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## The Role of Decisions by the European Court of Human Rights in Shaping the Content of New Media Literacy Education

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### Abstract

This paper aims to explore the case law of the European Court of Human Rights in the area of regulating the activity of online media, as well as establish the information, axiological, and legal potential of the Court's decisions for shaping the content of new media literacy education. Insight is provided into a set of factors governing the need for adopting new conceptual approaches to establishing a sound legal framework for the operation of contemporary social media. The authors analyzed the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and decisions of the European Court of Human Rights dealing with the correlation and balance between the right to freedom of speech and expression *and* the right to privacy and the protection of the honor, dignity, and reputation of physical and legal persons. The authors singled out a set of legal provisions that need to be particularly focused on and promoted as particularly facilitative of the development of media literacy among both professional journalists and ordinary social media users who can create and/or distribute media content.

**Keywords:** new media literacy, social media, media content, media messages, fundamental freedoms, freedom of expression, right to privacy, freedom of information, European Court of Human Rights.

### 1. Introduction

With social media having an increasing influence on daily life, user media literacy has become an issue of growing relevance in today's society. The role of Internet sources and social networks in distributing information has grown significantly in recent years. Web 2.0 technology enables users to create and distribute just about any kind of media material on the Internet. With that said, increasingly more users without the professional skills of a journalist who are not properly informed of ethical requirements for this profession are becoming a distributor of information. This includes users who create media content, users who distribute through social networks information prepared by others, and users who leave comments on information sites and pages on social networks. In terms of fostering media literacy, one may need to take into account multiple legal aspects in the area of regulating information activity – above all, in terms of protecting human rights from all kinds of information threats. In this regard, of particular importance are decisions by the European Court of Human Rights (ECtHR). On one hand, they

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serve as a source that provides the most complete analysis of the content of human rights, including in media space, and, on the other hand, they are a flexible tool that helps to adapt European law's best legal practices and achievements to the highly complex and dynamically developing sphere of information relations. The purpose of this paper is to explore the case law of the European Court of Human Rights in the area of regulating the activity of online media and identify, on this basis, a set of legal provisions that are central to fostering media literacy among both professional journalists and ordinary users who can create and/or distribute media content.

## 2. Materials and methods

In terms of source material, use was made of scholarly publications on media literacy, including those on new media literacy; publications on new media; publications discussing the role of social media; findings from sociological research on the place and role of Internet resources among the core sources of information for the populations of Ukraine, the Russian Federation, and the US; policy documents and recommendations from the Council of Europe, UNESCO, and the European Union; decisions of the ECtHR, commentaries on them, and scholarly articles analyzing the Court's activity.

In terms of methods of enquiry, primary use was made of the formal-legal method, which helped to conduct a proper analysis of certain provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and relevant ECtHR case law in the context of applying those provisions and striking the balance between freedom of speech and expression, on the one hand, and protection of one's honor, dignity, and reputation, on the other. The use of the retrospective method helped to gain an insight into the evolution of media and the development of media space, as well as the development of the legal framework for the regulation of information relations.

## 3. Discussion

Media literacy has been the subject of research across the world for many years now. It can be defined as "the ability to analyze, augment and influence active reading (i.e., viewing) of media in order to be a more effective citizen" (Aufderheide, 1993: 33). Media literacy is important for all citizens who intentionally, or without knowing it, consume media content (Koltay, 2011: 219).

Since their rise in the first half of the 20<sup>th</sup> century, the mass media had long been characterized by the following features: they were centralized; content was produced in highly capitalized industrial locations; distribution was tied to production; consumption was characterized by uniformity. The tendencies toward centralization and standardization created the possibility for professionalization of communicative and creative processes and for very clear distinctions between consumers and producers (Lister et al., 2009: 32). This is when there emerged the concept of media literacy, i.e. as a collection of competencies that enable a user to critically conceptualize information, for, because there can exist a conflict of interests, both the source and validity of the information may need to be evaluated.

Not all definitions of media literacy include the requirement to produce symbolic texts, as most ordinary people are consumers of media products and have little to do with the production process (Livingstone, 2003: 13-14). However, much has changed in the media industry in terms of the relationship between producers and consumers of media content with the advent of Web 2.0 technology. In this respect, researcher S. Livingstone notes that "the literacy associated with the use of new media, especially the Internet, is significantly different from that of print and audiovisual media" (Livingstone, 2003: 15).

The emergence of new digital technology has had an impact on the number and diversity of media and has facilitated an increase in the participation of non-professionals in media content creation (Koltay, 2011: 219). New media act today as an alternative to traditional media, enabling people to share with one another what they have created using new media tools (Eristi, Erdem, 2017: 252). This has produced a change in the role of media in society, urging researchers to reconsider the significance of media literacy. Amid the conceptualization of new media, scholars, teachers, and politicians are speaking of the importance of cultivating new media literacy. Yet many researchers feel that the fundamental understanding of what new media literacy remains unclear (Lin et al., 2013). For instance, in the conditions of today, media literacy can be defined as "a person's ability to find in mass media materials the information they are looking for, critically conceptualize it, and verify it, as well as, if need be, create basic media content" (Kazakov, 2017:

86-87). The European Parliament's Committee on Culture and Education defines media literacy as “the ability to use individual media unaided, to understand, and bring critical assessment to bear on, the various aspects of media as such and media content, and to communicate – irrespective of the context – and create and disseminate media content” (Report EU, 2008). In other words, the concept of media literacy has expanded given the possibility of users creating and distributing media content products on their own.

Researchers D.-T. Chen, J. Wu, and Y.-M. Wang suggest focusing on both the technical and sociocultural aspects of new media, embracing the idea of a hybrid of consumer and producer (the prosumer), and switching from consuming media literacy to prosuming media literacy. The researchers have identified the following four key components of new media literacy: 1) functional consuming; 2) functional prosuming; 3) critical consuming; 4) critical prosuming (Chen et al., 2011: 84).

Researchers exploring issues related to a change of approach to the content of media literacy education amid the emergence of new media are focused primarily on measuring the level of media literacy and identifying focus areas for media education. Yet relatively little attention has been paid to the legal aspects of media content creation. The only legal issue that tends to be of interest to researchers at this time is compliance with intellectual property laws (Lister et al., 2009). Some research has focused on issues relating to the implementation of axiological approaches in legal education using media resources (Zavhorodnia et al., 2019).

The legal literature contains analyses of ECtHR case law dealing with the discontinuation of the publication of print media in the context of an alleged violation of Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Yarmol, 2017) specifically; issues relating to that article being applied in ECtHR case law (Bilousov, Kakhnova, 2021); issues relating to freedom of expression in the context of online journalism under international law (Bila-Kyselova, 2021). Of particular interest is research on issues relating to protection of one's honor, dignity, and business reputation on social networks (Slavko et al., 2020). Yet there has been a lack of research on the influence of ECtHR case law in shaping the content of media literacy education in terms of information distribution via new media.

#### 4. Results

A widening baseline of computer literacy and information technology skills and, importantly, the availability of the proper software and hardware tools have made it possible to produce more “user-generated content” (Lister et al., 2009: 33). Common tools used today to create such content are social networks (e.g., Facebook, Twitter, LinkedIn, Instagram, TikTok, etc.), special Internet platforms where users can post content (e.g., YouTube, Pinterest, etc.), and mobile applications that let users engage in individual and group communication (e.g., Telegram, WhatsApp, Viber, etc.). What is common to all social media websites and services is that they let users quite easily produce media messages using text, pictures, video, and audio.

Media messages produced by non-professionals, including on social networks, account for a large portion of all sources of information today. To assess the role of social networks and news sites in providing people with information, a review was conducted of the findings from sociological research carried out in Ukraine, Russia, and the US. Based on the findings from a survey conducted in Ukraine, the primary source of information in 2020, just like in 2019, was national TV (75 % of respondents), followed by social networks (44 % – compared with 24 % in 2019), and then online mass media (27 % – about the same as in 2019) (Trends, 2020). Based on the findings from a similar survey conducted in Russia in January 2021, the way has been led by TV (63 % – a slight decline compared with the year before), followed by Internet news sites (45 % – a slight increase), and then forums, blogs, and social networks (23 % – a slight increase) (Istochniki informatsii, 2021). Based on the findings from a survey conducted by the Pew Research Center in the US in the summer of 2021, a sizable portion of Americans turn today to social networks for news. More specifically, 48 % of adult Americans confessed to getting news from social media “often” or “sometimes” (News Consumption, 2021).

The Report on Media Literacy in a Digital World, prepared for the European Parliament by the Committee on Culture and Education, states that “broad access to communications technologies affords everyone the possibility of transmitting information globally”. This means that “every member of the public is a potential journalist”. Therefore, media literacy is becoming “a necessity not only for understanding information but also for generating and distributing media

content” (Report EU, 2008). S. Livingstone argues there is a difference between the roles of adults and young people in terms of content creation, with the latter tending to use information-and-communications technology more today (Livingstone, 2003: 14). According to M. Zhizhina, “it is the youth audience that actively realizes itself not only as a spectator but also as the blog author” (Zhizhina, 2019). Yet, as stated in the above-mentioned report, “computer skills alone consequently do not lead automatically to greater media literacy” (Report EU, 2008). Therefore, no matter how advanced the digital skills of children and young people may be, there is a need to foster in them critical evaluation skills and instill in them a sense of responsibility toward information distribution (in terms of both creating their own media content and distributing others’ media content on social networks).

D. Gillmor has identified and described some of the key principles of media consumption and media creation. The key principles of media creation include learning as much as one can about a topic, getting one’s facts right, being fair to everyone, thinking independently, especially of one’s own biases, and being transparent. In terms of being transparent, it is noted that bloggers, too, need to adopt more transparency, as “a distinctly disturbing trend in some blog circles is the undisclosed or poorly disclosed conflict of interest” (Gillmor, 2009: 4-8). V. Dreshpak argues that social opinion leaders wishing to uphold their own reputation makes them consume media content in a responsible manner and avoid being turned into a tool of manipulation, disinformation, and information aggression, so it makes sense for them to overall adhere to the same standards and ethical norms as journalists (Dreshpak, 2019).

In general, with the advent of digital media, there is now a need to develop a number of essential media literacy skills factoring in the fact that the blurring between public and private worlds creates new ethical and legal challenges (Hobbs et al., 2013: 9). Some researchers investigating the role of media during the COVID-19 pandemic have stressed the need to make users aware of the legal aspects of using and distributing information obtained on the Internet (Khanina et al., 2021: 117).

Media literacy also incorporates today an understanding of one’s own role as a user of social networks, for any message one posts can become a source of news, so there is a need to have a critical attitude toward both received and imparted information. According to R. Viola, “media literacy means taking up one’s civic responsibility of contributing to a culture of inclusive tolerance and respect online” (Viola, 2016). Researchers P.N. Howard and M.R. Parks have explored the ability of social media to influence politics and note that social media, inter alia, incorporate “the people, organizations, and industries that produce and consume both the tools and the content” (Howard, Parks, 2012). A.A. Kazakov views as the minimum component of media literacy today the ability to create posts on and distribute them across social networks with confidence (Kazakov, 2017: 86-87).

What are some of the components of the ability to compose media content competently? Those who distribute media content are guided in doing so by the need to express their individual or collective aspirations and concerns. According to P.N. Howard and M.R. Parks, “social media are used to produce and distribute content that has individual value but reflects shared values” (Howard, Parks, 2012). However, it is to be kept in mind that a group of people may share values that contravene the moral standards of society or can jeopardize certain public interests. Even if the content distributed does not pose a threat to public security, it may contain false information about particular persons or be in violation of intellectual property rights. Therefore, knowledge of the basic legal aspects of media content creation is to be an important part of media education.

Above all, it is to be stressed that the right to freedom of expression is guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter ‘Convention’) (Convention, 1950). The first paragraph of the article establishes a general right to freedom of expression, and its second paragraph identifies the only bases upon which the right can be restricted.

A person’s freedom to hold views includes a right to adopt a position on a particular issue, guarantees them protection from a certain position being attributed to them based on their past statements and from potential negative consequences that may arise therefrom, and protects them from being coerced into revealing their position. The freedom to receive information, as an element of the right to freedom of expression, implies the possibility for mass media outlets to obtain it using any legitimate means and a right for the public to access information of public interest. The freedom to impart information is not limited to words, written or spoken, but extends to

illustrations and photographs, and even items of cultural heritage, intended to express an idea or to present information. It is to be noted that Article 10 of the Convention protects not only an idea but also the form of expression thereof ([Guide on Article 10](#)).

An important guarantee for the protection of an ability to express one's opinion is provided by the activity of the European Court of Human Rights ([Yarmol, 2017: 158](#)). The ECtHR, which has the power to prescribe individual and collective measures and interpret the Convention, thus has the ability to prevent future violations of human rights ([Batan, 2019: 94](#)). Therefore, it will help to take account, in the context of cultivating media literacy skills, of the ECtHR's legal conclusions relating to distribution of information in terms of its content.

The ECtHR has noted on several occasions that user-generated expressive activity on the Internet provides an unprecedented platform for the exercise of freedom of expression (e.g., *Ahmet Yildirim v. Turkey*, § 54, *Cengiz and Others v. Turkey*, § 49, and *Delfi AS v. Estonia*, § 110). Given its accessibility and its capacity to store and communicate vast amounts of information, the Internet helps to enhance the public's access to news and facilitate the dissemination of information generally (e.g., *Delfi AS v. Estonia*, § 133 and *Times Newspapers Ltd v. the United Kingdom (No. 1 and No. 2)*, § 27) ([Guide on Article 10](#)).

The Internet has fostered the emergence of citizen journalism, i.e. ordinary citizens covering various events and being able to confirm the information using photographs or videos. The freedom of expression of citizen journalists and bloggers on the Internet is of great significance in terms of encouraging public discussion of issues that are important to society ([Bila-Kyselova, 2021: 308-309](#)). The ECtHR has also noted that political content ignored by the traditional media is often shared via the Internet (e.g., *Cengiz and Others v. Turkey*, § 52).

However, it is to be always remembered that the freedom to impart information as enshrined in Article 10 of the Convention may also be subject to restrictions. When tackling a case dealing with a breach of Article 10, the ECtHR has to determine the lawfulness of the interference, its legitimacy, and its necessity in a democratic society ([Case-law, 2015](#)). This so-called 'three-part test' helps to determine if a violation of the Convention's provisions has occurred.

The right to freedom of expression cannot be considered in detachment from the right to respect for private and family life, enshrined in Article 8 of the Convention ([Convention, 1950](#)). The ECtHR has formulated through its case law the following criteria for assessing the degree to which it is acceptable to invade a person's privacy, which are intended to ensure a balance between the rights guaranteed by Articles 8 and 10 of the Convention: 1) contribution of the publication of the information to a debate of general interest; 2) how well-known the person concerned is and what the subject of the report is; 3) prior conduct of the person concerned; 4) how the information was obtained and its veracity; 5) content, form, and consequences of the publication; 6) gravity of the penalty imposed ([Burmagin, Opryshko, 2020: 40](#)). The above criteria were formulated during the hearing of the following cases: *Couderc and Hachette Filipacchi Associés v. France*, §§ 90-93, *Von Hannover v. Germany (No. 2)*, §§ 108-113, and *Axel Springer AG v. Germany*, §§ 89-95 ([Guide on Article 8](#)).

Invoking the above-mentioned criteria through the prism of ECtHR case law can help to see if some persons' freedom of expression infringes on others' right to respect for private life. The Council of Europe's recommendations stress the need to implement a state policy aimed at enhancing media content consumers' skills of selecting and analyzing information. A special emphasis is placed on users of social networking services having to respect other people's rights and freedoms. Cultivating media literacy in the context of using social networking services will help to enhance users' awareness of their rights on the Internet and help them develop a sense of respect for human rights values ([Recommendation, 2016: 224](#)).

Space does not permit a review of the entire ECtHR case law concerning the right to freedom of expression here, so a detailed outline will be provided of a few cases believed to be particularly useful in terms of enhancing the media literacy of new media users.

The case *Delfi AS v. Estonia* helped to establish some of the criteria for determining the responsibility of Internet intermediaries for third party content. The facts of the case are as follows. L., the sole shareholder of SLK (a ferry company), sent a request to Delfi (a high-volume online news outlet) to take down a set of reader comments that could be considered threatening or offensive to L. Despite the fact that Delfi had made efforts to advise users that the comments did not reflect its own opinion and that the authors of comments were responsible for their content and on its website there were rules on posting comments, the comments remained online for six weeks.

Delfi removed the comments from its website upon notification by L.'s lawyers, and, eventually, the court awarded L. a monetary compensation. Afterwards, Delfi went to the ECtHR alleging that its freedom of expression had been violated, in breach of Article 10 of the Convention, by the fact that it had been held liable for the third-party comments posted on its Internet news portal. The Court found that the restriction of the applicant company's freedom of expression had pursued the legitimate aim of protecting the reputation of others and that the article published by the applicant company had concerned a matter of public interest, so the applicant company could have foreseen the negative reactions. Several non-governmental organizations and media companies made joint submissions as third-party interveners in the case. They questioned the possibility of being legally liable for something done by third parties, as well as the possibility of identifying users of Internet resources. The Court pointed out the fact that the comments had been left on a professionally managed Internet news portal run on a commercial basis and noted the insufficiency of the measures taken by the applicant company to remove without delay comments amounting to hate speech and speech inciting violence, concluding that imposing a sanction on the applicant company had been just. In Paragraphs 115 and 116 of its judgment, the Court drew a clear distinction between the duties and responsibilities of (1) information Internet news portals run on a commercial basis that publish news articles of their own and invite their readers to comment on them and (2) other forums on the Internet where third-party comments can be disseminated, including Internet discussion forums, bulletin boards, and social media platforms where the platform provider does not offer any content and where the content provider may be a private person running the website or blog as a hobby ([Delfi v. Estonia, 2016](#)).

A different decision was reached in *Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary*. Initially, the domestic courts found the applicants liable after comments had been left on an Internet news portal run by one of them that could harm the reputation of a real estate company. However, the Court found that comments had been moderated on that website in a proper manner and that, despite being vulgar and offensive, the comments in question did not incite violence and did not stoop to the level of hate speech. It was concluded that there had occurred a violation of Article 10 of the Convention, as the domestic courts had failed to strike an appropriate balance between the rights of the real estate company and Index.hu Zrt ([MTE & Index.hu v. Hungary, 2016](#)).

A similar approach was taken in *Pihl v. Sweden*, dealing with the applicant suing a non-profit association on whose blog a post had appeared accusing the applicant of being involved in a Nazi party. The Court found the charge unsubstantiated, considering the circumstance of the blog being run by a small non-profit association, unknown to the wider public, and considering that it had removed the post and published an apology soon after being notified by the applicant of the inaccuracy of the post and that the comment to the post, although offensive, had not amounted to hate speech or incitement to violence ([Pihl v. Sweden, 2017](#)).

In the recent case of *Sanchez v. France*, the ECtHR departed from the rules laid down in *Delfi AS v. Estonia*. The facts of the case are as follows. In 2011, Mr Sanchez, who was standing for election to Parliament for the Front National in the Nîmes constituency, published on the wall of his publicly accessible Facebook account a caustic post about F.P., one of his political opponents. The post drew several offensive user comments directed toward the city's Moslem community. A portion of the comments were deleted by the original posters in response to requests from people they knew, while the rest remained online despite an appeal by gendarmes who responded to a complaint. Eventually, the author of the post and one of the commenters were fined for incitement to hatred or violence against a group of people. Mr Sanchez did not agree that he was liable for not deleting straightaway the third-party comments left on the wall of his publicly accessible Facebook. The applicant also argued that there was no incitement to violence and discrimination and there were just reflections about how Nîmes had changed as a consequence of an increase in the number of migrants from North Africa in the city. Therefore, his actions fell within the right enshrined in Article 10 of the Convention. The Court employed the three-part test to find no violation of freedom of expression under Article 10 in the case. While the Court admitted to attaching the highest importance to freedom of expression in the context of political debate, it nevertheless deemed it highly important that politicians avoid issuing statements that could incite violence. The Court agreed with the conclusion by the domestic courts that the applicant, who had knowingly made the wall of his Facebook account public, could not have been unaware that his account was likely to

attract polemical comments of a political nature and should therefore have monitored his page even more carefully (Sanchez v. France, 2021).

Thus, if a non-professional producer of media content maintains a page that has the functionality of allowing any user to comment on content published on it, it is imperative that all discussions on the page be moderated and statements inciting hatred and violence be prevented from being published on it.

The applicants in the next case, *Akdeniz and Others v. Turkey*, felt they were hindered in their right to freedom of expression due to the preventive measure *contra mundum* imposed by the domestic courts. The injunction banned the publication of any information on a parliamentary inquiry into allegations of corruption against four former ministers while the investigation was ongoing. A journalist and two law professors, who are also popular bloggers and users of social media platforms, requested the lifting of the ban on publishing the materials, which, they argued, would have attracted considerable public interest. The applicants argued that the impugned measure had infringed the right to freedom of expression of them as journalists and scholars in the role of “public watchdogs”. However, the Court noted that “purely hypothetical risks” of the academics suffering a deterrent effect were insufficient to constitute an interference within the meaning of Article 10 (§ 72). At the same time, the Court acknowledged that, as a journalist, political commentator, and TV news presenter, the journalist could legitimately claim that the impugned prohibition had infringed her right to freedom of expression (§ 72). Thus, the Court found that the right to freedom of expression of the non-professional producers of media content (the academics) had not been infringed by the ban on publishing, during said timeframe, information on the situation, one constituting a matter of public interest (*Akdeniz v. Turkey*, 2021). In this case, the Court basically drew a line between the freedoms of expression of professional and non-professional journalists.

In *Kilin v. Russia*, the Court found no violation of Article 10 of the Convention after an Internet user had been convicted of allegedly disseminating a video of a racist nature. The facts of the case are as follows. The applicant posted on the social network VKontakte a video that was a snippet from a documentary film about neo-Nazis. However, the snippet took on independent significance, as it called for violence against people of Azerbaijani origin. After examining the case for whether the restriction of the applicant’s right to freedom of expression had been substantiated, the Court found that the criminal prosecution of the applicant could be regarded as having been intended for the prevention of disorder and crime and for the protection of the “rights of others” within the meaning of Article 10 § 2 of the Convention, specifically the dignity of people of non-Russian ethnicity, in particular Azerbaijani ethnicity. Given the racist nature of the material and the absence of any commentary on such content, the Court doubted that the applicant’s exercise of his freedom to impart information had any appreciable socially redeeming value (*Kilin v. Russia*, 2021). The conclusion that can be drawn from the Court’s decision in this case is that users disseminating on social networks, even “for friends”, information that calls for violence cannot invoke freedom of expression in justification of the form of expression they have chosen. At the same time, expressing a negative attitude toward this kind of information *could* be considered as constituting freedom of expression.

When it comes to distributing information through social media, of particular importance is a proper understanding of value judgments. This equally applies to traditional media and new media.

Of interest in this respect is the case *Instytut Ekonomichnykh Reform, TOV v. Ukraine*, whose facts are as follows. A journalist wrote a satirical article alleging that a member of parliament’s motives behind her change of political stance were profit-motivated. The domestic courts found the information to be untrue. The ECtHR reiterated that the limits of acceptable criticism are wider in respect of a politician than a private individual (§ 17). And, although the author had imputed unworthy motives to the subject of the article in a highly sarcastic manner, Article 10 of the Convention also protects information and ideas that offend, shock, or disturb. In addition, it is an important principle established in the Court’s case law that journalistic freedom covers possible recourse to a degree of exaggeration, or even provocation (§ 62) (*Instytut v. Ukraine*, 2016).

The case *Balaskas v. Greece* has an equally interesting factual background. A journalist published an article calling the headmaster of a local high school a neo-Nazi following a post on the latter’s personal blog. The headmaster filed a criminal complaint against the applicant for slanderous defamation. The court found the applicant guilty of insult through the press.

The domestic courts argued that the applicant's statements had not been necessary. However, the ECtHR concluded that a fair balance had not been struck between the right to freedom of expression and the right to protection of one's reputation. In addition, the Court drew attention to the fact that, as a public official vested with public functions who had previously expressed his views on political matters on his blog, the headmaster had been supposed to expect careful scrutiny of his words and show a higher degree of tolerance toward potential criticism of his statements by journalists. The Court concluded that the interference with the applicant's right to freedom of expression was not "necessary in a democratic society" ([Balaskas v. Greece, 2020](#)). Consequently, any user who publishes media content can become the object of justified criticism, and the more public an author of a publication is the greater is the public significance of discussing such publications and the greater is the likelihood of value judgments being induced.

A case that is of particular significance in terms of determining the boundaries of freedom of expression on social networks is *Melike v. Turkey*. The case concerned the dismissal of Ms Melike, a contractual cleaner at the Ministry of National Education, for having clicked 'Like' on various Facebook articles (posted on the social networking site by a third party). The authorities considered that the posts in question were likely to disturb the peace and tranquility of the workplace, on the grounds that they alleged that teachers had committed rapes and contained accusations against political leaders and parties. The disciplinary commission imposed on her the penalty of employment termination. The domestic court later dismissed Ms Melike's appeal, holding that the Facebook posts to which she had added a 'Like' could not be covered by freedom of expression. However, according to the ECtHR, those were matters of general interest, the applicant was not a civil servant, the content in question had not reached a very large audience on Facebook, and, given the nature of her position, her activities on Facebook could not have had a significant impact on pupils, parents, teachers, and other employees. The ECtHR concluded that there had been no reasonable relationship of proportionality between the interference with the applicant's right to freedom of expression and the legitimate aim pursued, i.e. there had been a violation of Article 10 of the Convention ([Melike v. Turkey, 2021](#)).

When it comes to the need to develop the media literacy skills of non-professional users of new media who can create and distribute media content, it is to be remembered that media literacy is essential for professional journalists as well. Researcher Ye.S. Doroshchuk, who has investigated the competencies that are considered important for future journalists, has confirmed that media literacy is the basis for the development of professional competence ([Doroshchuk, 2017: 86](#)). Accordingly, the legal aspects of information distribution touched upon in the present paper concern not only bloggers and social opinion leaders but any traditional media employee as well. Educational programs for journalists ought to cover the legal aspects of the activity of media as a whole, including in terms of using information posted on the Internet.

The ECtHR has stressed the importance of the Internet for the exercise of the right to freedom of expression and reiterated that the absence of a sufficient legal framework at the domestic level allowing journalists to use information obtained from the Internet without fear of incurring sanctions seriously hinders the exercise of the vital function of the press as a "public watchdog". In the Court's view, the complete exclusion of such information from the field of application of the legislative guarantees of journalists' freedom may itself give rise to an unjustified interference with press freedom under Article 10 of the Convention (*Editorial Board of Pravoye Delo and Shtekel v. Ukraine*, § 64; *Magyar Jeti Zrt v. Hungary*, § 60) ([Guide on Article 10](#)).

When it comes to potential methods and tools that could be employed to ensure coverage of key legal aspects of information distribution, it may help to include as part of educational programs on media literacy a focus on the right to freedom of expression and its relationship with the right to respect for private and family life.

Among P. Aufderheide's recommendations aimed at enhancing the level of media literacy is the input of professional media (i.e., reporters, producers, major networks, and major cable providers), which ought to encourage media education, promote the concept of the active viewer, and provide financial support – at least until the State takes over ([Aufderheide, 2019: 36](#)). In the Seoul Declaration on Media and Information Literacy, UNESCO calls on the private sector, including Internet communications companies, to support human rights to freedom of expression and access to information and privacy by promoting media and information literacy ([Seoul Declaration, 2020](#)).



## 5. Conclusion

With the advent of the Internet, as opposed to traditional print media and television, changes in the way media materials are created have led to the emergence of additional types of media, like online publications, social networks, video websites such as YouTube, and mobile phone applications, which can be used to create media content easily and quickly. This has given rise to the emergence of the term 'new media', and with that has come the need to define the term 'new media literacy'. Researchers have yet to reach a consensus on how to construe media literacy, with the general trend being one toward focusing on different aspects of this phenomenon depending on the area influenced by it.

Media education is indispensable for the achievement of a high level of media literacy. An important part of political education, it helps people to reinforce their behavior as active citizens who are aware of both their rights and duties. Furthermore, well-informed, politically mature citizens form the basis of a pluralist society. By producing their own content and media products, users acquire abilities affording them a deeper insight into the principles and values of professionally produced media content (Report EU, 2008).

The Convention for the Protection of Human Rights and Fundamental Freedoms has established several standards that are mandatory for countries signed up to it. Enhancing the media literacy of new media users who can create and distribute media content using Web 2.0 technology requires having a clear idea of the limits of the right to freedom of expression. ECtHR case law concerning the right to freedom of speech and the right to privacy has defined these limits quite clearly, serving as a crucial component for cultivating media literacy in terms of information distribution by both professional journalists and ordinary users of new media (e.g., social networks, blogs, YouTube, etc.).

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