



**ՀԱՅԱՍՏԱՆԻ ԳՆԱԳՎԱԾՆԻԿԱՆ լրատվության միջոցների էթիկայի
ԳԻՏՈՐԳ ՄԱՐՄԻՆ**

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MEDIA ETHICS OBSERVATORY GUIDELINES

For Armenian Media, Developed Based on the *Delfi AS v. Estonia* European Court of Human Rights Landmark Judgment

On June 16, 2015, the Grand Chamber of the European Court of Human Rights (ECHR) released its final judgment on the case of *Delfi AS v. Estonia*. Some of the legal approaches of the judgment can significantly change the framework of responsibility of the media on the Internet. The facts of the Delfi case are the following:

Delfi Company is an Internet news portal, which has branches in several countries. It publishes up to 330 articles a day in different languages, which receive about 10.000 comments by the readers daily. All the comments are uploaded automatically, the company does not edit or moderate them, most of the comments are anonymous (or under pseudonyms). Any reader can mark a comment as an insulting or mocking message or a message inciting hatred on the Internet, and the comment is removed expeditiously by the media.

In January 2006 the news portal published an article on the activities of a commercial company, which caused wide public response. Many readers wrote comments, which contained offensive language and threats, hate speech and incitement to violence. The news portal did not remove those comments from the website, considering that unless it received a written notice on their removal by the company, it is not obliged to remove them at its own initiative. The media received a written notice six weeks later and removed the comments immediately upon receipt.

The European Court decided that the media's duty to remove the comments had arisen not from the moment of receiving the notice, but from the moment it had become aware of their existence. In this case the facts proved that the media had become aware before receiving the notice, since in those comments the patently offensive expressions and even hate speech were evident to the extent that the media could not but know about their existence on a platform under its supervision and management. But the media did not act in good faith.

ECHR reasoned its approach taking into consideration the peculiarity of the Internet and its difference from other means of disseminating information (print media, radio, television, etc.). In this regard the following approaches were mentioned by ECHR:

- To exercise the right to free expression it is of utmost importance to provide the users with the opportunity to remain anonymous and not to disclose their identity. However, the development of the Internet and the possibility (and in some cases also the threat) that a speech once disseminated publicly can remain as such forever and be disseminated continuously, requires being vigilant;
- The easiness of disseminating information on the Internet, as well as the existence of large amount of information in that space complicate the process of identifying and removing the statements of offensive or defamatory nature. This is an issue very difficult to resolve for online media operators. Even more difficulties are faced by the citizens, which are victims of insults and defamation, and who mostly do not have enough resources for Internet monitoring.

Taking into account the above-mentioned Media Ethics Observatory calls on all the Armenian news portals, which provide their readers with the opportunity to comment on their pieces:

1. To note that the editorial offices avoid responsibility for the comments of other authors only in cases, when they can prove that they were not aware or for objective reasons could not be aware of the existence of such comments;
2. Although the ECHR judgment does not force moderation of comments, however we advise, if possible, to moderate their publication following that obvious hate speech, comments containing insults, inciting violence and other unlawful actions do not appear in the comments part;
3. If, nevertheless, there appear such comments, then it is more appropriate to remove them as soon as they are identified, rather than formally wait and remove them only upon receiving a notice;
4. If the media has not noticed the comments containing obvious hate speech, incitement to violence or evident insult, but the person whom they were addressed to has notified the editorial office about that, we advise to remove such comments in reasonable time after receiving the notice.

Adopted at the July 23, 2015 Media Ethics Observatory session