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Comparative Analysis of the Protection of Private Life of Public Officials and Public Figures Guaranteed by the Constitution of the United States and European Convention for the Protection of Human Rights and Fundamental Freedoms

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Good name in man and woman, dear my Lord, is the immediate jewel of their souls:
who steals my purse steals trash, but he that filches from me my good name
robs me of that which not enriches him, but makes me poor indeed.

Othello

Shakespeare

Introduction

The right to privacy is one of the main rights that is connected with many other rights and that can be regarded as a basis for enjoyment of other rights. However, the public officials' and public figures' private life is often becoming a matter of discussion in society that constitutes an infringement of the right to privacy. These kinds of intervention sometimes result in damaging of the name and, even sometimes, of the lives of public figures. On the other hand ordinary people are interested in the particulars of the public figures and public officials' lives, which is natural, as they (the public persons) are always in the center of attention.

Different states deals with this issue in a different way. Some gives the privilege to the right to inform and be informed, others believe that the protection of privacy is more important than the right to free press and freedom of expression. Third ones try to keep the balance between these rights.

The aim of this paper is to analyze the standpoints of European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the Constitution of the United States of

America to the protection of public figures and public officials right to privacy. This paper also describes and analyzes the situation regarding the balance between the right to free press and privacy right of public officials and public figures kept by US Courts and the European Court on Human Rights (ECtHR). The right to damage recovery in cases of libel is also one of the purposes of the paper.

Definition of Privacy

The definition of "privacy" varies depending on the context and environment.[1] Moreover it may differ from country to country. There is no wholly satisfactory definition of this term. According to Westin privacy is "the claim of individuals……to determine for themselves when, how and to what extent information about them is communicated to others……. Privacy is the voluntary and temporary withdrawal of a person from the general society through physical and psychological means."[2]

Marshall, while giving the definition of privacy according to Bloustein, described it as "an interest of the human personality: privacy rights protect the inviolate personality, the individual's independence, dignity and integrity."[3]

The UK Committee on Privacy and Related Matters adopted the following definition of the right to privacy in 1990: "[t]he right of the individual to be protected against intrusion into his personal life or affairs, or those of his family, by direct physical means or by publication of information"[4]

Australian Privacy Charter by stating the importance of the right to privacy in a free and democratic country defines it as "autonomy of individuals and limits on the power to of both

[1] Marshall, Jill Personal Freedom through Human Rights Law? Autonomy, Identity and Integrity under the European Convention on Human Rights, Boston: Martinus Nijhoff Publishers, 2009
[2] Westin, Privacy and Freedom, London: Bodley Head, 1967, p.7
[3] Supra note 1 p. 51
[4] Report of the Committee on Privacy and Related Matters, Chairman David Calcutt QC, 1990 cited by Marshall, supra note 1.

state and private organizations to intrude on that autonomy."[5] (See the original text in Attachment 1)

[5] Australian Privacy Charter from http://www.rogerclarke.com/DV/PrivacyCharter.html

Definition of Privacy from the ECHR Perspective

The right to privacy is protected by Article 8(1) of the ECHR and is considered to be one of the essential rights guaranteed by the ECHR. (See the full text of the Article in Attachment 2.) The Declaration on the Mass Media and Human Rights adopted by the Parliamentary Assembly in 1970 defined the right to privacy as: "[t]he right to live one's life with a *minimum of interference*. It concerns private, family and home life, physical and moral integrity, honour and reputation, avoidance of being placed in a false light, non-revelation of irrelevant and embarrassing facts, unauthorized publication of private photographs, protection from disclosure of information given or received by the individual confidentially."

In 1998, after the tragic death of Princess Diana, the Parliamentary Assembly adopted another Resolution that has appended new elements to the Declaration on the Mass Media and Human Rights (1970). It states that:

2. [After the death of the Princess of Wales] some people called for the protection of privacy, and in particular that of public figures, to be reinforced at the European level by means of a convention, while others believed that privacy was sufficiently protected by national legislation and the European Convention on Human Rights, and that freedom of expression should not be jeopardised.

4. The right to privacy, guaranteed by Article 8 of the European Convention on Human Rights, has already been defined by the Assembly in the declaration on mass communication media and human rights, contained within Resolution 428 (1970), as "the right to live one's own life with a minimum of interference".

5. In view of the new communication technologies which make it possible to store and use personal data, the right to control one's own data should be added to this definition.

6. The Assembly is aware that personal privacy is often invaded as people's private lives have become a highly lucrative commodity for certain sectors of the media. The victims are essentially public figures, since details of their

private lives serve as a stimulus to sales. At the same time, public figures must recognize that the position they occupy in society — in many cases by choice — automatically entails increased pressure on their privacy.

7. Public figures are persons holding public office and/or using public resources and, more broadly speaking, all those who play a role in public life, whether in politics, the economy, the arts, the social sphere, sport or in any other domain.

8. It is often in the name of a one-sided interpretation of the right to freedom of expression, which is guaranteed in Article 10 of the European Convention on Human Rights, that the media invade people's privacy, claiming that their readers are entitled to know everything about public figures.

9. Certain facts relating to the private lives of public figures, particularly politicians, may indeed be of interest to citizens, and it may therefore be legitimate for readers, who are also voters, to be informed of those facts.

10. It is therefore necessary to find a way of balancing the exercise of two fundamental rights, both of which are guaranteed in the European Convention on Human Rights: the right to respect for one's private life and the right to freedom of expression.

11. The Assembly reaffirms the importance of every person's right to privacy, and of the right to freedom of expression, as fundamental to a democratic society. These rights are neither absolute nor in any hierarchical order, since they are of equal value.

12. However, the Assembly points out that the right to privacy afforded by Article 8 of the European Convention on Human Rights should not only protect an individual against interference by public authorities, but also against interference by private persons or institutions, including the mass media.[6]

This interpretation of the right to privacy is in accordance with the Case Law of the ECtHR that, through its practice, balanced the two fundamental rights – right to privacy and the right to free expression. As the Analysis of the paper will show ECtHR highly protects the public figures right to privacy and at the same time reduced this right of public officials deeming it necessary for an effective democratic country.

[6] Parliamentary Assembly**,** Resolution 1165 (1998) Right to privacy from http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta98/eres1165.htm

Definition of "privacy" from the US Constitution perspective

The right to privacy is not explicitly defined by the Constitution of the United States. However, the US courts as well as scholars gave its definition. According to Henkin the right to privacy "is a zone prima facie autonomy, of presumptive immunity from regulation, in addition to that established by the First Amendment. The zone…… consists of 'personal rights' that can be deemed 'fundamental'. [T]he right has 'some extension' to marriage, sexual relations, contraception, unwanted children, family relations and paternal autonomy. But we will know which rights are and which rights are not within the zone only case by case, with lines drawn and redrawn, in response to individual and social initiatives and the imaginativeness of lawyers."[7]

Those aspects of an individual's life that fall in the category of fundamental liberties constitute "prima facie autonomy" and cannot be interfered unless there is clearly established "public good"[8].

In the book "Constitutional rights: Civil Rights and Civil Liberties" Fisher has defined the right to privacy as "the right of a person to prevent intrusion into certain thoughts and activities."[9]

The most popular definition of the privacy is given by Brandeis and Samuel D. Warren (1890) that defined the right to privacy as "the right to be let alone".

[7] William B. Lockhart, Yale Kamisar, Jesse H. Choper *Constitutional Rights and Liberties Cases and Materials*, 1981, p. 160
[8] Ibid
[9] Fisher, Louis Constitutional rights: Civil Rights and Civil Liberties, McGraw-Hill, Inc.,1990, p. 1141

Right to Privacy Guaranteed by USA Constitution

The privacy right of public officials and public figures is in altercation with the right of free press and freedom of expression. The rights to freedom of speech and free press is considered to be one of the most protected rights in the US, guaranteed by the First Amendment of the US Constitution that states "Congress shall make no law….. abridging the freedom of speech, or of the press".[10] However very often the mass media face rather costly suits brought by public figures and officials as well as their families for damage of their reputation and defamation. In balancing the right of free press and that of privacy and libel the US Supreme court in the case of Gertz v. Robert Welch, Inc. said that it is necessary to "protect some falsehood in order to protect some speech that matters."[11]

In spite of the fact that suits concerning the protection of public officials' privacy is backed to the nineteenth century (in the case White v. Nicholls, 44 U.S., (3 How.) 226 (1845))[12] the case that is considered to be one of the cornerstones in determining officials' privacy right is New York Times Co. v. Sullivan. In this case the US Supreme Court made a rule according to which an official cannot claim for a damage recovery from a press libel if there was no "actual malice", i.e. "the knowledge that it was false or with reckless disregard of whether it was false or not"[13]. (See attachment 3). Later, at the same year, the US Supreme Court reaffirmed the principle of

[10] **First Amendment - Religion and Expression form http://caselaw.lp.findlaw.com/data/constitution/amendment01/**
[11] Gertz v. Robert Welch, Inc., 418U.S. 323, 341 (1974)
[12] Louis Fisher *American Constitutional Law*, Caroline Academic Press, 2001

[13] U.S. Supreme Court **NEW YORK TIMES CO. v. SULLIVAN, 376 U.S. 254 (1964), part II**

from http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=376&page=254

Sullivan in holding that state power is limited by the US Constitution in issues concerning public officials' official conduct.[14](See attachment 4)

Apart from the protection of public officials' privacy it is important to speak also about other public figures' privacy protection. While dealing with "public figures' privacy issue, as proved by the US case law, US courts are especially cautious in distinguishing between public figures and private individuals.[15] In the case of Gertz v. Robert Welch, Inc the Court draw a demarcation line between individuals and public officials/public figures as libel plaintiffs, defining a higher threshold for damage recovery for public official and public figures in comparison to private individuals.[16] However in 1971 the US Supreme Court in its decision on Rosenbloom v. Metromedia (Rosenbloom v. Metromedia, 403 U.S. 29 (1971)) departed from the doctrine of "public figures", i.e. the doctrine that public figures, unlike private individuals, have reduced right to privacy because of their fame in public life.[17] According to Rosenbloom the main issue that needs to be examined is not so much the object, i.e. public official, a public figure, or a private individual, but the context of the published information, i.e. whether the issue at table is of public, general concern or not.[18] Under this test, as Fisher mentioned, the press is given "special protection and tolerance"[19] which is reflected in the concurrence of Justice White, who stated that for a press to be liable of defamation, a public figure or a public official should prove that there was an actual malice in the action of the press. However if the plaintiff is not a public figure s/he should only prove that there was "negligent falsehood". According to this test a non-

[14] Louis Fisher *American Constitutional Law*, Caroline Academic Press, 2001

[15] Time Inc. v. Hill, 385 U.S. 374 (1967); Curtis Publishing Co. v. Butts, 388 U.S. 130 (1967); Harte-Hanks Communications v. Connaughton 491 U.S. 657 (1989)
[16] Craig R. Ducat, Harold W. Chase, Constitutional Interpretation-5th ed., 1992.
[17] Time Inc. v. Hill, 385 U.S. 374 (1967)
[18] Louis Fisher *American Constitutional Law*, Caroline Academic Press, 2001
[19] Ibid, p. 581

public official or figure should also prove "deliberate or reckless error", if the publication is "in the area of legitimate public interest".[20] This doctrine was dominant during several years, however later it was abandoned as it did not provide sufficient protection for private individuals as private individuals, according to Gertz v. Robert Welch, Inc, are "more vulnerable to injury, and the state interest in protecting them is correspondingly greater"[21].

Through time the Court practice started to protect individuals' right to privacy more firmly by narrowing down the definition of "public figure" that puts individuals in better position in gaining damage recovery. However, in mid 1980s the US courts went back to the doctrine of "public concern". This time they inspect the issue on whether it is a "purely private concern". If it is determined that the issue lack "public concern" and is of private disquiet, the plaintiff may get damage recovery without proving the actual malice as in this case there is less First Amendment protection.[22]

Thus, throughout its practice, the US Supreme Court mastered three doctrines of the precedential law:*

1. Actual malice – a public official or public figures have the right of compensation for intrusion into privacy and libel, if the publication was made with mal intention, i.e. "Knowledge that [the provided information] was false or made with reckless disregard of whether it was false or not." (New York Times Co. v. Sullivan, 376 U.S. 254 (1964)

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20 Rosenbloom v. Metromedia, Inc. 403 U.S. 29, concurring judgment, part 1, from http://www.bc.edu/bc_org/avp/cas/comm/free_speech/rosenbloom.html

21 Gertz v. Robert Welch, Inc 418 U.S. 323 (1974) from http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=US&vol=418&invol=323

22 Supra note 12

* Scholars usually mention 4 doctrines, but for this particular paper the 3 doctrines are regarded important from the author's point of view

2. Public figure – If individuals, because of their profession, have become celebrities, they enjoy abridged privacy rights and they should meet higher standards of proof to be able to recover damages (Times, Inc. v. Hill, 385 U.S. 374 (1967)
3. Public or general concern – it is more difficult to recover damages if the published information is about matters of public or general concerns. (Rosenbloom v. Metromedia, Inc. 403 U.S. 29)

As noted above the First Amendment protected the press not only being sued for libel, if the mal intend is not proved, but also from being sued if they intrude into public officials or public figures private life. Accordingly, it is necessary to regard this issue not only from the perspective of the First Amendment, but also from other provision stated in the US Constitution. Hence, regardless of the fact that the US Constitution does not explicitly protect "right to privacy", such US Constitution Amendments as the Third Amendment (Prohibition of quartering soldiers out of houses without the house-owner's consent)[23], Fourth Amendment ("The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures")[24], Fifth Amendment ("No person shall ……be compelled in any criminal case to be a witness against himself")[25], and Ninth Amendment ("The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."[26]) generally protect some rights of privacy, though imperceptibly.[27]

[23] US Constitution: Third Amendment from http://caselaw.lp.findlaw.com/data/constitution/amendment03/
[24] US Constitution: Fourth Amendment from http://caselaw.lp.findlaw.com/data/constitution/amendment04/
[25] US Constitution: Fifth Amendment from http://caselaw.lp.findlaw.com/data/constitution/amendment05/
[26] US Constitution: Ninth Amendment from http://caselaw.lp.findlaw.com/data/constitution/amendment09/
[27] Supra note 9, p.1141

However, when there is a contradiction between free press right and the right of privacy, the right to free press almost always prevail.[28]

[28] Patrick J. Alach, *Paparazzi and Privacy,* Loyola Of Los Angeles Entertainment Law Review [Vol. 28:205. 2008] Loyola Law School, Los Angeles; University of Michigan from http://www.lexisnexis.com.ezproxy.library.tufts.edu/us/lnacademic/results/docview/docview.do?docLinkInd=true&risb=21_T7327562354&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultsUrlKey=29_T7327562357&cisb=22_T7327562356&treeMax=true&treeWidth=0&csi=149412&docNo=4, p.208

Right to Privacy Guaranteed by European Court on Human Rights

Article 8 of the ECHR guarantees "respect for [a person's] private and family life, his home and his correspondence" (Article 8.1) at the same time it limits the state's authority to interfere in the mentioned rights (Article 8.2).(See the full Article in Attachment 2). However this limitation is interpreted much broader by the European Court on Human Rights (ECtHR) and includes "interference by private persons or institutions, including the mass media."[29] Moreover in the case of Von Hannover v. Germany the ECtHR stated that a state is not only obliged not to interfere with the private life of an individual, but it also has positive obligations to guarantee "an effective respect for private or family life"[30] These obligations may involve the adoption of measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves.

Thus according to the interpretation of Article 8, there is:

a. "[an] obligation of the authorities to take steps to make sure that the enjoyment of the right [to privacy] is effective";
b. "[an] obligation of the authorities to take steps to make sure that the enjoyment of the right is not interfered with by other private persons."[31]

[29]Supra note 28, p
[30] Von Hannover v. Germany (2004), par. 57
[31]Harris, M. O'Boyle, C. Warbrick *Law of the European Convention on Human Rights,* Reed Elsevier (UK) Ltd, 1995, p. 284

According to the ECtHR Case law the right to privacy, guaranteed by Article 8, is of the same importance as the right to freedom of expression guaranteed under Article 10 of ECHR.[32] (See the text of Article 10 in Attachment 5). Moreover, the court deems it necessary to balance these rights. When balancing the competing interests of freedom of the press and the right of privacy, the court noted the importance of free expression in a democratic society and the role of the press as a government "watchdog."[33] However, at the same time the court draws a demarcation line between the right of the press to inform the public and the right of public figures to privacy. According to the court, rights of free expression should be reduced when the expression does not stimulate a debate of public interest that is of vital importance in democratic countries, and where the subject of the expression is private in nature.

When balancing the competing interests of freedom of the press and the right of privacy, the court draws also a distinction between "reporting facts— even controversial ones—capable of contributing to a debate in a democratic society relating to politicians in the exercise of their functions, for example, and reporting details of the private life of an individual, who . . . does not exercise official functions." [34] This distinction is justified by the fact that in the latter case the press does not exercise its function of being a governmental "watchdog", but it just satisfies the public's interest in famous people.

The Court gives freedom of expression a narrow interpretation[35] and enlarged the notion of private life. In the Court's view, the right to private life includes "a person's physical and psychological integrity. [T]he guarantee afforded by Article 8 of the Convention is primarily intended to ensure the development, without outside interference, of the personality of each

[32] Supra note
[33] Supra note 30 para. 58
[34] Supra note 30, para. 63
[35] Ibid

individual in his relations with other human beings. There is therefore a zone of interaction of a person with others, even in a public context, which may fall within the scope of 'private life' ".[36] This definition was given in the case of Von Hannover v. Germany that is considered to be one of the essential cases in ECtHR case law that deals with private life of celebrities. According to the facts of this case German paparrazi took pictures of Princess Caroline of Monaco during her daily life without her consent. In this case the court found a violation of Article 8 as, among other factors, the Court considers that "anyone, even if they are known to the general public, must be able to enjoy a 'legitimate expectation' of protection of and respect for their private life"[37] and did not accept the German government's argument that classifying the applicant as "a figure of contemporary society '*par excellence*' " should limit her right to privacy, which means that the sole fact that she, not being a public official, but being a public figure, should tolerate intrusion into her private life which limits the protection of her private life.

Contrary to public figures, public officials, as proved by the ECtHR Case Law, enjoy reduced right to privacy, because as stated in *Law of the European Convention on Human Rights*, "toleration of different views is an essential part of a democratic political system"[38]. Politicians are required to tolerate criticism, even if it is a sharp attack and has some elements of defamation, for the sake of democratic interest. While balancing public officials' right to privacy and the right to free press, the ECtHR rules in favour of free press taking into account its role in a democratic society. The case of Lingen v. Austria (1986) may serve an example. In this case Lingen, a journalist, published an article that criticized the Austrian Chancellor's friendship with a person who was convicted for his Nazi past. Lingen accused the Chancellor of being an "opportunist". As a result the applicant was convicted. The court found the conviction as a

[36], Ibid, para.50
[37] Ibid, para. 69
[38]Supra note 31, p. 377

violation of Article 10 of the ECHR. In its decision the Court took into consideration the important political position of the official and the necessity of criticism of a public official for an effective democratic society. The court also stated that even if Lingen could not prove the truthiness of the published facts that does not constitute an exception from Article 10 of the ECHR as "a law requiring the proof of truth of opinions held about political figures is not necessary in a democratic society."[39]

[39] Lingens v. Austria para. 46 (1986) (for more information see also cases Oberschlick v. Austria (1991), Thorgierson v. Iceland (1992)

Comparative analyses of public figures' and public officials' right to privacy guaranteed in the US Constitution and the ECHR

The approach to the right to privacy for public officials and figures by the US Constitution differs from that of the ECHR. While the United States courts does pay attention on whether the individual, whose privacy is intruded is a public official/public figure or s/he is a "private individual", the ECHR differentiates between public official and public figure, awarding public figures much more protection to privacy then to public officials, especially those who hold a political position.

To illustrate the differences and similarities between these two systems in protecting the right to privacy of public figures and public officials the below table is proposed.

Points of Comparison	US Constitution	ECHR
Protection of the right to privacy	The right is protected implicitly by the Amendments Three, Four, Five and Nine.	The right is protected explicitly by Article 8
Protection of Freedom of Expression and Free Press	First Amendment	Article 10
Freedom of Expression/ Press v. The Right to Privacy	The right to expression/press prevails over the right to privacy as it is considered to	**Public Figures** ECtHR balances the interests of freedom of the press and

	be one of the fundamental rights guaranteed by the US Constitution. This idea is reflected in Justice Stone's and Cardozo's consideration that there is a need of "extraordinary judicial protection" for the freedom of press, speech and religion against invasion, even if that invasion is for public good taking into account their essential role in a democratic state.[40]	the right of privacy. It does not diminish the importance of freedom of expression in a democratic society and the role of the press as a government "watchdog."[41] However, at the same time the court distinguishes between the right of the press to inform the public and the right of public figures to privacy. The court reduces the right to freedom of expression if it does not stimulate a debate of public interest and where the subject of the expression is private in nature. The fact that an individual is a celebrity does not deprive him/her from his/her right to a 'legitimate expectation' of

[40] Supra note 7, p.129
[41] Supra note 30 para. 58

		protection of and respect for his/her private life" **<u>Public Officials</u>** The right of privacy is reduced for public officials as criticism, no matter how sharp it could be, is an essential element for an effective democratic society and public officials should "pay the price" for the sake of democratic interest.
Threshold for Damage Recovery for Public Figures and Public Officials	For a public official or a public figure to have the right of compensation for intrusion into his/her private life (or for defamation), s/he should prove that, there was: a. Actual malice in the publication, i.e. "[the] knowledge that [the provided information] was false or	ECHR does not apply any threshold and examines the issue on case-by-case bases. However it applies a test of "stimulation of a debate of public interest" that is of crucial importance for a transparent democracy and test of "overriding public interest"

	made with reckless disregard of whether it was false or not." (New York Times Co. v. Sullivan, 376 U.S. 254 (1964) b. No public or general concern. If the publication includes information that is of public/general concern there cannot be any recovery as the public in a democratic country has the right of information. (Rosenbloom v. Metromedia, Inc. 403 U.S. 29)	
Distinction between a Public Figure and a Public Official	US case law does not differentiate between a public figure and a public official in regard to issues of privacy.	ECtHR treats the right to privacy of public officials differently from that of public figures. The rights of public officials are diminished, as the court considers it the right and the duty of the press to expose the behaviour and actions of public officials for the benefit of democratic and transparent

		society. This diminishment does not apply for those who do not hold public official positions.
Abridged Privacy Rights for Public Figures and Public Officials	The right to privacy of a public figure or a public official is diminished and it is required of them to meet higher standards of proof to be able to recover damages (Times, Inc. v. Hill, 385 U.S. 374 (1967)	ECtHR applies similar to US standards for public officials, though it does not explicitly put thresholds for public officials. At the same time the Court does not recognise any diminishment of this right for public figures.
Libel	US courts, while interpreting the issue of libel in regard to public figures or public officials, permit some degree of defamation. As is stated in the case of Gertz it is necessary to "protect some falsehood in order to protect some speech that matters."	The ECtHR has the same standing as the US courts in regard to public officials.

Conclusion

The Constitution of the United States and the ECHR has different standpoints in protection of the right to privacy of public figures and public officials. The ECHR protects the rights of public figures more broadly by balancing the right of free expression (Article 10) and that of privacy (Article 8) when US courts make decisions mostly in favour of press. According to US Constitutional interpretation, the right to freedom of speech and free press, guaranteed by the First Amendment is a fundamental right taking into account its essentiality for a democratic country. Moreover the public interest here is opposed to private interest and the public interest prevails, which strengthen the right of free press and freedom of expression.

ECHR balances these two rights. It gives the mass media the privilege to critique and intrusion into the privacy of public officials, considering this function of the press as that of a "watchdog" which is very important for having a effective democratic country at the same time it protects the right of public figures to be free from mass media intrusion into their life as it does not promote the debate of public interest that is necessary for a democratic country.

However, there are many similarities when the issue at table concerns public officials. In both systems the right to privacy of public official is reduced. Moreover there is some margin of libel that is permitted in both systems. As is stated in *Law of the European Convention on Human Rights "*[Q]ualities of 'tolerance and broadmindedness' which characterize a democratic society require not approved information and received ideas enter into circulation, but that publication which 'offend, shock and disturb' do so also."[42]

[42] Supra note 31

Though, as is shown above, the US case law made it difficult for public officials and public figures to win cases against the press if the issue at table concerns privacy, celebrities are awarded large amounts of sum for damage recovery. For example, Ariel Sharon sued Time magazine for $50 000 000 for a publication that said that he "had encouraged the massacre of hundreds of Lebanese in Sabra and Shatila refugee camps".[43]

Thus, to conclude it should be said that while promoting the right to free press, that is necessary for a democratic society, the right of privacy of public figures should not be undermined. The balance is necessary for a democratic country where all the people should have equal rights in spite of profession or family relations. One may argue that the public interest should always prevail over private interest. And here the right of society to be informed is confronting the right of public figures to privacy. The contra-argument should be here that the right to be informed is of crucial importance if the information deals with public issues, while the private life of celebrities cannot be considered to have neither public concern nor interest that is necessary for a democratic country. But the ruined reputation of a public figure will hardly be rehabilitated. As Shakespeare wrote in Othello "Good name in man and woman, dear my Lord, is the immediate jewel of their souls: who steals my purse steals trash, but he that filches from me my good name robs me of that which not enriches him, but makes me poor indeed."

As a closing remark it should be said that the differentiation between public figures and public officials as well as balance between right to privacy of public figures and right to free press will perhaps prevent such tragedies as Princess Diana's death to happen. That is why the protection of the right to privacy is of vital importance for any democratic country.

[43] Ibid, p. 583

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