

LEGAL REMEDIES FOR INSULT AND DEFAMATION IN NORTH MACEDONIAN LAW: THE PROTECTION OF PERSONALITY RIGHTS

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Abstract

Insult and defamation continue to challenge the protection of personality rights and the balance between individual dignity and freedom of expression. This paper examines the legal remedies available under North Macedonian civil law for addressing harm caused by insult and defamation. It provides a comprehensive analysis of the legal framework established by the Law on Obligations, the Law on Civil Liability for Insult and Defamation, as well as relevant constitutional and international provisions. Through a doctrinal and comparative approach, the paper explores how North Macedonian courts apply civil remedies – such as compensation for non-pecuniary damage, publication of apologies, and retractions – while ensuring compliance with the standards of the European Convention on Human Rights (Article 10) and the case law of the European Court of Human Rights.

The study highlights the persistent tension between protecting an individual's reputation and safeguarding freedom of the press and public debate. It identifies key challenges, including inconsistent judicial practice, divergent interpretations of moral damage, and the absence of clear criteria for determining liability and compensation. By examining the alignment of domestic judicial reasoning with the ECHR's jurisprudence, the paper underscores the importance of proportionality, legal certainty, and the avoidance of "chilling effects" on journalistic expression.

The paper concludes that a more coherent and rights-based approach to civil liability for insult and defamation is essential, calling for refined judicial guidelines, greater public awareness of civil remedies, and closer harmonization of national law with European human rights standards.

Keywords: insult; defamation; personality rights; civil liability; freedom of expression; reputation; non-pecuniary damage; legal remedies

1. Introduction

Insult and defamation disputes sit at the intersection of two legitimate interests: the civil-law need to protect an individual's honour and reputation, and the democratic need to preserve open public debate and press freedom. (Convention for the Protection of Human Rights and Fundamental Freedoms [ECHR], 1950, art. 10(2); European Court of Human Rights [ECtHR], 2022)

In civil-law doctrine, honour and reputation are treated as protected non-material interests ("personal goods"), while the legally enforceable entitlement to protect them is framed as a personality right. For natural persons, these interests are inseparable from the individual's personality and exist together with the person; for legal persons, protection applies functionally to their good name and reputation. Because personal interests are inherently tied to a specific subject, they arise with the subject's legal existence and cease when that subject ceases to exist. Personality rights are typically described as rights that are closely connected to the person,

absolute in effect, durable, inalienable, and non-transferable. (Zhivkovska & Przheska, 2021, pp. 217-218)|

Under Article 10(2) ECHR, restrictions on expression may pursue the “protection of the reputation or rights of others,” but only if they are prescribed by law and “necessary in a democratic society,” which requires a proportionality analysis rather than automatic preference for either speech or reputation. (ECHR, 1950, art. 10(2); ECtHR, 2022) In defamation-type disputes, the ECtHR’s standards require domestic courts to assess context (including public interest and the role of the press) and to ensure that remedies – especially damages – do not create chilling effects that discourage legitimate journalism and public participation. (ECtHR, 2022)|

Against this background, North Macedonia’s policy has shifted toward addressing insult and defamation primarily through civil liability, reflecting a broader decriminalization-oriented trend and a move away from classic criminal punishment (European Parliament, 2012; Law on Civil Liability for Insult and Defamation, 2012; Majhosev & Majhosev, 2017). The adoption of the Law on Civil Liability for Insult and Defamation in 2012 (Official Gazette No. 143/2012) created a specialized statutory framework for civil protection of honour and reputation, placing civil remedies and liability standards at the centre of the legal response to harmful speech. Public debate about the calibration of these remedies has continued: in 2021, proposed amendments discussed publicly included lowering maximum compensation amounts for non-pecuniary damage in media-related cases, with suggested caps (in denar countervalue) of 400 EUR for a journalist, 2,000 EUR for an editor, and 5,000 EUR for a publishing legal entity. (Georgiev–Kalica, 2021)

Research questions

This paper addresses the following questions:

- What interests and right-holders are protected as “personality rights” in North Macedonian civil law when insult or defamation is alleged? (Law on Civil Liability for Insult and Defamation, 2012)|
- What are the substantive conditions for civil liability for insult and defamation, and what key defences shape the unlawfulness analysis? (ECtHR, 2022; Law on Civil Liability for Insult and Defamation, 2012)|
- Which civil remedies (including non-pecuniary damages and corrective measures) are available, and how should proportionality guide both the choice and intensity of remedies? (ECtHR, 2022)|
- How do procedural factors (proof, timing, interim measures, and judicial reasoning) affect the effectiveness of reputational protection and the risk of chilling effects? (ECtHR, 2022)|
- To what extent does the North Macedonian civil liability model align with ECtHR standards for balancing reputation and freedom of expression under Article 10 ECHR? (ECHR, 1950, art. 10(2); ECtHR, 2022)|

Methodology and structure

This paper employs a doctrinal method to analyze the normative framework governing the civil protection of honour and reputation in North Macedonia, with particular attention to the Law on Civil Liability for Insult and Defamation (2012) and its relationship with general obligations and law concepts of non-pecuniary damage. (Law on Civil Liability for Insult and Defamation, 2012; Law on Obligations, 2001) The doctrinal analysis is complemented by targeted case-law analysis, focusing on how courts articulate unlawfulness, defences, and proportionality when

ordering remedies such as damages or corrective measures. (Constitutional Court of the Republic of Macedonia, 2015; European Court of Human Rights [ECtHR], 2022)|

A limited comparative benchmark is used in the form of Article 10 ECHR and the ECtHR's interpretive standards for defamation-related interferences with freedom of expression, especially proportionality and the avoidance of chilling effects. (Convention for the Protection of Human Rights and Fundamental Freedoms [ECHR], 1950, art. 10(2); ECtHR, 2022) The analysis proceeds in two steps: it first addresses the substantive civil-law rules governing liability, defences, and remedies, and then turns to the procedural civil-law rules that determine how these claims are litigated, proved, and enforced in practice.

2. Personality Rights and Scope of Protection

For the purposes of this paper, *personality rights* are treated as legally protected, non-material interests that secure a person's moral and social integrity – most importantly, dignity, honour, and reputation – against unjustified attacks through speech (ECtHR, 2022). In North Macedonian civil law, this protection is operationalized through remedies that respond to the *harm* caused by the insult/defamation (e.g., non-pecuniary damage and corrective measures), rather than through punishment, which aligns with the post-decriminalization logic of the current framework (Law on Civil Liability for Insult and Defamation, 2012).|

2.1. Protected interests (what the law protects):

In doctrinal terms, the insult/defamation framework protects two closely connected values: (1) the individual's internal moral worth (dignity/honour) and (2) the individual's external standing in society (reputation). (ECtHR, 2022) North Macedonian obligations-law concepts are relevant here because general civil liability rules recognize non-pecuniary harm as legally compensable damage and provide the broader basis for awarding monetary satisfaction for moral injury. (Law on Obligations, 2001) At the same time, the special 2012 law specifies civil liability for damage inflicted on honour and reputation by insult and defamation, making it the central “speech-to-civil-remedy” instrument in this field. (Law on Civil Liability for Insult and Defamation, 2012)|

2.2. Right-holders (who are protected):

Protection is primarily centered on natural persons, since dignity, honour, and moral suffering are inherently human interests. (ECtHR, 2022) However, North Macedonian law also recognizes that reputation can attach to legal persons (and, in some situations, groups), meaning that they may also claim protection when their reputation is harmed by insulting or defamatory statements. This is explicitly reflected in the domestic constitutional-law discussion of the 2012 statute, where the Constitutional Court describes the law's purpose as regulating civil liability for damage inflicted on the honour and reputation of a natural or legal person, and it addresses the possibility of insult/defamation directed at legal persons and groups. (Constitutional Court of the Republic of Macedonia, 2015)|

At the same time, the existence of protection for legal persons does not mean that legal persons and natural persons are protected identically. The paper therefore uses a functional approach: natural persons are protected in respect of dignity, honour, and reputation, while legal persons are treated as protected mainly in respect of *reputation* (i.e., the social evaluation of the entity that may affect its standing and activities). (Constitutional Court of the Republic of Macedonia, 2015)|

2.3. Built-in balancing (why the scope is not absolute)

The scope of personality-rights protection in insult/defamation disputes cannot be defined solely by domestic civil-law concepts because the legal response to harmful speech is also a restriction on expression. (ECHR, 1950, art. 10(2)) Under Article 10(2) ECHR, interference with expression may pursue “the protection of the reputation or rights of others,” but it must also be prescribed by law and necessary in a democratic society – requirements that force courts to reason in terms of proportionality and necessity. (ECHR, 1950, art. 10(2); ECtHR, 2022) In practice, this means that courts should not only decide whether reputation was harmed, but also whether imposing liability (and choosing a particular remedy) is justified in light of the context, the public-interest value of the speech, and the intensity of the interference. (ECtHR, 2022)|

This balancing requirement is especially relevant for media-related cases, where excessive damages or overly restrictive measures can discourage investigative journalism and robust public debate. (ECtHR, 2022) In other words, “scope of protection” is not simply the maximum reach of personality rights; it is the outcome of a structured balancing exercise in which reputation-protection remains a legitimate aim, but remedies must still be proportionate and compatible with the democratic role of the press. (ECtHR, 2022; ECHR, 1950, art. 10(2))

3. When Speech Becomes Liability: Statutory Elements and the Proportionality Test

North Macedonian civil liability for insult and defamation is built around a recognizable set of elements that connect the *impugned expression* to a legally relevant injury to honour and reputation, while still requiring courts to keep freedom of expression and proportionality in view (ECHR, 1950, art. 10(2); ECtHR, 2022). Although the Law on Civil Liability for Insult and Defamation (2012) is the *lex specialis* for speech-based attacks on honour and reputation, it operates together with general obligations-law concepts on damage and compensation, especially the civil-law recognition of non-pecuniary harm (Law on Civil Liability for Insult and Defamation, 2012; Law on Obligations, 2001).|

3.1. *The impugned expression (statement or publication plus dissemination)*

The first step is identifying the expression that is alleged to be insulting or defamatory (e.g., a statement, publication, behaviour, posting, or other form of communication), including *where* and *how widely* it was disseminated (Law on Civil Liability for Insult and Defamation, 2012). Dissemination matters because the 2012 framework explicitly treats mass-media publication as a special context (newspapers, TV/radio programmes, electronic publications, and other editorially shaped content accessible to the public), which can expand both harm and the circle of potentially liable actors (Constitutional Court of the Republic of Macedonia, 2015).|

3.2. *Identification of the claimant (direct or indirect)*

Civil liability presupposes that the expression is about an identifiable claimant, meaning the person’s identity is determined or at least obvious from context (Law on Civil Liability for Insult and Defamation, 2012). Identification can be direct (name stated) or indirect (circumstances allow readers/viewers to understand who is being targeted), and this becomes particularly relevant in media cases where insinuation or contextual clues may substitute for explicit naming (Constitutional Court of the Republic of Macedonia, 2015).|

3.3. *Unlawfulness: when speech crosses the threshold*

The unlawfulness threshold differs depending on whether the claim is framed as an insult or defamation. (Law on Civil Liability for Insult and Defamation, 2012)|

- Insult (civil-law concept): The core idea is a degrading opinion or expression that violates another's honour and reputation and is made with an intention to belittle/disparage (Law on Civil Liability for Insult and Defamation, 2012).|
- Defamation (civil-law concept): The core idea is stating or spreading *false facts* harmful to honour and reputation in front of a third person, with a required mental element regarding falsity (Law on Civil Liability for Insult and Defamation, 2012).|

This is also where the Article 10 ECHR “built-in balancing” becomes practically decisive: even when reputational harm is alleged, courts must still assess whether imposing civil liability is a necessary and proportionate interference with expression in a democratic society (ECHR, 1950, art. 10(2); ECtHR, 2022).|

3.4. *Fault (intent or negligence and how it is inferred)*

Fault is not treated as a purely abstract moral concept; it is embedded in how the statutory definitions are drafted. (Law on Civil Liability for Insult and Defamation, 2012)|

- For insult, intent is explicit: the expression must be made with the intention to belittle or disparage (Law on Civil Liability for Insult and Defamation, 2012).|
- For defamation, the mental element includes both knowledge and negligence-type formulations, since liability can arise where the speaker “knows” or was “obliged and could know” that the factual allegations were untrue (Law on Civil Liability for Insult and Defamation, 2012).|

In practice, courts infer intent or negligence from context: the wording and tone used, the steps taken to verify facts, the public-interest setting, and (in media disputes) whether the publication was “editorially shaped” in a way that amplifies the defamatory or insulting meaning (Constitutional Court of the Republic of Macedonia, 2015).|

3.5. *Harm and causation (non-pecuniary harm as core)*

The central harm in insult/defamation litigation is typically non-pecuniary damage (moral harm or mental suffering), which is why compensation for non-pecuniary damage becomes a core remedy in the civil-law design (Law on Obligations, 2001). Obligations law provides the general civil-law basis for recognizing and compensating non-pecuniary harm, while pecuniary damage (e.g., proven financial loss) requires a clearer evidentiary link between the publication and the economic consequences (Law on Obligations, 2001). In Article 10 terms, the “harm–remedy” link also matters because the intensity of the remedy (especially damages) must remain proportionate to the seriousness and impact of the violation, so that civil liability does not become a chilling instrument against public debate and journalism (ECtHR, 2022).

4. Defences and Exclusions: Protecting Legitimate Speech

In North Macedonian civil defamation law, “defences and exclusions” perform a dual function: they prevent civil liability where the impugned expression falls within socially necessary channels of communication (official proceedings, public debate, journalism), and they operationalize the Article 10 ECHR demand that restrictions on speech be *necessary* and proportionate. Read together with the ECtHR approach, these mechanisms reflect the idea that reputational protection is legitimate, but it cannot justify liability where the speaker acted within accepted democratic and professional standards – especially on matters of public interest.|

4.1. *Exclusions for insult (statutory “safe channels”)*

The Law on Civil Liability for Insult and Defamation expressly excludes civil liability for insult in a set of enumerated situations that function as statutory “safe channels,” primarily

to protect the transmission of statements originating from institutional or otherwise protected public contexts (Law on Civil Liability for Insult and Defamation, 2012, art. 7). Article 7 covers republication or transmission linked to contexts such as parliamentary and municipal-council activity, administrative or judicial proceedings, and proceedings before the Ombudsman, while reserving liability where the transmission is made with malicious intent (Law on Civil Liability for Insult and Defamation, 2012, art. 7). The same provision also extends the exclusion logic to transmission of content from official documents or communications of competent bodies, communications of international organizations or conferences, investigations, public gatherings and other public manifestations, and certain republication scenarios (Law on Civil Liability for Insult and Defamation, 2012, art. 7).| Doctrinally, these exclusions should be applied as part of a structured balancing exercise, because imposing civil liability and remedies still amounts to an interference with expression that must remain compatible with constitutional free-expression guarantees and Article 10-type proportionality reasoning (Constitutional Court of the Republic of Macedonia, 2015, U.no. 48/2013)

4.2. Exclusions for defamation (public interest and professional roles)

For defamation, the exclusion regime is primarily anchored in Articles 9 and 10, with Article 10 providing a role or function-based catalogue of protected contexts (Law on Civil Liability for Insult and Defamation, 2012, arts. 9-10). In particular, Article 10 excludes liability for defamation where the impugned factual allegations are made within recognised social roles and functions - such as scientific, literary, or artistic activity; serious review linked to official duties; journalism; and political or broader social activity – and where the communication is aimed at protecting freedom of expression, the public interest, or other justified interests (Law on Civil Liability for Insult and Defamation, 2012, art. 10). Article 10 is framed as an additional layer to the defamation framework in Article 9 (which also contains defamation-relevant exclusions or defences in its further paragraphs), so the “no-liability” analysis in defamation cases must be conducted across both provisions rather than treated as a single-article check (Law on Civil Liability for Insult and Defamation, 2012, arts. 9-10).|

In constitutional terms, domestic application of these exclusions must still be reasoned in a way that demonstrates the necessity and proportionality of any interference, especially in public-interest and media contexts (Constitutional Court of the Republic of Macedonia, 2015, U.no. 48/2013).

4.3. Article 10-compatible defences (facts, opinions, and good faith)

At the Convention level, defences in defamation-type disputes must reflect the ECtHR’s core distinctions – especially the distinction between statements of fact (potentially provable) and value judgments (not susceptible to strict truth proof), alongside a contextual assessment of public interest and the role of the press as a public watchdog. Because civil liability itself is an “interference” with expression, Article 10(2) requires domestic courts to show that imposing liability (and selecting remedies) is lawful, pursues a legitimate aim (reputation), and remains necessary and proportionate in a democratic society. In practical terms, this supports defences or exclusions that protect good-faith participation in debate, accurate or responsibly verified reporting, and criticism of public officials where a sufficient factual basis exists – even if the criticism is sharp or upsetting.|

5. Civil Remedies and Forms of Relief

North Macedonian civil protection in insult/defamation disputes can be systematized as (i) preventive measures aimed at stopping further dissemination, (ii) corrective/restorative

measures aimed at repairing reputational harm in the public sphere, and (iii) compensatory relief aimed at monetary satisfaction for proved harm, while remaining aligned with Article 10 ECHR standards in domestic adjudication. In this remedial logic, proportionality operates not only at the liability stage but also as a practical constraint on the *severity* of the remedy, particularly where strong sanctions risk chilling legitimate speech (Council of Europe, 2023).

5.1. *Preventive remedies (cease-and-desist, removal or injunction-type relief)*

Preventive relief is conceptually directed at halting ongoing or imminent harm by restricting further dissemination of the impugned statement rather than compensating past injury. In the Constitutional Court's account of the 2012 framework, a claimant may request a temporary measure prohibiting further publication of an insulting or defamatory statement together with the lawsuit. The same account indicates that such a prohibition is tied to strict conditions (the statement must already be released, and further publication must threaten irreparable non-pecuniary or pecuniary harm), with an expedited decision deadline of three days (Constitutional Court of the Republic of Macedonia, 2015).

5.2. *Corrective or restorative remedies (correction, retraction, reply, publication of judgment, apology if recognized)*

Corrective measures are directed at reputational repair by publicly clarifying the falsity or impropriety of a statement and restoring the claimant's standing, rather than primarily transferring money (Law on Obligations, 2001). The Law on Obligations explicitly recognizes non-monetary "moral satisfaction" techniques within the remedial vocabulary for non-pecuniary harm through mechanisms framed as "announcing the verdict or correction," which fits the logic of correction or retraction-type relief (Law on Obligations, 2001). In practice-oriented monitoring of defamation litigation, non-monetary outcomes (e.g., apology and/or removal of harmful content) are discussed as remedial options used in at least some cases, although their availability and framing depend on the specific legal basis applied in the judgment (Media Development Center, n.d.).

5.3. *Compensatory remedies (non-pecuniary damages and pecuniary damages with strict proof)*

Compensatory relief remains central because reputational injury is typically litigated as non-pecuniary harm (mental distress) rather than purely economic loss (Law on Obligations, 2001, art. 189). Article 189 of the Law on Obligations provides for "fair monetary compensation" for mental distress suffered due to, among other grounds, injury to "reputation" and "honor," and instructs courts to consider the significance of the injured value and the purpose of compensation. The same provision also requires courts to ensure that compensation does not satisfy objectives that are "unjust" and contrary to the nature of non-pecuniary compensation, which supports a non-punitive, proportional approach to damages (Law on Obligations, 2001, art. 189). Where pecuniary (material) damage is claimed (e.g., financial loss causally linked to the publication), the Law on Obligations also addresses injury to honour or untrue statements and resulting damage, which doctrinally supports stricter proof of loss and causation when economic compensation is sought (Law on Obligations, 2001, art. 187).

5.4. *Proportionality "checkpoint" (remedy severity and chilling effect)*

Domestic analysis of freedom-of-expression case-law in North Macedonia treats "the amount of compensation and the chilling effect" as a distinct Convention-sensitive problem area, underscoring that damages must be calibrated with particular care in speech cases (Council of Europe, 2023). In operational terms, proportionality at the remedial stage means that even

where a violation is established, the chosen remedy (especially damages) should be no more severe than necessary to repair the proven harm, because fear of sanction can deter future participation in public debate (Council of Europe, 2023; Pech, 2021).

6. Procedural Framework in Defamation and Insult Cases in North Macedonia

The procedural framework for civil claims based on insult and defamation in North Macedonia is primarily governed by the Law on Civil Liability for Insult and Defamation (Official Gazette of the Republic of Macedonia No. 143/12), in conjunction with the general rules of civil procedure derived from the Law on contentious procedure (Law on Contentious Procedure of the Republic of North Macedonia, 2005) and, where applicable, from the Law on Obligations (Law on Obligations, 2001; Constitutional Court of the Republic of Macedonia, 2015, U.no. 48/2013). This comes as a result of the new approach of the national legal system, which treats insult and defamation as a matter of civil and not criminal liability, a transformation that came as a result of a shift formally established by the adoption of the Law in 2012 (Majhosev, Andon, and Majhosev, Darko, 2017).

6.1. Legal basis of the procedure

The Law itself defines substantive (material) liability for insult and defamation. Article 4, paragraph 2 of the Law provides that “in the procedure for establishment of liability for insult and defamation and compensation of damage, the provisions of the Law on Obligations, Civil Procedure Code, and Law on Enforcement (Law on Enforcement of the Republic of North Macedonia, 2016) will be applied, unless otherwise defined by this Law.” In other words, the Law on Civil Liability for Insult and Defamation operates as a *lex specialis* for substantive matters (liability, remedies, limits of compensation, types of defendants), but leaves procedural matters to the general civil-procedure legislation, except where the Law provides a special rule. This structure was confirmed by the Constitutional Court of North Macedonia in its 2015 Resolution U.no. 48/2013. This hybrid model ensures that defamation/insult cases follow the familiar rules of civil litigation (filing of claim, pleadings, evidence, hearings, enforcement), but within a specialized substantive framework designed to address the sensitivities of reputation, honor, and free expression. And once a civil court issues a final judgment awarding compensation or ordering retraction/apology or other measures, enforcement follows under the general rules of the Law on Enforcement (Art. 4, par. 2).

6.2. Initiation of the procedure and its features

Under the Law, both natural persons and legal persons (e.g., companies, NGOs) can bring a claim for insult or defamation. The object of protection is the honor and reputation of the person or entity (Art. 1). The claim can be directed against various possible defendants depending on the medium or form of the offending statement: natural persons (authors), editors, the legal entity publisher, in principle media outlets, if the insult/defamation was made through a “means of public information”. In case the injured party is a child, the parent or guardian is authorized to file a lawsuit (Art. 19, par. 2). In case when the injured party through insult or defamation is deceased, his/her spouse, children, parents, brothers or sisters, adoptive parents, adoptee or other person with whom the deceased person lived in a common household is authorized to file a lawsuit, if damage was caused to their honor and reputation by the insult or defamation (Art. 19 par. 3).

Regarding timing, according to first and second paragraphs of article 20, the deadline for initiating proceedings is 3 months (subjective deadline) from the date when the injured party learned (or should have learned) about the insulting or defamatory content and the identity of the person who caused it, but in any event no later than one year (objective deadline) from the

date the statement was made public. This limitation period is critical because delayed lawsuits may be rejected as time-barred under the procedural rules for civil claims.

Regarding jurisdiction, a competent court is the Basic court corresponding to the place where the insult or defamation was “executed,” i.e., where the statement was published/broadcast (Art. 21, para. 1, 2). For instance, if a publication occurred in Skopje, the Basic Court in Skopje would normally have jurisdiction.

A highly significant procedural feature under the Law is the allocation of the burden of proof. Under Article 9, in proceedings for civil liability for insult and defamation, the burden of proof lies on the defendant, i.e., the person who made the allegedly insulting or defamatory statement. The defendant is obligated to prove that the statement was true (truth is a defense) or that he had justification to believe in its truth (in cases where the law allows). This represents a departure from the standard burden of proof regime under the Law on contentious procedure (where typically each party bears responsibility for proving the facts it asserts). The shift was adopted precisely because defamation involves false public statements damaging personal rights, and truth, as a defense, is given a central role. Therefore, in practice, once the plaintiff establishes a *prima facie* case that a statement was made that harmed his/her reputation, the defendant must prove truth, justification, or another recognized defense under the Law. If the defendant fails to do so, liability for insult or defamation (and corresponding remedies) may be imposed.

6.3. Remedies, compensation, and court discretion within a procedural setting

The Law provides for a range of remedies: compensation for pecuniary and non-pecuniary damages, and non-monetary remedies such as retraction, correction, or publication of an apology or court decision. When the court assesses compensation, it must take into account the circumstances of the case, including whether the defendant issued a public apology or retraction (mitigating factors) and the defendant’s financial situation (Art.16, par.2).

For non-pecuniary (moral) damages, the Law sets upper limits when the defendant is a journalist, editor, or media outlet reflecting a balancing interest between protection of reputation and freedom of expression in journalism (Constitutional Court of the Republic of Macedonia, 2015, U.no. 48/2013). The courts retain discretion, but within the statutory corridors. According to commentary, when assessing the amount of compensation, courts must comply with proportionality principles and consider the effect on free expression, following also relevant standards from the European Court of Human Rights (ECHR).

6.4. Temporary and protective measures

The Law also allows for temporary (interim) measures. Notably, the court can issue a temporary prohibition on further publication of an allegedly insulting or defamatory statement. Under the Law, such an order may be made if the statement was already released and if the court is “reasonably confident that its further publication will inflict irreparable non-pecuniary or pecuniary damage to the injured party” (Constitutional Court of the Republic of Macedonia, 2015, U.no. 48/2013).

However, this provision has been controversial. In the constitutional review of the Law, the Constitutional Court criticized aspects of Article 23 (on temporary publication bans), notably the short time limit (3 days) to decide such requests, the lack of a right of appeal for the defendant, and the broad discretion given to courts. The Court pointed out that this could disproportionately restrict freedom of expression, contrary to the domestic constitution and the European Convention on Human Rights (Constitutional Court of the Republic of Macedonia, 2015, U.no. 48/2013). Consequently, although the Law provides for such measures, their practical application may be limited by constitutional and human-rights constraints; courts must carefully balance the rights of the injured party against the risk to freedom of expression.

7. Conclusions

North Macedonia's civil-law model for insult and defamation reflects a deliberate shift away from punitive criminal logic toward a remedial framework that protects honour, dignity, and reputation through civil liability and civil remedies, primarily under the Law on Civil Liability for Insult and Defamation (2012) in interaction with the Law on Obligations (2001). This design is normatively defensible only if it is continuously "Article 10-aware": liability and remedies must pursue protection of reputation while remaining lawful, necessary, and proportionate in a democratic society, in line with the ECtHR's methodology and the avoidance of chilling effects.

Substantively, the paper has shown that the Macedonian framework is structured around clear elements (expression plus dissemination, identification, unlawfulness, fault, and harm or causation), but that legal certainty depends on how consistently courts operationalize the fact or opinion distinction, contextual factors (public interest; public officials; media role), and statutory exclusions or defences. The statutory architecture contains built-in balancing through exclusions for protected "channels" and public-interest functions, yet these mechanisms deliver protection for legitimate speech only when courts explicitly engage with them in their reasoning rather than treating them as formal labels.

On remedies, the system is strongest when it is applied as a calibrated set of tools – preventive, corrective, or restorative, and compensatory – rather than a damages-first model. Corrective measures (correction, retraction, reply, publication-type measures, and other restorative steps where recognized) should be treated as first-line options in many media disputes, because they can repair reputational harm with less risk of chilling effects than serious damages. Where damages are awarded, proportionality should function as a "checkpoint" that ties the amount to the seriousness, reach, and impact of the publication, ensuring that civil liability remains compensatory rather than punitive.

The procedural framework for insult and defamation in North Macedonia reflects a careful legislative design that combines a specialized substantive regime (Law on Civil Liability for Insult and Defamation) with general civil-procedural norms. This structure respects the seriousness of reputation-related harm while embedding such cases within the broader civil litigation infrastructure. The shift of the burden of proof to defendants, the inclusion of non-pecuniary remedies, the possibility of interim measures, and the enforceability of final judgments provide a comprehensive procedural toolbox for plaintiffs, but these features also generate real tension with freedom of expression – especially in media and online contexts – making judicial practice decisive for Convention-compatible outcomes. Legal scholarship and empirical analyses therefore point to a mixed but potentially balanced regime: promising in access to civil justice, yet limited by inconsistent application, underuse of non-monetary remedies, and gaps in transparency and reasoning quality.

A coherent, rights-based future development requires more consistent judicial articulation of the Article 10 factors (context, public interest, status of claimant, distinction between facts and value judgments, verification efforts, and proportionality of remedy), clearer internal criteria for damages, and a practical preference for corrective or restorative relief where it can adequately vindicate reputation. Closer harmonization with ECtHR standards is not merely a matter of citing Strasbourg case-law, but of translating proportionality into concrete remedial choices and well-reasoned judgments that protect both personality rights and democratic debate.

References

- [1] Constitutional Court of the Republic of Macedonia. (2015, February 18). *Resolution U.no. 48/2013*. <https://ustavensud.mk/archives/12470>
- [2] Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), Nov. 4, 1950, European Treaty Series No. 5. <https://www.refworld.org/legal/agreements/coe/1950/en/18688>
- [3] Council of Europe. (2023). *Analysis of the trends in the application of European standards in the case-law of Macedonian courts on freedom of expression and safety of journalists (1 January 2016–1 June 2022)*. <https://rm.coe.int/domestic-case-law-on-foe-nmk-eng-26102023/1680ad1158>
- [4] European Court of Human Rights. (2022, August 31). *Guide on Article 10 of the European Convention on Human Rights: Freedom of expression*. Council of Europe. <https://rm.coe.int/guide-on-article-10-freedom-of-expression-eng/native/1680ad61d6>
- [5] European Parliament. (2012, October 16). *Draft law on civil liability for defamation in Macedonia could limit freedom of speech (Parliamentary question E-009421/2012)*. https://www.europarl.europa.eu/doceo/document/E-7-2012-009421_EN.html
- [6] Georgiev-Kalica, A. (2021, November 25). *The new law on civil liability for insult and defamation is waiting in parliament*. Truthmeter (Metamorphosis Foundation). <https://truthmeter.mk/the-new-law-on-civil-liability-for-insult-and-defamation-is-waiting-in-parliament/>
- [7] Law on Civil Liability for Insult and Defamation (Закон за граѓанска одговорност за навреда и клевета), Official Gazette of the Republic of Macedonia, No. 143/2012 (2012). http://legaldb.freemedia.at/my_keywords/law-on-civil-liability-for-insult-and-defamation/
- [8] Law on Contentious Procedure of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia, No. 79/2005 (2005) (as amended).
- [9] Law on Enforcement of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia, No. 72/2016 (2016) (as amended).
- [10] Law on Obligations (Закон за облигационите односи), Official Gazette of the Republic of North Macedonia, No. 18/2001 (2001) (as amended).
- [11] Majhosev, A., & Majhosev, D. (2017). Decriminalization of insult and defamation in the journalistic profession in the Republic of Macedonia through the prism of the Law on Civil Liability for Insult and Defamation. *Balkan Social Science Review*, 10, 25–41. <https://eprints.ugd.edu.mk/19196/2/Decriminalisation.pdf>
- [12] Media Development Center. (n.d.). *Monitoring of defamation action litigations (Report No. 1)*. <http://mdc.org.mk/wp-content/uploads/2014/04/Monitoring-of-defamation-action-litigations.pdf>
- [13] Pech, L. (2021). *The concept of chilling effect* (Discussion paper). Open Society Foundations. <https://www.opensocietyfoundations.org/uploads/c8c58ad3-fd6e-4b2d-99fa-d8864355b638/the-concept-of-chilling-effect-20210322.pdf>
- [14] Zhivkovska, R., & Przheska, T. (2021). *Gragjansko pravo – opsht del*. Evropa 92.