



**JUDGMENT/EXPERT OPINION OF MEDIA ETHICS
OBSERVATORY**

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Regarding the information dispute between “IRA Medical Group” CJSC and “Public TV Company of Armenia” CJSC

A. FACTS

1. On March 10, 2023, Media Ethics Observatory received the complaint of “IRA Medical Group” CJSC Director Shant Shahnazaryan regarding the February 22, 2023 issue of “Interview with Anna Danielyan” program of the Public TV Company’s First News Channel. The complaint, in particular, read: *“... During the program, Narek Manukyan, Director of “V. A. Fanarjyan National Center of Oncology” CJSC under the Ministry of Health”, made an untrue statement that the equipment utilized by “IRA MEDICAL GROUP” CJSC does not meet all the contemporary standards in the industry.”*
2. In its complaint filed with MEO, “IRA Medical Group” CJSC informed that on February 27, 2023, they had written to the Executive Director of “Public TV Company of Armenia” CJSC Hovhannes Movsisyan, highlighting that *“the statement by Narek Manukyan, Director of “V. A. Fanarjyan National Center of Oncology” CJSC, is untrue and tarnishes the business reputation of “IRA Medical Group” CJSC.”* Their expectation was that “IRA Medical Group” CJSC would publish a refutation. The refutation demand highlighted that *“the issue is also important in terms of healthcare, as many cancer patients receive treatment at “IRA Medical Group” CJSC, and the company has earned the trust of patients due to years of hard work.”*
3. On March 7, 2023, “IRA Medical Group” received a response from the Director of the Public TV Company of Armenia, Hovhannes Movsisyan, which stated: *“...In this situation, the case under discussion is not a piece of information disseminated by the First News Channel, but an opinion/point of view expressed by Narek Manukyan, the host of the program titled “Interview with Narek Manukyan” within the framework of “Interview with Anna Danielyan” program of the First News Channel.”*
4. In their complaint filed with MEO, “IRA Medical Group” CJSC stated: *“Our company disagrees with the position of the Public TV Company, and we believe that our appeal did not receive an adequate response, as they failed to adhere to the provisions of Article 8 of the RA Law “On Mass Communication”, as well as the*

following provisions of the [Code of Ethics of Armenian Media and Journalists](#): 6.1. To encourage free exchange of opinions, regardless of any differences between those opinions and the editorial views; 6.2. To be ready to meet with persons or representatives of organizations who feel offended or defamed by a certain publication, and provide an opportunity of response for all those against who criticism and accusations have been made in the publications.”

5. On April 17, 2023, the participants of the MEO online session underscored that the dispute between “IRA Medical Group” CJSC and the Public Broadcaster had not only ethical, but also legal aspects. A decision was made to refer the complaint to the Information Disputes Council (IDC) to seek an expert opinion/judgment.
6. On May 23, 2023, the IDC presented its opinion, which specifically read: “... In accordance with Article 8, part 1 of the RA Law “On Mass Communication”, individuals have the right to demand from the implementer of media activity to refute factual inaccuracies in publications, which violate their rights. According to Article 3, part 3 of the same Law, legal or natural persons, including private entrepreneurs, who disseminate information on their own behalf, are considered to be media implementers. Paragraph 3 of part 2 of the same Article classifies TV and radio broadcasting as a mass media product, while part 1 of that Article specifies that information is disseminated through mass media.

It follows from the above that “Public TV Company of Armenia” CJSC is a legal entity engaged in the conduct of media activities, which is carried out by disseminating information through TV programs. When we apply this legal regulation to the facts related to the given information dispute, it becomes clear that the broadcaster of the interview in question is the “Public TV Company of Armenia” (hereinafter referred to as the “TV Company”). Consequently, based on part 1 of Article 8 of the Law “On Mass Communication”, the recipient of the citizen's complaint is the TV Company. In this sense, the Information Disputes Council cannot agree with the TV Company's assertion that it bears no responsibility for the dissemination of the controversial information. In this case, the TV Company was the one carrying out media activities, as it broadcast the piece in question. Therefore, if it is further confirmed in a judicial or extrajudicial procedure that the controversial statement contains factual inaccuracy, the TV Company will be legally obligated to publish a refutation or a response, as stipulated by Article 1087.1 of the RA Civil Code.

Nevertheless, this does not imply that the TV Company automatically bears responsibility for the factual inaccuracies it broadcast and is obliged to publish a refutation or a response. In its previous judgments, the IDC has consistently stated that the media implementer is exempt from liability when disseminating information in good faith. This principle is outlined in part 6 of Article 1087.1 of the Civil Code, according to which *“the person shall be exempt from the liability for insult or slander where the factual data expressed or communicated thereby constitute the literal or good-faith reproduction of ... information contained in another person's public speech... and in course of dissemination thereof a reference has been made to the source (author) of*

information.”

This legal basis is recognized in international law under the legal terms “good faith reporting” or “responsible reporting”, which are also equally applicable to legal relationships established when a journalist conducts an interview, spontaneously or during a conversation with a guest in a television studio. The European Court of Human Rights has noted in its rulings that news reporting stemming from interviews, whether edited or not, represents one of the most important tools for the press to play its vital role of “public watchdog”. Moreover, the punishment of a journalist for assisting in the dissemination of statements made by another person in an interview would seriously hamper the contribution of the press to discussion of matters of public interest.¹

The only exception is when the journalist or media outlet have failed to act in good faith, consistently with the diligence expected of a responsible journalist reporting on a matter of public interest.² When evaluating that circumstance, it is necessary to consider whether the journalist made an effort to conduct or conducted the interview in a balanced manner. In that regard, the European Court of Human Rights emphasized that the methods of objective and balanced reporting (in this case, including those for conducting an interview) may vary considerably, depending, among other things, on the medium in question; it is not for the courts to substitute their own views for those of the press as to what techniques of reporting should be adopted by journalists in that particular situation.³

Based on the above, the IDC concludes that in this case there is no evidence that the journalist failed to act in good faith, display diligence and balanced approach while conducting the interview. The interview focused on a specialized professional field, and the journalist was not obliged to be aware of every detail and to question certain claims if deemed necessary. Imposing such duties would also unnecessarily burden the journalist’s work and affect the free flow of information. Of paramount importance is the fact that the journalist did not attempt to unduly restrict the interviewee’s opportunities to share information, the interventions were made in order to conduct the interview, and it is solely the journalist’s prerogative to decide the method and manner of such interventions. In such circumstances, the TV Company is not bound by an obligation to provide an opportunity to publish a refutation or a response, in accordance with Article 8, parts 1 and 5 of the Law “On Mass Communication”, and makes the relevant decision at its own discretion. Furthermore, the IDC also observes that, unlike the provisions for publishing a refutation, stipulated in part 1 of Article 8 of the Law “On Mass Communication”, the grounds for the obligation to publish a response, outlined in part 5 of the same Article, lack clear and precise formulation. In particular, the grounds for the origin of the obligation to publish a response are not defined, and it remains unclear whether this obligation arises when there is an inaccuracy in the information disseminated by the media activity implementer. Even if one might logically infer that the grounds for the obligation to provide a response opportunity are the same as those for publishing a

¹ [CASE OF BJÖRK EIÐSDÓTTIR v. ICELAND](#), 46443/09, 10/07/2012, Paragraph 80

² *Ibid*, Paragraph 82

³ [CASE OF ERLA HLYNSDÓTTIR v. ICELAND](#), 43380/10, 10/07/2012, Paragraph 70

refutation, the vague wording of the aforementioned part 5 has led to jurisprudential ambiguity regarding the exercise of the right to a response. This ambiguity has been explicitly illustrated also within the context of this dispute...”

B. ETHICAL NORMS

Code of Ethics of Armenian Media and Journalists

1.2 Clearly notify the audience about the cases when the editorial office received information of public significance, but has been unable to verify the facts after employing all the reasonable measures.

1.4 To clearly distinguish facts and information from opinion, comment and analysis.

6.1 To encourage free exchange of opinions, regardless of any differences between those opinions and the editorial views.

6.2 To be ready to meet with persons or representatives of organizations who feel offended or defamed by a certain publication, and provide an opportunity of response for all those against who criticism and accusations have been made in the publications.

6.4. To encourage the public to express critical opinions about media and to be ready for a public discourse on matters of journalistic ethics.

C. MEO EXPERT OPINION

- MEO has not identified any violation of the above-mentioned provisions of the Code. The actions of the representatives of the TV Company do not contradict the provisions 1.2 and 1.4 of the Code that allow for the consideration of this information dispute.
- There is a violation of paragraph 6.4 of the Code of Ethics of Armenian Journalists in the Public TV Company’s response addressed to “IRA Medical Group”, where, according to the IDC, the TV Company has misinterpreted the RA legislation, providing an unclear response to the complainant.
- Viewing the conscientious and responsible work of the media in relation to the appeals and complaints of citizens and organizations as an important element of self-regulation, as well as taking into account the engagement of the Public Broadcaster in this dispute, MEO did not limit itself to examining the legal requirements alone. Instead, MEO carried out a more comprehensive, methodological analysis of the issue. Hence, MEO offers solutions based on positive international practices that can be adopted in similar cases.
- In particular, MEO believes that paragraphs 6.1, 6.2, 6.4 should not only lead to an expectation of the TV Company’s greater willingness to comply with the law (see the above opinion of the IDC), but also to resolve the situation. This at least could be ensured through providing the audience with alternative information related to the opinion expressed during the interview with “Fonarjyan National Center of Oncology” Director Narek Manukyan. This is especially important given the substantial public significance of the matter, namely, the efficient diagnosis and treatment of oncological diseases.

- To ensure that citizens are well-informed about these and other important issues, the Public Broadcaster can use various forms for audience and stakeholders feedback, allowing them to present their reactions to the broadcast programs. For instance, reviews and commentaries on the most topical and well-founded suggestions, comments and complaints from the public can be broadcast at any frequency. Of course, not all types of feedback are suitable and realistic to present in this particular format or similar ones. However, the position of “IRA Medical Group” deserved to be voiced and could have been communicated. This will perhaps be the best way to resolve this information dispute.
- Meanwhile, by failing to appropriately address the request of “IRA Medical Group”, the Public Broadcaster did not even use the opportunity when “Fanarjyan National Center of Oncology” Director Narek Manukyan was interviewed by a different Public TV journalist within another program 3 months later (Nikolay Melikyan, “Open Platform” program cycle, May 20, 2023). MEO agrees with the observation of the IDC regarding the February 22, 2023 issue of “Interview with Anna Danielyan” program that the journalist was not obliged to be aware of every detail of the professional field and to question specific claims right away. However, MEO holds the view that the editorial staff behind the issue of “Open Platform” program, aired 3 months after the disputed program, had the opportunity to familiarize themselves with the circumstances of the dispute. They could have taken into account the request of the involved medical institution and somehow addressed the controversial issue, thereby presenting an alternative viewpoint to the audience.

Reminder: The representatives of the media that have signed the Code have expressed their readiness to publish the Media Ethics Observatory judgments on their media as they have acknowledged the authority of MEO (which was elected by them) to review the compliance of their actions and publications with the provisions of the Code.

Reservation: The Public Broadcaster is allowed to publish solely the part of this comprehensive Judgment that is directly related to the legal aspect of the information dispute and the norms of professional ethics.

**Adopted on June 2, 2023
by the following MEO composition:**

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Narineh AVETISYAN, Executive Director of Vanadzor “Lori” TV Company
Karineh HARUTYUNYAN, Executive Director of Gyumri “GALA” TV
Company
Ashot MELIKYAN, Chairman of Committee to Protect Freedom of
Expression
Gnel NALBANDYAN, Chief Editor of “Newmag” Publishing House
Boris NAVASARDIAN, Honorary President of Yerevan Press Club
Nouneh SARKISSIAN, Managing Director of Media Initiatives Center

Anzhela STEPANYAN, Editor of Armavir “Alt” TV Company

Gegham VARDANYAN, Producer of Media.am

[Media Ethics Observatory](#) was established by the media, joining the self-regulation initiative, which make 71 as of today. In its judgments MEO is guided by Code of Ethics of Armenian Media and Journalists, adopted at the self-regulation body’s meeting on March 10, 2007, and revised on May 16, 2015.