- The provisions of the Criminal Code whereby defamation and insult stated through the press, radio, television, other public media or at a public gathering were stipulated as qualified (severe) forms of the criminal offences "defamation" and "insult" were deleted. According to these amendments, the perpetrators of the criminal offences "defamation" and "insult" through the press, radio, television, other public media or at a public gathering may be fined, unlike in the past when there was a legal possibility for the perpetrator to be given a prison sentence of up to one year

(for a public defamation), i.e. prison sentence of up to six months (for a public insult).

- According to the changes, a prison sentence may be pronounced only on perpetrators of qualified (severe) forms of the criminal offences “defamation” and “insult”, as follows:

- In cases when the things that were untruthfully expressed or spread were of such importance that they resulted in severe consequences to the injured party (which is a qualified form of the criminal offence “defamation”), the perpetrator may be given a prison sentence from three months to three years.

- On the other hand, a person who publicly exposes another person to derision by means of an information system because of the other person’s affiliation to a certain community, ethnic or racial group or religion (which is a qualified form of the criminal offence “insult”) may be given a prison sentence of up to 1 year.

Recommendations

1. With the adoption of the Law on Amendment of the Criminal Code, the Macedonian Parliament mitigated the penalties provided for the perpetrators of the criminal offences "defamation" and "insult". If Macedonia stays on the course of decriminalization of defamation and insult, it would be of benefit to have defamation and insult regulated by quality and precise civil legislation that will be based upon a balance between the protection of the reputation and honor on one hand, and the freedom of expression on the other.

2. The freedom of expression and the free flow of information through free and independent media are a necessary condition for democratic development, progress and well-being of the society, as well as for the exercise of the other human rights and freedoms. However, the freedom of expression also carries the risk of damaging the reputation of another person by the exercise thereof.

In this respect, if defamation and insult in Macedonia are to be regulated by a civil law, the latter should include precise restrictions of the freedom of expression, and these should be not just any restrictions, but such that are indispensable to protect the reputation and the honor.

3. Given the great importance of the journalist's ethics, responsibility and self-regulation mechanisms, we recommend that the professional standards for journalists should be raised in the direction of showing respect for the reputation and the honor when exercising the freedom of expression⁵⁵.

4. Holders of public offices are often subject of strong public critique through the media, but this does not justify their bringing of so many private criminal charges for defamation and insult. Instead of initiating court procedures, the holders of public offices must show greater tolerance for public critique.

⁵⁵ "Decriminalization must not create room for abuse and the media will have to work on the issue of ethics in order to protect their professionalism and dignity" - stated Zaneta Trajkovska, Director of MIM, at the international conference "Decriminalization of defamation: Exchange of positive experiences".

5. The amount of the fine is an important aspect to be taken into consideration in the context of decriminalization of defamation and insult. It is exactly the absence of a legal minimum⁵⁶ and legal maximum of the fine for the perpetrators of the criminal offences "defamation" and "insult" that is a large shortcoming of the Macedonian criminal legislation. This shortcoming needs to be removed in order to avoid the danger of imposing fines that are too high for the journalists and the media, because this can be the reason for bankruptcy of several Macedonian media, in cases when they committed the above mentioned criminal acts.

6. Given the fact that out of 27 criminal procedures observed during the project only 8 ended at first instance, and 1 at second instance, the Law on Amendment of the Criminal Code provides for more lenient criminal penalties for the perpetrators of the criminal offences "defamation" and "insult" than the penalties existing prior to the amendment of the Criminal Code. We recommend that, according to the principle of obligatory implementation of a more lenient criminal law, the Macedonian courts should apply the latter law that is more lenient to the accused journalists whose trials are not finished yet.

⁵⁶ Legal minimum of the fines for the criminal offences "defamation" and "insult" was determined in the Criminal Code of the Republic of Macedonia as follows:

- Fine of at least **10.000 denars** was provided for the perpetrator of the criminal offence "defamation";
- Fine of at least **40.000 denars** was provided for the perpetrator of public defamation (defamation expressed via the press, radio, television, electronic mail or other public media, or at a public gathering);
- Fine of at least **50.000 denars** was provided for the person that inflicts severe consequences on the injured person by means of a defamation;
- Fine of at least **10.000 denars** was provided for the perpetrator of the criminal offence "insult";
- Fine of at least **20.000 denars** was provided for the perpetrator of public insult (insult expressed via the press, radio, television, electronic mail or other public media, or at a public gathering).

These lower limits of the fines existed until 7 April 2004, when the Law on Amendment of the Criminal Code came into force (Official Gazette of the RM No. 19/04), whereby the legal minimum of the fines was deleted. As a result, there are presently no legal limits for the Macedonian courts within which they need to stay when meting out the fines for the perpetrators of the criminal offences "defamation" and "insult".

Reference literature

- Declaration on Freedom of Political Debate in the Media (Adopted by the Committee of Ministers on 12 February 2004 at the 872nd meeting of the Ministers' Deputies);
 - European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols No.1, 4, 6, 7 and 11 (Official Gazette of RM No.11/97);
 - Criminal Procedure Code (Official Gazette of RM No.15/05);
 - Law on the Courts (Official Gazette of RM No.36/95, 45/95 and 64/03);
 - Report of the Helsinki Committee for Human Rights of the Republic of Macedonia on the human rights situation in 2005 – Annual Report;
 - Kambovski Vlado, Criminal law-general part, Skopje 2004;
 - Kambovski Vlado, Criminal law-special part, Skopje 1997;
 - Criminal Code (Official Gazette of RM No.37/96, 80/99, 4/02, 43/03, 19/04, 60/06);
 - Code of the Journalists of Macedonia, Skopje 14.11.2001;
 - Matovski Nikola, Penal procedural law-general part, 2003 Skopje;
 - Statute of the Journalist Association of Macedonia, Skopje, Journalist Association of Macedonia, 11 June 2003;
 - Constitution of the Republic of Macedonia (Official Gazette of the RM No.52/91) and Amendments to the Constitution.
 - OSCE report, comparative analysis of OSCE member-states with regard to defamation and insult, Vienna 2005
-
- www.znm.org.com
 - www.mhc.org.mk
 - www.mediaonline.ba
 - www.sobranie.mk
 - www.seemo.org
 - www.odihhr.org

