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**THE RIGHT TO PRIVACY OF PUBLIC FIGURES AND PUBLIC
OFFICIALS: EVALUATION OF WHO DESERVES DIFFERENT
STANDARDS OF PRIVACY**

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Abstract

Freedom of expression and the right to privacy are still underdeveloped and at times misunderstood. Public figures and public officials seem to have less and less right to privacy as they are being exploited by the media for the purpose of having something intriguing to publish. At the same time, publishers and journalists are being restricted of their rights to inform public of those individuals' doings.

The aim of this study is to determine how can internationally recognised legislations be modified for public people to benefit them in the protection of their private life. Additionally, how can news media not be under threat by publishing reports that are of public's general interest. To this end, the research questions are the following: do Article 8 and Article 10 of the European Convention on Human Rights (ECHR) need to be modified to benefit public personnel more in terms of higher protection of their private life? Do public figures and public officials, who abuse their status, also deserve a higher protection of private life? Sub-categories are needed, since not all public people can be treated the same in terms of right to privacy.

The research question is answered in the analysis of phrases "public official", "public figure" and "general interest", along with the analysis of relevant case law. Different aspects are compared by examining various articles written by known scholars.

On this basis, it is recommended the ECHR re-evaluates Article 8 and Article 10, for future defamation disputes that may arise in relation to public figures and public officials.

Keywords: the right to privacy, public people, freedom of expression, general interest, defamation.

Introduction

"How can the modern individual maintain control over his or her self-representation when the whole world seems to be watching?"¹ The question is now relevant more than ever. In today's modern world, technology and media are developing at a rapid speed and it has become much more difficult to protect one's privacy. Because of that, privacy and security have become one of the most important fundamental rights that people cherish, as well as an internationally recognised human rights.²

The right to respect for private and family life is regulated by Article 8 of the European Convention on Human Rights (ECHR). It covers a person's right to family life, their home and correspondence. It is the core enabler for an individual to evolve in a social environment and feel safe when maintaining friendships and other connections.

Article 10 of the ECHR manages freedom of expression. It allows media to have the freedom to express their opinion, and to report information about public figures for the benefit of the public's interest. Though, the article may be subject to certain limitations when needed.

Both of these articles do not have a clear separate passage for public figures and public officials, which makes the level of protection of their private life the same as a private person's.

The people who are in the public's eye are even under more threat due to their role in the community. Public figures and public officials do not get to enjoy and experience the same amount of privacy as a private person. There is always a possibility the most private details of

¹ Fawcett, J. H. (2016). *Spectacular Disappearances: Celebrity and Privacy, 1696-1801*. s.l.: University of Michigan Press. Accessible: https://babel.hathitrust.org/cgi/pt?id=ku01.r2_7;view=plaintext;seq=14;page=root;size=100;orient=0 , 3 January 2018.

² Diggelmann, O. , Cleis, M. N. (2014) *How the Right to Privacy Became a Human Right*. Human Rights Law Review. Vol 13, Iss 3 p 441-458. Accessible: <https://academic.oup.com/hrlr/article/14/3/441/644279> , 3 January 2018.

their personal life may be shared with the world via various media outlets, which often results in damaging the person's reputation. However, public interest sometimes justifies the breach of privacy that public figures experience on a day-to-day basis.

Public figures and public officials can be divided into two categories: those who were born into the public eye, and those who have worked their way to the celebrity status. It is clear, whether you are known to public by birth or by a career, everybody still deserves to enjoy the basic human right that is privacy and sense of protection from the prying eye. Still, some public figures intentionally abuse their status among people, which raises doubts whether all public personalities have the right of higher protection.

Aim of study

The aim of this study is to review Article 8 and Article 10 of the ECHR and to make suggestions how can the legislation be improved in regards to the private life of public figures. Also, to make a clear difference what should happen when a public figure takes advantage of their power.

Research questions

Based on the fact that public figures and public officials do not get to enjoy the same amount of privacy as private person, the next research questions would be answered:

- Do Article 8 and Article 10 of the ECHR need to be modified to benefit public personnel more in terms of higher protection of their private life?
- Do public figures and public officials who abuse their status also deserve a higher protection of private life?

Statement of the problem

There are no provisions in the appropriate legislation(s) to provide public figures with the right amount of privacy they are entitled to.

Hypothesis

Not all public figures and public officials can be treated similarly in terms of the right to privacy, but some sub-categories are needed depending on the role and profession of the public figure.

Method of research

The research will be made using qualitative methods, which helps to understand the right to privacy of public figures as a basic human right. A thorough study will be made on the ECHR and appropriate case law.

Structure

Chapter one explains the right of freedom of expression, the freedom of press, and the concept of fourth estate. Article 10 of the ECHR is examined along with the relevant case law.

Chapter two explains the term privacy, what it means to have the right to privacy, privacy as a human right, and the right to privacy of public officials and public figures. Article 8 of the ECHR is examined along with the relevant case law.

Chapter three engages in the analysis of how to amend Article 8 and Article 10 of the ECHR and relevant case law.

Chapter four gives an overview of the overall results, which were achieved during the analysis of the ECHR and case law.

1. FREEDOM OF EXPRESSION

1.1 Freedom of expression

Freedom of expression is one of the most valued fundamental rights in the ECHR and human rights law, since it recognises one's right to information, freedom of press³ and the right to hold your own opinion. Freedom of press is especially important, as it is the core principle of liberty in a democratic state.⁴ The guarantee of freedom of expression and information is mentioned in the Universal Declaration of Human Rights (UDHR) adopted by the United Nations (UN) in 1948⁵, the ECHR, and many other international legal documents. For freedom of expression to apply, the publications have to entail a general interest among the public. The subject of freedom of expression can often be complicated, as it can easily breach the right to privacy, especially of public figures and public officials.⁶ On one hand, the public takes pleasure in the accessibility and convenience of different media sites as it helps them to communicate globally and instantly.⁷ At the same time, it can also cause harm to journalists and other media publication entities by constant harassment and silencing their voices.⁸

Freedom of expression and individual's right to privacy have to be in harmony for both of them to work. Because of that, several countries have adopted their own series of doctrines. France has established the Law on the Freedom of the Press of 29 July 1881⁹. It is often also called the Press Law of 1881 or the Lisbonne Law. The Law on the Freedom of the Press is a law specifically adopted to define the responsibilities and freedoms of the journalists and other media. It also provides legal guidelines for publishers on what can be released. Along with paragraphs aimed to

3□McDonagh, M. (2013). *The Right to Information in International Human Rights Law*. Vol 13. Oxford university press: Human Rights Law Review. Accessible: <https://doi.org/10.1093/hrlr/ngs045>, 17 January 2018.

4□*Press Law in Modern Democracies: a Comparative Study*. (1985). /Ed. Lahav, P. Vol 9. *s.l.*: Maryland Journal of International Law. Accessible: <http://digitalcommons.law.umaryland.edu/mjil/vol9/iss2/42>, 17 January 2018.

5□UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), Accessible: <http://www.refworld.org/docid/3ae6b3712c.html>, 17 January 2018

6□*Ibid.*, p. 8.

7□Mills, J. L. (2015). *Privacy in the new media age. s.l.*: The university press of Florida.

8□On Liberty. (2003). /Ed. Bromwich, D., Kateb, G. New Haven: Yale University Press.

9□Loi du 29 juillet 1881 sur la liberté de la presse. Accessible: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006070722>, 17 January 2018.

protect the journalists, the document includes passages aimed at public officials. Article 12 of the Law on the Freedom of the Press states that public officials are protected from threats, abuse, and insults made against them at the time of their employment.¹⁰ Articles 30-33 lay down a special penalty on any person who defames public official.¹¹ As it can be seen, the doctrine does not only protect the press and the publishers. Over the years, the legislation has been amended many times. Nevertheless, it is still one of the most important documents in relation to freedom of expression in France and remains in force to the present day.

Article 5 of the German Basic Law is also about freedom of expression.¹² The article's section two states "These rights shall find their limits in the provisions of general laws", which shows the document has some kind of restrictions in the freedom of the press. Moreover, German Criminal Code's section 90 forbids the slander against federal and state officials.¹³

1.2 Article 10 of The ECHR

The ECHR is an internationally recognised treaty written specifically for the protection of human rights. The Convention entered into force on 3 September 1953. The parties to the Convention are all Council of Europe's member states. The ECHR is also responsible for the establishment of the European Court of Human Rights (ECtHR), which was set up in 1959. The court manages "individual or State applications alleging violations of the civil and political rights set out in the ECHR".

Article 10 of the ECHR states the following: "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. The

10 □ Loi du 29 juillet 1881 sur la liberté de la presse *supra nota* 9, p 9.

11 □ *Ibid.*, p. 9.

12 □ Grundgesetz für die Bundesrepublik Deutschland. Accessible:

https://www.bundestag.de/parlament/aufgaben/rechtsgrundlagen/grundgesetz/gg_01/245122, 21 January 2018

13 □ Strafgesetzbuch (StGB). Accessible: <https://www.gesetze-im-internet.de/stgb/StGB.pdf>, 21 Januar 2018

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 rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

In the case *Couderc and Hachette Filipacchi Associés v France*¹⁴ the applicants, the publication director of the weekly magazine Paris Match and the company which publishes the magazine, appealed to the ECtHR on the basis the order issued by the French Court was unjustified and violated their rights in respect of Article 10 of the ECHR. The Daily Mail had published a story based on the claims made by Ms Couderc in regard to her son. She insisted the reigning prince of Monaco, Prince Albert II, was the father of her son. After receiving a warning about the publication, the Prince served a notice on the applicants to refrain from publishing the article, which the applicants ignored. Prince Albert went to the French Court claiming the applicants had breached his right to privacy, which the Court accepted and awarded him EUR 50,000 in damages and ordered Paris Match to publish a full-feature front-page extract of the judgment. The applicants complied but shortened the length of the publication to one third of the cover. When the applicants appealed to the French Court, they were dismissed on the grounds that every person was entitled to the right of privacy, whatever their social status may be. The key issue when appealing to the ECtHR was "whether the French court order against the applicants amounted to unjustified interference with the exercise of their right to freedom of information under Article 10".¹⁵ The Court found there had been a violation of Article 10. In particular, the French Courts had failed to determine which part of the information published was of general interest, and which part disregarded Prince Albert's right to private life.

In another instance, an applicant was arrested at the Munich beer festival for possession of illegal substances. The case *Axel Springer AG v. Germany*¹⁶ made the news since the said applicant was a German actor, who was well-known for his role in a popular television series at the time. The

14□Couderc and Hachette Filipacchi Associés v France, no. 40454/07, ECHR 2015

15□*Ibid.*, p. 10.

16□Axel Springer AG v. Germany, no. 39954/08, ECHR 2012

actor filed a restraint against a newspaper publishing company, which had published the personal details and photographs of the applicant's arrest and, a year later, his conviction. The Hamburg Regional Court had issued a prohibition for any further publications on the subject. The court's reasoning was that even whilst the offence was not a minor crime, it was not important enough for it to have a general interest among the public. Furthermore, the court found that the applicant's the right to private life had been violated and prevailed over the right to be informed under Article 8(1) of the German Civil Code.¹⁷ It is important to note, the applicant had claimed the revelation of his arrest was focused more on his personal life, than on the offence and was the key factor in the decision making process by the German court. The publishing company, Springer Verlag AG, went to the ECtHR for a further appeal on the case, since they were of opinion their right to freedom of expression had been breached. After a review of the circumstances, the Court found a violation of Article 10 of the ECHR on behalf of the publishing company. The limitations set out by the German court were deemed to be unnecessary in a democratic society, where one of the key values is freedom of expression and freedom of press.¹⁸ The Court also recognised that the actor's role in the television series had remarkable similarities with the actual crime committed by the actor, which explained the public's interest and thus, explained why the decision made by the German court was overruled. Moreover, the actor was arrested in a public surrounding with many witnesses, and not in a private setting. The claim that the article focused more on actor's private life and not on the offence was also inaccurate, since it was concentrating on the circumstances of and events following his arrest.

The cases *Axel Springer AG v. Germany*¹⁹ and *Von Hannover v. Germany (No 2)*²⁰ were of significant importance at the time of their judgement. It provided the courts with helpful guidelines when executing the balancing acts between Article 8 and Article 10 of the ECHR when the case concerned exploration of private information claims. It was of big assistance than any previous case, in finding a more specific interpretation of concepts such as public figures and general interest among public. The media felt more confident after these rulings since they both found that Article 10 of the ECHR had been violated in favour of the journalists. Despite being of such importance at the time, the case *Von Hannover v. Germany (No 2)* developed even

17□Bürgerliches Gesetzbuch (BGB), Accessible: <https://www.gesetze-im-internet.de/bgb/BGB.pdf>, 21 January 2018

18□Axel Springer AG v. Germany (2012)*Supra nota* 16, p 10.

19□*Ibid.*, p. 11.

20□Von Hannover v. Germany (no. 2), no. 40660/08, ECHR 2012.

more, before reaching a final conclusion, in which the Court found the applicant, Caroline Von Hannover, had actually been a victim, not the media as originally decided.²¹

1.3 Fourth Estate

The term "Fourth Estate" was first proposed by Edmund Burke in 1787, when he indicated to the opening up of the House of Commons of Great Britain to the media or newspaper publisher.²² In his book "On Heroes and Hero Worship", author Thomas Carlyle stated the following: "Burke said there were Three Estates in Parliament; but, in the Reporters' Gallery yonder, there sat a Fourth Estate more important far than they all."²³ Today, the Fourth Estate still applies to the press, publications and newspapers, and the explanation has even broadened by adding news media as a whole to the description. It only concerns public officials, not public figures.

The Fourth Estate demonstrates the importance of freedom of press, in relation to the government, by having been portrayed as an integral component of democracy.²⁴ The main reasoning is the fact that democracy demands informed citizens. The Fourth Estate also stimulates public's involvement in discussions and debates.²⁵ A democratic state's legal authority cannot operate sufficiently without getting either a positive or a negative response back from their citizens.²⁶ This means the media is an important intermediate between the government and the public, by making the actions of the administration known to the people, who then can vote on important matters based on what they have learned from those news stories.²⁷ If the Fourth Estate would suddenly disappear, the government would no longer be accountable to its citizens.

21 □ Von Hannover v. Germany (no. 3), no. 8772/10, ECHR 2014.

22 □ Schultz, J. (1998). *Reviving the Fourth Estate: Democracy, Accountability and the Media*. Cambridge: Cambridge University Press.

23 □ Carlyle, T. (1966). *On Heroes and Hero Worship*. s.l.: University of Nebraska Press.

24 □ *Ibid.*, p. 12.

25 □ Norris, P. (2012). *Driving Democracy: Do Power-Sharing Institutions Work?* Cambridge: Cambridge University Press.

26 □ *Ibid.*, p. 12.

27 □ Norris, P. (2006). Media development and poverty eradication. *World Press Freedom Day*, Colombo, Sri Lanka, 3 May 2006. (Ed.) Barry, J. Paris: United Nations Educational, Scientific and Cultural Organization, 19-20

"In their watch-dog role, the media can ideally promote government transparency, accountability, and public scrutiny of decision-makers. They can highlight policy failures, maladministration by public officials, corruption in the judiciary and scandals in the corporate sector."²⁸ If journalists are unwilling or unable to expose illegal or unethical behaviour by public officials, then ruling elites in the countries concerned are virtually free to commit the most atrocious deeds without fear of scrutiny or censure.²⁹ However, the news media has to be certain about their reportings, since false information about a public official and their activities can lead to defamation of said public official's reputation.

²⁸□Norris (2012),*supra nota* 25, p 12.

²⁹□Carlyle (1966), *supra nota* 23, p 12.

2. PRIVACY

2.1 Privacy

The subject of privacy has always been one of the most complex ones. It has sparked numerous legal debates, which has helped in developing extensive case-law for future lawsuits. Over time, privacy has had various definitions as a result of political, social and economic change, as opposed to having one clear definition. Some may interpret it as having power over the information people share themselves.³⁰ However, one of the most commonly used explanations of a right to privacy is the right to be left alone.³¹ One of the first introductions to such concept was done by authors Samuel D. Warren and Louis D. Brandeis in their article "The Right to Privacy", published in Harvard Law Review in 1890.³² The article focused on the growing exploitation of individuals by the media, and how personal and property interests should be protected by common law. The basic idea they were trying to propose was that "the individual shall have full protection in person and in property" and "the growing abuses of the press made a remedy upon such a distinct ground essential to the protection of private individuals against the outrageous and unjustifiable infliction of mental distress."³³ In other words, the media had overstep its boundaries by prying into the private life of many individuals, and those individuals deserved full protection of the State from violation of their rights.

However, Richard A. Epstein has a different understanding on the matters concerning the right to privacy in his paper "Privacy, Property Rights and Misrepresentations".³⁴ He states, that "privacy, however lofty its pedigree, is the least important tort for a civilized society."³⁵ Specifically, the right to privacy is not essential to sustain a free society and is merely a secondary right, not a

30□Fried, C. (1970).*An Anatomy of Values*. Cambridge: Harvard University Press.

31□Tunick, Mark. (2015) *Balancing privacy and free speech: unwanted attention in the age of social media*. London: New York: Routledge.

32□Warren, D. S., Brandeis, D. L. (1980).*The Right to Privacy*. Vol 4. No.5. Harvard: The Harvard Law Review Association.

33□Prosser, W. L. (1960).*Privacy*. Vol 48. University of California: California Law Review.

34□Epstein, A. R. (1978). Privacy, Property Rights and Misrepresentations. -*Georgia Law Review*.

35 *Ibid.*, p. 14.

primary one. Since the recognition of privacy as a separate and definite violation of one's human rights developed at the end of the nineteenth century³⁶, Richard A. Epstein argues that this only confirms his idea of privacy playing an insignificant role in today's world. William L. Prosser also conceded that the right to privacy and its recognition as a primary right is not as essential as other torts are.³⁷ This is merely because Prosser had examined more than 300 privacy cases, that were available at the time, and concluded that the loss of privacy should be divided into four separate branches, not one, which meant privacy was derived from other rights.³⁸

Those who think that Samuel D. Warren and Louis D. Brandeis were right in proposing the right to privacy as an idea of the right to be left alone, argue against Epstein's and Prosser's theory. The main argument is that if privacy could not be considered as an essential to the society only for the reason that it is derived from other rights, criminology should also be considered as not as vital and as a secondary right, as it is derivative of sociology and psychology. Edward J. Bloustein answered Prosser in his paper "Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser" and proposed a different opinion.³⁹ He suggested "all of the tort privacy cases involve the same interest in preserving human dignity and individuality has important consequences for the development of the tort".⁴⁰ Meaning, the courts had no choice but to adjust their values to better suite cases involving the right to privacy as privacy as a concept was developing at a rapid speed at the time. With the adjustment, it also helped to develop new and improved legal remedies for threats posed by modern technology.⁴¹ Also, illegal surveillance of citizens, which was a newly discovered violation in the age of modern technology, can only be dealt from the common law point of view, which privacy is part of.

36 *Ibid*, p. 14.

37 Prosser (1960), *Supra nota* 33, p 14.

38 *Ibid*.,p. 15.

39 Bloustein. J. E. (1964) *Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser*. New York University School of Law: New York University Law Review.

40 *Ibid*., p. 15.

41 *Ibid*, p. 15.

2.2 Privacy as a human right

Human rights are moral standards describing basic human behaviour. They are considered as legal rights, thus, protected by various conventions accepted by the international community. They are universal and equal to everyone.

The right to privacy establishes the basis of human dignity and other key values, such as freedom of association and freedom of speech, making it one of the most important fundamental values of modern age. It is recognised as a basic human right in the ECHR, the UDHR, The International Covenant on Civil and Political Rights (ICCPR), and in other similar international and regional treaties. To have the right to privacy means to be protected from unlawful and arbitrary intrusions concerning person's privacy, home, family or correspondence, as stated in Article 8 of the ECHR.

The conventions and treaties are not the only entities that have the power to help those whose privacy has been violated. Since the information communication technology has excessively progressed, participatory democracy has gained support more than ever. It has allowed human rights defenders to expose mistreatment that many people, mainly public figures, experience and to provide them with necessary legal assistance.⁴² However, the development of said technologies, that have the power to share information, has its disadvantages also. The technology is more liable to electronic surveillance and interception.⁴³ This kind of abuse of human rights has a dramatic impact on both privacy and freedom of expression.⁴⁴

42 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. General Assembly resolution 53/144 of 9 December 1998. Accessible: <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>, 3 February 2018.

43 Cohen, Julie E. (2012). What Privacy Is For. - *Harvard Law Review*, Vol. 126, No 7. Accessible: <https://ssrn.com/abstract=2175406>, 21 February 2018.

44 *Ibid.*, p. 16.

2.3 Article 8 of The ECHR

Article 8 of the ECHR states: "Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

It is important to note that before starting an appeal in regards to Article 8, an applicant must prove that their complaint has any relation to at least one of the four interests established in the Article.

Specific definition of various aspects of Article 8 of the ECHR have developed over time due to case law- mainly the definition of private life and family life. Explanations for home and correspondence may not be as extensive, but are, nonetheless, still important. The term private life has actually been deemed as too comprehensive of a concept to have an exhaustive definition. In the case *Niemietz v. Germany*, a German lawyer was opposed to a search of his offices as he claimed it was an obstruction of his private life.⁴⁵ The ECtHR concluded: "It would be too restrictive to limit the notion of an 'inner circle' in which the individual may live his own personal life as he chooses and to exclude therefrom entirely the outside world not encompassed within that circle. Respect for private life must also comprise to a certain degree the right to establish and develop relationships with other human beings."⁴⁶ Article 8 mentions the right to establish and develop relationships with other human beings, which comprises of relationships at work too. Due to the profession of the applicant, it can be assumed he had several confidential relationships with his clients and colleagues. Taking into account this particular fact, Article 8 should not be construed as necessarily excluding business activities. In the case *Pretty v United Kingdom*, the applicant was paralysed and suffered a degenerative condition.⁴⁷ She requested for

45□*Niemietz v. Germany*, no. 13710/88, ECHR 1992.

46□*Ibid.*, p. 17.

47□*Pretty v. The United Kingdom*, no. 2346/02, ECHR 2002.

her husband to be allowed to assist her suicide by accompanying her to Switzerland. The Court found no violation of Article 8 since "the interference in this case might be justified as "necessary in a democratic society" for the protection of the rights of others."⁴⁸

Private life contains a wide range of issues, which is why relevant cases have been grouped into three broad categories: a person's physical, psychological or moral integrity, his privacy, and his identity. The first time the Court addressed that private life covered the physical and moral integrity of the person was in the case *X and Y v. the Netherlands*, where a sixteen-year old mentally disabled girl had been a victim of sexual assault.⁴⁹ However, there were no appropriate criminal law provisions to provide her with the effective protection. The Court ruled there had been a breach of Article 8 due to Netherlands's criminal code having a procedural gap in the law in the respect of minors and the people with a mental disability.⁵⁰ In the case *Alkaya v. Turkey*, a well-known Turkish actress filed a charge against a newspaper, which had leaked her home address.⁵¹ The District Court ruled in favour of the paper, claiming due to the applicant's celebrity status, the disclosure of her address is not infringing any of her personal rights. The actress appealed to the ECtHR, in which the Court held that there had been a violation of Article 8. It is important to note that the application was filed in regards to the exposure of her home address, not the frequent disturbances that the actress had to face. The home address did not serve as public interest. Finally, in the case *Oleksandr Volkov v. Ukraine*, the Court found there to be an infringement of applicant's right to respect for private and family life.⁵² Mr Volkov was elected to the post of member of the High Council of Justice, but did not accept the position, as he was not allowed to take the oath of office in Parliament. In the later review of the case, it was discovered the vote to remove Mr Volkov from the office was unlawful under the national law.

The definition of family life under Article 8 is the right to live together for the purpose of family relationships developing normally, which was the premise of the case *Marckx v. Belgium*, where a complaint was filed in relation to procedure in which parents were required to adopt their own

48 *Ibid.*, p. 18.

49 *X and Y v. the Netherlands*, no. 8978/80, ECHR 1985.

50 *Ibid.*, p. 18.

51 *Alkaya v. Turquie*, no. 42811/06, ECHR 2012.

52 *Oleksandr Volkov v. Ukraine*, no. 21722/11, ECHR 2013.

illegitimate child in order to increase their rights.⁵³ A violation of Article 8 was found since the specific laws in Belgium's system, concerning the subject of adoption of illegitimate children, infringed the right to family life by reducing inheritance rights for illegitimate children. One of the main objectives of Article 8 is to protect individuals in cases like this against arbitrary interference by the government. The case also proved that the notion of family life is an autonomous concept⁵⁴. The definition of family life also entails members of the family having the right to enjoy each other's company.⁵⁵ For the purpose of determining whether the idea of family life exists, the Court reviews *de facto* family ties⁵⁶, which include applicants living together, if there is no legal recognition of family life⁵⁷, the length of the relationship, and whether couples have proved their commitment to each other by having children together.⁵⁸ The Court demonstrated the power of *de facto* family life in the case *Ahrens v. Germany*, where the relationship between the applicant and the mother had ended nearly one year before the child was conceived, thus, no violation of Article 8 was found.⁵⁹

The definition of home has to be approached as an autonomous concept which does not rely upon the classification under domestic law.⁶⁰ Therefore, to explain whether a certain habitation, protected by Article 8 § 1, can be considered as a home there has to be a review of the factual circumstances. These include the existence of adequate and stable ties to a specific place.⁶¹ It is important to note, the definition of home is not limited to property of which the applicant can be the owner or tenant⁶², and may extend to permanent occupancy.⁶³ The notion of home also extends to a professional person's office or business premises.⁶⁴

The right to privacy in terms of correspondence means to have the right to protection of confidentiality of communications in various situations. The concept mainly includes letters of a

53 □ *Marckx v. Belgium*, no. 6833/74, ECHR 1979.

54 □ *Ibid.*, p. 42.

55 □ *Olsson v. Sweden (No. 1)*, no. 10465/83, ECHR 1988.

56 □ *K. v. United Kingdom*, no. 11468/85, ECHR 1986.

57 □ *Johnston And Others v. Ireland*, no. 9697/82, ECHR 1986.

58 □ *X, Y And Z v. The United Kingdom*, no. 21830/93, ECHR 1997.

59 □ *Ahrens v. Germany*, no. 45071/09, ECHR 2012.

60 □ *Chiragov and Others v. Armenia*, no. 13216/05, ECHR 2015.

61 □ *Winterstein and Others v. France*, no. 27013/07, ECHR 2013.

62 □ *Menteş And Others v. Turkey*, no. 23186/94, ECHR 1997.

63 □ *Ibid.*, p. 20.

64 □ *Niemetz v. Germany (1992)*, *supra nota* 35. p 17.

private or professional nature⁶⁵, packages⁶⁶, and telephone conversations between family members⁶⁷, business partners, or other associates. In the case *Copland v. UK*, the victim, who was an employee at a college of further education, had been the subject of, at the time, illegal monitoring of her telephone, e-mail and internet usage.⁶⁸ The monitoring of the telephone usage included tracking which telephone numbers she had called, and their dates, times, length and cost. The monitoring of the internet usage was an analysis of the internet sites visited, and their times, dates and duration. The addresses, dates and times of her e-mails were also closely observed. Since there is no specific legal framework in the European Union (EU) governing data processing in the context of employment, the assumed way the employers may process their employees' data is through freely given consent by the employee. In this case, there was no policy in force at the victim's place of work regarding monitoring of telephone, e-mail and internet use. Because of that, the victim filed a complaint of a violation of her Article 8 rights. The ECtHR found the College had infringed applicant's right to privacy, since no provisions existed which regulated the circumstances under which it was allowed for employers to monitor their employees' use of telephone, e-mail and the internet. The case demonstrated the common data protection issue in the modern working environment. The problem being of how much can employers track their employees' electronic communications within the workplace. An ordinary answer to this problem is, it could easily be solved by not allowing private use of communication facilities at work. However, such a broad prohibition could be disproportionate, if not unrealistic.

2.4 The privacy of public figures and public officials

The current society has had its hands full concerning the clash of one's right to privacy and the right of the public to be informed. The argument becomes even more profound when the cases refer to the news scandals about the private life of public figures due to public's intensified interest in them. The press can be ruthless when intruding into individual's private life without any prior consent for the purpose of having a story to publish that may or may not interest the

⁶⁵ *Ibid.*, p. 20.

⁶⁶ *X v. the United Kingdom*, no. 7215/75, ECHR 1978.

⁶⁷ *Margareta and Roger Andersson v. Sweden*, no. 12963/87, ECHR 1992.

⁶⁸ *Copland v. the United Kingdom* no. 62617/00, ECHR 2007.

public. These kind of actions put both of the concerned parties in the spotlight, often in a negative way.

There is a significant gap between the right of privacy for a public person and a private person. Public figures and public officials are under constant threat of having their human rights violated. Samuel D. Warren's and Louis D. Brandeis's idea of privacy meaning the right to be left alone is the ideal explanation what people known to the public desire.⁶⁹ Although majority agrees it is unlawful to expose person's intimate details to the world, it is somehow become more justifiable for people who are known to the public, especially public official due to their responsibility to the community. Most of the time there are three key explanations given for excusing such behaviour. The first is that they have sought fame and attention themselves, thus, having consented to it and have no right to be opposed to it. The second is that their business affairs and personal traits have become known to public, and can no longer be considered a part of their private life. The third reasoning is that the press has the freedom to inform the public about those who can serve as a legitimate interest to the public.⁷⁰

To better understand the subject, the definition of public official and public figure have to be examined, along with the method on how to distinguish between them. In his paper titled "Privacy", William L. Prosser has defined the concept of public figure as a "person who, by his accomplishments, fame, or mode of living, or by adopting a profession or calling which gives the public a legitimate interest in his doings, his affairs, and his character, has become a 'public personage'."⁷¹ However, some may interpret public figures as "those persons who, though not public officials, are involved in issues in which the public has a justified and important interest."⁷² The list can contain athletes, actresses, business people, performers and anyone who has gained fame for their actions. Public officials are undoubtedly under Prosser's definition of public figures, since they are usually government employees who have a serious role in the

69□Warren, Brandeis (1980),*supra nota* 32, p 14.

70□Prosser (1960),*Supra nota* 33, p 14.

71□*Ibid.*, p. 21.

72□*Cepeda v. Cowles Magazine*, no. 392 F.2d 417, US Court of Appeals for the Ninth Circuit 1968.

state's administration and its public affairs. They are also known to the public as the authorities being capable of procuring the safety of the people.⁷³

One of the most well-known cases concerning the privacy of a public person was the case *Von Hannover v. Germany*⁷⁴, in which Caroline von Hannover, the eldest daughter of Prince Rainier III of Monaco, sought to find justice in media publicising her private life.⁷⁵ On several occasions, Princess Caroline had applied to the German courts for an injunction as there were various news reports consisting of series of photographs of the victim, taken without her knowledge. The examples, of the photographs taken, were Caroline horseback riding, having a private dinner with her children or acquaintances, shopping and doing sports. However, the German courts ruled that since Caroline was a figure of contemporary society *par excellence* and a daughter of a monarch, she had to accept the consequences of being a part of the royal family.⁷⁶ The case was also submitted to the ECtHR where it was ruled that the German courts had breached the law as Caroline von Hannover had not been awarded a sufficient level of protection to the right of privacy, which is guaranteed to every person by Article 8 of the ECHR. The court acknowledged that the concepts of protection of private life and freedom of expression have to be in balance. In this particular case, there was no balance as news and photographs reported to the public were of personal and intimate nature. Also, the information that appeared in the media was gathered through constant intrusion and harassment of Princess Caroline's private life. In a case like that the respect for the right of privacy has to take the priority over freedom of expression. All in all, the court recognised even though Caroline von Hannover was considered as a public person, there was no sufficient justification for the violation of her private life.⁷⁷

When examining other similar cases, it can be seen the Court has also ruled that the publication of articles and photographs, of which the sole purpose is to please the interest of a particular readership concerning the public figure's private life, cannot be considered as a contribution to

73□Oxford, A. (2011).*International Authority and the Responsibility to Protect*. New York: Cambridge University Press.

74□Von Hannover v. Germany, no. 59320/00, ECHR 2004.

75□Rudolf, B. (2006).*Council of Europe: Von Hannover v. Germany*. Vol 4, No. 3. Oxford University Press: International Journal of Constitutional Law.

76□Mowbray, A. (2005)*Institutional Developments and Recent Strasbourg Cases*. Vol 5. Oxford university press: Human Rights Law Review. Accessible: <https://doi.org/10.1093/hrlrev/ngi008>, 1 March 2018.

77□Von Hannover v. Germany (no. 2) (2012), *supra nota* 20, p. 11.

society on the purpose of satisfying the general interest of the audience, even though the applicant is known to the public.⁷⁸

On the other hand, many people in the public eye abuse their right to privacy on purpose. That raises a question, whether they really are the victims, if they are doing it willingly and for their own personal gain. Do they deserve the sympathy of the courts, if they were to appeal their case on account of their right to private life being breached? David Flint states "when a public figure expressly or implicitly brings his or her private life into the public area, normal concepts of privacy are waived. A public figure opens up his or her private life to examination if there is an obvious contradiction with values he or she publicly espouses."⁷⁹ It is common for public officials to try to win the public over by advertising their beliefs in a way that makes them gain more popularity. That does not mean they are telling the whole truth about what they truly stand for. Duncan Miller has said "in addition to any waiver of rights to the same level of privacy as a 'private' person by virtue of voluntary entry into the public arena, public figures and politicians often exert more influence over the lives of others. Thus, it is questionable whether they should be accorded the same level of protection."⁸⁰ It is important to note, that Duncan Miller specifically mentioned only those public figures and public officials who have voluntarily given up their status as a private person by becoming famous or infamous due to their work, accomplishments or other similar circumstances, not those, who have not had any choice in the matter, like monarchs.

The particular situation is a complex one, since Article 8 implies every single person, no matter their status, has the right to respect for his private and family life, his home and his correspondence. The fact that there are no sub-categories for public people, and for those who abuse their rights on purpose for their own convenience, makes it more complicated to distinguish those who are actually the victims of having their privacy violated, and those, who did it knowingly.

78 Campmany Y Diez De Revenga and Lopez-Galiacho Perona v. Spain, no. 54224/00, ECHR 2000.

79 Flint, D. (1995-96). *Public Figures and the Press*'

<https://www.cis.org.au/app/uploads/2015/04/images/stories/policy-magazine/1995-summer/1995-11-4-david-flint.pdf>, 3 March 2018.

80 Miller, Duncan. (1966). *Do politicians and other public figures have (moral) privacy rights which can be asserted against the media?* University College London Faculty of Laws: UCL Jurisprudence Review.

3. ANALYSIS

3.1 Analysis

As mentioned earlier, European legislations do not have a clear separate passages limiting and providing clear guidelines in terms of the right to privacy and freedom of expression. If they were to be added, it may be assumed the processes of many of the cases, concerning the two subjects, would have been straightforward or cease to exist at all. The key for balancing and improving both Article 8 and Article 10 is to strive for proportionality.⁸¹ Even though the internationally recognised European regulations do not provide victims with the proper security and legal representatives with definite protocols to base their defence around, some of the Member States, and non-Member States, have adopted laws of their own, offering some protection to their citizens, who may fall victims of such violations. Reviewing internationally recognised legislations, and adding sub-categories to provide better guidelines for future disputes, could improve public people's right to privacy as well as being of help to the news media, who are protected under the freedom of expression.

The question of proportionality is a necessary one to examine. The case *Von Hannover v. Germany* went on for many years before finally reaching a conclusion. Since it concerns both freedom of expression and one's right to privacy, the potential change to the laws would be beneficial for both sides. The German courts defended their decision, to not rule in favour of Princess Caroline, against ECtHR with the explanation that the public had a legitimate interest in Caroline Von Hannover's life and therefore, she could not claim that there had been a violation of her private life based on Article 8 of the ECHR.⁸² That raises a question on how to measure the general interest of the public to know when it is justified to publish similar news stories of public figures and public officials? When does a story become "newsworthy"? The phrases are quite vague and in need of clear definition. The fact was, this particular report of Caroline Von Hannover did not advertise any ideas, that the public should be informed of, but rather secretly

81 □ Rozenberg, J. (2005). *Privacy and the press. s.l.*: Oxford University Press.

82 □ Von Hannover v. Germany (2004). *supra nota* 74, p 22.

taken photographs, along with personal and intimate information about the victim. However, in a similar case concerning a public person, *Axel Springer AG v. Germany*, it was found that the victim was the news media, not the German actor who claimed his right to privacy was breached when the articles about his arrest and sentencing appeared. Both of these cases involved a well-known entity, who was photographed and made into a news story without their consent, and whose private details were available for the whole world to read. Yet, there is a big difference in the outcome of those two cases, as one infringed the applicant's right to privacy based on Article 8 of the ECHR, and the other violated the applicants' right to freedom of expression and freedom of press based on Article 10 of the ECHR. The difference is, the latter news story happened in a public setting, a beer festival, with plenty of witnesses. Caroline Von Hannover's case concerned photographs taken in an intimate setting, for example in a private part of the restaurant, which Princess Caroline had requested herself to avoid being a target of paparazzi. The comparison of those two cases may give some sense of direction towards which the legislators should strive at when defining the concept of general interest. When a public person is aware of their surroundings and goes out of their way to avoid publicity, they should not be punished by having their case, about the violation of the right to privacy, ruled against them just because the term general interest does not have a comprehensive definition yet. Furthermore, the specific definition of general interest could also benefit everyone under the umbrella of freedom of expression. The media could defend their rights, to provide public with stories in what they are interested and what they deserve to know, better, and without worrying about a possible claim brought against them. Joshua Halberstam proposes three elements that the news should be to be considered as of general interest.⁸³ First, the word news implies what is broadcasted is considered to be current; second, news derive from a specific event; third, an event itself is not news, but rather the reportings and the portrayal of the event.⁸⁴

There is also a status-based distinction to be made in the cases discussed above. The level of reputation of a person raises several questions. Does the status of a public figure or a public official necessarily mean that they must surrender their right to have privacy to the news media under the justification of "public's general interest" or "newsworthiness"? On what scale can we measure the importance of a person to consider them a public person, rather than a private

⁸³ *Philosophical Issues in Journalism*. (1992). /Ed. Cohen. E. D. New York: Oxford university press.

⁸⁴ *Ibid.*, p. 26.

person? Also, can there be a distinction made based on a public person's profession? No matter how the celebrity status was achieved, the crowd generally believes that public people should actually experience less privacy protection due to their status and fame since those two factors have helped them gain significant power in the society. The specific argument that the public typically offers is that "a loss of privacy is the fair price a famous person pays for his fame. The rewards of fame are large-wealth, social status, public recognition, power and influence, and so on."⁸⁵ However, how is it in tune with the principle that every person has the right of privacy, autonomy and self-determination⁸⁶, when the reputation of an individual's name determines how much he or she gets to enjoy those rights? If the public is determined, that the celebrity status comes with a price, do they also agree that in the case *Alkaya v. Turkey*⁸⁷ the address leak of a well-known actress was justified solely on the claim that since she had chosen to become an actress she should expect such violation of privacy? The case *Axel Springer AG v. Germany*⁸⁸ also involved a well-known actor and the publication of what he believed to be private information. Yet, in his case the publishers were found to be the victim, not the actor. It is still important to consider that even though the ECtHR found the publishers' rights were breached, it is still a fact that news media found that the actor's arrest was relevant enough to broadcast it to their readers. Comparing the two cases, the legislations should establish what is a serious violation of privacy and what is merely informing the public of a specific celebrity's doings. The case *Von Hannover v. Germany*⁸⁹ was also about an infringement of privacy of a celebrity, though, a different kind of celebrity to previously mentioned ones. As specified in the earlier chapters, the applicant, Caroline Von Hannover, is a member of the royal family. Even if the public's claim is taken into account, that the celebrity status is small price to pay⁹⁰, do monarchs also fit into the category? A person cannot choose the family which they are born into, thus, they did not choose the status of a public person. However, when a private person marries into the family of royals, can they also argue that their privacy was taken away merely for falling in love with a royal, or did they consent to this as they were aware of their spouse's status before-hand? On one hand, since they entered into the legal commitment voluntarily, they should have expected that they are going to be in the public's eye and their privacy could be violated. On the other, if they are not engaged in the state's affairs, are well-known for something other than their

85□McKaig, D. L. (1952-1953).Public Interest as a Limitation of the Right to Privacy. Vol. 41.

86□Richards, D. AJ. (1986).*Toleration and the Constitution*. New York: Oxford University Press.

87□Alkaya v. Turkey (2012).*Supra nota* 51, p 18

88□Axel Springer AG v. Germany (2012).*Supra nota* 16, p 10.

89□Von Hannover v. Germany (2004).*Supra nota* 74, p 22.

90□McKaig (1952-1953).*Supra nota* 85, p 27

spouse or do not purposely publicise themselves, they should still have the option to be considered as a private person.

From the viewpoint of freedom of expression, are there less intrusive ways to exercise freedom of press than posting revealing pictures of a public person? For example, is it sufficient to just publish a story on a public figure being intoxicated, or is it justified to also attach the pictures of said event with the report as well? The fact is, any picture that is available to the public on any platform can be twisted into a whole new story, that may or may not be true. When Hillary Clinton was doing one of her campaign stops in South Carolina, she accidentally stumbled as she was climbing up the steps of a mansion. One of Hillary's associates helped her regain the balance and the whole incident was captured by a photographer. However, several months later an alt-right news site proclaimed the photograph as evidence of the woman's failing health.⁹¹

3.2 The convention

The proposal is that Article 8 and Article 10 of the ECHR should be amended. The amendments would be done to the convention itself, as opposed to drafting a whole new protocol. The reason, for not creating a new document for the protection of public figures and public officials, is that Article 8 is quite out-dated in a sense that it also does not have a specific definition for the word "family". The modifications made to both of these articles would allow for better and faster judgements. The actions brought to courts would not have to depend so much on relevant case-law, as there would already be guidelines on the matter. However, if the articles of the Convention would go under review, every aspect must be examined, not only the parts that would benefit a public person in Article 8 and the media in Article 10. Since the articles have gone into force, the society has developed considerably and many phrases can be interpreted differently.

91□ Mallonee, L. (2016) *WIRED.HOW PHOTOS FUEL THE SPREAD OF FAKE NEWS*. Accessible: <https://www.wired.com/2016/12/photos-fuel-spread-fake-news/>, 14 March 2018.

3.3 Definition of public figure and public official

The first thing to review in both Article 8 and Article 10 is the definition of a public person. It is vital to include the definition in both of the articles since the sub-category should be added in relation to every person's right to privacy but at the same time every person's right to freedom of expression. The definition could be derived from William L. Prosser's paper "Privacy", as he defined both public figure and public official. It is important to make the distinction, since public officials are responsible for the well-being of their citizens due to being government employees. Public figures are merely famous or infamous due to their achievements, line of work or other similar circumstances.

3.4 Definition of general interest

After establishing who constitutes as a public figure and public official, the definition of general interest should be added specifically to Article 10, since the freedom of press is under the umbrella of freedom of expression. General interest must always mean information that the public deserves to know. For example, exposing home addresses of public figures does not have any justification in any scenario, so, that cannot ever be considered as an information that should be published by the media. When talking about public figures, the general interest can be regarded as everything that happens in public and the celebrity does not make it a point to hide from the photographers. Going to extreme measures to take a private photograph or gain intimate information about a well-known individuals cannot be considered as newsworthy, as well as morally right.⁹² The definition of general interest regarding public officials should also entail the previous point. However, since they are government employees and are responsible for the welfare of the citizens, safety of the state, and public affairs, there should be additional points added. Journalists should not be afraid of a possible defamation case, filed by a public official against them, for publishing something the public deserves to know. The protocol has to ensure that the media can justify their continued publication on public officials. Serious investigative

⁹²□Lambeth, E. B. (1986).*Committed Journalism: An Ethic for the Profession*. Bloomington: Indiana University Press.

journalists must have a chance to expose serious violations of rights, for example political or financial corruption. Privacy should not be confused with secrecy, that could potentially harm the well-being of a state and its people. Still, media should understand the difference between exposing someone for corruption and exposing irrelevant information about an individual. All in all, the dissemination of intimate information and private photographs of public figures and public officials in their private lives falls outside the freedom of expression and cannot be considered as public's general interest.

3.5 Photographs

As previously mentioned, it is not always necessary to include a photograph of the public figure or public official in the report. The picture can be taken out of context and turned into a new story for the media to publish, which could damage the person's reputation. Article 10 should include a passage stating the published photograph must coincide with the term "general interest". If the photograph is not morally appropriate to accompany the news story, then it should not be published.

3.6 Monarchs

Special mention should also be made in relation to monarchs. Even though some members of a royal family may be the authorities in charge of different aspects of state's affairs, not all have the desire to be part of that. The members of the family, who cannot be considered as public officials, must be treated as private person's. No photographs or private information should be released about them in the media, as the only thing which has made them well-known is being born into a royal family. Of course, if the family member is involved in the politics, they should be treated as a public official. Respectively, if a person becomes a part of the family of monarch's, by either legal commitment or similar circumstances, they must also be treated as a private person. This only applies if they cannot be considered as a public figure of a public official before joining the family.

3.7 Abuse of power

Public figures and public officials who abuse their power and their right to privacy must face the consequences. If they were of sound mind at the time of exposing themselves voluntarily, they should accept the fact they do not have the power to start a claim against the media for publishing news stories about them. As previously mentioned in the previous paragraphs, before starting an appeal in regards to Article 8, the applicant must prove their complaint has any relation to at least one of the four interests established in the said article. There should be a limitation added in regards to starting an appeal, if the person has exposed themselves on purpose for various reasons. If the person can provide reliable proof that they have not been taking advantage of their status as public figure, the Court may proceed with the case as they would if the applicant was a private person. If there is no decent proof that there had not been abuse of power, the Court may dismiss the case. If the applicant decides to appeal their defamation case to the higher court, but has previously been accused and found guilty of abusing their status, it must also be taken into consideration.

CONCLUSION

The aim of study

The aim of the paper was to closely inspect Article 8 and Article 10 of the ECHR, as well as make suggestions on how the document can be improved in regards to the right of privacy of public people. It was important to establish what happens to public figures and public officials who take advantage of their status. It was also necessary to determine who of the various members of the royal family constitute as public official, public figure, or a private person.

Main results

Amending Article 8 of the ECHR would demonstrate to public figures and public officials that their fight against the infringement of their privacy has been taken into consideration. It is unrealistic and morally unacceptable that people should suffer from such a violation just because of their line of work, the status of the family they were born into, or the status of their partner they have made a legal commitment with.

The definition of a public official shall be interpreted as people, who are specifically responsible for the well-being of their citizens, and state or international affairs. If a public person does not abuse their power or goes out of their way to avoid publicity, they should not be punished by having their intimate information published in the media. Even though they are well-known in the society, they still deserve the right to privacy. With that being said, the extended protection should not apply for those who purposely abuse their power or status. The deliberate exploitation of one's private life for the purpose of gaining public's sympathy or to further their career must not be tolerated. If a public person abuses their status, their appeal to the Court may be inadmissible. One of the prominent sub-categories of public people, which does not get enough recognition, is monarchs. If they are not considered public figures or public officials, and are famous merely due to the fact they were born into the royal family, they must be treated as a private person.

It is important to note that while amending Article 8, Article 10 should also be modified. As previously mentioned, the two rights only work if they are in harmony, so, the freedom of expression must not be suppressed. The news media should not be stripped of their power and duty to report publishings that the public may have interest in. This is especially important when talking about public officials. Furthermore, the media plays a vital role in exposing illegal activities of those public officials, that may be damaging to the state's affairs. Nevertheless, journalists can often overstep their boundaries, which indicates the need of revision of the article. The most important change that needs to be made is the determining the definition of phrase "general interest" and adding it to the article, since it is the core of concluding whether the report has the grounds for publishing. Reviewing other aspects, that the media can violate, is also crucial and contribute to the end result, which is either to protect the news media from wrongful accusations, or to help public people start a claim against the publishers for infringing their right to privacy.

Conclusions, assessments and proposals:

- Article 8 and Article 10 of the ECHR should be amended and sub-chapters should be added to protect both public people and the freedom of press;
- the right to privacy must be in balance with the freedom of expression;
- the public figures and public officials deserve more protection that the ECHR can provide at this time;
- news media must not be silenced if there is a general interest;
- journalists must have the chance to reveal unlawful doings of public officials;
- abuse of power must not be tolerated and limitations regarding the subject should be added;
- reviewing the articles would set an example of the improvements the other articles are in need of;
- there is no need to draw up a new protocol, however, every aspect of Article 8 and Article 10 must be closely examined.

Even though reviewing the Convention would spark many debates, whether the people in the public's eye deserve higher protection or not, it would also be an important step towards a more secure future, and would create a new meaning to the right to privacy, as it would include a specific group of people who do not get to experience it as much as a private person does. The two fundamental freedoms are a necessity for a democratic society, thus, improving those outdated articles would only set an example of the importance of analysing more articles in similar international legislations. It is only logical, that the more our community progresses, the more changes we have to make to accompany the progress. As mentioned previously, several Member States have already taken into account that public officials cannot be expected to give up their right to privacy, and have established laws to support that claim. Still, those laws may not hold that much power in ECtHR, as they do in the national courts. In the future, an improved draft of the ECHR will inspire individual Member States to review their laws in regard to privacy and its protection, which would benefit both national courts and ECtHR.

LIST OF REFERENCES

Scientific books:

1. Bloustein, J. E. (1964) *Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser*. New York University School of Law: New York University Law Review.
2. Carlyle, T. (1966). *On Heroes and Hero Worship*. s.l.: University of Nebraska Press.
3. Diggelmann, O., Cleis, M. N. (2014) *How the Right to Privacy Became a Human Right*. Vol 14. Oxford: Oxford University Press.
4. *Philosophical Issues in Journalism*. (1992). /Ed. Cohen. E. D. New York: Oxford university press.
5. Fawcett, J. H. (2016). *Spectacular Disappearances: Celebrity and Privacy, 1696-1801*. s.l.: University of Michigan Press.
6. Fried, C. (1970). *An Anatomy of Values*. Cambridge: Harvard University Press.
7. Lambeth, E. B. (1986). *Committed Journalism: An Ethic for the Profession*. Bloomington: Indiana University Press.
8. *Press Law in Modern Democracies: a Comparative Study*. (1985). /Ed. Lahav. P. Vol 9. s.l.: Maryland Journal of International Law.
9. McDonagh, M. (2013). *The Right to Information in International Human Rights Law*. Vol 13. Oxford university press: Human Rights Law Review.
10. Miller, Duncan. (1966). *Do politicians and other public figures have (moral) privacy rights which can be asserted against the media?* University College London Faculty of Laws: UCL Jurisprudence Review.
11. *On Liberty*. (2003). /Ed. Bromwich, D., Kateb, G. New Haven: Yale University Press.
12. Mills, J. L. (2015). *Privacy in the new media age*. s.l.: The university press of Florida.
13. Mowbray, A. (2005) *Institutional Developments and Recent Strasbourg Cases*. Vol 5. Oxford university press: Human Rights Law Review.
14. Norris, P. (2012). *Driving Democracy: Do Power-Sharing Institutions Work?* Cambridge: Cambridge University Press.

15. Oxford, A. (2011). *International Authority and the Responsibility to Protect*. New York: Cambridge University Press.
16. Richards, D. A.J. (1986). *Toleration and the Constitution*. New York: Oxford University Press.
17. Rozenberg, J. (2005). *Privacy and the press. s.l.*: Oxford University Press.
18. Rudolf, B. (2006). *Council of Europe: Von Hannover v. Germany*. Vol 4, No. 3. Oxford University Press: International Journal of Constitutional Law.
19. Schultz, J. (1998). *Reviving the Fourth Estate: Democracy, Accountability and the Media*. Cambridge: Cambridge University Press.
20. Warren, D. S., Brandeis, D. L. (1980). *The Right to Privacy*. Vol 4. No.5. Harvard: The Harvard Law Review Association.
21. Prosser, W. L. (1960). *Privacy*. Vol 48. University of California: California Law Review.

Scientific articles:

22. Cohen, Julie E. (2012). What Privacy Is For. - *Harvard Law Review*, Vol. 126, No 7.
23. Epstein, A. R. (1978). Privacy, Property Rights and Misrepresentations. - *Georgia Law Review*.
24. McKaig, D. L. (1952-1953). Public Interest as a Limitation of the Right to Privacy. Vol. 41.

EU, international and national legislation:

25. Bürgerliches Gesetzbuch (BGB) in der Fassung der Bekanntmachung vom 2. Januar 2002. Bundesgesetzblatt.
26. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. General Assembly resolution 53/144 of 9 December 1998. United Nations.
27. Grundgesetz für die Bundesrepublik Deutschland vom 23. Mai 1949. Grundordnung der Bundesrepublik Deutschland.
28. Loi du 29 juillet 1881 sur la liberté de la presse. La Troisième République.

29. Strafgesetzbuch in der Fassung der Bekanntmachung vom 13. November 1998.
Bundesrepublik Deutschland.

30. Universal Declaration of Human Rights, 10 December 1948, 217 A (III). United Nations.

Other court decisions:

31. *Cepeda v. Cowles Magazine*, no. 392 F.2d 417, US Court of Appeals for the Ninth Circuit 1968.

32. *X v. the United Kingdom*, no. 7215/75, ECHR 1978.

33. *Marckx v. Belgium*, no. 6833/74, ECHR 1979.

34. *X and Y v. the Netherlands*, no. 8978/80, ECHR 1985.

35. *Johnston And Others v. Ireland*, no. 9697/82, ECHR 1986.

36. *K. v. United Kingdom*, no. 11468/85, ECHR 1986.

37. *Olsson v. Sweden (No. 1)*, no. 10465/83, ECHR 1988.

38. *Margareta and Roger Andersson v. Sweden*, no. 12963/87, ECHR 1992.

39. *Niemetz v. Germany*, no. 13710/88, ECHR 1992.

40. *Menteş And Others v. Turkey*, no. 23186/94, ECHR 1997.

41. *X, Y And Z v. The United Kingdom*, no. 21830/93, ECHR 1997.

42. *Campmany Y Diez De Revenga and Lopez-Galiacho Perona v. Spain*, no. 54224/00, ECHR 2000.

43. *Pretty v. The United Kingdom*, no. 2346/02, ECHR 2002.

44. *Von Hannover v. Germany*, no. 59320/00, ECHR 2004.

45. *Copland v. the United Kingdom* no. 62617/00, ECHR 2007.

46. *Ahrens v. Germany*, no. 45071/09, ECHR 2012.

47. *Alkaya v. Turquie*, no. 42811/06, ECHR 2012.

48. *Axel Springer AG v. Germany*, no. 39954/08, ECHR 2012.

49. *Von Hannover v. Germany (no. 2)*, no. 40660/08, ECHR 2012.

50. Von Hannover v. Germany (no. 3), no. 8772/10, ECHR 2014.
51. Oleksandr Volkov v. Ukraine, no. 21722/11, ECHR 2013.
52. Winterstein and Others v. France, no. 27013/07, ECHR 2013.
53. Chiragov and Others v. Armenia, no. 13216/05, ECHR 2015.
54. Couderc and Hachette Filipacchi Associés v France, no. 40454/07, ECHR 2015.