

Decision on the case:

N[N]LP Democracy Index - Georgia; The Group of Independent Lawyers: Ekaterine Tsimakuridze, Maia Bakradze, Tamar Laliashvili, Natia Kutateladze, Beso Loladze, Besik Sisvadze v. Mariam Oshkhneli

08.02.2022

Violated principles: 1st principle; 11th principle;

Applicant: N[N]LP Democracy Index - Georgia; The Group of Independent Lawyers: Ekaterine Tsimakuridze, Maia Bakradze, Tamar Laliashvili, Natia Kutateladze, Beso Loladze, Besik Sisvadze;

Respondent: Mariam Oshkhneli;

January 27, 2022

Case N - 533

Chairman of the Board: Tamar Rukhadze

Board members: Zviad Koridze, Nina Kheladze, Khatia Ghoghoberidze, Maia Tsiklauri, Manana Kveliashvili

Description

The Georgian Charter of Journalistic Ethics received an application from N[N]LP Democracy Index - Georgia and the Group of Independent Lawyers [Ekaterine Tsimakuridze, Maia Bakradze, Tamar Laliashvili, Natia Kutateladze, Beso Loladze, Besik Sisvadze] who argued that the Principles 1 and 11 of the Charter had been breached in a TV report “Anatomy of Judges' Protest” that was shown as a part of the TV program "Imedi Week" on Imedi TV Channel. The author of the report, Ms. Mariam Oshkhneli, was identified as the respondent journalist.

Characteristics of the case review

The decision was made by the members of the Board after expressing their positions remotely, in accordance with the Charter’s Statute: “**Board members may express their positions on any issue under consideration/participate in the work of the Board using remote electronic means of communication [social networks, e-mail, online video and audio calls].**”

Only the applicant's representatives participated in the hearing, the respondent journalist neither attended the hearing nor submitted a response.

Reasoning

Principle 1 of the Charter: **"Journalists must respect the truth and the right of the society to receive accurate information"**

The disputed TV report concerned the ongoing processes in the judicial system. In the TV story, the journalist mentions that opposition media outlets are trying to discredit the judiciary. The report mentions that *"on October 31, the Conference of Judges elected two new members for the High Council of Justice. The conference was attended by 266 judges. As the election of members coincided with the second day of the second round of local elections, the process was criticized by the US and European Union ambassadors. They said that the elections were neither transparent nor competitive."* Here, the journalist adds that in response to the criticism of the ambassadors, the Administrative Committee of the Conference of Judges made a statement.

In the statement, the Committee accused the ambassadors present in Georgia of disrespecting the Georgian legislation and interfering in the internal affairs of the country. For their part, the Committee's response was hailed by a number of NGOs as the rhetoric damaging the image of both the country and the judiciary.

The second part of the TV report concerned the judges [23 judges] who disagreed with the Administrative Committee's statement. On its part, the TV program in question supports the idea that the dissenting opinion of 23 judges is not the free will of these judges, but is rather driven by their affiliation with the United National Movement, and is a joint campaign run by judges affiliated with this party and opposition media outlets to discredit the judiciary.

The Charter's Board considers that the first principle has been violated on two grounds: concealment of important facts and neglect of balance.

As already mentioned, the first part of the TV report was devoted to the statement of the ambassadors criticizing the events taking place within the judiciary. The journalist did not fully communicate to the viewers the critical remarks outlined in the statement of the EU Ambassador, Carl Hartzel, and the statement of the US Embassy in Georgia. The reporter did not say that the statement focused on other problems as well, for example, the fact that two members of the Council of Justice suddenly left their positions, in uncertain circumstances;

that the candidates were not announced in advance prior to their appointment; the fact that only one candidate was nominated for each vacant position, there was no wide public involvement and the possibility of prior consultations in the process, and most importantly - according to the statements, the developments in the judiciary were contrary to the goals declared by Georgia in connection with the reforming of the judicial system.

Hiding an important fact ultimately leads to the provision of the audience with inaccurate, flawed, misleading information. The concealment of an important fact is established if the journalist possessed information that was a significant part of the story told in the journalistic product, and as a result of hiding this information, the audience was not able to receive complete and accurate information. The Board considers that since the report concerned the Ambassadors' criticism and "appropriate" response to this criticism by the Administrative Committee of the Conference of Judges, it was important for the audience to know the full content of the criticism in order to further assess the adequacy of the Administrative Committee's response and the attitude of the 23 judges concerning the feedback.

The second part of the TV report deals with the protests of 23 judges where the journalist tries to prove that the National Movement is backing up the protest of the 23 judges. The journalist says: "We asked Zurab Kadagidze why he thinks that the position of 23 judges is dictated by the agenda of the National Movement." The allegations made by Zurab Kadagidze: "Almost everyone's, if not a relative, then the significant other or a very close person turns out to be not an ordinary representative of the radical opposition but a coryphaeus, a planner, an active participant in all this. Such is Mr. David, Mrs. Ketevan's husband [he means Judge Ketevan Meskhishvili]." However, the journalist did not try at all to verify the information with the addressees of the accusation.

The Board pays special attention to how the journalist tried to verify the information. An integral part of the verification is the balance, obtaining comments from the accused party, reconciliation of information with all relevant sources. The audience has the right to know all possible sources and positions of the party regarding the information in order to be able to assess the reliability or authenticity of this information.

According to the practice established by the Charter's Board, the journalist should make every possible effort to verify the information provided by one source, locate the other party, alternative sources, request information and provide the audience with evaluations and comments received from all relevant parties. At the same time, it is important that the sources should be independent of each other. If it is impossible to confirm the information,

the journalist must honestly inform the audience about his or her attempts and methods of verification and emphasize that the information provided is unverifiable.

The TV report in question simply mentions a comment by Judge Eka Areshidze, one of the criticized judges, taken from Formula TV, where she does not respond to specific allegations and is therefore insufficient to consider that the balance has been maintained. The journalist herself made no effort to verify the information in order to respect the public's right to receive accurate information, and ultimately, as a counterbalance to the ambassadors' criticism [which was incompletely covered] presented the Committee's statement, and linked the judges who dissented with the Committee with the United National Movement without providing any proper reasoning and verification.

Principle 11 of the Charter: **“Journalists must consider the following actions as grave professional offences: deliberate distortion of facts.”**

The applicant argued that the violation of Principle 11 was confirmed by *“the manipulation with the facts in order to provide a concrete, pre-established version to the public as if the problem in the court was caused not by the clan rule but by the presence of influential judges who support the opposition.”*

In this respect, it is important to determine the extent to which the same media outlet disseminated information on the same issue without verification/maintaining balance.

1. On November 3, the TV program “Qronika” aired a three-minute report “New members of the Council of Justice, feedback from diplomats and politicians.” The story begins with the information that the decision of the Conference of Judges has been criticized by a part of the opposition. The presenter does not provide the content of the statement in full and what follows is only a three-minute story containing the comments of some representatives of the ruling political party, which does not provide at all any information on the content of the ambassadors' statement, does not reflect the position of the other party, nor does it show what the opposition was criticizing. Nevertheless, constantly displayed subtitles showing the subject of the report leave the impression that the story is dedicated to the opinions of the opposition and diplomats on the election of the Conference of Judges.
2. At 8:00 p.m. on November 4, the TV program “Qronika” again focused on the above topic in the form of a 2:13-minute report: “Members of the Council of Justice responded to the assessments of diplomats and presidents.” Only the judicial members of the Council made comments regarding the story.

On November 5, several judges expressed their dissent concerning the statement of the Administrative Committee.

3. The “Qronika” of November 10 prepared and aired the report “Anatomy of Judges' Protest,” in which there was a guest, namely, the former MP Givi Mikanadze, who made a brief comment on the alleged affiliation of Judge Ketevan Meskhishvili with the United National Movement, yet he did not refer to any specific facts. After Givi Mikanadze, another guest, Mr. Zurab Kadagidze, an analyst [who appears to be the main source in the disputed report], continues to talk about Judge Ketevan Meskhishvili's connection with the United National Movement. This issue as well is covered one-sidedly, the journalist does not raise any critical questions, but on the contrary, she tries very earnestly to explore the judges' ties with the National Movement without, as already mentioned, seeking the judges' answers or comments regarding the matter.

In view of all the above, the Board is of the strong opinion that the unilateral dissemination of information in the disputed report, the concealment of facts and the lack of balance were caused by an intent leading to a violation of Principle 11 of the Charter.

Resolution

Based on all of the foregoing:

1. Ms. Mariam Oshkneli violated the 1st and 11th principles of the Charter.