

ARISA 2: Assessing the Risk of Isolation of Suspects and Accused:
The Role of the Media

Disclosure of Information and Media Coverage of Criminal Cases

COUNTRY REPORT BULGARIA



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1. Background: general overview of criminal proceedings

Criminal proceedings as a process

The Bulgarian criminal process has two main stages – pre-trial and trial.

The purpose of pre-trial proceedings is to collect, through investigation, evidence to establish if a crime has been committed and by whom. The pre-trial investigation is carried out by investigative authorities under the guidance of a public prosecutor. When, in the course of the investigation, enough evidence is found against a person, this person is formally charged and becomes an accused person (*обвиняем*).

The pre-trial proceedings conclude with an assessment of the public prosecutor to what extent the evidence, collected by the investigative authorities, is sufficient to prove beyond any doubt that the accused person has committed the crime. If the evidence is considered sufficient, the prosecutor brings the case to court by filing a bill of indictment (*обвинителен акт*), which marks the start of the trial. With the start of the trial, the accused person becomes a defendant (*подсъдим*). If the evidence collected during the pre-trial investigation is considered not sufficient, the proceedings are terminated and the case is closed.

The trial involves two opposing parties with equal rights: the prosecutor on one side, and the defendant and their lawyer on the other side. The victim can also participate in the trial as a private prosecutor (*частен обвинител*) supporting the indictment, and/or as a civil claimant (*граждански ищец*) seeking compensation for damages. During the trial, the court examines the evidence produced by the prosecutor, but may also collect and examine new evidence either at the request of the parties or on its own initiative. The trial ends with the court issuing a sentence (*присъда*), which either convicts and imposes a penalty on the defendant, or declares the defendant not guilty. Both the prosecutor and the defendant (or their lawyer) can appeal the sentence before a higher court.

Legal framework of criminal proceedings

The main legal act governing the criminal process in Bulgaria is the Criminal Procedure Code.¹ Other relevant legal acts are the Criminal Code,² the Ministry of the Interior Act,³ the Extradition and European Arrest Warrant Act,⁴ the Special Intelligence Means Act,⁵ and the Execution of Sentences and Detention in Custody Act.⁶

¹ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020).

² Criminal Code ([Наказателен кодекс](#)), 2 April 1968 (last amended 22 December 2020).

³ Ministry of the Interior Act ([Закон за Министерството на вътрешните работи](#)), 27 June 2014 (last amended 2 October 2020).

⁴ Extradition and European Arrest Warrant Act ([Закон за екстрадицията и Европейската заповед за арест](#)), 3 June 2005 (last amended 7 June 2019).

⁵ Special Intelligence Means Act ([Закон за специалните разузнавателни средства](#)), 21 October 1997 (last amended 4 August 2020).

⁶ Execution of Sentences and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009 (last amended 11 December 2020).

Criminal justice authorities and their roles

The pre-trial investigation is carried out by different authorities depending on the type and the gravity of the committed crime. The majority of crimes are investigated by investigating police officers (*разследващи полицаи*) from the Ministry of the Interior. In a limited number of cases, explicitly listed in the law, the investigation is carried out by investigators (*следователи*), who are part of the judiciary. Customs related crimes are investigated by investigating customs inspectors (*разследващи митнически инспектори*) from the Customs Agency. All pre-trial proceedings, irrespective of which investigative authority is conducting the investigation, are carried out under the guidance of a supervising prosecutor (*наблюдаващ прокурор*), who is responsible for the lawful conduct timely completion of the investigation as well as for the deciding on the continuation of proceedings after the end of the pre-trial stage.

The main courts of first instance in criminal cases are the regional courts (*районни съдилища*). They examine all criminal cases except those which are explicitly assigned to other courts by the law. Decisions of regional courts are subject to appeal before the respective district courts (*окръжни съдилища*). District courts are also examining certain criminal cases acting as first instance courts. A City Court (*градски съд*) is established in Sofia and has the powers of a district court. The Sofia City Court acts as a court of first instance for cases relating to crimes committed by certain categories of persons (e.g., members of the government). District courts are located in the centres of administrative districts. Within each district court's judicial area there are one or several regional courts. The district courts, acting as courts of second instance, examine acts appealed against in regional court cases, as well as other cases assigned to them by law. As courts of second instance, the appellate courts (*апелативни съдилища*) examine acts appealed against in district court cases, as well as other court cases assigned to them by law.

Criminal cases involving crimes committed by serving military personnel, generals, officers, and civilian staff of the army are heard by military courts (*военни съдилища*) as courts of first instance and by the Military Court of Appeal (*Военно-апелативен съд*) as the court of second instance.

A Specialised Criminal Court (*Специализиран наказателен съд*), based in Sofia, hears all criminal cases involving crimes included in an exhaustive list envisaged in the law (mostly crimes related to organised crime groups). A Specialised Criminal Court of Appeal (*Апелативен специализиран наказателен съд*), also based in Sofia, reviews all appeals against decisions of the Specialised Criminal Court.

The Supreme Court of Cassation (*Върховен касационен съд*) is the supreme judicial instance in all criminal cases and its jurisdiction covers the entire territory of Bulgaria.

2. Confidentiality and publicity of criminal proceedings

Legal framework of disclosure of information during criminal proceedings

The Criminal Procedure Code includes several legal provisions related to the publicity and disclosure of information during criminal proceedings. The rules on publicity differ significantly depending on the stage of proceedings. As a rule, the pre-trial stage is based on the principle of confidentiality, while the trial is based on the principle of publicity.

At the pre-trial stage, information about the investigation can be disclosed only with the permission of the prosecutor. This restriction applies equally to investigative authorities and all other persons involved in the investigation. Where necessary, the investigative authority or the prosecutor must warn the persons, who are present during investigative actions, that they cannot disclose, without permission, any information about the case, and that the failure to comply with this obligation is a criminal offence.⁷

In 2011, the scope of application of the rules of confidentiality of investigation was brought before the Constitutional Court. The Prosecutor General asked the Constitutional Court to assess the compliance with the Constitution of a newly adopted legal provision obliging investigative authorities to share, upon request, information about pending investigations with the parliament without the permission of the prosecutor. According to the Constitutional Court's judgement, the requirement for obtaining permission from the prosecutor remains valid irrespective of whether the information is disclosed to a private entity or a public body, including the parliament. The Constitutional Court justified its decision by explaining that the primary objective of any information collected during an investigation is the use of this information in court to reveal the objective truth. At the same time, the rules on confidentiality are there to help prevent the suspect from absconding, avoid the risk of threatening witnesses, protect the personal integrity of the accused person, etc.⁸ The Constitutional Court was not unanimous in its decision and some of its members signed the judgment expressing dissenting opinions.

In July 2020, a group of lawyers sent a formal complaint to the European Commission claiming that the legal framework of disclosure of information at the pre-trial stage of criminal proceedings was not in compliance with the provisions of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings.⁹ According to the complainants, the *"public announcement of investigation materials is subject to a scarce legislative regulation"*, whose focus *"is not on the grounds of announcement of investigation material, such grounds are in fact not provided, it is rather on the regime, requiring permission of a prosecutor for the announcement"*. The complainants also noted that the lack of legal provisions *"to provide*

⁷ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020), Article 198.

⁸ Constitutional Court, Decision No 9 on constitutional case No 7/2011 ([Решение № 9 по конституционно дело № 7/2011 г.](#)), 4 October 2011.

⁹ Mandzhukova, Shopov, Petrov Law Firm and others (2020), [Complaint: Infringement of Directive \(EU\) 2016/343 of the European Parliament and of the Council as of 09.03.2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings](#), 23 July 2020.

for the pre-conditions and the legal goal, justifying the public announcement of investigation materials and to bind this power with the obligation to guarantee the observance of the presumption of innocence” was affecting the right to a fair trial and the presumption of innocence.

In contrast to the pre-trial stage, the trial stage is public unless otherwise provided by law. Court hearings are open to the public except for exceptional cases, specifically defined in the law, when the whole trial or individual hearings can be held behind closed doors. In all cases, the final ruling of the court is announced publicly.¹⁰

Differences in disclosing information during different stages of proceedings

The rules on disclosing information differ significantly depending on the stage of proceedings. At the pre-trial stage, the proceedings are confidential as a rule, and information can be publicly disclosed only with the permission of the prosecutor.¹¹ The confidentiality restrictions apply to all persons involved in the proceedings and to all third parties. According to the Constitutional Court, even public institutions, including the parliament, cannot obtain information about pending investigations without the consent of the prosecutor.¹²

During the trial, the dominating principle is the principle of publicity. On the one hand, this principle is one of the safeguards of the right to fair trial, while on the other hand, it is assumed that since the case has gone to court most of the investigative actions have already been completed and sufficient evidence has been collected in support of the indictment, therefore it is no longer necessary to maintain the secrecy of investigation. Thus, trials are public as a rule, unless otherwise stipulated by the law.

Exceptions to confidentiality and publicity rules

At the pre-trial stage, which is governed by the principle of confidentiality, information about the investigation can be disclosed only with the permission of the prosecutor.¹³ This is the only exception explicitly laid down in the law, but it applies equally to the investigative authorities and all other participants in the proceedings.

During the trial, which is governed by the principle of publicity, court hearings are open to the public unless, as an exception, the whole trial or individual hearings are held behind closed doors. The court is obliged to hold the hearing behind closed doors every time when this is necessary in order to prevent the disclosure of a state secret or to preserve morality, as well as when the case involves a protected witness with a secret identity. In another

¹⁰ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020), Article 263.

¹¹ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020), Article 198.

¹² Constitutional Court, Decision No 9 on constitutional case No 7/2011 ([Решение № 9 по конституционно дело № 7/2011 з.](#)), 4 October 2011.

¹³ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020), Article 198.

category of cases the court can decide to hold the hearing behind closed doors. This can be done when the court finds it necessary in order to prevent the public disclosure of facts from the intimate life of the persons as well as when there is a questioning of a witness under 18 years of age.¹⁴ Trials against persons under 18 years of age are always held behind closed doors unless the judge decides that a public hearing would be in the interest of society.¹⁵

Court hearings held behind closed doors can be attended only by persons authorised by the judge as well as by one person pointed out by each defendant. This rule, however, does not apply when there is a risk of disclosing a state secret or another secret protected by law, or when the case involves a protected witness with a secret identity.¹⁶

Unlike other procedural laws, the Criminal Procedure Code does not envisage any explicit provision on whether the persons, allowed to participate in a court hearing behind closed doors, can disclose the information they have obtained during the hearing. The Civil Procedure Code, which also envisages cases, in which the hearing can be held behind closed doors, explicitly forbids the disclosure of information about the content of such hearings.¹⁷

Communication between criminal justice authorities and the media

Communication between criminal justice authorities and the media is governed by legal acts, non-binding policy documents and internal rules and guidelines.

The police, in its role of the main public authority responsible for the investigation, maintain relations with the media through their press centres. The Ministry of the Interior has a special Press Centre and Public Relations Directorate, which is responsible for: informing and explaining the performance of the functions of the ministry; ensuring transparency and publicity of the activity of the ministry; and analysing and systematising the publications in the mass media about the public opinion in relation to the activity of the ministry.¹⁸ Press centres have also been set up in all main departments and units of the Ministry of the Interior, including the district police directorates. The public disclosure of information about pending investigations, carried out by the police, is always done with the prior consent and under the guidance of the prosecutor in charge of the investigation.

The Judiciary Act stipulates that judicial bodies shall be assisted in their public information and media relations activities by press offices. Their status, rights and obligations are defined by the Supreme Judicial Council through the rules governing the operation of the

¹⁴ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020), Article 263.

¹⁵ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020), Article 391.

¹⁶ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020), Article 264.

¹⁷ Civil Procedure Code ([Граждански процесуален кодекс](#)), 20 July 2007 (last amended 29 December 2020), Article 138.

¹⁸ Rules on the Organisation and Activity of the Ministry of the Interior Act ([Правилник за устройството и дейността за Министерството на вътрешните работи](#)), 22 July 2014 (last amended 20 November 2020), Article 92.

administrative personnel of courts and prosecutor's offices.¹⁹

In the Prosecutor's Office, only the administration of the Prosecutor General has a separate public relations unit, which is responsible for the media relations of the entire Prosecutor's Office. The unit's specific tasks include: development and implementation of the media policy of the Prosecutor's Office; provision of information to the media about cases of significant public interest as well as about personnel and administrative changes or other events involving the institution; maintenance of the official website of the Prosecutor's Office; operation of the press centre of the Prosecutor's Office; provision of support to the spokesperson of the Prosecutor General and daily interaction with the spokespersons of the other prosecutor's offices; organisation of press conferences, interviews and briefings with the participation of the management of the Prosecutor's Office; organisation of information campaigns; coordination of appearances of prosecutors in the media; analysis of the media publications concerning the Prosecutor's Office and the other bodies of the judiciary and daily provision of up-to-date information to the Prosecutor General, their deputies and the spokesperson of the Prosecutor General; interaction with the spokespersons and press services of the local prosecutor's offices and other relevant institutions and organisations. All of these activities are carried out under the general guidance of the spokesperson of the Prosecutor General.²⁰ The Prosecutor General is authorised to decide which local prosecutor's offices can appoint their own public relations experts.²¹

The Prosecutor's Office has its own media communication rules, which govern the internal institutional coordination and the division of responsibilities in relation to the provision of information to and interaction with the media.²² According to these rules, the officials authorised to communicate with the media are: the spokesperson of the Prosecutor General; the heads and spokespersons of local prosecutor's offices; the supervising prosecutors; and the administrative officers assigned with the performance of media relations functions. The supervising prosecutors can provide information to the media about their cases only with the approval of the administrative head of the respective prosecutor's office and, if the case is of high public and media interest, with the approval of the spokesperson of the Prosecutor General.²³

The spokesperson of the Prosecutor General plays a major role in all activities of the Prosecutor's Office related to the media. The spokesperson of the Prosecutor General: provides information about the activity of the Prosecutor's Office on general and strategic issues and information about cases of high public and media interest; coordinates the work

¹⁹ Judiciary Act (*Закон за съдебната власт*), 7 August 2007 (last amended 29 December 2020), Article 358.

²⁰ Supreme Judicial Council (2017), Regulation on the administration in courts (*Правилник за администрацията на Прокуратурата на Република България*), 10 December 2013 (last amended 17 April 2018), Article 19.

²¹ Supreme Judicial Council (2017), Regulation on the administration in courts (*Правилник за администрацията на Прокуратурата на Република България*), 10 December 2013 (last amended 17 April 2018), Article 56a.

²² Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria (*Правила за медийна комуникация в системата на ПРБ*), 24 March 2015.

²³ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria (*Правила за медийна комуникация в системата на ПРБ*), 24 March 2015, Section 11.

of the press centre of the Prosecutor's Office and the communication with the media of all local prosecutor's offices; determines the structure and content of the website of the Prosecutor's Office and monitors the relevance and accuracy of the uploaded information; provides, on a regular basis, summarised results of the activity of the Prosecutor's Office; monitors the media publications concerning the Prosecutor's Office and the other bodies of the judiciary and, if necessary, informs the management of the Prosecutor's Office and undertakes appropriate measures; coordinates, supports and organises trainings for the spokespersons of all local prosecutor's offices.²⁴ To effectively perform these tasks, the spokesperson of the Prosecutor General is authorised to request information about individual cases, analyses and statistical reports from the heads and spokespersons of all local prosecutor's offices and from supervising prosecutors. The spokesperson of the Prosecutor General can also give recommendations to the spokespersons of the other prosecutor's offices for improving the media policy.²⁵

All district prosecutor's offices, all prosecutor's offices of appeal and the regional prosecutor's offices in Sofia, Plovdiv, Varna, Burgas and Veliko Tarnovo are obliged to have a spokesperson. The other regional prosecutor's offices can appoint a spokesperson if necessary and after consulting the administrative head of the respective district prosecutor's office. All spokespersons of prosecutor's offices are acting prosecutors. They are directly subordinate to the administrative head of the respective local prosecutor's office, but are also obliged to coordinate their public relations activities with the spokesperson of the Prosecutor General.²⁶ The spokespersons of local prosecutor's offices provide information about the activity of their prosecutor's offices, including information about individual cases with the consent of the supervising prosecutor and administrative head of the respective prosecutor's office. They have similar rights and responsibilities to the ones of the spokesperson of the Prosecutor General, but limited to the activities of their local prosecutor's office (update of websites, regular provision of summarised results, monitoring of media publications, organisation of media events, right to request information from prosecutors, etc.). All press releases, prepared by the spokespersons of local prosecutor's offices, are sent to the administrative head of the respective prosecutor's office and to the spokesperson of the Prosecutor General.²⁷ In regional prosecutor's offices, which do not have their own spokespersons, information to the media is provided either by the administrative head of the respective prosecutor's office or by the spokesperson of their superior district prosecutor's office.²⁸

²⁴ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015, Section 6.

²⁵ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015, Section 7.

²⁶ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015, Sections 8-10.

²⁷ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015, Sections 13-14.

²⁸ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the

Each of the six prosecutor's offices of appeal (including the Specialised Prosecutor's Office of Appeal) is obliged to have a press attaché, specifically responsible for relations with the media. The press attaché supports the administrative head and the spokesperson of the respective prosecutor's office, provides assistance to all local prosecutor's offices in the respective appellate region in relation to their work with the media, and are responsible for the exchange of information with the press centre of the Prosecutor's Office. The Sofia City Prosecutor's Office and the Sofia Regional Prosecutor's Office are also obliged to have press attachés. The Prosecutor General is authorised to decide which of the other local prosecutor's offices can also appoint a press attaché.²⁹

The media communication rules of the Prosecutor's Office envisage six main communication channels (tools): publication of information on the website of the Prosecutor's Office, press release, briefing, press conference, interview, and participation in a radio or television programme. The spokesperson of the Prosecutor General is authorised to introduce specific standards for each of these channels concerning their format, applicable requirements, content, preparation and dissemination.³⁰ Media representatives are allowed to send questions to the spokespersons of prosecutor's offices in writing (by e-mail). All written questions must include information about the media, for which the person works, official postal or e-mail address for receiving the response, and a phone number for additional information. If the inquiry could not be identified as coming from a media, the spokesperson informs the administrative head of the respective prosecutor's office who must decide whether or not the inquiry can be processed according to the applicable rules on access to public information. As a rule, all responses to media inquiries are sent back in writing. Information can be requested and received in oral form (including by phone) only in cases of additional questions concerning issues, on which the respective prosecutor's office has already announced its official position.³¹

When it comes to the courts, the rules and procedures for setting up a press office are laid down in the rules governing the activities of the administrative staff of the courts. According to these rules each court can organise its own press office, responsible for the provision of information to the public and the media. The specific tasks of these offices include: preparing and implementing the information strategy of the court; organising and conducting information campaigns; assisting the administrative head of the court and the judges in informing the public and maintaining relations with the media; organising and chairing press conferences; organising the work-related media appearances of the judges; maintaining an archive of the media appearances of the judges; coordinating all materials

Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015, Section 12.

²⁹ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015, Sections 19-21.

³⁰ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015, Sections 22-23.

³¹ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015, Sections 24-26.

regarding the activity of the court, as well as the media appearances of the judges; informing the citizens about the procedures, performed in the court, and the order for their implementation; providing information on the procedure for access to the cases, the location of the various services and other information related to the activity of the court; establishing and maintaining effective channels for communication and interaction of the court with the media and other institutions; initiating forms of interaction for achieving greater accessibility and comprehensibility of the judicial acts; and organising the monitoring and control of the procedures for access to documents and information.³²

Two strategic policy documents, the Communication Strategy of the Judiciary 2014-2020³³ and the Media Strategy of the Judiciary,³⁴ provide further guidelines for the communication between the judiciary and the media.

The Communication Strategy of the Judiciary 2014-2020 is an extensive document setting the policy framework for improving the communication both within the judiciary itself and between the judiciary and other actors such as public institutions at national and local level, the media and the general public.³⁵ The strategy includes a comprehensive analysis of the situation at the time of its development, a review of the legal framework of the judiciary in the area of communication, a set of basic principles, objectives and measures for their achievement, a detailed action plan for implementing the strategy, a monitoring and evaluation plan, and several annexes with practical information (a model of a virtual media centre, minimum equipment and information standards for a press office, functional requirements for an effective unified portal of the judiciary, a model communication vision of the judiciary, communication toolkit, etc.).

The Media Strategy of the Judiciary, adopted in implementation of the Communication Strategy of the Judiciary 2014-2020, is specifically focused on the relations between the judiciary and the media. The strategy includes a set of short, medium and long-term objectives, definition of target groups and main principles, a list of communication channels and instruments, crisis management recommendations, a list of activities for achieving the objectives of the strategy, definition of the resources for the strategy's implementation, and some basic rules on coordination, monitoring and implementation. Annexed to the strategy is a detailed description of each of the different communication channels and instruments listed in the strategy with practical guidelines and requirements for its use.³⁶

The Media Strategy of the Judiciary is accompanied by a handbook with practical guidelines for the interaction of the judiciary with the media.³⁷ The handbook includes a special

³² Supreme Judicial Council (2017), Regulation on the administration in courts ([Правилник за администрацията в съдилищата](#)), 22 August 2017 (last amended 23 October 2020), Article 24.

³³ Supreme Judicial Council (2015), Communication strategy of the judiciary 2014-2020 ([Комуникационна стратегия на съдебната власт 2014-2020](#)), Sofia, Effective Communication Consortium, 5 March 2015.

³⁴ Supreme Judicial Council (2016), Media strategy of the judiciary ([Медийна стратегия на съдебната власт](#)), 13 October 2016.

³⁵ Supreme Judicial Council (2015), Communication strategy of the judiciary 2014-2020 ([Комуникационна стратегия на съдебната власт 2014-2020](#)), Sofia, Effective Communication Consortium, 5 March 2015.

³⁶ Supreme Judicial Council (2016), Media strategy of the judiciary ([Медийна стратегия на съдебната власт](#)), 13 October 2016, Annex 1.

³⁷ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium.

section with rules applicable to the communication between the judiciary and the media in relation to pending criminal cases.³⁸ According to these rules, the media cannot have direct access to case materials related to pending pre-trial proceedings. Instead, they can either use the information included in the official press release (if such is published) or request information pursuant to the access to public information legislation. Information relating to the progress of the investigation may be given to the media only if there is an accused person (a person who has been formally charged). In exceptional case, if the committed crime presents a serious public danger or there are sufficient grounds to believe that it is of particular public interest, information may be provided at an earlier stage, after the initiation of the investigation. This information may refer to conducted procedural-investigative actions for identifying the perpetrator or for collecting evidence, except where the provision of such information could affect the outcome of the investigation. The information in the progress of the investigation includes the following aspects: the investigation has been initiated, procedural and investigative actions have been taken, the accused has been detained, the competent court has been asked to impose (or extend) a coercive procedural measure, the investigation has been completed, there is a decree of a prosecutor for closing the investigation (with or without an indictment). If a court hearing has taken place, the public relations expert of the court may include, in a press release, information about the person against whom specific procedural coercive measures have been imposed, requested by the prosecution.³⁹ Information about the accused person and the measures imposed on them can be provided ex officio or upon request of the media only after the accused person is duly informed in compliance with their procedural rights.⁴⁰ The supervising prosecutor can restrict the provision of information if the disclosure of information would affect the results of the investigation. In such cases prosecutors are advised to release a message that no information can be provided at this stage of the investigation but it will be provided to the media as soon as possible.⁴¹ Once an indictment has been filed in court, if the crime poses a serious public danger or there are sufficient grounds to believe that it is of particular public interest, the prosecutor's office should issue a press release. The public is thus informed of the fact that the pre-trial proceedings have been completed and that legal proceedings have been instituted against the persons who have been under investigation.⁴² Copies or extracts from documents relating to the evidence in the case and copies of audio or video recordings made during of procedural-

³⁸ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium, Chapter VI.

³⁹ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium, Chapter VI, Section 2.4.

⁴⁰ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium, Chapter VI, Section 2.6.

⁴¹ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium, Chapter VI, Section 2.7.

⁴² Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium, Chapter VI, Section 2.8.

investigative actions, or at any other moment during the proceedings, should not be provided to the media. The media, however, can receive pictures of items, goods, money or other valuables that have been the subject of the committed crime, or have been used for committing the crime, or have been obtained as a result of the crime.⁴³

The Personal Data Protection Act authorises the Inspectorate to the Supreme Judicial Council (*Инспекторат към Висшия съдебен съвет*) to supervise the processing of personal data by the judiciary and ensure its compliance of with the General Data Protection Regulation and the national data protection legislation. This rule applies whenever personal data is processed by the courts, the prosecutor's offices and the investigative bodies for the purpose of prevention, investigation, detection or prosecution of crimes or the execution of criminal sanctions.⁴⁴

Persons, whose data have been unlawfully processed by the judiciary, can lodge a complaint with the inspectorate within six months of becoming aware of the breach, but not later than two years after the processing of the data. There is no publicly available information about submitted complaints and/or imposed sanctions in relation to unlawful processing of data by the judiciary.

Access of media to procedural actions

At the pre-trial stage media have no access to procedural actions. There are, however, special rules allowing journalists to meet with accused persons who are detained in custody. Such meetings can take place only with the written permission of the prosecutor or the court. Detainees can be interviewed and photographed only with their consent, expressed in writing.⁴⁵

The handbook on the interaction of the judiciary with the media accompanying the Media Strategy of the Judiciary has a separate section devoted to the presence of journalists at court hearings.⁴⁶ Court hearings, which are open to the public, should also be open to the media, but without the use of technical means of recording. Videos, photographs and audio recordings in the courtroom may be made only with the consent of the presiding judge. Photographers and radio and television crews must seek prior consent for access to the courtroom (preferably 24 hours before the hearing) from the court's information and public relations service, indicating the cases, for which they wish to make recordings. Video and audio recordings during the court hearing may be made only when the panel of judges enters the courtroom and/or the presiding judge opens the hearing. The presiding judge can permit the recording of other parts of the hearing.

In all cases, the presiding judge must ask all the persons participating in the hearing

⁴³ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media (*Наръчник за взаимодействие на органите на съдебната власт с медиите*), Sofia, Effective Communication Consortium, Chapter VI, Sections 2.9-2.10.

⁴⁴ [Personal Data Protection Act](#), 4 January 2002 (last amended 26 November 2019), Article 17.

⁴⁵ Execution of Sentences and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009 (last amended 11 December 2020), Article 253.

⁴⁶ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media (*Наръчник за взаимодействие на органите на съдебната власт с медиите*), Sofia, Effective Communication Consortium.

whether they object to the recording and must not allow the recording if any objections are made. It is recommended that video and audio recordings, as well as photographs, be made from the same position. If necessary, the court may determine the place in the courtroom, which can be used by photographers and radio and television crews, to ensure a good institutional atmosphere. In view of the normal course of the proceedings, the court may decide to allow only a limited number of television crews, in accordance with the received requests. If the media are not allowed in the courtroom, photographers and television crews can make pictures and videos before the court hearing, again with the prior consent of all participants in the hearing. Outside the courtroom, the media may make recordings only at the places, which are explicitly designated for this purpose by the president of the court.⁴⁷

The persons participating in the hearing (parties, witnesses and other participants) may appear in audio and video recordings only with the approval of the panel of judges and only on condition that they have not filed an objection against it. The presiding judge has the right to expressly prohibit the publication or broadcast, through the press or electronic media, of texts, drawings, photographs or images, which can reveal the identity of the person concerned, other civilians or witnesses.⁴⁸

According to the handbook, court hearings should not be broadcasted live.⁴⁹ However, the COVID-19 outbreak and the anti-epidemic restrictions imposed on public gatherings, have posed a serious challenge to the judiciary in relation to the provision of publicity of court hearings. As a result, in May 2020, the Supreme Judicial Council made a decision to temporarily allow the live broadcast of court hearings. In cases of significant public and/or media interest, if the presence of journalists in the courtroom is not possible and in order to comply with the principle of publicity of court proceedings, the courts are encouraged to use all possible technical means, such as broadcasting of court hearings in real time through a camera from the courtroom on a monitor in the corridor in front of the courtroom or in another room in the court, broadcasting court hearings in real time by streaming on video sharing platforms and social networks (YouTube, Facebook, etc.) and creation of full audio and/or video recording of the court hearing to be provided to the media and journalists.⁵⁰

On 18 May 2020, the Supreme Court of Cassation became the first court to live stream in its YouTube channel a full court hearing in a criminal case.⁵¹

⁴⁷ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media (*Наръчник за взаимодействие на органите на съдебната власт с медиите*), Sofia, Effective Communication Consortium, Chapter VI, Sections 5.1-5.3.

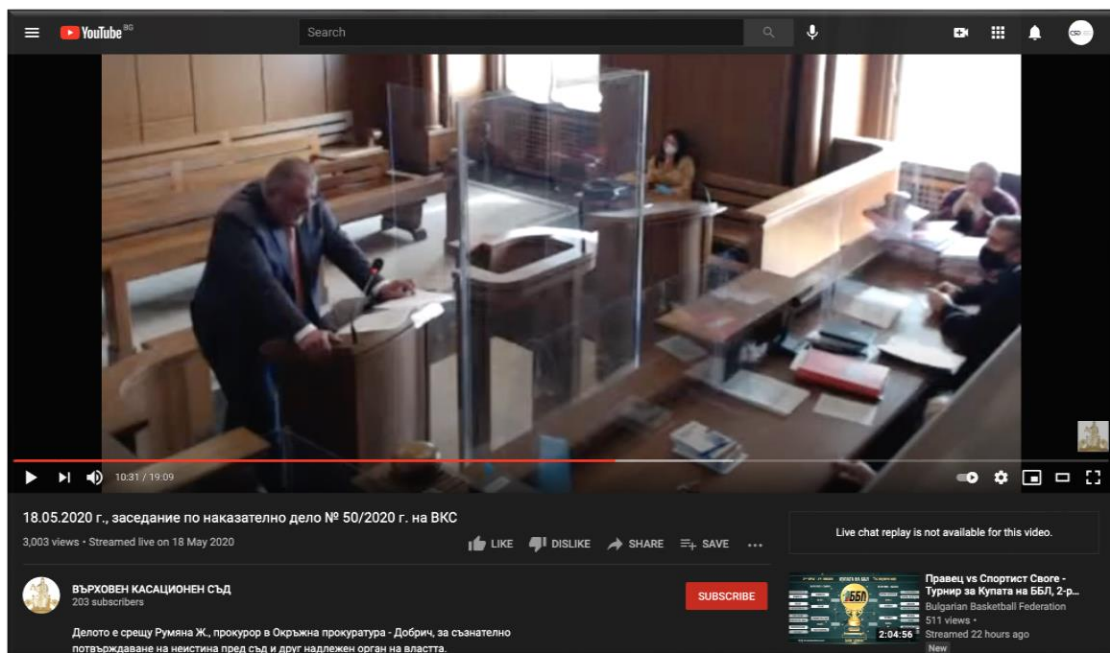
⁴⁸ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media (*Наръчник за взаимодействие на органите на съдебната власт с медиите*), Sofia, Effective Communication Consortium, Chapter VI, Sections 6.1-6.2.

⁴⁹ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media (*Наръчник за взаимодействие на органите на съдебната власт с медиите*), Sofia, Effective Communication Consortium, Chapter VI, Section 5.3.2.

⁵⁰ Supreme Judicial Council (2020), Rules and measures for the operation of the courts during a pandemic (*Правила и мерки за работа на съдилищата в условията на пандемия*), 12 May 2020 (last amended 17 November 2020).

⁵¹ Supreme Court of Cassation (2020), Court hearing in criminal case No 50/2020 of the Supreme Court of Cassation (*Заседание по наказателно дело № 50/2020 г. на ВКС*), 18 May 2020 (YouTube video).

Figure 1: Live streaming of hearing in a criminal case by the Supreme Court of Cassation



Source: Supreme Court of Cassation YouTube channel

The rules allowing the courts to broadcast court hearings on the internet apply insofar as the anti-epidemic restrictions do not allow the normal conduct of court hearings. However, their introduction opens the door for a broader debate on whether the ban on live broadcasting is still needed in view of the modern ways of media coverage.

Disclosure by lawyers

There are no special rules governing the disclosure of information by lawyers. At the pre-trial stage, lawyers are bound by the general rule that the disclosure of information about the investigation is possible only with the permission of the prosecutor.⁵² During the trial, if a court hearing is held behind closed doors, lawyers are bound by the same confidentiality rules that apply to all other persons allowed to be present at the hearing.

Lawyers are obliged to keep the secret of their clients for unlimited period of time.⁵³ In criminal proceedings, this general obligation covers all the information about the case, which is not public and which the lawyer has obtained defending their client. The lawyer cannot disclose this information without the consent of their client to any third parties, including the media.

⁵² Criminal Procedure Code (*Наказателно-процесуален кодекс*), 28 October 2005 (last amended 29 December 2020), Article 198.

⁵³ Bar Act (*Закон за адвокатурата*), 25 June 2004 (last amended 29 December 2020), Article 45.

3. Media coverage of criminal proceedings

Legal framework of media

The Constitution of the Republic of Bulgaria declares the fundamental principle of freedom of expression and the right to information, which are general guidelines for all spheres of public life, including journalism. Everyone has a guaranteed right to express and disseminate their opinion. The Constitution also affirms the freedom of media as well as the right of everyone to seek and spread information.⁵⁴

These rights are guaranteed by the Constitution, but they are not absolute and cannot be exercised to the detriment of the rights or legitimate interests of others. The Constitution also explicitly declares the presumption of innocence (defendants shall be considered innocent until proven otherwise by a final verdict) and the prohibition of convictions solely by virtue of confessions).⁵⁵

The data protection legislation sets certain boundaries, within which journalists should balance between the right to information and the right to privacy. The Personal Data Protection Act explicitly defines when and how personal data can be processed and used for journalistic purposes. Journalists are allowed to disclose personal on the grounds of freedom of expression and the right to information, but are at the same time obliged to respect privacy.⁵⁶ In order to set an objective framework for evaluating the balance between the freedom of expression and the right to information, and the right of personal data protection, the law sets ten criteria:

- nature of the personal data;
- potential impact of the disclosure or publication of the data on the data subject's privacy and reputation;
- circumstances, under which the personal data have become known to the journalist;
- character and nature of the statement, under which the right to information and the freedom of expression are exercised;
- importance of the disclosure or publication of the personal data for the clarification of a matter of public interest;
- consideration whether the data subject is a person holding a public position, or is a person who, due to the nature of their activity or public status, enjoys lesser protection of privacy, or whose actions have an impact on the society;
- consideration whether the data subject has contributed with their own action to the disclosure of their personal data and/or information about their private and family life;
- purpose, content, form and consequences of the published statement;
- compliance of the statement with the fundamental rights of citizens;

⁵⁴ [Constitution of the Republic of Bulgaria](#), 13 July 1991 (last amended 18 December 2015), Articles 39 and 41.

⁵⁵ [Constitution of the Republic of Bulgaria](#), 13 July 1991 (last amended 18 December 2015), Articles 31 and 57.

⁵⁶ [Personal Data Protection Act](#), 4 January 2002 (last amended 26 November 2019), Articles 25h.

- other circumstances related to the specific case.

The adopted criteria, however, are not applied, because they were suspended by the Constitutional Court. Immediately after their adoption they were first vetoed by the President of the Republic,⁵⁷ and later on, after the veto was rejected by the parliament, the Constitutional Court declared them unconstitutional due to their ambiguity, which could lead to unpredictability, legal uncertainty and disproportionate restriction of the freedom of expression and the right to information.⁵⁸ In this situation, the criteria are not applied in practice and the evaluation of the balance between the freedom of expression and the right to information, and the protection of personal data, is done on the basis of the competent authorities' own discretion.

The public authority responsible for the examination of complaints for violation related to personal data is the Commission for Personal Data Protection (*Комисия за защита на личните данни*). The commission imposes financial sanctions that can be appealed before the administrative courts.

The Commission for Personal Data Protection is also authorised to issue statements for interpretation of the data protection legislation. In 2019, the media requested such a statement in relation to the application of the right to deletion (the right to be forgotten) in the context of the work of journalists (an exception within the data protection legislation).⁵⁹ The request was justified by the increasing number of requests for deletion the media were receiving after the introduction of this right in the beginning of 2019. Some of these requests had been submitted by people sentenced for committing a crime, who wanted the information about their conviction, which was published online, to be deleted. In a public statement in the media, the Chair of the Commission for Personal Data Protection explained that the right to deletion applies for crime-related news, when the case is not of particular public interest; in other words, if the crime poses potential danger to more people, the society should know who the convicted offender is in order to better protect itself.⁶⁰ Thus, a person can request such information to be deleted only if the case concerns a crime that is not likely to affect other people and so the knowledge about it would disproportionately affect the convicted person's live.

Unlike the print media, the electronic media (radio and television) are subject to a more extensive regulation. A special law, the Radio and Television Act, lays down the rules for the operation of the two state-owned public operators (the Bulgarian National Television and the Bulgarian National Radio) as well as of the private commercial radio and TV

⁵⁷ President of the Republic (2020), The President vetoed a provision of the Amendments to the Personal Data Protection Act ([Президентът наложи вето върху разпоредба от Закона за изменение и допълнение на Закона за защита на личните данни](#)), press release, 4 February 2019.

⁵⁸ Constitutional Court, Decision No. 8 on constitutional case No 4/2019 ([Решение № 8 по конституционно дело № 4/2019](#)), 15 November 2019.

⁵⁹ Commission for Personal Data Protection (2019), Statement No НДМСПО-01-78/04.02.2019 ([Становище Рез. № НДМСПО-01-78/04.02.2019 г.](#)), 4 February 2019.

⁶⁰ Bulgarian National Television (2019), The Chair of the CPDP for our right to be "forgotten" on the internet ([Председателят на КЗЛД за правото да бъдем „забравени“ в интернет](#)), Bulgarian National Television, 2 April 2019.

broadcasters.⁶¹

This law uses the term media service provider, which is a person or a company that is responsible, from an editorial point of view, for the selection of media content, and that defines the manner in which this content is organised.⁶² The law also lists the general principles, which media providers should follow when distributing information. Among these principles are the obligation to guarantee the right of free expression of opinion and the right to be informed, the ban on praising or exonerating cruelty or violence and on inciting hatred on the grounds of race, sex, religion or nationality, and the protection of the personal integrity of individuals.⁶³

The law does not regulate in detail any ethical issues, but rather mentions those, which are perceived as particularly sensitive, such as child protection.

Some provisions of the law can be relevant to the manner, in which electronic media report on the criminal cases. Thus, for example, the law requires the media service providers to respect the right to privacy and comply with the legislation on personal data protection, taking into account the balance between the right to privacy and the freedom of expression and information. This restriction does not apply to information of public interest, which concerns the personal life of public figures appointed to managerial positions in state institutions or of persons who, by other means, make decisions that have an impact on the general public.⁶⁴ If a media service provider violates these provisions, it must publicly apologise to the person concerned, who can also seek retribution in court.

Public authorities, private entities and individuals, who have been affected by media services and who have not taken part in the respective programme, have the right to respond, and the media service provider is obliged to announce their response in the next issue of same programme or at another comparable time without altering or shortening it.⁶⁵

The law explicitly exempts from responsibility media service providers, which distribute official information or quote verbatim public statements.⁶⁶ In the absence of similar rules applicable to the other types of media, this provision, although specifically referring to radio and TV broadcasters, is often used in practice for dismissing complaints against online and print media as well.

The Radio and Television Act allows, but does not oblige, media service providers to sign

⁶¹ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020).

⁶² Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 4.

⁶³ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 10.

⁶⁴ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 16. The amendments, adopted in December 2020, repealed the explicit provision excluding from the application of these rules the cases where the person, about whom the information was disclosed, had been convicted for intentional crime.

⁶⁵ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 18.

⁶⁶ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 17.

the so-called “editorial statutes”. The editorial statute, according to the law, is an agreement signed between the owners of the media and its journalists, which defines their professional relations.⁶⁷ One component of this agreement is the setting of professional and ethical norms of journalism within the respective media and an internal body for resolution of professional disputes. However, there is no publicly available information that any of the public operators or licensed private media service providers has such a signed such a statute or has established such an internal body.

The public authority tasked with the enforcement of the Radio and Television Act is the Council on Electronic Media (*Съвет за електронни медии*). In terms of media content, the council’s activities are limited to specific functions, including, among others, the supervision of service providers’ compliance with the basic principles of freedom of expression, right to information, protection of confidentiality of sources, non-dissemination of content that inspires hatred or contradicts morality, compliance with copyrights, protection of the purity of Bulgarian language, and observance of the right to respond.⁶⁸

The Council on Electronic Media is authorised to monitor the content released by national broadcasters. It publishes its findings in media monitoring reports, which mostly address the issue of media pluralism and cover specific topics such as elections, the COVID-19 crisis, or civil protests.⁶⁹ These reports have separate sections about public operators and private commercial providers due to the specific requirements applicable only to public operators. The Council on Electronic Media issues guidelines on good media practices in different areas and can also sign agreements with the relevant stakeholders on issues such as protection of children from harmful content or monitoring of election campaigns.⁷⁰

The Council on Electronic Media also has sanctioning powers and can impose financial fines in cases of violation of the Radio and Television Act. There is a special provision that media service providers can be sanctioned by a fine of between BGN 2,000 and BGN 5,000 (approximately between EUR 1,000 and EUR 2,500) for failing to comply with a decision of one of the ethics bodies listed in the law.⁷¹ In cases of severe violations of the basic principles of radio and television, the council has the ultimate power to permanently suspend the license of the media service provider.⁷²

The law encourages media service providers to self-regulate and co-regulate their activities through codes of conduct or standards. Those codes should be broadly accepted by the main stakeholders in the country, include clearly and unambiguously defined objectives, have a mechanism for regular, transparent and independent monitoring and evaluation of the achievement of their objectives, and provide for means for their effective enforcement,

⁶⁷ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 11.

⁶⁸ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 33.

⁶⁹ The media monitoring reports are available on the [website](#) of the Council on Electronic Media.

⁷⁰ The guidelines and agreements are available on the [website](#) of the Council on Electronic Media.

⁷¹ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 126d.

⁷² Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 122.

including revision, and effective and proportionate sanctions.⁷³ Media service providers are also explicitly obliged to comply with the Code of Ethics of Bulgarian Media, developed by the National Council for Journalism Ethics (*Национален съвет за журналистическа етика*). Thus, radio and television providers are subject double supervision in terms of ethics: by the regulatory authority (the Council on Electronic Media), which can impose financial sanctions, and by the non-governmental self-regulatory body (the National Council for Journalism Ethics), which can only issue recommendations for correction of violations.

The National Council for Journalism Ethics is a non-governmental organisation, established by some of the biggest professional associations of media in the country.⁷⁴ It operates as a national self-regulatory body of print and electronic media. Its main standard setting document is the Code of Ethics of Bulgarian Media, adopted in 2005 and since then signed by more than 100 national and local media.⁷⁵ The Code of Ethics of Bulgarian Media is mandatory for media service providers according to an explicit provision in the law.⁷⁶

The Code of Ethics of Bulgarian Media defines a number of ethical principles organised in five main categories:

- Provision of reliable information to the public. The media agree to provide accurate and verified information, to explicitly distinguish facts from comments and confirmed from non-confirmed information, to provide diverse views when covering discussions and to make a disclaimer when the information has been manipulated. In case of mistake, the media commit to publish visible and clearly identifiable correction and to grant the right to response to those who were affected. The media also agree to seek diverse sources of information and give preference to identified sources before anonymous ones.
- Collection and presentation of information. The media agree to use legal and fair means for collecting information and not to obtain information by threats, coercion, or exorciation. The news should be presented with due respect to everyone's privacy and publication of photos or videos not done in public places should be avoided unless the persons featuring in them have given their consent. Journalists should present in a sparing way information that would deepen the grief of crime victims or other persons in trouble. The intrusion in people's personal lives is considered justified only if it concerns "important public interest" in the case of ordinary people and "public interest" in the case of public figures. When covering criminal cases, journalists should not refer to persons, who have not been convicted, as "offenders". When the media publish information about someone being charged with a criminal offence, they should also make an announcement about the outcome of the case when the case is over. Journalists should refrain from

⁷³ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 4b.

⁷⁴ For more information, see the [website](#) of the National Council for Journalism Ethics.

⁷⁵ National Council for Journalism Ethics (2005), Code of Ethics of Bulgarian Media ([Етичен кодекс на българските медии](#)), 25 November 2004.

⁷⁶ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 4b.

praiseworthy or sensational coverage of crime, violence or cruelty and should report the acts of those who incite, encourage or use violence with the necessary neutrality and only in obvious cases of public interest.

- Editorial independence. Media content should not be subject to political or economic influence or pressure.
- Relations within and between the media. Mutual respect and fair competition between media should be respected.
- Public interest. A violation of the principles laid down in the code can be justified only in cases where it can be proven, beyond a reasonable doubt, that the violation “has been in the public interest”. According to the code, a piece of information is in the public interest only if it: (a) helps protect health, safety and security; (b) helps prevent or uncover serious crime or abuse of power; or (c) protects the public from being seriously misled.

The National Council for Journalism Ethics has a Commission for Journalism Ethics (*Комисия за журналистическа етика*), which examines complaints for violations of the code. The commission meets at least once a month depending on the number of complaints. Complaints can be submitted up to two months after the violation and must include a copy of the publication, a reference to the provision of the code, which has been violated, and a description of the specific request. The commission must first try to solve the case through mediation. If this is not possible and if the commission finds the complaint justified, it can issue a recommendation to the media to either publish a correction, grant the right to response or apologise in a proper way. If the media does not comply with the recommendation, the commission can publicly reprimand the media by expressing its disapproval of the disputed publication.⁷⁷

Apart from the National Council for Journalism Ethics, there are several other professional organisations active in the area of media ethics.

The Association of Bulgarian Broadcasters (*Асоциация на българските радио- и телевизионни оператори*) is an association of Bulgarian commercial broadcasters that supports and protects the professional interests of its members. It takes active part in shaping the regulatory framework of broadcast media by consulting official bodies and acting as a self-regulatory platform. The association also delivers training on good journalist practices and issues statements on relevant media problems.⁷⁸

The Union of Publishers in Bulgaria (*Съюз на издателите в България*) is an association of nine of the biggest print and online media publishers. It shares the values of the Ethical Code of the Bulgarian Media and its members have signed it. The organisation works for the protection of professional standards and for defending and raising the reputation of print and online media.⁷⁹

The Association of European Journalists – Bulgaria (*Асоциация на европейските*

⁷⁷ National Council for Journalism Ethics (2014), Rules of Procedure of the Commission for Journalism Ethics ([Правилник за дейността на Комисията по журналистическа етика](#)).

⁷⁸ For more information, see the [website](#) of the Association of Bulgarian Broadcasters.

⁷⁹ For more information, see the [website](#) of the Union of Publishers in Bulgaria.

Журналисти – България) is a professional organisation of journalists from different media as well as students in journalism. It works to support media professionals in their career development and to enhance their ethical and professional standards. The association also does research and analysis on the media environment in Bulgaria and advocates for journalists in cases related to their profession.⁸⁰

The Union of Bulgarian Journalists (*Съюз на българските журналисти*) is another professional organisation that brings together media workers to protect their professional, union and social rights. It focuses mostly on labour issues, but sometimes issues public statement on relevant problems concerning the media environment in the country.⁸¹

The latest amendments to the Radio and Television Act, adopted in December 2020 in response to Bulgaria's obligation to transpose the amended Audiovisual Media Services Directive,⁸² added to the scope of the law the video-sharing platform services provided by video-sharing platform providers.⁸³ Unlike the provisions on media service providers, which address a variety of issues related to content, the rules on video-sharing platforms concern mostly the dissemination of commercial communications or inappropriate content (content that is harmful to children, contains incitement to violence or hatred, or its dissemination is a criminal offence such as provocation to terrorism, child pornography, or racism and xenophobia).⁸⁴

Reporting on criminal cases

In Bulgaria, there are no special legal rules for reporting on a criminal case besides the general principles mentioned in the previous section.

Despite the fact that crime and criminal cases represent the second most covered topic by the media after domestic politics,⁸⁵ the coverage of criminal cases is neither taught as a separate subject in journalism faculties, nor there is evidence of other forms of specialised training for media professionals on these issues.

Major media outlets, mainly national TV channels and some print and online media, have separate departments specialised in the coverage of criminal cases. The journalists employed by these departments, who are often referred to as “criminal reporters”, usually develop their skills relying on their own experience and their affiliation with high-rating, or “trustworthy” media (often TV channels, which are subject to stricter legal and ethical regulations).

⁸⁰ For more information, see the [website](#) of the Association of European Journalists – Bulgaria.

⁸¹ For more information, see the [website](#) of the Union of Bulgarian Journalists.

⁸² [Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services \(Audiovisual Media Services Directive\)](#), OJ 2010 L 095 (as amended by Directive (EU) 2018/1808).

⁸³ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 2.

⁸⁴ Radio and Television Act ([Закон за радиото и телевизията](#)), 24 November 1998 (last amended 22 December 2020), Article 19e.

⁸⁵ Angelova, V., Popova, Z. and Neykova, M. (2017), News... up close ([Новини... отблизо](#)), Sofia, Association of European Journalists – Bulgaria.

In Bulgaria, as in many other countries, the “media frenzy” phenomenon of trying to reach out to the broadest possible audience is often pushing journalists reporting on crime to search for and disclose more personal details about the persons involved, especially when they are public figures or the case is related to excessive violence or cruelty.

Although there are promising practices introduced by individual media (like the position video journalist responsible for informing cameramen about the applicable ethical standards introduced by bTV),⁸⁶ some journalists believe that the showing of the “bloody details” of crimes in pursuit of larger audience prevails over the objective and balanced presentation of versions or motives, while others are of the opinion that in many cases official press releases on crime are not sufficiently clear and reporters have to seek additional clarifications or details by either talking informally with the competent public officials or by consulting unofficial sources.⁸⁷ As a result, media publications on crime and criminal cases often end up violating the privacy of those involved, ignoring the presumption of their innocence, damaging their reputation or affecting them in another negative or harmful way.

Individuals, who believe that they have sustained damages due to the inappropriate media coverage of criminal proceedings, have different options of seeking redress depending on the type of media, the compensation sought and the specific characteristics of the case.

The Commission for Personal Data Protection can impose an administrative measure or a financial penalty of up to €20,000,000 (or in the case of a company up to 4 % of the turnover of the preceding year, whichever is higher) on any media or journalist, who has published the personal data of another person in violation of the rule that processing of personal data for journalistic purposes is lawful as long as it respects the privacy of the person concerned.⁸⁸ This procedure can be initiated by the affected person through a complaint and the commission’s decision can be appealed before the court.

Civil claims against the media for compensation of material and/or non-material damages are filed under the general rules of the Obligations and Contracts Act.⁸⁹ In its Article 45 the law states that “everyone is obliged to repair the damages they have caused to others through own fault. In all cases of tort, guilt is presumed until proven otherwise”. When it comes to media, another relevant provision is the one of Article 49, which states that “the person who has assigned any work to another person is liable for the damages caused by that person in the course of or in relation to the performance of this work.” This provision enables the applicant to file the claim directly against the media service provider instead of the individual journalist. Civil claims for compensation of damages are filed either before the regional court in the area of the defendant’s permanent address or seat or before the regional court in the area where the act has been committed. In their claim, the applicants

⁸⁶ bTV (2019), The news from within: how criminal news are reported, part 2 ([Новините отвътре: как се отразяват криминални новини, част 2](#)), bTV, 5 March 2019.

⁸⁷ Bulgaria On Air (2015), How do media report on criminal cases? ([Как медиите отразяват криминалните случаи](#)), Bulgaria On Air, 16 June 2015.

⁸⁸ [Personal Data Protection Act](#), 4 January 2002 (last amended 26 November 2019), Articles 85. For the amount of the sanction the Bulgarian law refers directly to Article 83, Paragraph (5) of the General Data Protection Regulation.

⁸⁹ Obligations and Contracts Act ([Закон за задълженията и договорите](#)), 22 November 1950 (last amended 1 December 2020), Articles 45-49.

have to describe the damage they have suffered and the compensation they are claiming.

Table 1: Redress options for damages caused by media coverage

Redress options	Type of media				
	TV	Radio	News Agency	Print media	Online media
Complaint to the Commission for Personal Data Protection (for imposing a fine)	Yes.	Yes.	Yes.	Yes.	Yes.
Civil claim before a civil court (for obtaining compensation)	Yes, but not simultaneously with a criminal lawsuit.	Yes, but not simultaneously with a criminal lawsuit.	Yes, but not simultaneously with a criminal lawsuit.	Yes, but not simultaneously with a criminal lawsuit.	Yes, but not simultaneously with a criminal lawsuit.
Criminal lawsuit for defamation or insult before a criminal court (for imposing a fine)	Yes, unless official information is quoted. A civil claim for compensation can be attached to the criminal lawsuit, but a separate civil claim cannot be initiated simultaneously.	Yes, unless official information is quoted. A civil claim for compensation can be attached to the criminal lawsuit, but a separate civil claim cannot be initiated simultaneously.	Yes, unless official information is quoted. A civil claim for compensation can be attached to the criminal lawsuit, but a separate civil claim cannot be initiated simultaneously.	Yes, unless official information is quoted. A civil claim for compensation can be attached to the criminal lawsuit, but a separate civil claim cannot be initiated simultaneously.	Yes, unless official information is quoted. A civil claim for compensation can be attached to the criminal lawsuit, but a separate civil claim cannot be initiated simultaneously.
Complaint to the Council on Electronic Media (for imposing a fine)	Yes.	Yes.	No.	No.	No.
Complaint to the Commission for Journalism Ethics (for publishing a rebuttal or granting the right to respond)	Yes, if the media has signed the Code of Ethics of Bulgarian Media and if there are no court proceedings on the subject of the claim.	Yes, if the media has signed the Code of Ethics of Bulgarian Media and if there are no court proceedings on the subject of the claim.	Yes, if the media has signed the Code of Ethics of Bulgarian Media and if there are no court proceedings on the subject of the claim.	Yes, if the media has signed the Code of Ethics of Bulgarian Media and if there are no court proceedings on the subject of the claim.	Yes, if the media has signed the Code of Ethics of Bulgarian Media and if there are no court proceedings on the subject of the claim.
Complaint to the media (for publishing a rebuttal or granting the right to respond)	Yes.	Yes.	Yes.	Yes.	Yes.

Source: Center for the Study of Democracy

As an alternative to the civil claim, an accused person, who believes that the media have violated their rights, can initiate a private criminal lawsuit for insult or slander under the Criminal Code.⁹⁰

According to Article 147 of the Criminal Code, the act of attributing a criminal offence to another person qualifies as a slander and is punished by a fine of between BGN 3,000 and BGN 7,000 (approximately between €1,500 and €3,500) and public reprimand. Article 148 of the Criminal Code envisages a larger fine of between BGN 5,000 and BGN 10,000 (approximately between €2,500 and €5,000) for acts of slander committed publicly, through the media, or by or against a public official in relation to the execution of their official duties. The act does not qualify as a slander if attributed criminal offence is proved, e.g., if the person, to whom it has been attributed, is found guilty and sentenced by court.

A separate provision of the Criminal Code (Article 148a) incriminates the act of making public, including through the media, information about another person, which has been illegally obtained from the archives of the Ministry of the Interior. The punishment envisaged for this offence is a fine between BGN 5,000 and BGN 20,000 (approximately between €2,500 and €10,000).

The acts of slander are not prosecuted by the state. The proceedings are initiated by the victim, who has to file a written complaint within six months after learning about the offence. The court authorised to hear the case is the regional court in the area where the crime has been committed. In this type of cases, the victim takes the role of a private prosecutor and has to prove the criminal act and the fact that it has been committed intentionally. The victim can attach a civil claim for compensation to the criminal lawsuit, but it cannot be run simultaneously with a separate civil claim filed before a civil court.

In Bulgaria, criminal sanctions can only be imposed on individuals, which means that in cases of slander, in which the act has been committed through the media, only the journalist or the author of the statement can be prosecuted. The media service provider, as a legal entity, cannot be prosecuted and sanctioned under the Criminal Code.

If a person suspected or accused of committing a crime believes that a TV channel or a radio station has covered their case in violation of the principles of the Radio and Television Act, they can file a complaint to the Council on Electronic Media, which can impose a fine on the media service provider under the Administrative Violations and Sanctions Act.⁹¹ This complaint can be filed independently to any of the other redress options (civil or criminal lawsuit, complaint to the media, or complaint to the Commission for Journalism Ethics). The amount of the fine can range between BGN 3,000 and BGN 20,000 (approximately between €1,500 and €10,000).

The Commission for Journalism Ethics considers complaints only against media, which have signed the Code of Ethics of Bulgarian Media. The complaints could not be filed anonymously and should be submitted within two months after the date of the publication. Complaints are not accepted if there are pending court proceedings on the same case. If

⁹⁰ Criminal Code (*Наказателен кодекс*), 1 May 1968 (last amended 22 December 2020), Articles 146-148.

⁹¹ Administrative Violations and Sanctions Act (*Закон за административните нарушения и наказания*), 28 November 1969 (last amended 22 December 2020).

the complaint contains all the necessary information, it is forwarded to the respective media for obtaining its position. The Commission for Journalism Ethics first tries to settle the dispute by mediation, and in case this is not possible, it holds public hearings for which it invites the two parties or their representatives. It then makes a decision in a closed session, which is published. If the Commission for Journalism Ethics finds the complaint justified, it issues a recommendation to the media to publish correction, to apologise or to grant the affected person the right to respond. If the media does not comply with the recommendation, the Commission for Journalism Ethics publicly reprimands the media by expressing its disapproval of the respective publication.⁹² If the media is a TV channel or a radio station, the failure to comply with the recommendation can also lead to a financial fine of between BGN 2,000 and BGN 5,000 (approximately between €1,000 and €2,500), imposed by the Council on Electronic Media.⁹³

Finally, if a person suspected or accused of committing a crime disagrees with how a media has covered their criminal case, they can turn to the media itself and claim compensation if the media has internal rules or a code of conduct, where such compensation is envisaged. This option is rarely used in practice, because the majority of media have not made such rules publicly available. Furthermore, the outcome of such an approach depends solely on the good will of the media.

Cases against media for breaching the rules on coverage of criminal cases

The court practice on cases against media involving persons suspected or accused of committing a crime is relatively scarce. There is, however, one exemplary case that provoked a serious public debate on the extent to which media should be held responsible for disclosing information about ongoing criminal investigations.

In February 2012, there was a fight in a nightclub in the city of Burgas. According to the first media reports, the fight started after a nightclub guard made a remark to three of the customers, after which there was a quarrel and the guard ended up hit in the head with a bottle. The incident received extensive media coverage due to the involvement of one of the suspects, P.N., who had allegedly been involved in similar incidents before. Several local online media published articles about the start of the investigation referring to the suspects as “assailants”. P.N. was accused of causing minor bodily injury to the nightclub employee, with the act being motivated by hooliganism and committed with extreme cruelty. In 2012, he was found not guilty by the Burgas Regional Court and acquitted on all charges.⁹⁴ In 2014, the acquittal was confirmed at second instance by the Burgas District Court.⁹⁵

Three years later, in 2017, P.N. launched almost identical lawsuits against four local online

⁹² National Council for Journalism Ethics (2014), Rules of Procedure of the Commission for Journalism Ethics (*Правилник за дейността на Комисията по журналистическа етика*), Articles 7-17.

⁹³ Radio and Television Act (*Закон за радиото и телевизията*), 24 November 1998 (last amended 22 December 2020), Article 126d.

⁹⁴ Burgas Regional Court, Sentence No 246 on criminal case No 1746/2012 (*Присъда № 246 по наказателно дело № 1746/2012 г.*), ECLI:BG:RC212:2012:20120201746.001, 9 November 2012.

⁹⁵ Burgas District Court, Decision No 26 on appellate criminal case No 333/2013 (*Решение № 26 по въззивно наказателно дело № 333/2013 г.*), ECLI:BG:DC210:2014:20130900333.001, 28 January 2014.

media outlets claiming compensation for the damages suffered by being called an “assailant” and referred to as the perpetrator of a crime he had not committed. According to the applications, the damages suffered by the applicant included damaged reputation, honour and dignity, loss of business partners, loss of faith in law and justice, termination of the applicant’s education and health problems both for the applicant and for his mother. In their defence, the media outlets referred to the right of opinion and the right of spreading information, one of them also claiming that the use of the word “assailant” in the title of the article was not aimed to create a negative attitude toward the claimant among the readers, but to express the author’s personal opinion of the social significance of the applicant's personality.

At first instance, in three of the four cases, the court found the claim justified, convicted the media to pay compensation to the applicant, but decreased substantially the amount of the compensation originally requested finding it unreasonably excessive. In its decisions, the court noted the different style of the official press statements of the police and the prosecutor’s office on the one hand and the published articles on the other hand, and the distinction between a fact (fight) and assessment (assailant), concluding that the articles had interpreted the official information to the detriment of the applicant. The court also admitted that the applicant’s full name and information about his previous police registrations had been disclosed in one of the press releases issued by the police, noting that as long as this disclosure was unlawful it could not be used as an excuse by the media for not observing the constitutional right to presumption of innocence.⁹⁶

In the fourth case, the court found the claim unjustified and dismissed it, arguing that although some of the wording might suggest a violation of the presumption of innocence, the article as a whole was focused mostly on the applicant’s release from detention and was correctly describing the proceedings albeit using popular (media) rather than legal language.⁹⁷

The four cases provoked strong negative reactions among journalists. In 2017, after the cases were launched, the Association of European Journalists – Bulgaria issued a statement, describing the cases as alarming and arguing that the articles were based on official information released by the police and the court. The statement also called for broadening the scope of the exemption from responsibility when quoting official sources, which was explicitly envisaged only for TV channels and radio stations, but should apply to other types of media as well.⁹⁸ In January 2018, after the first two decisions were published, journalists from Burgas organised a protest in front of the building of the court to express their concerns that the decisions were creating a precedent that would open the door for

⁹⁶ Burgas Regional Court, Decision No 39 on civil case No 1620/2017 ([Решение № 39 по гражданско дело № 1620/2017 г.](#)), ECLI:BG:RC212:2018:20170101620.001, 11 January 2018; Burgas Regional Court, Decision No 41 on civil case No 1621/2017 ([Решение № 41 по гражданско дело № 1621/2017 г.](#)), ECLI:BG:RC212:2018:20170101621.001, 11 January 2018; Burgas Regional Court, Decision No 1312 on civil case No 1625/2017 ([Решение № 1312 по гражданско дело № 1625/2017 г.](#)), ECLI:BG:RC212:2018:20170101625.001, 19 June 2018.

⁹⁷ Burgas Regional Court, Decision No 292 on civil case No 1622/2017 ([Решение № 292 по гражданско дело № 1622/2017 г.](#)), ECLI:BG:RC212:2018:20170101622.001, 22 February 2018.

⁹⁸ AEJ Bulgaria (2017), It is inadmissible for journalists to pay the price for the lack of adequate justice ([Недопустимо е журналистите да плащат цената за липсата на адекватно правосъдие](#)), press release, 20 June 2017.

everyone accused of committing a crime to sue the media covering their cases.⁹⁹

In response to the protests, the Professional Ethics Committee to the Judges' College of the Supreme Judicial Council initiated an investigation to check if the judge, who issued the first two decisions, had violated Code of Ethics for the Behaviour of Bulgarian Magistrates.¹⁰⁰

The investigation ended with the conclusion that there was no evidence of unethical conduct on the part of the judge in any of the two cases.¹⁰¹

Two of the court decisions for awarding compensation were appealed before and repealed by the Burgas District Court. For the first one, appealed only by the media, the second instance court concluded that that the combination of the person's initials, the information about previous police registrations and the use of the word "assailant" were not sufficient to enable the identification of the applicant.¹⁰² For the second one, appealed by both parties, the court noted that by using the phrase "they beat him up" (*осъществиха побой*) the journalist had not violated the presumption of innocence, because he was describing the act, for which the person was charged, without being able to predict the subsequent acquittal. The word "assailant", according to the court, was used in relation to the concrete crime, for which the person was charged, and not as a general qualification of that person. The court also noted that it could not impose to the media its own understanding of the style of writing they should use and that *"journalists cannot be expected to be completely objective, as journalistic freedom includes a degree of exaggeration and even provocation [...]. In the context of the present case, there is precisely exaggeration and provocation in the title aimed at achieving more expressiveness and attracting the attention of readers, which is a way of presentation of the journalistic material"*.¹⁰³

The two decisions of the second instance court were appealed before the Supreme Court of Cassation, but in both cases the applicant's claims were dismissed as inadmissible.¹⁰⁴

⁹⁹ bTV News (2018), Journalists protested in front of the Chamber of Justice in Burgas ([Журналисти излязоха на протест пред съдебната палата в Бургас](#)), bTV, 15 January 2018.

¹⁰⁰ Supreme Judicial Council (2009), [Code of Ethics for the Behaviour of Bulgarian Magistrates](#), 20 May 2009.

¹⁰¹ Supreme Judicial Council (2018), The Professional Ethics Committee to the Judges' College of the Supreme Judicial Council accepted the statement of the ethics committee of the District Court of Burgas whereby Kalin Kunchev, a judge in Regional Court of Burgas had not violated the rules on professional ethics as laid down in the Code of Ethics for the Behaviour of Bulgarian Magistrates ([Комисията по професионална етика към съдийската колегия на ВСС прие становището на етичната комисия в ОС – Бургас, според което Калин Кунчев – съдия в Районен съд – Бургас не е нарушил правилата за професионална етика, регламентирани в КЕПБМ](#)), press release, 17 April 2018.

¹⁰² Burgas District Court, Decision No 1492 on appellate civil case No 869/2018 ([Решение № 1492 по въззивно гражданско дело № 869/2018 г.](#)), ECLI:BG:DC210:2018:20180500869.001, 23 October 2018.

¹⁰³ Burgas District Court, Decision No 1540 on appellate civil case No 1333/2018 ([Решение № 1540 по въззивно гражданско дело № 1333/2018 г.](#)), ECLI:BG:DC210:2018:20180501333.001, 2 November 2018.

¹⁰⁴ Supreme Court of Cassation, Ruling No 693 on civil case No 1014/2019 ([Определение № 693 по гражданско дело № 114/2019 г.](#)), ECLI:BG:SC001:2019:20190501014.001, 16 September 2019; Supreme Court of Cassation, Ruling No 811 on civil case No 1225/2019 ([Определение № 811 по гражданско дело № 1225/2019 г.](#)), ECLI:BG:SC001:2019:20190501225.001, 25 November 2019.

4. Disclosure of information and media coverage of criminal cases in practice

Practices of disclosing information

The disclosure of information about pending cases at all stages of the criminal process is a matter of finding the right balance between different rights, in particular the right to information, the right to privacy and the presumption of innocence. This balance is one of the issues clarified by the Council of Europe Guidelines on Safeguarding Privacy in the Media,¹⁰⁵ which defines notions such as personal life, private figure, public interest and public figure in the context of the case law of the European Court of Human Rights. At EU level, the relevant legal framework includes the General Data Protection Regulation (GDPR)¹⁰⁶ and Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences.¹⁰⁷

These standards are also valid in Bulgaria, where the way in which criminal justice authorities disclose information about criminal cases strongly depends on the stage of the proceedings. At all stages, the institutions strive to disclose some information about the alleged perpetrator of the criminal act, which is usually proportionate to the degree of certainty about the person's guilt.

As a rule, at the pre-trial stage, the applicable provisions give preference to the presumption of innocence, while during the trial stage, the principle of publicity and the right to be informed dominate.

In Bulgaria, the media coverage of a committed crime usually starts as soon as it is reported to the police. Even in cases where a crime is detected in the course of a media investigation, journalists first report to the police and then publish the information. If the investigation is launched by the prosecutor upon their own initiative, the Prosecutor's Office usually publishes a press release.¹⁰⁸

The Ministry of the Interior (the police) is usually the first institution to disclose information about a crime. At this initial phase of the process, the media interest is usually very high and journalists sometimes even go to the crime in an attempt to obtain more information from the police.

Depending on the extent, to which the media is interested in a particular case, official information is delivered through different channels. In cases of high public (or media)

¹⁰⁵ Council of Europe (2018), [Guidelines on Safeguarding Privacy in the Media](#).

¹⁰⁶ [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data](#), OJ 2016 L 119 (General Data Protection Regulation).

¹⁰⁷ [Directive \(EU\) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data](#), OJ 2016 L 119.

¹⁰⁸ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium.

interest, information is usually provided at a press conference/press statement (*брифинг*), through an interview or a press release. For other cases, short pieces of information are included in the daily news bulletins published regularly on the websites of the respective departments or units of the Ministry of the Interior.¹⁰⁹ These bulletins provide information about a selection of cases, which is usually compiled by the information service of the respective police unit.

There are cases, which attract higher media attention than others. These are often cases involving well-known public figures or cases of extreme cruelty. These “unusual and high-profile cases” are not always what the law defines as cases of “prevailing public interest”. At the pre-trial stage, when there is usually less certainty about many of the facts related to the crime, the media interest is usually highest, which puts investigative bodies under increased pressure for disclosing information.

The police have no publicly available set of criteria as to which crimes they should inform the public about, in which cases more detailed information should be provided (by holding a press conference or releasing a press statement) and which incidents should be mentioned briefly in the bulletins. There are many crimes, for which information is never published, and the public is informed only through the release of official statistics.

The Ministry of the Interior has undertaken measures to make the online disclosure of information more consistent. Thus, the websites of all district police directorates have the same structure and layout, and are maintained under the main website of the Ministry of the Interior. The main website also publishes information, mostly with national significance, in the form of news. In 2019 alone, more than 2,000 news were published on the main website, the majority of which, however, contain traffic-related information.¹¹⁰

Each territorial unit of the Ministry of the Interior has its own communications department (press office). In cases of criminal investigations, these departments are responsible for the contacts with the media together with the supervising prosecutor, who approves the scope and content of the information to be disclosed in each individual case. To inform the journalists, the press offices of police departments use:

- press conferences;
- press statements (briefings);
- interviews;
- press releases;
- criminal bulletins published on the departments’ websites;
- news published on the departments’ websites;
- crime statistics.

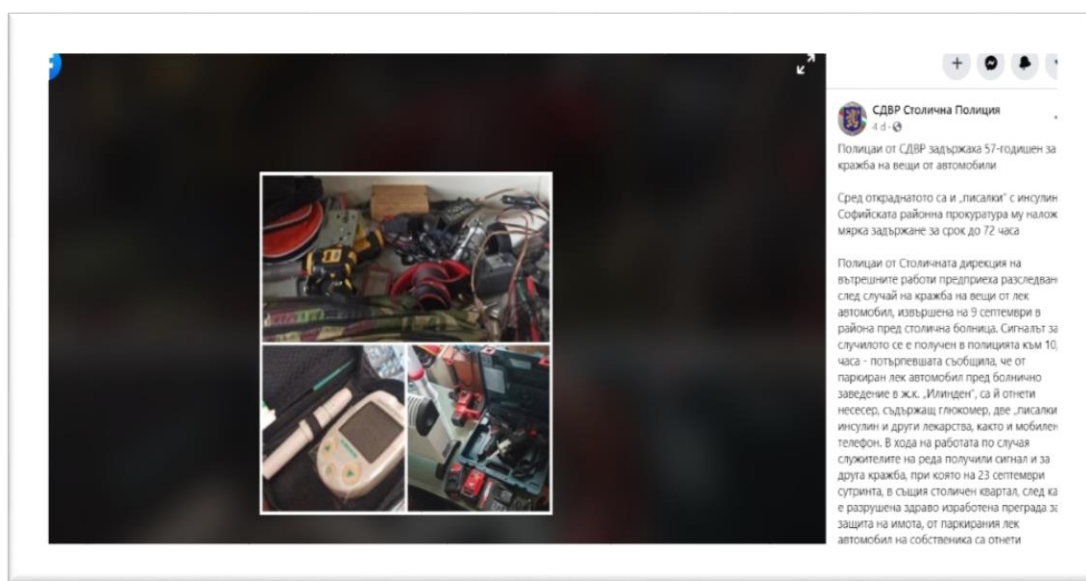
The biggest territorial police department, the Sofia Metropolitan Directorate of the Interior (*Столична дирекция на вътрешните работи*), maintains a popular Facebook page,

¹⁰⁹ For example, see the daily [information bulletins](#) released by the press office of the Sofia Metropolitan Directorate of the Interior (*Столична дирекция на вътрешните работи*).

¹¹⁰ Ministry of the Interior (2020), Activity report of the Ministry of the Interior in 2019 ([Доклад за дейността на Министерството на вътрешните работи през 2019 г.](#)), February 2020.

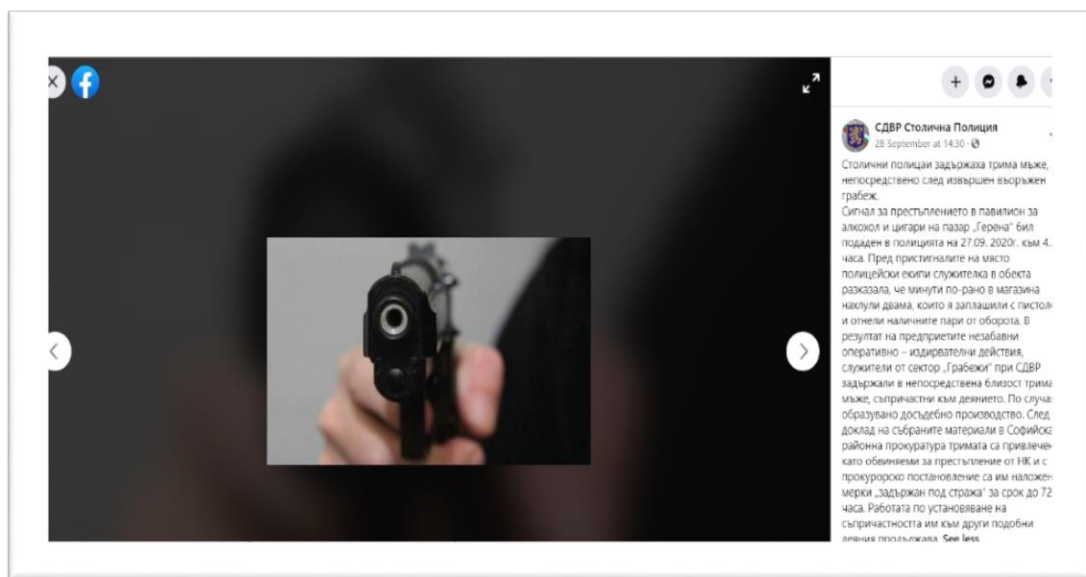
which is administered on a voluntary basis by police officers, who do not work in the directorate's press office. The page provides information on individual cases, usually based on presumed public interest. The page has a significant number of followers (more than 60,000) and facilitates the communication between the police and the public by sharing various information: CCTV footages, photos of wanted persons, visual material of crime scenes, confiscated items, footage of police operations, etc. The information provided is made public with the consent of the supervising prosecutors in each case in line with the legal safeguards against unbalanced disclosure of information. Where necessary, people's faces are blurred to avoid their identification.

Figure 2: Police operation for the arrest of a person suspected of car theft



Source: Sofia Metropolitan Directorate of the Interior Facebook page

Figure 3: Police operation for the arrest of three persons suspected of armed robbery



Source: Sofia Metropolitan Directorate of the Interior Facebook page

The Ministry of the Interior has an Ethics Code,¹¹¹ which has a special chapter dedicated to the processing and disclosure of information. Information, obtained as part of police work, cannot be shared with third parties unless explicitly permitted by the law, in order to protect the privacy and personal life of citizens. Police officers should also inform the public in a punctual and objective way about their work. The violation of the ethical rules is listed among the grounds for disciplinary sanctions.¹¹²

It is, however, not uncommon for investigating police officers to informally talk to journalists and share information about the investigation (facts, versions, motives, etc.). Such information, obtained unofficially and sometimes confirmed by the victim's relatives, suspect's lawyer or witnesses, is sometimes published in the media.

Box 1: Unofficial sharing of information between police officers and the media

"The chief editor of 168 Chasa newspaper sent D.N., T.N. and the witness V.A., who worked as a photographer at the newspaper, to the town of V. to collect additional information about the police operation. After their arrival to V., the two accused [journalists] met the witness D., who was chief of the V. police department, and the witness D., who, as a police officer of the same department, took part in the police operation on 15 August 2010 during which the claimants were arrested. The police officers told the accused [journalists] about the arrest of A.T., V.K., N.P. and M.S. explaining that the arrest took place after a week earlier drugs were found in a local child and during a questioning before a judge the child admitted that he received the drugs by male persons from the city of S. and that when these persons came to the town of V., besides giving him the drugs, they made sex with him.

The police officers also told the accused [journalists] that they had decided to arrest the persons, who were giving drugs to the child and were making sex with him, after the child informed the police that he had appointment to meet the persons in a guest house in the town of V. During a meeting at the police station, the accused [journalists] N. and N. also learned that during the arrest the child, in whom the drugs were found, was also in the guest house, as was another child, and that the police had confiscated a towel with traces of semen, which was sent for DNA analysis, and took anal samples from the arrested persons. The accused [journalists] also learned, again from the police officers, that the children had sex with two of the arrested persons and that USB sticks had been seized from the guest house, which the officers presumed contained footage of sex scenes."

Source: Sofia City Court¹¹³

Regardless of the public and media interest, the police should always seek the approval of the supervising prosecutor for each information they share with the public, as the instructions of the prosecutor are mandatory for all investigating police officers.

At the pre-trial stage, when giving permission and defining the scope of the information to be shared, as well as when sharing information themselves, the prosecutors should be

¹¹¹ Ministry of the Interior (2014), Ethics code of conduct of the public officials in the Ministry of the Interior (*Етичен кодекс за поведение на държавните служители в Министерството на вътрешните работи*), 25 July 2014 (last amended 3 August 2018).

¹¹² Ministry of the Interior Act (*Закон за Министерството на вътрешните работи*), 27 June 2014 (last amended 2 October 2020), Article 194.

¹¹³ Sofia City Court, Decision No 437 on private appellate criminal case No 5639/2013 (*Решение № 437 по въззивно наказателно дело от частен характер № 5639/2013 г.*), ECLI:BG:DC110:2014:20130605639.001, 17 April 2014.

guided by the rules and procedures laid down in the Communication Strategy of the Judiciary 2014-2020,¹¹⁴ the Media Strategy of the Judiciary,¹¹⁵ the Handbook for Interaction of the Judiciary with the Media,¹¹⁶ and the internal media communication rules of the Prosecutor's Office.¹¹⁷

Based on these documents, the communication between prosecutors and the media, in addition to what is laid down in the legislation, takes place according to the following basic rules:

- At the pre-trial stage, the media do not have access to documents in relation to pending cases. They can receive information only from the investigating authorities. The prosecutors can decide not to disclose such information if they believe that the disclosure can compromise the investigation.
- Informing the public about pending investigations should be done after an accused person is formally charged. Before that, disclosure of information is possible only if there is a serious public danger, if there is high public interest and if the authorities need assistance for identifying the perpetrator or some evidence related to the case. The investigating authorities should disclose only the following facts: there is an investigation; a suspect is being arrested; the court is asked to impose a coercive measure; the investigation is complete; charges are being pressed. The public relations official of the prosecutor's office may decide to add information about the person against whom coercive measures have been requested.¹¹⁸
- Upon request by the media, the court can disclose its decision for imposing a coercive measure, but it should delete any information about the evidence and the disclosure should be done in accordance with the personal data protection legislation.
- The media can obtain images of items, goods, money or other valuable objects, which have been the subject of a crime, or have been used for committing a crime, or have been obtained as a result of a crime as well as photos of the places where these items have been discovered.¹¹⁹

In addition to these rules, journalists are allowed to seek additional information and clarifications from the prosecutors' offices in relation to published announcements, but are

¹¹⁴ Supreme Judicial Council (2015), Communication strategy of the judiciary 2014-2020 ([Коммуникационна стратегия на съдебната власт 2014-2020](#)), Sofia, Effective Communication Consortium, 5 March 2015.

¹¹⁵ Supreme Judicial Council (2016), Media strategy of the judiciary ([Медийна стратегия на съдебната власт](#)), 13 October 2016.

¹¹⁶ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium.

¹¹⁷ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015.

¹¹⁸ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium, Section 2.4.

¹¹⁹ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium, Section 2.10.

obliged to make the inquiries in writing and to provide their contact information and information about the media they are working for.¹²⁰

In practice, the media show increased interest when, at the pre-trial stage, there is a court hearing. Usually this is the first court hearing when the court has to decide if the accused person has to be detained in custody. At this early stage of the proceedings, this is the occasion when a lot of information about the crime can become public, including personal details about the accused person.

In cases of high public interest, the media are usually present at the premises of the court and are often waiting in front of the court room where they can approach the accused person, ask questions and/or take pictures. At this point, accused persons are usually handcuffed and escorted by guards, and although they are allowed to cover their faces, their pictures often appear in the media.

Journalists are also allowed to be present at the hearing unless it is closed to the public, but photographers and camera operators are usually asked to leave after the hearing begins. The hearing can also be held behind closed doors if this is necessary to avoid the disclosure of a state secret or of facts about people's personal lives, for preserving morality, when a child victim is questioned or when the case involves a protected witness.¹²¹

The first court hearing during the pre-trial stage is also the point when the media get access to the "most sensational" information and "lurid details", especially if the accused person or their lawyer decides to talk to the journalists. After the end of such hearings, if there is public or media interest, the press officer of the court usually informs the journalists about the outcome of the hearing and the court's decision.

The court hearings taking place at the pre-trial stage follow some of the publicity rules applicable during the trial stage, but at the same time observe the confidentiality rules and restrictions valid for the pre-trial stage. Once the case goes to court for trial, the principle of publicity predominates and restrictions apply in exceptional cases.

The Prosecutor's Office usually issues a press release when the pre-trial stage is officially over and the accused person is charged and brought to court (at this point the accused person formally becomes a defendant). This usually happens when the case is of particular interest to the media or the public. In other cases, as a rule, the prosecution can inform the media whether there is an accused person in the case, but this has to be done after that person is informed in advance and without violating their procedural rights.¹²²

The trial stage usually takes place at a time when the media interest in the case has significantly decreased. This is partially due to the fact that at this point the most interesting facts and details of the case have already been disclosed and published using either official

¹²⁰ Prosecutor's Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor's Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March 2015.

¹²¹ Criminal Procedure Code ([Наказателно-процесуален кодекс](#)), 28 October 2005 (last amended 29 December 2020), Article 263.

¹²² Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium, Section 2.10.

sources or alternative ones (information obtained from lawyers, family members, neighbours, etc.) that are not subject to the strict confidentiality restrictions applicable to the criminal justice authorities.

Even in high-profile cases, compared to the pre-trial stage, during the trial stage the media reports are usually shorter, with fewer background details and often repeating the official press release of the court.

Table 2: Difference in media coverage during the different stages of proceedings: the Vetovo murder case¹²³

Pre-trial stage	Trial stage	Sentence
Vetovo Roma slaughtered his wife and surrendered to the police (Bulgarian National Radio)	The killer from Vetovo goes to court (Monitor, 21 July 2015)	20 years of deprivation of liberty for a man who murdered his wife (Prosecutor's Office of the Republic of Bulgaria, press release)
A man slaughtered his wife and surrendered (Trud Daily, 13 January 2015)	The indictment against the killer from Vetovo was filed (Trud Daily, 22 July 2015)	A murderer of a pregnant wife goes to prison for 20 years (Trud Daily, 2 September 2015) Magistrates have confirmed 20 years in prison for a man who killed his wife (Trud Daily, 31 March 2016)
Accused of murder remains in custody (Darik News, 15 January 2015)	The Veliko Tarnovo Court of Appeal will hear a murder case in Vetovo on Monday (Ruse.info, 2 March 2016)	A man from Vetovo was sentenced to 20 years in prison for murder (Darik News, 3 September 2015)
The Vetovo husband slaughters his ex-wife by 30 knife blows (Novini.bg)	The Vetovo killer goes to court threatened by a life sentence (PIK, 22 July 2015)	20 years imprisonment for a man who killed his wife (Epicenter, 5 September 2015)
Here is the Vetovo killer! (DunavMost, 15 January 2015)	The indictment against the killer from Vetovo was filed (Bulgaria Dnes, 22 July 2015)	20 years for a man who killed his wife (Bulgaria Dnes, 2 September 2015) A monster who stabbed his pregnant wife 30 times with a knife wants a lighter sentence (Bulgaria Dnes, 31 January 2016) Confirmed: 20 years of imprisonment for a man who killed a woman with 30 stabs with a knife in Vetovo (Bulgaria Dnes, 31 March 2016)
A jealous man killed his wife and surrendered (Blitz.bg, 13 January 2015)		20 years of imprisonment for a man from Vetovo who killed his wife (Dnes.bg, 2 September 2015)

Source: Center for the Study of Democracy

During the trial, the communication between the criminal justice authorities and the media

¹²³ On 11 January 2015, a 32-year-old man from the town of Vetovo murdered his 32-year-old wife by stabbing her several times with a knife after a family scandal. After the incident, the man voluntarily surrendered to the police and confessed about the crime. The prosecutor requested a life imprisonment sentence, but due to the confession and the conducted summary investigation the defendant was sentenced to 20 years of imprisonment (according to the law, when a summary investigation is conducted as a result of a confession, the penalty is automatically reduced by one third).

follows the guidelines laid down in the Communication Strategy of the Judiciary 2014-2020,¹²⁴ which sets the basic communication principles for criminal justice authorities (courts and prosecutor's offices). As additional means to facilitate the access to the information provided by courts, the strategy offers a variety of other communications guidelines related to the work of justice authorities including, for example, general communication guidelines such as the use of a unified design for press releases and the inclusion of contact information for further communication. It also sets a unified approach for the websites of courts and prosecutor's offices and provides recommendation as to which communication tools are most appropriate for the different categories of cases.

The Media Strategy of the Judiciary adopted by the Supreme Judicial Council¹²⁵ provides guidelines for the access of the media to public hearings. The journalists can attend all open public hearings, but cannot use technical means for recording images or sounds. Both the strategy and the handbook provide recommendations as to when the open access to hearings should be restricted to protect the privacy and family life of individuals (in addition to the legal rules for holding hearings behind closed doors). The factors to be considered when a judge has to decide whether to allow the media to attend a hearing are:

- The right of parties to have their personal and family life respected;
- Sustaining the order in the courtroom;
- National security issues;
- The type of the case (criminal, civil or administrative);
- The right to a fair trial;
- The presumption of innocence;
- The fact that the parties are influenced by the presence of media, especially audiovisual media;
- The need of the judiciary to function properly;
- The authority, independence and impartiality of the judge.

Notably, the justice authorities attribute special importance to the visual recordings in court. Both the strategy and the handbook include guidelines in relation to the presence of journalists in the court room, the making of photographs, audio or video recordings during the hearing and use of such photographs or recordings.

Despite the efforts to establish common rules for the communication between the justice authorities and the media, there are some courts that have not adopted or made publicly available their own media communication rules. These are mostly smaller courts, which are less likely to receive specific media attention due to the lack of cases of public interest. However, some bigger courts, which are often hearing cases of particular public interest, such as the Sofia City Court and the Specialised Criminal Court, also do not have their own media communication procedures and apply only the common Media Strategy of the

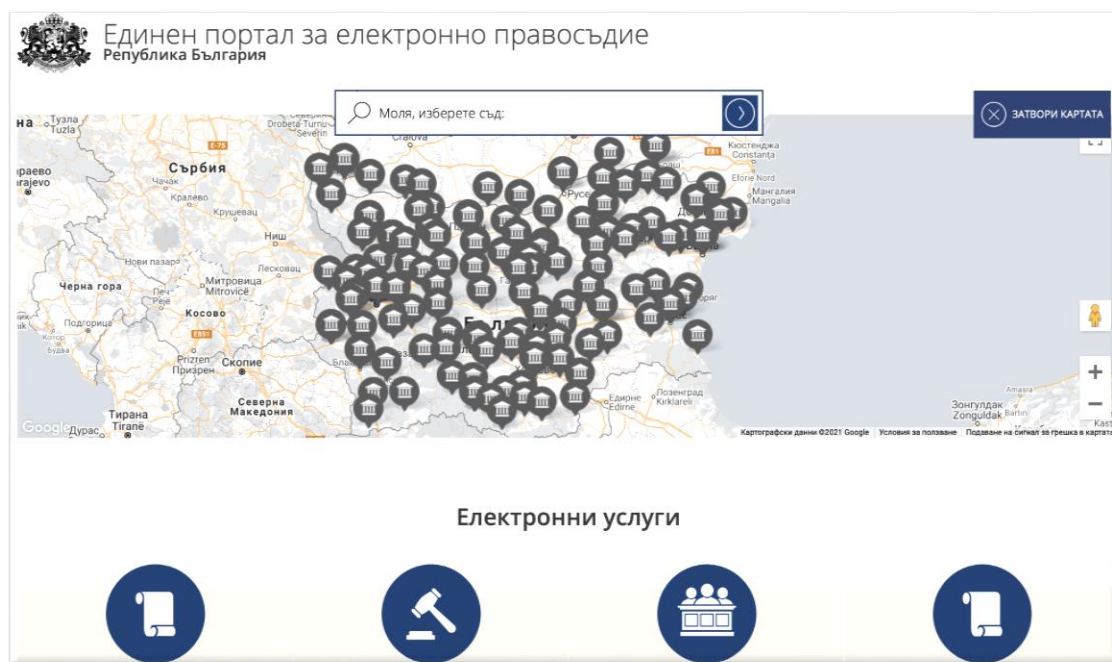
¹²⁴ Supreme Judicial Council (2015), Communication strategy of the judiciary 2014-2020 (*Коммуникационна стратегия на съдебната власт 2014-2020*), Sofia, Effective Communication Consortium, 5 March 2015.

¹²⁵ Supreme Judicial Council (2016), Media strategy of the judiciary (*Медийна стратегия на съдебната власт*), 13 October 2016.

Judiciary and the Handbook for Interaction of the Judiciary with the Media. Both courts, however, publish regularly information about upcoming hearings in cases of public interest, which is accessible to both the media and the general public. On the other hand, there are also small courts that have their own media strategies (following to a large extent the common strategy adopted by the Supreme Judicial Council)¹²⁶ as well as large courts that have developed their own rules for granting access to the media.¹²⁷ Some courts, including the Supreme Court of Cassation, have developed internal rules for identifying cases of particular public interest.¹²⁸

As part of the efforts for unifying the online presence of courts, the Supreme Judicial Council has launched a [Single E-Justice Portal](#), under which courts can maintain their own websites using the same layout and structure. The portal also provides public access to court decisions on closed cases and some online services for the parties in pending cases. So far, however, not all courts are integrated in the portal, and some of those that are integrated continue to maintain their old websites as well.¹²⁹

Figure 4: Interactive map of the courts integrated in the Single E-Justice Portal



Source: Single E-Justice Portal

When it comes to social media, the communications and media strategies encourage the courts to open and maintain pages in Facebook as a means for getting closer to the people. Most first and second instance courts have their Facebook pages (some posting much more actively than others), but the majority of posts provide useful information about the court,

¹²⁶ For example, see Regional Court – Berkovitsa (2016), Media strategy: rules for working with the media in Regional Court – Berkovitsa ([Медийна стратегия: правила за работа с медиите в Районен съд – Берковица](#)).

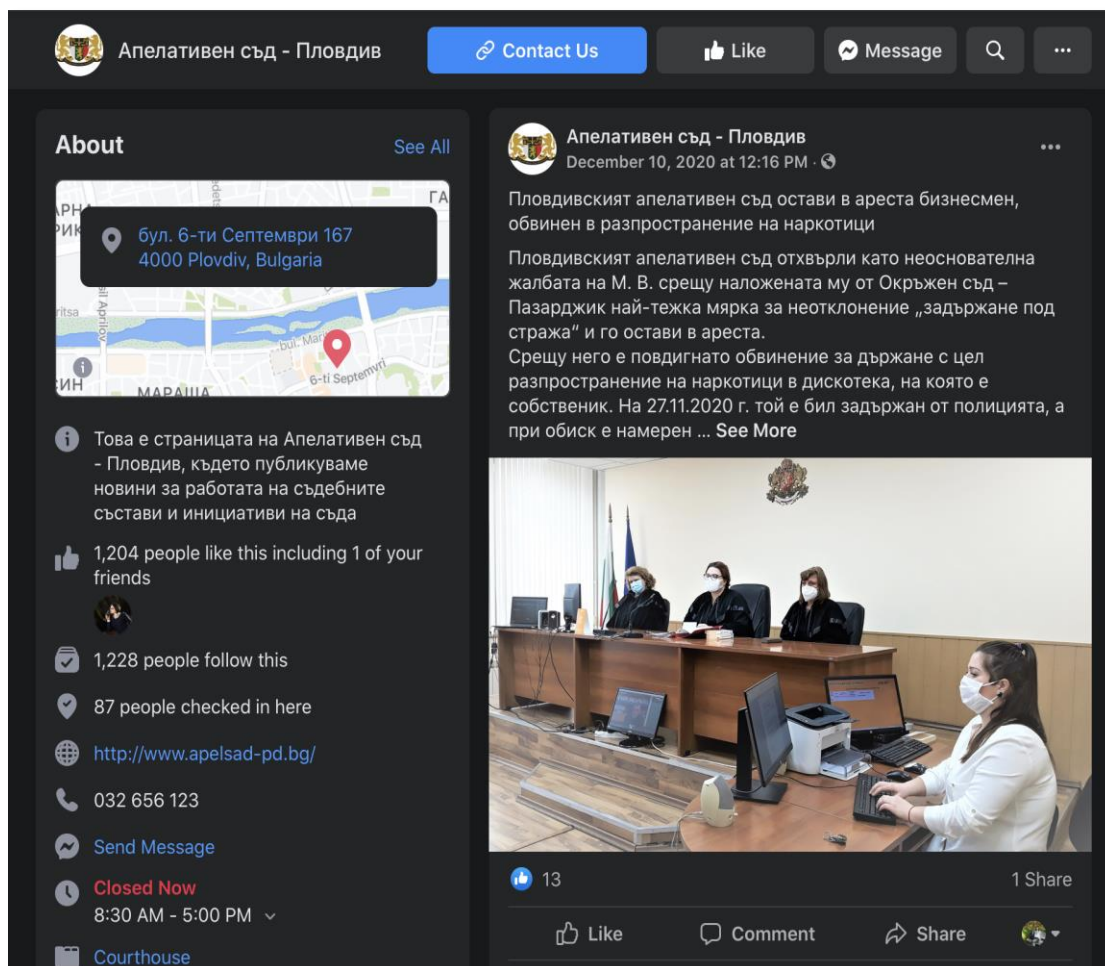
¹²⁷ For example, see Sofia Regional Court (2015), Rules for access of the media to the court ([Правила за достъп на медиите в съда](#)).

¹²⁸ Supreme Court of Cassation (2015), Internal rules for the identification of cases of particular public interest ([Вътрешни правила за идентифициране на дела с особен обществен интерес](#)), 3 May 2017.

¹²⁹ For the courts that have already been integrated in the Single E-Justice Portal, see the interactive map available on the portal's [home page](#).

while information about cases is rarely published. One of the exceptions is the Plovdiv Court of Appeal, which publishes on its Facebook page resumes of selected court decisions in criminal cases.

Figure 5: Information about a court hearing for reviewing detention in custody



Source: Plovdiv Court of Appeal Facebook page

Each resume offers a detailed description of the case using only the initials of the accused person and the victim. Each post is accompanied by a disclaimer about the presumption of innocence. Posts are usually illustrated with pictures from the court hearing which show only the panel of judges and never the accused person or another participant in the proceedings.¹³⁰

Officials disclosing the information

All public authorities involved in criminal proceedings have separate communications units (or communications officers), which are responsible for the public dissemination of information and for the relations with the media. Journalists, who wish to obtain information about a criminal case and/or about a suspected or accused person, are advised

¹³⁰ For more information, see the [Facebook page](#) of the Plovdiv Court of Appeal.

to file their inquiries to these units or officers.

In practice, however, it is not uncommon for investigating police officers to talk to journalists unofficially and disclose information about ongoing investigations, which sometimes goes beyond the restrictions laid down in the legislation and the nonbinding ethical rules. In most cases, this unofficially obtained information is used by the media only for verifying the information obtained from other sources, but sometimes it is made public.

Box 2: Unofficial and official disclosure of information by the police

“President Rumen Radev's father, Georgi Radev, crashed with a Mercedes into the electric tricycle of a disabled person at a roundabout in Harmanli. The incident happened on 17 August, but so far it has not been officially announced, the website [breaking.bg](#) reported first. The police later confirmed about the incident.

[...]

In front of 24 Chasa newspaper, sources from the Ministry of the Interior unofficially confirmed that the incident was caused by the father of the head of state, who hit the tricycle with the disabled person on the side with his car without having priority. The person fell to the ground. However, the recording shows that Georgi Radev did not get out of the car. Police officers and two unidentified civilian men arrived at the scene. Everyone spoke on the phone without recording data about the accident, as is the usual practice of the traffic police.

[...]

The Inspectorate of the Ministry of the Interior and the National Police Chief Directorate are conducting an internal investigation into whether the Harmanli Regional Police Department had concealed information about an accident involving the 81-year-old Georgi Radev, said the Chief of the Haskovo District Directorate of the Interior Angel Tsankov.

“The incident was reported,” he stressed, but pointed out that it was not included in the police bulletin because there was no serious injury, only material damage.”

Source: [Dir.bg](#)¹³¹

The Ministry of the Interior has a Press Office and Public Relations Directorate, which deals with all communications-related issues within the institution, including media relations, communication with individuals and legal entities on access to public information and public awareness activities.¹³² All territorial units and departments of the Ministry of the Interior also have specialised public relations officers who, together with the administrative head of the respective unit or department, usually speak to the media.

The officials from the Prosecutor’s Office, who are authorised to communicate with the media, are determined by the institution’s internal media communication rules. These are the spokesperson of the Prosecutor General, the administrative heads and spokespersons of local prosecutor’s offices, the supervising prosecutors and the administrative officers tasked with the performance of communications functions.¹³³

¹³¹ Dimitrova, D. (2018), The president's father was involved in an accident not reported by the Ministry of the Interior ([Бащата на президента участва в катастрофа, за която МВР не е съобщило](#)), [Dir.bg](#), 25 August 2018.

¹³² For more information, see the website of the Press Office and Public Relations Directorate ([Дирекция „Пресцентър и връзки с обществеността“](#)) available in [Bulgarian](#) and [English](#).

¹³³ Prosecutor’s Office of the Republic of Bulgaria (2015), Rules for media communication in the system of the Prosecutor’s Office of the Republic of Bulgaria ([Правила за медийна комуникация в системата на ПРБ](#)), 24 March

The courts, depending on their size and structure, have different persons responsible for the relations with the media. At some courts, this function is performed by the administrative head of the court, some have appointed one of their judges as a spokesperson of the court, and some have appointed a public relations officer.¹³⁴ These are the only court officials who can publicly share information about the court's work. All other persons working in the respective court should refer all inquiries they receive to the respective person responsible for the communications.¹³⁵

The contact information (name, address, telephone number, fax, email) of the communications units and/or officers of all criminal justice authorities is available online. The contact information of the public relations officers of all courts and prosecutor's offices is published on their websites as well as on the website of the Supreme Judicial Council.¹³⁶ The contact information of the press offices of all departments and units of the Ministry of the Interior is available on the website of the respective department or unit.

Courts and prosecutor's offices can also give accreditation to journalists. The journalists, who wish to get an accreditation for a period of one year, have to file a request. Accredited journalists receive all press releases of the respective court and are invited to press conferences and other public events.¹³⁷

Scope of information disclosed

The police usually publish a press release to inform about a crime that has been committed or the arrest of a person suspected of committing a crime. Cases that are supposed to be of higher public interest are presented in more detail and usually include information about the number of suspected or arrested persons, their sex (often not indicated explicitly but evident due to the system of grammatical gender of the Bulgarian language), sometimes their age and information about previous convictions.

More information is usually provided about the crime scene and the evidence that have been found and/or seized. Press releases are often accompanied by images of seized items such as drugs, illegally used equipment, stolen goods or weapons.

In exceptional cases, usually when the police seek information from the public to help them identify a suspect or find a missing person, a face image or a video, usually CCTV footage, is also published.

2015, Section 5.

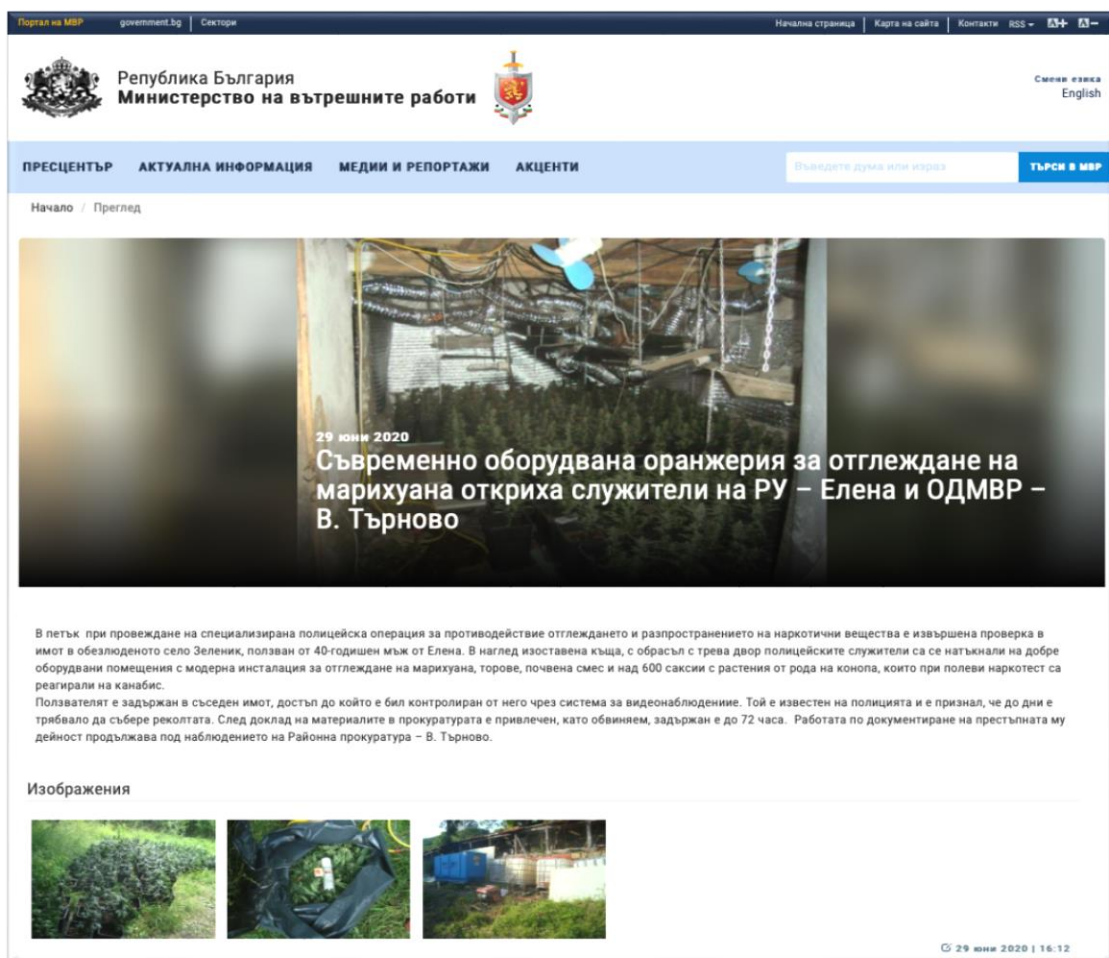
¹³⁴ Supreme Judicial Council (2016), Media strategy of the judiciary ([Медийна стратегия на съдебната власт](#)), 13 October 2016.


¹³⁵ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium.

¹³⁶ The website of the Supreme Judicial Council has an online directory with the contact details of the public relations officers of all [courts](#) and [prosecutor's offices](#).

¹³⁷ Supreme Judicial Council (2015), Handbook for interaction of the judiciary with the media ([Наръчник за взаимодействие на органите на съдебната власт с медиите](#)), Sofia, Effective Communication Consortium.

Figure 6: Press release about the uncovering of an illegal cannabis greenhouse



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29 юни 2020

Съвременна оборудвана оранжерия за отглеждане на марихуана откриха служители на РУ – Елена и ОДМВР – В. Търново

В петък при провеждане на специализирана полицейска операция за противодействие отглеждането и разпространението на наркотични вещества е извършена проверка в имот в обезлюденото село Зеленик, ползван от 40-годишен мъж от Елена. В наглед изоставена къща, с обрасъл с трева двор полицейските служители са се натъкнали на добре оборудвани помещения с модерна инсталация за отглеждане на марихуана, торове, почвена смес и над 600 саксии с растения от рода на конопа, които при полеви наркотест са реагирали на канабис.

Ползвателят е задържан в съседен имот, достъп до който е бил контролиран от него чрез система за видеонаблюдение. Той е известен на полицията и е признал, че до дни е трябвало да събере реколтата. След доклад на материалите в прокуратурата е привлечен, като обвиняем, задържан е до 72 часа. Работата по документиране на престъпната му дейност продължава под наблюдението на Районна прокуратура – В. Търново.

Изображения



© 29 юни 2020 | 16:12

Source: Ministry of the Interior website¹³⁸

Sometimes, especially when the incident has happened in a smaller town or village, the information disclosed in press releases might be sufficient to identify the suspected person. Thus, for example, information about a person's age, place of residence and the brand of their car, may not make the person identifiable for the general public, but can be sufficient for the people living in the same area to recognise who the suspected individual is. It is, therefore, essential for criminal justice authorities to properly assess to what extent the disclosed information makes the suspected individual identifiable. The same is valid for cross-border cases or cases involving foreign nationals, when the information about the foreign national (e.g., an image) may not be sufficient to identify the person in Bulgaria, but will make them identifiable in their home country.

¹³⁸ Ministry of the Interior (2020), A greenhouse with modern equipment for growing marijuana was uncovered by officers from the Regional Police Department - Elena and the District Directorate of the Interior - Veliko Tarnovo ([Съвременна оборудвана оранжерия за отглеждане на марихуана откриха служители на РУ – Елена и ОДМВР – В. Търново](#)), press release, 29 June 2020.

Box 3: Example of a press release, which can potentially make the suspect identifiable

“A 40-year-old man with 1.9 kg of drugs was detained in Kardzhali. The man was driving a Volkswagen car with a Kyustendil registration and was stopped for inspection at Gen. Vladimir Stoychev Street on 30 August at around 3.30 PM during a joint operation of the police departments of Kardzhali and Momchilgrad. Some 1.9 kg of dry leaf mass was found in the car, which was tested and reacted to marijuana. The drug was seized and is presently stored at the Kardzhali Police Department. Pre-trial proceedings have been instituted under Article 354a, Paragraph (1) of the Criminal Code for illegal possession of narcotic substance for the purpose of distribution. The case is being investigated by an investigating police officer. The materials were reported to the District Prosecutor's Office, which brought charges against the 40-year-old man. He was detained for 72 hours by order of the supervising prosecutor. A request will be submitted to the court for placing imposing detention in custody on the person. Investigative actions for gathering all necessary evidence are still ongoing.”

Source: *Kardzhali District Directorate of the Interior website*¹³⁹

Regarding the volume and content of the information concerning ongoing pre-trial investigations, which can be included in the press releases of criminal justice authorities, there is also an official statement of the Commission for Personal Data Protection. In 2018, the Commission was approached by the Prosecutor General with a request for clarification on two specific questions: (1) is the publication of personal data of participants in pre-trial proceedings on the websites of prosecutor's offices or the disclosure of such data for journalistic purposes a violation of the personal data protection legislation; and (2) if not, what are the restrictions, if any, of the volume of the information, which can be disclosed so that the citizens' rights are safeguarded.

In its official statement, the Commission for Personal Data Protection clarifies that the publication of personal data of accused persons on the websites of prosecutor's offices and the provision of such data to the media is lawful if there is a legal obligation or a prevailing public interest. In cases where, for the benefit of the society, such information could not or should not be anonymised, the disclosure of the accused person's name and position or workplace would be sufficient for the purpose of informing the public, while the disclosure of other data such as personal identification number, address, links to third parties not involved in the proceedings, etc. would be excessive.

In each case of disclosure of personal data, the authorities should be guided by the principles of limiting the disclosed information to what is necessary for the purpose of disclosure, accuracy of the data, and limitation of the period during which the disclosed data are available.¹⁴⁰

¹³⁹ Ministry of the Interior (2020), A 40-year-old man was detained with 1.9 kg of drugs during a specialised operation in Kardzhali ([40-годишен е задържан с 1,9 кг дрога при специализирана операция в Кърджали](#)), press release, 31 August 2020.

¹⁴⁰ Commission for Personal Data Protection (2018), Statement of the Commission for Personal Data Protection on the processing of personal data by the Prosecutor's Office of the Republic of Bulgaria when publishing press releases and providing information for journalistic purposes ([Становище на КЗЛД относно обработване на лични данни от Прокуратурата на Република България при публикуване на прессъобщения и предоставяне на информация за журналистически цели](#)), 26 June 2018.

Box 4: Legitimate public disclosure of personal data of accused persons

“[T]he publication of information from pre-trial proceedings, including personal data, in certain cases could be considered necessary for the performance of a task in the public interest within the meaning of Article 6(1)(e) of the General Data Protection Regulation. The public interest could be justified by various factors, which have to be assessed in each individual case by the Prosecutor’s Office in its capacity of personal data controller:

First, the principle of publicity, transparency and accountability of the judiciary ensures public control over the bodies of the judiciary with the purpose of achieving fairness, legality and independence, as well as strengthening public confidence in the institutions. [...] Public interest could also exist in the context of general prevention as the publication of data about accused persons could be seen as a tool for achieving an educational effect on society as a whole.

In these hypotheses, the Prosecutor’s Office, as a personal data controller, should assess in each case whether the public benefit for which the information is published on the website of the Prosecutor’s Office or in the media cannot be achieved by applying the approach described in Article 64 of the Judiciary Act, namely in a way that does not allow for the identification of the individuals mentioned (e.g., by replacing names with initials, etc.).

If, in view of the public benefit purposes, it is impossible or inappropriate to publish the information in anonymised or pseudonymised form, then the indication of the name, position or workplace of the accused would be sufficient to raise public awareness, while the publication of the personal identification number, address, links to third parties not involved in the proceedings, etc. would be excessive. The Prosecutor’s Office should also take specific measures to prevent misidentification of another person in the event of coinciding names. Additional characteristics could be used for this purpose, including nicknames, age, location, etc., as long as the additional information is not excessive.

Second, by virtue of Article 204 of the Criminal Procedure Code, the pre-trial authorities should make extensive use of public assistance to detect crimes and clarify the circumstances of the case. Where this is justified and proportionate to the public danger of the perpetrator or the criminal act, the Prosecutor’s Office could also seek the assistance of citizens through its website and/or the media, including by publishing personal data – photos, names, address or other data about the person.

A third hypothesis, in which the public interest of being informed could prevail over the protection of personal data, is the participation in the criminal proceedings of a person holding a senior public office within the meaning of Article 6 of the Anti-Corruption and Confiscation of Illegally Acquired Property Act, or another person who, due to the nature of their activity, has an impact on society. With regard to these persons, the Constitutional Court of the Republic of Bulgaria clearly states that “state power in general, as well as political figures and civil servants may be subjected to public criticism at a level higher than that to which other individuals are subjected. (...) In principle, the protection of the personal data of these individuals is much lower than the protection of other citizens.”

Source: *Commission for Personal Data Protection*¹⁴¹

¹⁴¹ Commission for Personal Data Protection (2018), Statement of the Commission for Personal Data Protection on the processing of personal data by the Prosecutor’s Office of the Republic of Bulgaria when publishing press releases and providing information for journalistic purposes ([Становище на КЗЛД относно обработване на лични данни от Прокуратурата на Република България при публикуване на прессъобщения и предоставяне на информация за журналистически цели](#)), 26 June 2018.

The complaint to the European Commission, sent by a group of lawyers in July 2020 regarding an alleged infringement of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, criticised the practice of the Public Prosecutor's Office to disclose information and evidence in pending pre-trial proceedings.¹⁴² According to the complainants, the Public Prosecutor's Office was disclosing evidence "*selectively and partially*", presenting only pieces serving the inculpatory thesis and accompanying the announcements with statements giving "*various qualifications of the relevant suspects or accused persons*" and presenting "*claims as final and undisputable facts*". The complaint was supported by a list of examples of public announcements by the Public Prosecutor's Office, which, according to the complainants, were in violation of Directive (EU) 2016/343.

Management of information published online

The police and the prosecutor's offices publish information about pending criminal proceedings in the news sections of their websites. The published information is usually consulted in advance with the respective media relations unit or officer (the press office of the police and the spokesperson of the Prosecutor General). The disclosure and publication of information by the police is done after obtaining permission from the supervising prosecutor responsible for the respective case, who takes into account the applicable legal rules and restrictions, the non-binding guidelines issued by the Supreme Judicial Council, and the clarifications provided by the Commission for Personal Data Protection.

In practice, most of the news published on the websites of the police and the prosecutor's offices include information about the incident, anonymised information about the suspected or accused person and information about the procedural steps that have been undertaken (detention, charges, etc.). The news reports usually do not include any assumptions or interpretations of facts, but in some cases, there is information about the links between the suspected or accused persons and other persons involved in the incident or the proceedings (victims, witnesses, etc.), which is also anonymised to avoid their identification.

As of January 2021, the oldest news reports published on the website of the Ministry of the Interior date back to 2010. The news section on the website of the prosecutor's office includes publications dating back to 2005, but reports about concrete criminal proceedings have been published since 2010. The majority of news reports include anonymised information about the suspected or accused person, but there are also reports about high-profile cases (some dating back to 2010) that disclose the full names of the accused persons.¹⁴³

¹⁴² Mandzhukova, Shopov, Petrov Law Firm and others (2020), [Complaint: Infringement of Directive \(EU\) 2016/343 of the European Parliament and of the Council as of 09.03.2016 on the strengthening of certain aspects of the presumption of innocence and of the right to present at the trial in criminal proceedings](#), 23 July 2020.

¹⁴³ For example, see Prosecutor's Office of the Republic of Bulgaria (2010), Pressed charges... ([Повдигнато обвинение...](#)), press release, 6 January 2010.

The Commission for Personal Data Protection has provided guidelines as regards the period during which personal data of accused persons can remain accessible online. According to the commission *“the personal data controller should make an assessment on the basis of objective criteria for what period of time it is justified and necessary for the personal data of the respective accused person to remain published on the website of the prosecutor’s office. For example, when criminal proceedings are terminated or an acquittal enters into force, the right to privacy and personal data protection prevails over the public interest of being informed, therefore the information about the charges should be deleted for being inaccurate or out of date.”*¹⁴⁴

A common practice of the Ministry of the Interior, which often violates the presumption of innocence, is the inclusion, in press releases, of information about the suspect’s so-called police registration.

Box 5: Examples of references to the suspect’s police registration included in press releases and information bulletins of the police

“The police officer and the 31-year-old offender, who has multiple criminal registrations, were taken to hospital for medical treatment.”

“According to the registers of the Ministry of the Interior, the 63-year-old man has no criminal registration in Bulgaria, but, according to the investigating officers, he has served an effective prison sentence in Turkey after the local authorities have arrested him in 2014 at a border checkpoint with a kilogram of heroin.”

“He and his companion, 27, both from Veliko Tarnovo, have criminal registrations and are currently held in police custody.”

“The operative search and enclosing actions started immediately, as did the work with the criminal contingent in the area, a quick analysis was performed, thanks to which the main suspect was identified – a 21-year-old person, with a previous conviction and criminal registrations.”

Source: Ministry of the Interior website¹⁴⁵

Police registration is the registration of personal data of individuals, who have been charged with a crime. It is laid down in the Ministry of the Interior Act¹⁴⁶ and a special government

¹⁴⁴ Commission for Personal Data Protection (2018), Statement of the Commission for Personal Data Protection on the processing of personal data by the Prosecutor’s Office of the Republic of Bulgaria when publishing press releases and providing information for journalistic purposes ([Становище на КЗЛД относно обработване на лични данни от Прокуратурата на Република България при публикуване на прессъобщения и предоставяне на информация за журналистически цели](#)), 26 June 2018.

¹⁴⁵ The quoted paragraphs are taken from (in order of quotation): Ministry of the Interior (2020), Information bulletin – 9 October 2020 ([Информационен бюлетин – 9 октомври 2020](#)); Ministry of the Interior (2020), Forensic experts from the District Directorate of the Interior - Plovdiv seized nearly 5 kilograms of heroin and one kilogram of cocaine ([Криминалисти от ОДМВР – Пловдив иззеха близо 5 килограма хероин и един килограм кокаин](#)), press release, 23 August 2019; Ministry of the Interior (2020), Information bulletin – 13 January 2020 ([Информационен бюлетин – 13 януари 2020](#)); Ministry of the Interior (2020), Chief Commissioner Ivanov: Search operations will continue until the location and detention of the suspected perpetrator of the brutal murder ([Гл. комисар Иванов: Издирвателните действия ще продължат до локализирането и задържането на заподозрения извършител на бруталното убийство](#)), press release, 16 August 2019.

¹⁴⁶ Ministry of the Interior Act ([Закон за Министерството на вътрешните работи](#)), 27 June 2014 (last amended 2 October 2020), Article 68.

regulation.¹⁴⁷ If the accused person is not convicted, the law obliges the police to delete the registration either *ex officio* upon receipt of the respective documentation from the prosecutor's office or the court, or upon the person's written request. Among the persons with active police registrations there are accused persons whose proceedings are still pending as well as persons whose proceedings have ended with an acquittal or have been permanently terminated, but their registration has not been deleted because the police have received neither a formal notification from the prosecutor's office or the court, nor a written request by the person.¹⁴⁸ All of these persons, who have not been (and some of them will not be) convicted, are protected by the presumption of innocence and the public disclosure of their police registration, especially to an audience, which is not familiar with the meaning of such registration, is a violation of this principle because many people would easily associate the police registration with the person's guilt.

In line with its internal rules, the Prosecutor's Office sends press statements to the media and regularly publishes news reports on its website. In relation to high-profile cases, the spokesperson of the Prosecutor General sometimes organises press conferences. The Prosecutor's Office also makes announcements for special operations against organised crime, usually carried out jointly with the police, seizure of large amounts of drugs, pressing charges against accused persons in cases of high media interest, trials that have ended with conviction, etc.

In terms of content, the information published by the Prosecutor's Office usually includes more details about the facts of the case. When the press release or news report concerns the pressing of charges against the alleged offender (i.e., when sufficient evidence has been collected to formally charge the person) the accused person is usually referred to by their first name and initials of their surname or family name, unless the accused person a child, in which case the information is fully anonymised and only the person's initials are used.

The courts rarely publish information on their websites about concrete cases, unless a high-profile case is concerned. Moreover, when the court informs about the outcome of the trial, most of the information about the case has already been disclosed during the court hearings, which are, as a rule, open to the public. Most courts publish online the full texts of the final decisions, in which all personal data are fully anonymised.

¹⁴⁷ Regulation on the procedure for the performance and deletion of police registration ([Наредба за реда за извършване и снемане на полицейска регистрация](#)), 31 October 2014 (last amended 28 July 2015).

¹⁴⁸ For example, see Commission for Personal Data Protection (2018), Decision on complaint No Ж-21/20.01.2017 ([Решение по жалба с рег. № Ж-21/20.01.2017 г.](#)), 20 January 2018. The applicant was registered by the police in 1989, the proceedings against him were terminated soon after the registration, but his registration remained active until 5 April 2017 (more than 27 years), when it was deleted upon his own request.

5. Conclusion: gaps and challenges

Disclosure of information

The legal rules governing the disclosure of information concerning pending criminal cases, particularly at the pre-trial stage of the proceedings, are relatively scarce and do not regulate in detail what information can be publicly disclosed and when. This gap is partially filled by non-binding policy documents and guidelines, which, however, do not have the same legal effect as the legislative acts. As a result, criminal justice authorities, particularly the Prosecutor's Office and the police, have a lot of room for discretion when deciding what information to disclose, when to disclose it and how.

In the absence of a detailed legal framework, a number of issues related to the public disclosure of information on pending criminal cases have emerged, for most of which the legislation does not provide any clear resolution. Some of these issues have been brought to the attention to other institutions such as the Constitutional Court and Commission for Personal Data Protection, which provided their own interpretations and guidelines. Others have been addressed by internal rules and regulations, adopted by the criminal justice authorities themselves. Still, there are a number of issues that remain unsolved.

At the pre-trial stage, the main responsibility for disclosing information to the public and the media is vested in the prosecutor's office. The law explicitly forbids the investigative authorities, as well as any other persons involved in the investigation, to disclose information without the permission of the prosecutor. In practice, this restriction is strictly observed, and information is usually shared either by the police with the prior approval of the prosecutor, or directly by the prosecutor's office. The increased number of cases, in which the prosecutor's office discloses information about pending investigations, including information about the identity of the accused person, has provoked a broad public debate about the limits of publicity in the context of the presumption of innocence. The issue has been even brought to the attention of the European Commission by a group of Bulgarian lawyers concerned that Bulgaria is not complying with the EU legislation on the presumption of innocence.

When it comes to dissemination of information on the internet, there are a number of additional concerns. Most criminal justice authorities have an active online presence and regularly share information about pending cases, either on their websites or through their pages in the social networks. There are, however, no rules or protocols obliging the authorities to revise or delete the information after it has become outdated or is no longer relevant. News reports about the start of proceedings are rarely followed by updates on the progress of the case or a notification about the final outcome. As a result, there is a lot of information about criminal cases online, which has been uploaded by the competent criminal justice authority and has never been updated or corrected. Such information often includes data about the identity of the accused person with no reference to what has happened with the case at a later stage, which leaves the audience with the wrong impression that the person is still under investigation or prosecution.

The legislative gaps related to the dissemination of information online have become even

more visible during the COVID-19 outbreak and the restrictions on public gatherings introduced by the government. In an attempt to find a balance between the publicity of trial principle and the anti-epidemic restrictions, the courts have been encouraged to broadcast their hearings live, including on the internet. This has been done contrary to the existing guidelines that live broadcasts are not allowed and without introducing any specific rules, e.g., on how to respect the privacy of the participants or whether to keep the video online once the hearing is over.

Media coverage

The deficiencies of the legal framework of media in general affects the media coverage of criminal cases as well. Unlike radio and television, which are subject to both extensive regulation and regular monitoring for compliance by a special supervising authority, the print and online media are significantly less regulated and controlled. As a result, the print and online media more often violate the presumption of innocence disclosing personal information about the accused person and referring to them as guilty. Even media that are traditionally complying with the principle not to disclose the identity of accused persons unless already disclosed by the competent criminal justice authority are sometimes publishing information that is sufficient to make the person identifiable.

In the absence of clear rules on reporting about pending criminal proceedings, the media often violate the privacy the accused person. Pictures and videos featuring the accused person are often published without their consent and information about their private life that is not related to the case is often disclosed.

The legislation on personal data protection does not provide clear criteria for evaluating the balance between the freedom of expression and the right to information, and the protection of personal data, when such data are processed and used for journalistic purposes. The original set of criteria, adopted by the parliament, have been declared unconstitutional and suspended by the Constitutional Court and no legislative amendments have been initiated to replace them, leaving the evaluation of the balance to the competent authorities' own discretion.

Despite the availability of different mechanisms, which the affected persons can use to protect their rights or seek compensation for damages, the number of such cases is low. This might be due to the lack of awareness about the existence of such mechanisms, the slow and complicated procedures or the public mistrust in the effectiveness of existing remedies.

Annex: bibliography

Milkova, A. (2021), Normative limitations of content analysis in the Council on Electronic Media (CEM) observations ([Нормативни ограничения на контент-анализа в наблюденията на СЕМ](#)), Media and Public Communications (*Медии и обществени комуникации*), Issue 46

FAIR Project (2020), Strengthening the right to a fair trial of suspected or accused persons: A handbook of good practices ([Укрепване на правото на справедлив съдебен процес на заподозрените или обвинените в престъпление лица: Наръчник с добри практики](#))

Petkova, S. (2020), Is further criminalisation of media justice justified? ([Оправдано ли е допълнителното криминализиране на медийното правосъдие?](#)), *Marginalia*, 15 July 2020

Bonchovski, P. (2020), Disclosure of data on cases and the principle of publicity ([Изнасяне на данни по дела и принципът за публичност](#)), *Legal World*, 16 July 2020

Stefanova, S. (2020), The presumption of innocence and the public disclosure of evidence ([Презумпцията за невинност и публичното разпространяване на доказателства](#)), *De Fakto*, 6 July 2020

Stoykov, L. (2019) Freedom of speech and the right to privacy ([Свободата на словото и правото на личен живот](#)), Media and Public Communications (*Медии и обществени комуникации*), Issue 42

Efremov, E. (2019), On the decriminalisation of “insult” and “slander” in the media content ([За декриминализация на „обидата“ и „клеветата“ в медийното съдържание](#)) Media and Public Communications (*Медии и обществени комуникации*), Issue 41

Stoyanova, A. (2019), Presumption of innocence and its absence in Bulgaria ([Презумпцията за невинност и нейната липса в България](#)), *De Fakto*, 6 August 2019

Ognyanova, N. (2017), ECHR: publishing pictures of an accused person ([ЕСПЧ: публикуване на снимки на обвиняем](#)), Media Law (*Медийно право*), blog post, 27 September 2017

