

Disciplinary violations in the field of media work.

المخالفات التأديبية في مجال العمل الإعلامي

Moussaoui Abdelhalim^{1*} Bourbaba Souraya²

¹University of Tahri Mohamed Bechar, Algeria.

moussaoui.abdelhalim@univ-bechar.dz

²Laboratory of Legal Studies and Responsibility of professionals,

University of Tahri Mohamed Bechar, Algeria.

bourbaba.souraya@univ-bechar.dz

Date of receipt: 2021-12-22 Date of revision: 2021-12-29 Date of acceptance: 2022-05-30

Abstract

A number of duties are imposed on the media persons, including those related to the proper functioning of the facility in which they work, including those imposed by the ethics of the profession. Therefore, any breach of the above is classified as disciplinary offenses, requiring them to be subject to a series of disciplinary measures; depending on the nature of the offense committed.

In order to ensure the stability of the media institution and achieve a balance in the work relationship, legal texts have established cases of practices that the media may commit, and are described as a "disciplinary offense".

Keywords: disciplinary violations, media work, media, disciplinary councils, disciplinary procedures.

* Corresponding Author: Moussaoui Abdelhalim

ملخص

تفرض على الإعلامي جملة من الواجبات منها ما يتعلق بحسن سير المرفق الذي يشتغل به، ومنها ما تفرضه أخلاقيات المهنة التي يمارسها، وبالتالي فإن أي اخلال بما سبق يكتف على أنه مخالفات تأديبية، تستوجب اخضاعه لسلسلة من الإجراءات التأديبية؛ حسب طبيعة المخالفة المرتكبة. ولضمان استقرار المؤسسة الإعلامية وتحقيق توازن في علاقة العمل، أقرت النصوص القانونية حالات لممارسات قد يرتكبها الإعلامي، وتكتف على أنها "مخالفة تأديبية".

الكلمات المفتاحية: المخالفات التأديبية، العمل الإعلامي، الإعلامي، المجالس التأديبية، الإجراءات التأديبية.

Introduction:

The media person commits transgressions while performing his professional activity, and in this case, a distinction should be made between transgressions of a criminal nature and those of a disciplinary nature. It is logical that any transgressions result in a liability that is distributed according to the scope of the violations committed. It may be called disciplinary responsibility if the scope of the committed violation falls within the disciplinary errors, and it may be called penal if the committed violation bears a penal character.

It is established that the laws regulating the media profession impose a number of duties on the media person, including those related to the proper functioning of the facility in which they work, including those imposed by the ethics of the profession. Therefore, any breach of the foregoing is considered a disciplinary offense that requires it to be subject to a series of punitive measures. Depending on the nature of the offense committed.

The question of the study:

The working relationship between the media person and the institution to which the media person is affiliated may be known as tense due to practices that the media may commit, and adapted as a “disciplinary violation”. It is obvious that this relationship is regulated by legal texts in which disciplinary penalties are determined according to the degree of violation, as the penalties are divided into degrees, each of which includes a form of the abuses committed.

In this context, the following question arises:

What is the legal framework for disciplinary violations in the field of media work?

Significance of the Research:

The importance of this study is in highlighting the legal framework regulating a field of disciplinary violations committed in the field of media work, especially since this topic is almost absent in the field of media practice, due to the ineffectiveness of press councils, in contrast to settling many violations through judicial follow-up. As some media organizations resort to resolving their dispute with the media affiliated with them through courts.

Research Methodology:

The answer to the problem of this study in all its details requires the adoption of an analytical methodology with the development of a vision for a plan that includes the following elements:

First: Defining a disciplinary offense

Second: Types of disciplinary violations in media work

I. Defining a disciplinary offense

At the outset, it should be noted that the terms used for abuses of a disciplinary nature vary. There are legislations that call them disciplinary or professional errors, disciplinary offenses, and disciplinary mistakes, or a behavioral error.

For this reason, the names of errors have differed in other legislations, including:

Disciplinary crime: It is the most frequently used name in jurisprudence and judiciary.

Disciplinary violation: It was used by the Egyptian judiciary

Disciplinary error: It has been used by both the French jurisprudence and the French judiciary in addition to the disciplinary offense.

As for the Algerian legislator, he resorted to using the term “disciplinary error of the public servant”, “the term professional error” and the term “violence”; and regarding the different terms of these terms, some see that “error, crime, violation... are labels that do not give a clear connotation, but they apply to what The employee may commit actions, sometimes it constitutes a disciplinary offense when the act committed is related to the penal offense, and it is called a disciplinary offense when the employee intentionally violates the tasks entrusted to him within the framework of the job he exercises, and sometimes the name of the disciplinary error applies when the worker or employee does not intend to perform that act. (Fawzia, 2013, pp. 13-14)

We find that this term has been adopted in the Lebanese legislation and judiciary. (Shabib, 2012)

The definitions set by jurisprudence for disciplinary offense are numerous, yet defining an accurate concept of disciplinary offense is a matter - as some jurists rightly saw - is difficult, because disciplinary offense as it is linked - as mentioned earlier - to the public employee and the

public job, and it will undoubtedly be wide and comprehensive. What is the public occupation itself, as a continuously evolving and often ill-defined term. (Hassan , 2004, p. 16)

Accordingly, a jurisprudence defines “disciplinary violation” as a public employee’s violation of one of the duties of his job defined by law, regulations or public custom. This does not include those violations that occur during work only, but also includes what occurs outside the work of the employee, and represents a waste for the dignity of the job or refraining from an act attributed to the perpetrator, and he is punished by a disciplinary penalty. (Abd al-Wahhab & Uthman, 2001, p. 401)

Another trend of jurisprudence defines disciplinary offense as every direct or indirect attack on the common interest of the administrative body, whether such assault is a criminal offense or not; provided that this assault occurs during the exercise of the job or in a way that affects its performance. (Younis, 1957, p. 20)

Moreover, it can be defined as follows: “every act or omission committed by the worker that violates the duties of his position,” and it appears from this definition that it is based on two basic elements. First, is the worker or employee who is to be disciplined, and second is the administrative error or guilt. (Al-Tamawi, 1979, p. 50)

A jurisprudential tendency describes the disciplinary error as “an expression given to every act that the employee does and resulting in harm that affects the instrument of judgment.” (Al-Attar, 1968, p. 49)

In general, the jurisprudential definitions varied in terms of determining the meaning of the disciplinary error. A difference that as we have seen extended to the term, despite the fact that there is a jurisprudential tendency that considers that not defining the actions that the employee can be asked about discipline would lead to a derogation from the guarantee’s public employee, and expand the possibilities of abuse of management towards him. (Basset, 2005, p. 26)

At the legislative level, the visions of legal legislation vary in determining what is meant by “disciplinary error”. Therefore, we find, for example, that most Arab legislation prevents the employee’s disciplinary system from being defined, and most legislation is devoid of a definition of disciplinary error on the basis that the latter cannot limit it to several

considerations related to the job itself. (Hafsa & Ben Ahmed , 2014, p. 385)

As for the journalist and the media person, the matter has not yet entered the circle of perception, which makes us always rely on the general provisions that control this system.

However, and under the law on the duties and rights of employees the French legislator defined disciplinary error as “every mistake made by the employee during or on the occasion of performing his work exposes him to disciplinary punishment without bias or favoritism, without prejudice to the right of penal follow-up when necessary.”

According to Article 29 of Law No. 83-634 of July 13, 1983 on the rights and obligations of civil servants “Any fault committed by a civil servant in the exercise or on the occasion of the exercise of his functions expose him to a disciplinary sanction without prejudice, where applicable, the penalties provided for by criminal law”.

The Egyptian legislator also took the same approach, as he did not know the disciplinary offense in the laws regulating the public service in Egypt, and he only referred to it in Article (78) of the State Civil Workers Law No. (47) of 1978 to the most important duties and prohibitions related to the public service, which he describes in the abovementioned article is as follows:

“Any worker who deviates from the requirement of duty in the work of his job, or appears in an appearance that would prejudice the dignity of the job, shall be punished with disciplinary chastisement.”

In Qatar, the legislator adopted a position that did not differ much from the position of the Egyptian legislator. The Qatari legislator, in Law No. 1 of 2001 promulgating the Civil Service Law, did not define categorically the concept of disciplinary crime, contenting himself with specifying the general framework for this crime.

As for the Algerian legislator, he did not define the disciplinary offense or disciplinary error in a precise definition, but he used various expressions indicating negligence, harm to obedience, lack of attention and neglect as stated in Articles 14 to 17 of the Algerian Public Service Law.

At the judicial level, the Algerian administrative judiciary, even if it did not address the definition of disciplinary error; this does not mean that he does not reduce his control over the decisions taken by the

administration, as the latter is obliged to cause its decisions to be subject to the oversight of the administrative judiciary. (Fawzia, 2013, p. 16)

In Egypt, the Supreme Administrative Court claims that “Disciplinary responsibility is a personal one, and it must be proven that a positive or negative act occurred on the part of the worker, which is considered a contribution from him in the occurrence of the administrative violation. It appears that the worker is subject to disciplinary accountability, but the court establishes its judgment from the reality in which it is reassured, without commenting on it in this regard, as long as this conviction is extracted from the assets that produce it.” (Al-Sulaiti, 2007, pp. 06-07)

In France, many of the actions that the employee commits in his private life and outside the scope of his job are as disciplinary violations, if they affect his reputation or the dignity of the facility in which he works. It claims that “The act constituting the disciplinary violation is related to his job or it is not related to it, but is related to his private life, regardless of whether the act is considered a crime against honor or not.” (Al-Tahrawi, 2003, p. 82)

A disciplinary error or a disciplinary offense attributed to a journalist is every act or omission committed by a journalist in violation of what is stipulated in the constitution or the law, and that constitutes a breach of the professional duty imposed on him. Yet this principle conflicts with the values and ethics of practicing the profession, and the code of ethics for journalistic work, and this act may constitute a disciplinary offense only if working in the field of advertising in violation of the articles of the law related to the press and media. The incident may constitute a disciplinary and criminal offense, as is the case of accepting advertisements and donations from a foreign party prohibited by the law. (Hegazy, 2009, p. 196)

Based on the foregoing, violating the professional duties contained in the press code of honor or in the law is a disciplinary offense that entails disciplinary penalties for its perpetrators. This is applicable despite the fact that these rules in themselves do not contain such penalties, but the legislator’s referral to it to determine disciplinary violations makes the compulsion contained in the law characterize the duties determined by the rules of professional ethics to make them rules that have mandatory force. Thus, the rules of professional ethics are not just ethical principles with a

moral obligation, but rather rules that have a legally binding force, and their violation entails responsibility. (Batash, 2014, pp. 181-182)

It can be induced from such definition that the disciplinary error is related to the journalist's performance, and this is in terms of the extent of the media's commitment to the standards and ethics of the profession.

Within this framework, some legislations stated that a journalist might not be subject to disciplinary accountability for practicing his profession unless he violates the law, the traditions or ethics of the profession stipulated in the journalist's code of ethics, as well as the Journalists' Syndicate alone to hold the journalist professionally accountable.

According to Article 9 of a unified Arab Press Law: "A journalist may not be subjected to disciplinary accountability for practicing his profession unless he violates the law or the profession's traditions or ethics stipulated in the journalist's code of ethics.

The Journalists Syndicate is solely responsible for holding the journalist to account professionally. "

On the other hand, there are those who believe that many media professionals do not adhere to moral codes, and therefore they remain just rigid texts, because there are no penalties for media professionals who do not adhere to these ethics, or violate them. Therefore, moral charters are described as (without fangs) and of little importance, and despite the attempts that have been made to search for ways to impose penalties for non-compliance with ethics, they remain worthless penalties and do not lead to compliance with ethics. (Al-Shamimiri, 2010, p. 115)

In this regard, there are committees, departments or specialized bodies within professional press gatherings, such as journalists' unions and their syndicates, press councils or associations of journalists, where we find departments, agencies or committees that may be called complaints committees, right performance or practice or public right committees such as the Complaints Committee of the British Press Council. However, these do not discuss a topic related to the performance of a journalist or newspaper practices until after the complaints have been received, and the condemnation is moral. (Al-Din, 2013, p. 410)

II. Pictures of disciplinary violations in media work

The codes of honor and the general ethical principles of the profession

round the world are centered on two main goals:

The first goal: ensuring true news, that is, ensuring the quality of true, impartial and complete news for the public, securing protection from any professional manipulation or deviations come first.

The second goal: guaranteeing honest journalists, that is, protecting workers in the profession from any pressures they are exposed to, in order to prevent distortion of news and a negative impact on their decisions. (Cornu, 1997, pp. 12-13)

The internal regulations, instructions and regulations approved by the boards of directors for media and press organizations are among the rules that must be observed and adhered without deviation. (Kamel, 1983, p. 108)

Therefore, it is obvious that any breach of the rules of media practice results in the imposition of disciplinary responsibility for media professionals and their administrative heads in media organizations. This is especially with regard to broadcasting or publishing news or false information that harm the interests of the person about whom the news is published and affects his reputation, whether he is an ordinary individual or an institution. (Al-Tayyib, 2013, pp. 318-319)

What comes at the forefront of media ethics and constitutes one of the main foundations of the journalism profession in the sense that the integrity of the media is key in determining the purpose of this profession. This is basically a service offered by providing the public with the necessary facts, information and facts to form a conscious public opinion knowing that the latter is the source of powers in democratic systems. (Sadaqa, 2008, p. 12)

In this context, the Unified Arab Press Law issued by the General Union of Arab Journalists defines the scope of the obligations about which the journalist is disciplinarily questionable in a manner that does not infringe on the rights of citizens or affect one of their freedoms. The journalist, in particular, is committed to the journalistic code of honor issued by the Syndicate of Journalists to refrain from siding with racist, fanatical, extremist or hostile calls for human rights principles. It also includes abstaining from insulting or advocating hatred of religions, or challenging the faith of others, or advocating discrimination between some groups or sects of society, or demeaning or contemptuous of them.

Article 14: "A journalist shall, in what he publish, respect the

constitution and the law, taking into account in all his work the requirements of honor, honesty, honesty, the ethics and traditions of the profession of journalism, in a manner that preserves the society's ideals and values and in a manner that does not violate the rights of citizens or prejudice one of its freedoms.

He must refrain from siding with racist, bigoted, extremist or hostile calls for human rights principles, and from insulting religions or advocating their hatred, or challenging the faith of others, or calling for discrimination between some groups or sects of society, or demeaning or contemptuous of them. Especially in the press code of ethics issued by the Syndicate of Journalists, and the journalist is disciplinary action for violating these obligations.”

On the one hand, the errors that may result in the disciplinary responsibility of the journalist can be listed, and they are, in their entirety and in general, as follows:

These errors were received as a whole and are related to the abuses committed by the journalist during the performance of his duties, and they have a connection with his professional and media environment, and this does not mean that these abuses are the basis for what is subject to disciplinary follow-up, but rather the duties that we have previously talked about in ..., its violation shall be subject to disciplinary follow-up.

On the other hand, and as mentioned previously, the legality in the disciplinary system does not include an inventory of disciplinary offenses, but is limited only to disciplinary sanctions, while the penal legitimacy includes, in addition to penalties, an exclusive definition of the acts constituting the crime.

• **Disclosure of professional secrets:**

Journalists are individually and collectively responsible - superiors and subordinates alike- for maintaining the profession's dignity, secrets and credibility. The honor, etiquette and secrets of the profession are a trust in the shoulders of journalists.

In this regard, the Algerian legislator considered the disclosure of professional secrets or classified confidences. In addition, organizing or attempting to disclose these secrets, or smuggling service documents and management information or information of a professional nature or

concealing them are disciplinary offenses of the third degree.

• **Breach of the duties of respect towards his colleagues and employees and towards the media organization:**

This includes refraining from slandering or insulting a colleague in the profession, or treating him with contempt or mocking him, or accepting to do his work in return for a lower wage. (Abdul Majeed, 2005, p. 246) .

The journalist's violent acts, meaning the journalist's assault on others in the workplace, which would cause damage and losses to the institution in which he works are punishable. (Hafsia, 2012, p. 292)

Also, among the most important provisions of Law No. 185 of 1955 concerning the Egyptian Journalists Syndicate claim that a disciplinary trial shall apply to any member who violates his duties in the practice of the profession. It also applies to any professional who commits offenses that violate its honor or its dignity, or deceives to usurp the right of one of his colleagues, or trades his opinion, or issues it in bad faith that contradicts the higher interests of the country. Punishment can go as far as crossing the name from the syndicate's lists. (Abdul Majeed, 2005, pp. 129-130)

The press code of honor issued by the Egyptian Supreme Press Council states that, in their professional relations, journalists shall refrain from all forms of personal defamation and physical or moral abuse, including the misuse of power or influence to waste the inalienable rights of their colleagues, or to violate the professional conscience.

In the same line of thought, the Algerian legislator listed disciplinary errors classified as third class in the text of Article 71 of Decree No. 82-302 of September 11, 1982, on how to apply legislative provisions on individual working relationships. These are: concealing information or making statements in areas that are contrary to or combining functions. On refusal to carry out instructions he receives from the supervising authorities orders to carry out works related to his post unless with an acceptable excuse, to disclose professional or classified secrets; or to attempt to disclose them or smuggle service documents, management or professional data or to conceal them by accepting cash or in-kind donations of any sort, the use of violence with anyone within the workplace, committing a misdemeanors or felony that does not allow him to be kept in the position he holds, deliberately causing material damage to the buildings owned by the employing authority.

• **Non-compliance with what is indicated by the protocols regulating work in every employing press institution, and that the matter is related to work that falls within the professional obligations of the journalist.**

This comes by refusing to implement the instructions of the peaceful authority within the framework of performing the tasks related to his job without an acceptable justification. The employee must take the initiative to implement the written and oral instructions issued to him, as well as submit to major decisions related to work. (Awad, 2006, p. 146)

Accordingly, the media person is required to comply with the instructions and directives issued, especially with regard to the conduct of the media institution in terms of journalistic activity and the requirements of the media material, which is issued by the presidency of the editorial board, beginning with the editor-in-chief, through his deputies and heads of departments. This is added to the administrative officials within the media outlet, and is closely related to the good conduct and administrative organization of this media facility.

In general, the primary disciplinary body may impose a number of disciplinary penalties on those found to have violated the provisions of the law or the honor code. (Abdul Majeed, 2005, p. 290)

In Egypt, in the event of a journalist's violation of the duties stipulated in the Press Authority Law, the Journalists Syndicate Law, or the Press Code of Honor, the Council may initiate a disciplinary action form an investigation committee consisting of three of its members, including one of the journalists and the two legal members. If the incident attributed to the journalist is proven, the head of the investigation committee initiates a disciplinary case before the body stipulated in the Journalists Syndicate Law. (Abdul Majeed, 2005, p. 260)

In Jordan, the Press Syndicate addresses issues related to violating the ethics and principles of the journalistic profession, because it is primarily responsible for holding newspapers accountable if they breach their professional duty or abuse the freedom granted to them. (Ziyadat, 2007, p. 40)

In Algeria, the body charged with holding a journalist accountable is the Supreme Council for Journalism Ethics and Morals. This is in accordance with Article 97 and 98 of Organic Law 12-05 related to the

media, which orders penalties for every violation of the rules of ethics related to the profession of journalism, bearing in mind that this body is authorized to determine the nature of these penalties and the methods of challenging them.

III. Conclusion

The disciplinary system for the media person works to ensure the stability of the media institution and this system embodies the reform of any unacceptable behavior or transgressions committed by the media person.

In addition, this system has, so far, not been adapted to the specificity of media work. As it remains in most legislations subject to the general rules established in the labor and public service laws, some legislations have greatly exaggerated the imposition of a disciplinary and punitive regime on media professional. It reached the extent that some legislations included penalties for crimes committed through the media in the press and media laws in addition to the penal codes.

It is worth noting that, in continuation to the above, the judicial and disciplinary follow-up procedures should be dropped if the media institution respects the conditions of the "right to reply and correct". It is not conceivable that the media outlet would allow those concerned to respond and correct, yet its media professionals are being pursued judicially or disciplinarily, and this is if the decision to resort to judicial follow-up is subject to the judiciary. In the event of a request for compensation for damages, the right to correction and restitution would not be redressed.

On the other hand, state agencies, both official and unofficial, are required to work to raise the value of "positive self-censorship" by strengthening the professional ethics system, and giving powers to professional disciplinary councils established by media professionals to impose their guardianship on them. This is an alternative to judicial follow-up, knowing that these councils are authorized to prepare ethics charters and professional codes of conduct. Accordingly, it is their responsibility to seek mechanisms to embody these ethics. What is achieved is the necessity of having its mandatory value on the part of the media professionals themselves.

What helps in this, in our opinion, is the necessity of consolidating the independence of the press councils, including the authority to control media

activity from the authority of the information ministers who have wide powers in the field of media control. It is supposed to be at the core of the powers of these councils, and this is in parallel with granting them full powers to approve what they deem appropriate of disciplinary systems against media professionals. In our opinion, this can only be achieved by reconsidering the composition of these councils; Which is supposed to be held by the majority of professional media.

Therefore, when there is a system that legally represents the profession, which is a legal body that has disciplinary and disciplinary power. In this case, it raises the question of whether there is still a place for the union. In fact, this question should be answered in the affirmative. Syndicates exist side by side with professional systems, and the difficulty in this case lies in how to reconcile and harmonize the competence of each of them, which applies in particular to the professions of doctors, pharmacists, accountants, architects and lawyers. In the field of medicine, for example, jurisdiction is assigned to the doctors' system in determining the ethics and ethics of the profession. As for social insurance, the doctors' unions deal with the funds with the issues of determining fees.

Therefore, adopting professional ethics and approving laws and honor codes is, firstly acknowledging that the profession faces difficulties in the field of quality and integrity, and secondly, it is an attempt to regain people's trust by emphasizing an unquestionable media service. The main objective is to protect the profession in order to maintain its mission and level, and to protect the journalist from mistakes that may be committed intentionally or unintentionally due to corruption or other personal or professional reasons.

The role of ethics begins precisely where the role of rules and laws ends, when the journalist must balance the conflicting considerations that arise as a result of the pursuit of the truth, and its public declaration, and the implications of revealing this truth. Accordingly, media ethics require the media to carry out their duties and functions with honesty, integrity, fairness, objectivity and balance, comprehensiveness and accuracy, and not use the authority of the media abusively.

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