



The Presumption of Innocence and the Media Coverage of Criminal Cases

| Case Studies Analysis

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This report presents an analysis of case studies to propose standards for proper disclosure of information on pending criminal proceedings and media coverage of criminal cases in the context of the presumption of innocence of suspects and accused persons. It was developed within the framework of the project [ARISA 2: Assessing the Risk of Isolation of Suspects and Accused: The Role of the Media](#), funded by the European Union's Justice Programme(2014-2020).

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FOREWORD

Despite the national and international efforts to safeguard the rights of suspects or accused persons, media publicity inevitably affects their lives. While human rights and other relevant laws aim to carefully balance the presumption of innocence, the right to privacy and the rights to expression and information, publicity inevitably reflects on suspects and accused people's private sphere. This has always been accepted as an "extra" to the punishment, nonetheless it is reported to endanger the offender. For instance, suspects and accused could become subject to harassment, especially if they belong to a vulnerable group, they could experience life changes such as losing their job, being forced to move from the place where they live, divorce, or face re-integration challenges once they have served their sentence (vs. the right to be forgotten). The purpose of this report is to look at this "additional punishment" by presenting a sample of selected exemplary cases and to draw conclusions about some of the common features observed.

The absence of international instruments prescribing that media outlets observe human rights, including the presumption of innocence in publications covering pending criminal cases, has opened space for the establishment of malicious practices of journalists aiming to increase their viewer and readership. Self-regulation is not always sufficient to provide the necessary sanctions in case of violation of ethical rules of journalism that implies guilt for a person that is not sentenced yet. Overly extensive media coverage on criminal cases is not a particularly new phenomenon – the term "trial by media" was introduced for the first time in the late 20th century to describe the process whereby the media "interfered" in the legal process by creating a widespread perception of guilt or innocence in relation to a defendant before the verdict.¹ Free and independent media is essential for modern democracies, but at the same time, if improperly conducted, it may undermine the rule of law by assuming powers authorised only and solely to a court of law – to issue judgements on a person's guilt of committing a crime.

¹ Suresh, N., Sara George, L., (2021), "Trial by Media: An Overview", *International Journal of Law Management & Humanities*, Vol. 4, Iss 2, 2021, pp. 267 – 272.

Indeed, the media is not able to impose coercive sanctions and punishments, but it has the power to shape and influence public opinion and attitudes. In turn, the negative implications for suspects' and accused people's lives associated with extensive publicity might be substantial and range from hindering their re-integration and rehabilitation, to putting pressure on judges and jury to rule according to public expectations. In a broader context, the impact on the wider society should be noted, including effects such as the rise of discrimination, harassment, hate speech and the reinforcement of stereotypes about certain vulnerable social groups.

As a principle, governments and public authorities, as representatives of the State, have the obligation to protect, respect and fulfill human rights. Disclosure of information about criminal proceedings is essential for the public to enjoy their right to information. However, disclosure should not be limitless and it is the law that prescribes which types of data can be made accessible to the general public and in which situations disclosure of detailed personal information about a suspect or an accused person is allowed. Nevertheless, police and judicial authorities do not always follow the rules to the letter. There are cases where they might reveal information such as names, age and photos at the early stages of criminal proceedings, which might not be strictly necessary for the purposes of the investigation. It also happens that public authorities, including prosecutors, the police, and government officials, make public statements on the guilt of a defendant prior to their conviction. When citing these as coming from official sources, the media might disseminate this assumption, which the public then might take for granted.

This report aims to illustrate the effects of excessive and uncontrolled publicity of criminal cases on basic human rights, such as fair trial, the presumption of innocence, and the right to private life, and to explore ways in which the latter could be balanced against the freedom of speech and the right to information. The examination of twelve criminal cases in four different EU Member States has shed light on various patterns and common malpractices of media practitioners and public authorities. International non-legal instruments providing recommendations and guidance on communicating information about criminal proceedings to the public include standards that address two main audiences: 1) public authorities such as law enforcement agencies and judicial practitioners, and 2) media practitioners and journalists. The selected criminal cases are analysed in the context of the recommended standards for communicating information on ongoing criminal cases with the aim to demonstrate gross and widespread misconducts or negligence in relation to the presumption of innocence.

Maria Stoyanova



THE CASES



The present report is based on the review of twelve criminal cases from Bulgaria, Greece, Italy and Spain, selected as illustrative cases because of the extensive disclosure of information by public authorities as well as the wide media coverage which accompanied the proceedings.

BULGARIA

THE SOTIRYA MURDER (2019)

In August 2019, a six-year-old girl was found dead in the village of Sotirya, near the town of Sliven. The suspect, a 21-year-old man from the same village, was arrested by the police several hours later. Upon his arrest, the man confessed that he had committed the crime and was later accused of rape and homicide. Upon decision of the court, the person remained in detention throughout the proceedings. In January 2020, he was found guilty, sentenced to life imprisonment without parole and ordered to pay a financial compensation to the victim's family. The brutality of the crime and the age of the victim provoked serious media attention. The case received extensive coverage from the moment the police reported the crime up until the trial's closure. Public reactions, mostly at the local level, were also strong, as while the proceedings went on, several demonstrations took place demanding a more severe punishment of the defendant.²

² ARISA website (2021), Case Studies, [The Sotirya murder](#).

THE CAR ACCIDENT IN WHICH JOURNALIST MILEN TSVETKOV DIED (2020)

In April 2020, a popular Bulgarian journalist died in a fatal car crash in Sofia. Tsvetkov was waiting at a red light when an over-speeding car, driven by a 22-year-old male, collided with his vehicle. The driver who caused the accident and the two passengers were unharmed and immediately escaped the crime scene, but with the help of eyewitnesses, the authorities arrested them in less than 48 hours. As the victim was a famous journalist, the public interest was significant and the accident was reported instantly by almost all media channels in the country. Journalists were hurrying to reveal findings from the investigation, as well as personal details about the accused driver and the other passengers involved. Shortly after the accident, criminal proceedings started against the 22-year-old driver who was charged for causing the car crash under the influence of drugs. His name and pictures were soon published in the media alongside information that he had taken illegal substances before the accident. The two passengers were also identified, and one of them turned out to be the son of a Bulgarian MP. In the next months, various details of the accused driver's private and family life were published. In July 2021 the trial is still ongoing.³

SPAS FROM KOCHERINOVO FRAUD CASE (2017)

Information about the case first appeared publicly on social networks where victims of the fraud were trying to warn other users about a Facebook profile offering fake travel services. In October 2017, a man was publicly arrested for fraud. After the arrest, the case suddenly gained high public attention, as it concerned the creation of a false persona on social media, illegally using photos obtained from a French citizen's social media profile. By posting attractive travel photos, the accused presented himself as an experienced travel agent who offered plane tickets to remote destinations at low prices. The fake Facebook account helped the perpetrator build a significant database of personal information including access to clients' credit cards, from some of which unauthorized payments were registered. In the course of the pre-trial proceedings, the journalists presented extensive information related to the alleged fraudster's family, early childhood, character and habits, despite the fact that at that time the police had not officially announced that there was a clear connection between the accused person and the false profile, and no official charges had been pressed. In 2018, the defendant confessed and signed several agreements to serve imprisonment and to compensate some of the fraud victims channels in the country. Journalists were hurrying to reveal findings from the investigation, as well as personal details about the accused driver and the other passengers involved.

³ ARISA website (2021), Case studies, [The car accident in which journalist Milen Tsvetkov died](#).

Shortly after the accident, criminal proceedings started against the 22-year-old driver who was charged for causing the car crash under the influence of drugs. His name and pictures were soon published in the media alongside information that he had taken illegal substances before the accident. The two passengers were also identified, and one of them turned out to be the son of a Bulgarian MP. In the next months, various details of the accused driver's private and family life were published. In July 2021 the trial is still ongoing.⁴

GREECE

THE MURDER OF MANOLIS KANTARIS AT ATHENS CITY CENTER (2011)

On 10th May 2011, Manolis Kantaris (M.K), a Greek citizen aged 44, was killed by three foreign nationals who were attempting to steal the victim's camera. M.K. was about to drive his wife, who was in labour, and his mother-in-law to the maternity hospital, but at the street corner, three men attacked him, aiming to grab the video camera hanging on his shoulder. As the man was trying to resist, he was stabbed in the back and the neck and died on the spot. All three perpetrators were foreign nationals –two from Afghanistan and one from Pakistan. Following police investigations, the two suspects from Afghanistan were apprehended. The Afghan nationals confessed that they were at the crime scene, and claimed the third person from Pakistan had murdered M.K. The case received extremely wide media coverage and the public interest continued for years after the crime. Considerable material from the case file was unofficially disclosed and published. The perpetrators' foreign nationalities provoked even more extreme public reactions to the case.⁵

PROFESSOR “FAKELAKIS” (2018)

At the beginning of 2018, a complaint was submitted against a professor at the Technological Educational Institute of Central Macedonia, Serres (TEI), Greece. His students claimed that they were forced to give money to the professor in order to pass the exams. The accused professor Kleanthis Konstantinoudis, was severely ridiculed and humiliated by the media from the day of his arrest. All news titles addressed him with the insulting nickname “Fakelakis” (in Greece when you engage in under-the-table transfers of money to public officials, the expression is that you hand “a small envelope” or *fakelaki* in Greek). The hostile

⁴ ARISA website (2021), Case studies, [Spas from Kocherinovo fraud case](#).

⁵ ARISA website (2021), Case studies, [The murder of Manolis Kantaris at Athens city center](#).

public climate exerted pressure on the judicial and academic authorities' early decision-making, in particular the pre-trial detention of the professor for 10 months and the definite dismissal from his position as professor at the TEI of Serres, long before the beginning of the trial and his conviction.⁶

KATERINA, ONE OF THE CASES OF HIV POSITIVE WOMEN (2012)

On 30 April 2012, a police operation was conducted in the city center of Athens, as part of a wider governmental strategy to address the increase of HIV infection in Greece. Ninety-six women were apprehended and transferred to local police stations for ID checks. There, they were mandatorily tested for HIV, and eleven women, including the 32-year old Katerina, were found HIV-positive and detained. The prosecutor issued an order for the disclosure of photos and personal information of the arrested HIV positive women, including sensitive medical records. Katerina and all ten women were prosecuted with felony charges without a lawyer and remanded in pre-trial detention for nearly a year. The case received great attention by the media and provoked a significant social response. In the then political turmoil and amid general elections, the case was being constructed by public authorities and the media that foreign women working as illegal prostitutes were responsible for the increase of HIV infections and had to be constrained and punished. During the pre-trial proceedings, the press featured titles like “the prostitutes with AIDS”, while at the other end of the spectrum there was a big wave of solidarity towards the detained women, led by human rights organisations. The persistent public outcry against the violation of Katerina’s and the other women’s rights led to a minimisation of the charges and their release from prison. In November 2014, two years after the arrest, Katerina committed suicide. In a letter she wrote: “*The damage done to us will eternally hunt us and our children.*” Two years later, the court decided that all co-defendants were not guilty.⁷

⁶ ARISA website (2021), Case studies, [Professor 'fakelakis'](#).

⁷ ARISA website (2021), Case Studies, [Katerina, one of the cases of HIV positive women](#).

ITALY

THE MURDER OF PAMELA MASTROPIETRO (2018)

In 2018, in Italy began the case of the murder of an 18-year-old girl called Pamela Mastropietro. The main suspect was a Nigerian man with an expired residence permit and a criminal record for drug dealing. The case received wide media coverage and had a strong impact on society. Pamela's murder provoked a xenophobic raid, which was exploited in the 2018 general election campaign in Italy. Immigration was the main topic in the political debate at the time and the case was ineluctably linked to a stereotypical representation of immigrants as drug dealers, rapists, and murderers.⁸

THE MURDER OF ANTONINO BARBARO (2014)

In 2014, the body of a man with 27 stab wounds was found in the countryside near the town Francofonte in Italy. A couple of years later, two local fishermen were arrested as the main suspects for this murder and spent 130 days in detention. Following their arrest, local and national newspapers reported the case as solved. However, from the very first moment, the evidence framework against the suspects was particularly weak and later it was discarded. The trial ended without a hearing and the two men were released from detention. No newspaper or TV show considered necessary to correct the information, despite the fact that the suspects had requested it.⁹

INSTITUTIONAL COMMUNICATION IN RAIDS

This case study differs from the others, as it is not focused on a particular criminal case. It examines whether the institutional communication of raids, through both traditional and social media, violates the rights of suspects and accused and specifically their right to be presumed innocent until a final verdict is pronounced in court. The analysis scrutinises a practice adopted by two Italian law enforcement authorities, Polizia di Stato and Arma dei Carabinieri, to publish videos of the arrest of suspects and present it to the public on their social media channels.¹⁰

⁸ ARISA website (2021), Case Studies, [The murder of Pamela Mastropietro](#).

⁹ ARISA website (2021), Case Studies, [The murder of Antonino Barbaro](#).

¹⁰ ARISA website (2021), Case studies, [Institutional communication in raids](#).

SPAIN

THE HERD (2016)

The celebration of the popular Spanish festival San Fermín in 2016 was marked by a sexual assault against an 18-year-old woman. The five men accused, aged between 25 and 28, allegedly performed various sexual acts against the woman's will. In 2018, the court considered that although the sexual relations had not been consensual, the defendants had not used violence or intimidation to coerce the victim, so they were not convicted of rape. This ruling outraged part of Spanish society, which demanded a conviction for rape. The case received significant media coverage and many details of the trial and defendants were published in the press. For the most part, the identities of the perpetrators were anonymised, but some media published exposing materials, including their photos and names, obtained from unofficial sources. The final judgement found the accused men guilty and imposed penalties for non-consensual sexual acts to 15 years of imprisonment, based on the consideration that the facts constituted the crime of rape.¹¹

THE PROCESS (2017)

The case is known as the “trial of the Process”. The 2017 referendum on the independence of Catalonia in Spain resulted in several high-profile offenses. To prevent the referendum from being held, the Attorney General's Office filed a complaint with the National High Court against the members of the Catalan government for rebellion, and another with the Supreme Court against the members of the parliamentary bureau – president, vice-presidents, and secretaries – for the same acts. The whole process was extensively covered by the media. Headlines on front pages stated “hijacking of democracy” and even a “coup d'état”. The Catalan independence process generated significant social and political tension in Spain, and the trial of those accused of organising the referendum took place in this context.¹²

¹¹ ARISA website (2021), Case studies, [The Herd](#).

¹² ARISA website (2021), Case studies, [The “Process”](#).

THE GABRIEL CRUZ CASE (2018)

On 27 February 2018, in a small village in the south of Spain, Las Hortichuelas, a boy aged 9, disappeared. As a result of a large search operation, the victim's stepmother, Ana Julia Quezada, was arrested for committing murder, while driving Gabriel's body in her car to hide it. After the arrest, the woman confessed to the killing of her stepson Gabriel Cruz, but claimed that it was an accident and that she had no intention of ending his life. During the trial, the defence argued that she was under the effect of anxiolytics, which diminished her capacity to control her actions and understand their consequences. However, the people's jury determined that Ana Julia Quezada was guilty. On 30 September 2019, the woman was sentenced to permanent revisable imprisonment for the murder. From the moment of the child's disappearance, the case generated considerable media interest, occupying a large part of the country's morning talk shows for days. After the arrest of the woman, who was a black woman of Dominican descent, there were certain concerns that media treatment to her had racist features and contributed to reinforcing racist attitudes in society.¹³

¹³ ARISA website (2021), Case studies, [Gabriel Cruz case](#).

DISCLOSURE OF INFORMATION

INTERNATIONAL STANDARDS

The most comprehensive set of standards on the provision of information through the media in relation to criminal proceedings is provided by the Council of Europe. In a special recommendation issued in 2003, the Committee of Ministers of the Council of Europe formulated 18 basic principles which Member States were invited to implement within the limits of their respective constitutional provisions.¹⁴ The following standards are based on the principles enshrined in the above-mentioned recommendation by the Council of Europe.

STANDARD 1:

Information of the public via the media



This Council of Europe Recommendation recognises the public's right to receive information about the activities of judicial authorities and police services through the media.¹⁵ Such information should be provided on a non-discriminatory basis and, wherever possible, through press releases, press conferences by authorised officers or similar authorised means.¹⁶

¹⁴ Council of Europe, Committee of Ministers (2003), [Recommendation Rec\(2003\)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings](#), 10 July 2003.

¹⁵ Council of Europe, Committee of Ministers (2003), [Recommendation Rec\(2003\)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings](#), 10 July 2003, Principle 1.

¹⁶ Council of Europe, Committee of Ministers (2003), [Recommendation Rec\(2003\)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings](#), 10 July 2003, Principle 3.

Moreover, in cases of criminal proceedings which continue for a long period, this information should be provided regularly, according to Principle 6 of the Council of Europe Recommendation on the provision of information through the media in relation to criminal proceedings.¹⁷



Official information is essential for journalists to be able to correctly reflect criminal proceedings of public interest. The objectivity of media publications could be compromised if they rely on information obtained from unofficial sources that are seldom anonymous. Such a scenario is well demonstrated by the case study on [the murder of Antonino Barbaro](#) in Italy. No official information was issued by the public authorities during the criminal proceedings. However, the case has been reported by local newspapers and TV programmes to a large audience, particularly in the local area where the two accused brothers lived. The media coverage on the case was limited to the initial phase of the proceedings, only showing the arrest of the suspects which was broadcasted live on a local TV channel. Subsequently, publications released by the press and on TV included mugshots of suspects obtained from non-official sources (anonymous email in which the case was described in great detail) and video footage of their arrest. Arguably, the lack of official information provided by the authorities led to “trial by the media”. It was observed that journalists following the case went beyond their duty to report objective information to the public and practically made accusations grounded on unconfirmed evidence, thus defaming the defendants and seriously infringing the presumption of their innocence. Relying on such unverified materials and unofficial information, the media presented an interpretation of the case and gave a public verdict through prejudiced headlines such as “Syracuse, they killed defaulting tenant with 27 stab wounds, two brothers arrested” and “Francofonte, they killed a 67-year-old man with 27 stab wounds for 700 euro: Carabinieri arrest the perpetrators of the murder.”¹⁸

Both articles were published prior to the court’s final decision. The analysis on the case underlined the journalists’ accusatory tone towards the two suspected brothers in the majority of articles disseminated online and on traditional media, as well as during the interviews with the defendants aired on TV. It should be stressed that many of the reporter’s assumptions were later proved to be incorrect, as the case was dismissed without a hearing and the suspects were eventually acquit-

¹⁷ Council of Europe, Committee of Ministers (2003), [Recommendation Rec\(2003\)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings](#), 10 July 2003, Principle 6.

¹⁸ ARISA website (2021), Case Studies, [The murder of Antonino Barbaro](#).

ted. The general public never became aware of the full story. The media did not rectify the false statements, neither did the judicial authorities provide further official information regarding the course of the proceedings and the changed legal status of the brothers, although it is essential for the suspects' vindication.

Other examples of unavailability of sufficient official information was the case of sexual assault that became known as “the Herd” ([La Manada](#)) as well as in [the case of the murder of Manolis Kantaris at Athens city center](#). Regardless of the fact that “the Herd” process continued for more than two years and was extensively covered by the press, the Navarra City Council and the local police issued only two official communiques at a very early stage of the criminal proceedings. The case gained popularity and generated a wave of public reactions which translated into social media campaigns and rallies in the city of Pamplona.¹⁹ Contrary to the Council of Europe recommendations, the authorities did not inform the general public about the progress on the case. Thus, similar to the above-mentioned Antonino Barbaro murder case, the media turned to unofficial sources in order to collect information and materials, many of which presented photos and personal details about the defendants. Analogically, all official information regarding the murder case of Manolis Kantaris was presented in a single press release by the Greek police authorities on the day of the suspects' arrest. Given the specifics of the crime, particularly that the victim was murdered on his way to the maternity hospital as his wife was about to give birth, the small material gains from the crime (a camera valued EUR 120), and the foreign nationality of the suspects, the case attracted great public interest and media coverage continued years after the incident.²⁰ Nevertheless, the press release was the only official information presented during all stages of the proceedings. Due to the large public interest, a considerable volume of materials from the case file was unofficially disclosed and published. Some publications included pictures of the suspects pointed out as “Kantaris' murderers” long before their conviction.²¹

It is noteworthy that in another of the examined cases in Spain, “[The Process](#)”, where all the defendants were politicians, i.e. public figures, the entire judicial process, from the beginning of the investigation to the appeals, was reported to the media through regular official press releases by the judicial au-

¹⁹ ARISA website (2021), Case studies, [The Herd](#).

²⁰ ARISA website (2021), Case studies, [The murder of Manolis Kantaris at Athens city center](#).

²¹ ARISA website (2021), Case studies, [The murder of Manolis Kantaris at Athens city center](#).

thorities.²² It could be assumed that the specific nature of the charges (crime of rebellion), and the arrest of public figures (members of parliamentary bureau and ministers), increased the level of public interest and determined the exhaustive and regular provision of information by the authorities. On the other hand, it raises concerns about the equal application of the principles for provision of information through the media in relation to criminal proceedings depending on characteristics such as the social status or the profession of the accused.

The examination of the cases suggests the existence of a concerning practice of provision of insufficient and partial information about ongoing criminal cases by official authorities. This is problematic, as it deprives the public from understanding certain facts that could be crucial for forming an unbiased opinion about the persons involved as suspects or accused in the criminal proceedings. Moreover, media outlets aiming to increase their readership and driven by the audience's interest on the topic, which is usually high for criminal cases, tend to use unofficial information acquired from unverified sources whose identity remains uncovered by virtue of the right to remain anonymous. In many of the case studies, the media "take over" the role of the judiciary and report information in a way that gives the impression that a conviction has been issued. The presumption of innocence is frequently improperly observed by the media, while the tacit consent of the law enforcement and judicial authorities could exacerbate the perception of guilt. Thereby, the irregular and scarce provision of official information to media regarding criminal cases can have important implications on the defendants' lives. It is particularly harmful for those who were acquitted as demonstrated by the [case of the murder of Antonino Barbaro](#).



Provision of sufficient official information is crucial for forming unbiased public opinion.

²² ARISA website (2021), Case studies, [The "Process"](#).

STANDARD 2:

Presumption of innocence and public reference to guilt



The Recommendation of the Council of Europe encourages Member States to respect the principle of the presumption of innocence as an integral part of the right to a fair trial and undertake measures to ensure that, accordingly, opinions and information relating to ongoing criminal proceedings are only communicated or disseminated through the media where this does not prejudice the presumption of innocence of the suspect or accused.²³ At the EU level, Directive 2016/343 on the presumption of innocence obliges Member States to take the necessary measures to ensure that, for as long as a suspect or an accused person has not been proved guilty according to law, public statements made by public authorities, and judicial decisions, other than those on guilt, do not refer to that person as being guilty.²⁴

The examined case studies revealed that disrespect of the right to be presumed innocent until proven guilty is extremely common. All the more so that it is a direct violation of the presumption of innocence for any media channel or public authority to make statements implying the guilt of an accused or suspected person ahead of court judgement. Public sentiments and public hunger for sensation may put a huge amount of pressure on the media as well as the concerned public authorities and can lead, in turn, to the violation of the presumption of innocence. It should be noted that legal systems approach issues related to the openness of criminal investigations differently. Also, some cases require a high amount of secrecy, whereas others highlight the importance of open justice.

Authorities do not always comply with the principle of restraining from making reference to the guilt of suspects and accused. The case studies revealed that in many instances defendants are shown as guilty of a crime at the pre-trial stage in order to make the headlines. Furthermore, judicial and law enforcement representatives sometimes present the cases as solved long before the suspect is even brought to court in their efforts to demonstrate the progress of the investi-

²³ Council of Europe, Committee of Ministers (2003), [Recommendation Rec\(2003\)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings](#), 10 July 2003, Principle 2.

²⁴ European Parliament and the Council, (2016), [Directive 2016/343 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 March 2016, Article 4.

gation. In the [Sotirya murder case](#), for example, immediately after the suspect was arrested, the Secretary General of the Ministry of the Interior was quoted saying that “we confirm that he [the suspect] is the perpetrator of this brutal murder”.²⁵ Later in the same proceedings, during a media interview about the results of the DNA tests performed during the investigation, a prosecutor was quoted saying that with the DNA results and the accused person’s voluntary confession “everything has been proven”. Similarly, in the case of the [Bulgarian journalist Milen Tsvetkov’s death in a car accident](#), the police revealed details about the investigation in a series of interviews and the Senior Commissioner assured that “it is clear to us who the perpetrator of this act is”.²⁶ According to EU Directive 2016/343, such statements are illegal and should be considered a violation of the presumption of innocence, as they reflect the opinion of a public authority despite the fact that the person has not been found guilty according to law.²⁷



Suspect or accused is innocent until proven guilty by impartial court.



Another common practice which raises concerns as to whether the presumption of innocence is properly observed is the practice of public authorities to disclose additional information collected in the course of the investigation, which portrays the suspect or accused person in a certain, often negative, way. In the [Sotirya murder case](#), for instance, following the arrest of the suspect, the police made a public announcement in which the person was described as uneducated, unemployed and antisocial, with no friends, and in a very difficult financial situation. A reference was also made to the person’s criminal record, which showed that he was convicted in the past for a sexual crime, sentenced to imprisonment, but released because the sentence was suspended.

²⁵ ARISA website (2021), [Case studies, The ‘Herd’](#).

²⁶ ARISA website (2021), [Case studies, The car accident in which journalist Milen Tsvetkov died](#).

²⁷ European Parliament and the Council, (2016), [Directive 2016/343 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 March 2016, Article 4.

Similar observation was made on the [Gabriel Cruz case](#). After the suspect (Quezada) was arrested, the press published articles stating she had been a sex worker in the early 1990s. During a press conference held by the *Guardia Civil* (Spanish law enforcement agency), the police revealed details about the defendant's past and made offensive claims about the suspect. The *Guardia Civil* insinuated that A.J. is suspect of the crime because "she had a past in Burgos".²⁸ The story was further tackled by the media publishing claims that the suspected woman used to be a prostitute. Moreover, during the pre-trial proceedings, the *Guardia Civil* commanders claimed that they considered the detainee to be responsible for the murder of the minor stating that "Ana Julia Quezada was responsible for the murder of the child", and described her as a woman with "economic ambition", "extremely cold" and "quite manipulative".²⁹ Thus, the authorities contributed to the creation of a negative image of the suspect, which was conveyed to the general public. The local community initiated a petition demanding life imprisonment and collected 130,000 signatures in a single day. Another petition was launched which called for the accused woman of Dominican descent to be declared *persona non grata* in Spain and to be forced to return back to the Dominican Republic and serve her remaining years in prison there. This petition reached close to 190,000 signatures. The second petition had the following argument:

"Knowing that Spanish justice will fail to provide sufficient punishment and will prove to be too complacent towards this murderer, even if she were to be sentenced to 150 years in prison or life imprisonment, as she would be comfortable in any of Spain's prisons, WE REQUEST: That Ana Julia Quezada Cruz is claimed by the Department of Justice of the Dominican Republic, where she is from, and be forced to serve life imprisonment in one of the prisons of her country of origin for the alleged murder of little Gabriel Cruz Ramirez."³⁰

Thereby, subjective public statements regarding one's culpability based on personal characteristics are able to enforce social movements requiring more severe and "extra" punishment than those provided by the penal law applicable in the country. Similar observations were made in relation to the case of [the car accident in which journalist Milen Tsvetkov died](#). The media reiterated the claim that the defendant was using drugs. The social response was materialised by organising a petition requiring for a maximum term of punishment

²⁸ ARISA website (2021), Case studies, [Gabriel Cruz case](#).

²⁹ ARISA website (2021), Case studies, [Gabriel Cruz case](#).

³⁰ ARISA website (2021), Case Studies, [The Sotirya murder](#).

for “the drugged driver who killed Milen Tsvetkov”³¹ as well as demands for legislative amendments increasing the sanction for driving under intoxication. The petition was signed by over 25,000 people. Subsequently, amendments to the Penal Code were proposed in parliament but the bill didn’t pass.

The use of inappropriate and offensive language of the police and judicial authorities referring to suspects and accused was also observed in the [Kocherinovo fraud case](#), as the Minister of the Interior called him “a rascal” shortly after the arrest.³² Such statements are contributing to forming a negative image of the person and implying a perception of a “criminal” because he or she is assumed to have certain personality traits and characteristics.

STANDARD 3:

Respecting the privacy of the suspect or accused person



The Recommendation of the Council of Europe calls Member States to respect the right to protection of privacy of suspects and accused persons, noting in particular the harmful effect on them caused by unnecessary disclosure of identifiable information in cases where it does not facilitate the investigation.³³ The EU Directive 2016/343 on the presumption of innocence allows Member States to publicly disseminate information on criminal proceedings only when it is needed for reasons related to the criminal investigation (e.g. video material is released and the public is asked to help in identifying the alleged perpetrator of the criminal offence) or to the public interest (e.g. for safety reasons, when information is provided to the inhabitants of an area affected by an alleged environmental crime or when the prosecution or another competent authority provides information in order to prevent a public order disturbance).³⁴

³¹ ARISA website (2021), Case studies, [The car accident in which journalist Milen Tsvetkov died](#).

³² ARISA website (2021), Case studies, [Spas from Kocherinovo fraud case](#).

³³ Council of Europe, Committee of Ministers (2003), [Recommendation Rec\(2003\)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings](#), 10 July 2003, Principle 8.

³⁴ [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](#), Article 4(3).

The Directive also notes that the use of such reasons should be confined to situations in which this would be reasonable and proportionate, taking all interests into account.



However, the case studies show that the right to privacy of an accused person is not respected at all times. The case of [Katerina, one of the cases of HIV positive women](#) serves as an apt example. It highlights that soon after the accused was taken into custody, all her personal information, including the HIV-positive results, were made public by order of the prosecutor. The public authorities went further by issuing a statement with all the details about the suspect and the other ten detained women. Their pictures were uploaded on the police website and were not anonymised or protected in any way. As noted above, disclosure of personal information about an alleged perpetrator is allowed in a limited range of circumstances, provided that it is proportionate and all interests, including those of suspects and accused, are respected. According to the EU Directive, disclosure would be reasonable and justified if the revealed information would prevent possible harm to the public interest or disturbance of the public order, or would ensure the safety of citizens. It is also allowed to reveal details about a suspect or accused if the public is asked to help for their identification.³⁵ The prosecutor's order for disclosure of Katerina and other women's personal details and photos (incl. name and surname, charges against the accused, age, ethnicity, parent's names, place of residence, place of origin and the sensitive medical information of being HIV positive), was based on similar grounds, as it states that "[it] aims at the protection of the public and the easier investigation and punishment of the above crimes. [...] call for persons who had intercourse with them to proceed with medical examinations and the prevention of panic to those who had intercourse with a sex worker with similar characteristics".³⁶ However, it is certain that dissemination of information about one's medical records, especially coupled with personal details and photos of the individual, should be considered as a last resort measure, even if it is based on serious concerns as the protection of public health. In this particular case, nine civil society organisations raised the alarm against the prosecutor's order. They claimed that disclosure of sensitive medical data about the accused women was disproportionate as the same aims of the investigation could have been achieved by other means that better protect and respect the dignity

³⁵ [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](#), (18).

³⁶ ARISA website (2021), Case Studies, [Katerina, one of the cases of HIV positive women](#).

and private life of the accused women. Moreover, the police and prosecution did not have the required permission by the Hellenic Data Protection Authority. Eventually, the police withdrew the announcement with the accused women's personal information and photos from the Internet, but at that time the information had been already reproduced on multiple online platforms and it had become impossible to track and completely diminish the published data which continued circulating for years.

Disclosure of sensitive information potentially leading to strong social reactions and public humiliation should be avoided, given the possible devastating effect on the lives of suspects, accused persons and their families. This claim is tragically illustrated by the series of events that occurred in the lives of the arrested women. Under the public pressure, Katerina relapsed to drug use and committed suicide, her father and siblings lost their jobs, relatives were expelled from school, the family was subject to disrespectful treatment by the local community and their neighbors. Moreover, in the following years three of the other accused women suffered the implications of scandals and public humiliation. It is noteworthy that the Greek court eventually found the women innocent for the crimes pressed against them. Their acquittal, however, was issued after Katerina's death and could not take back the years of mortification, immense stress and social exclusion experienced by the accused women and their relatives.



Disclosure of personal data is allowed in specific situations to facilitate the investigation or to protect the public interest. Disclosure must be always reasonable and proportionate.

In certain cases, the authorities publicly reveal the identity of the person suspected or accused of committing the crime at a very early stage of the investigation, even before the person is arrested or formally charged. In the [Sotirya murder case](#), for example, personal identifiable information about the suspect (name and age) was disclosed immediately after the crime was reported and was later confirmed after the person was arrested. As illustrated by the same case, the disclosure of suspect's identity at such an early stage practically prevented any subsequent efforts to respect their privacy. Even though later in the investigation the Prosecutor's Office issued several official press releases that were duly anonymised (the accused person was referred to only by his initials), the information already revealed at the initial phase allowed his identification. Another illustrative example is that only a day after the car accident in which the [journalist Milen Tsvetkov died](#), the police disclosed footage from the crime scene, and although the identity of the suspect was not completely revealed, details such as his age, city of residence, the drug test results, and previous registered violations of traffic rules were disclosed which enabled the media to promptly uncover and publish information about the suspect, including pictures from his social media profile.

Disclosing personal and sensitive information related to the accused or suspected person usually leads to forming an extremely negative image of the person among the general public. This may result in public boycott, social exclusion, mental health issues, and immense stress on the accused and their family. For reasons like this, the law provides that the disclosure of personal information regarding a suspect and an accused person is allowed in strictly listed situations when it is absolutely necessary in order to protect the public interest, safety and order.

STANDARD 4:

Accuracy of information and right of correction or reply to defamatory or incorrect statements



The Recommendation of the Council of Europe calls to Member States to ensure that justice authorities and police services provide the media only with verified information or information which is based on reasonable assumptions. In case of presenting assumptions and not objective facts, this should

be clearly noted.³⁷ Ideally, the public should have access to correct and objective information and the media should be facilitating the exercise of its right to information. In order to ensure the presumption of innocence is safeguarded, the police and judicial authorities are supposed to report facts supported by evidence and to clearly indicate that a statement is based on suspicion or assumptions.

The case studies examination found that the media are able put pressure on authorities to disclose information prematurely at a very early stage of the investigation when no sufficient evidence is gathered and to present assumptions. In turn, the investigation can be jeopardised. In the [Spas from Kocherino-novo fraud case](#) the first information about the fraud scheme and the related false profiles appeared in discussions between users on Facebook which was later reported by several media channels. The media speculated about the fraudster's identity and a particular name circulated in social and traditional media months before the official indictment. As the case had attracted the public attention since its very beginning, the media requested information from the police and the prosecution days prior to the arrest. At that point, the authorities correctly refused to comment because the investigation was underway, and did not confirm whether they suspected the same person as the media. However, immediately after a suspect was apprehended, the police and the prosecution held a joint press conference where information was disclosed, such as a list of previous investigations against the suspect and the fact that he had been declared wanted twice. In a later media appearance, the Director of the Directorate General for Combating Organised Crime (DGCOG) said that if it were not the intense media pressure, information would have not been disclosed at such an early stage. Moreover, he admitted that at the time of the press conference, the police had not gathered sufficient evidence to claim that the suspect stood behind the false profile, thereby, the premature disclosure of information was likely to affect the investigation. The criminal proceedings were further complicated by inaccuracies in the information provided by the authorities in subsequent messages to the press. Particularly, the Prosecutor's Office and the Ministry of the Interior issued inconsistent press releases on the day the indictment was announced, stating mismatching offenses and details of the case. The media highly criticised the authorities for the improper coordination which resulted in misleading the public that a new crime was committed.

³⁷ Council of Europe, Committee of Ministers (2003), [Recommendation Rec\(2003\)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings](#), 10 July 2003, Principle 3.

The police and judicial authorities need to be cautious while disclosing information at the pre-trial stage especially when assumptions are presented. As in the case outlined above, the fact that claims are not based on sufficient evidence should be clearly stated. The accuracy of the provided information regarding criminal proceedings is crucial for maintaining a high level of credibility and public trust in law enforcement and judicial institutions. Furthermore, disclosure of information should be preceded by an assessment of the permissible amount and type of information depending on the specifics of the case. Above all, law enforcement and judicial practitioners, being government officials and public servants, are obliged to protect individuals against human rights abuses, including the offenders' right to a fair trial and the presumption of innocence. The [Spas from Kocherinovo fraud case](#) demonstrated that the premature disclosure and the miscommunication of information may disturb the investigation and contribute to the formation of a "guilty" image of the suspect or accused through the media. Ultimately, such malpractices lead to disinformation and blur the line between objective facts and subjective assumptions.

In extreme cases, false statements such as untrue allegations or assertions damaging one's reputation may amount to defamation. Defamation is criminalized in most countries as a measure to protect citizens' reputation and dignity. No example of defamatory statements by national authorities was identified within the examination of the twelve case studies. Nonetheless, it should be noted that suspects and accused persons are extremely vulnerable to reputation damages. Usually, the very fact that charges have been pressed against a person may hurt his/her repute among their peers. That effect is amplified in extensively publicized criminal cases where the identity of the suspect or accused becomes publicly known. In this respect, in order to protect one's dignity and good name during the proceedings, public authorities must use balanced language when communicating information to the press. In the event of public statements and press releases by judicial or police authorities containing erroneous information or defamatory statements regarding a suspect or accused, they must take the steps necessary to rectify it and ensure that the right of correction is available to the subject of defamation.

STANDARD 5:

Provision of information on a non-discriminatory basis



The Recommendation of the Council of Europe suggests that judicial authorities and police services should provide information to the media in the context of ongoing criminal proceedings on a non-discriminatory basis.³⁸ In line with the European Convention on Human Rights, when disclosing information or making public announcements about a pending criminal case, the national authorities should refrain from referring to the suspect's and accused persons' individual characteristics such as sex, race, colour, language, religion, political or other affiliation, national or social origin, association with a national minority, property, birth or other status.³⁹ This recommendation is directly related to the presumption of innocence of the defendants, as it aims to prevent any pre-judgements based on social stereotypes and prejudices associated with a certain group of society.

Several of the case studies demonstrate that judicial and law enforcement authorities disclose sensitive personal details and do not bear in mind the possible consequences on the suspects and accused. Moreover, in many cases such information provided no added value and its disclosure was neither required, nor did it facilitate the investigation and the resolution of the case. For instance, in [the Sortiya murder](#) case before the suspect was officially charged with the murder of the 6-year-old child, the district prosecutor disclosed the following data about the suspect:

“The suspect is 21-year-old Martin Trifonov. He is unemployed, antisocial, has no friends, his family is in a very difficult financial situation, he has no education“⁴⁰

Further, the village mayor said:

“He was strange and did not communicate with people. A man who has been neglected and sloppy has no one to be his friend and to communicate with him. He loses the socium and maybe that has made him so distanced from his fellow men.”⁴¹

³⁸ Council of Europe, Committee of Ministers (2003), [Recommendation Rec\(2003\)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings](#), 10 July 2003, Principle 5.

³⁹ Council of Europe (1950), [European Convention on Human Rights](#), Article 1, Article 14.

⁴⁰ ARISA website (2021), Case Studies, [The Sotirya murder](#).

⁴¹ ARISA website (2021), Case Studies, [The Sotirya murder](#).

Such assumptions are subjective by default. Pointing out negative personality traits or disadvantages only accelerates the conjecture that the suspect has the profile of a “criminal”. It can only turn the public against that person and lead to marginalisation and bias in favor of their guilt.

The presumption of innocence and fair trial principles are also breached by law enforcement authorities and the media for various reasons when the investigation is carried out with a negatively prejudiced outlook. People belonging to a specific group, community or ethnicity (migrants, refugees, colored people, etc.) are usually the most affected. Although this varies from country to country depending on the specific national context, there is no doubt that such a problem exists. It was observed in the case of [the murder of Manolis Kantaris at Athens city center](#) where the three accused were foreign nationals from Pakistan and Afghanistan. Soon after they were taken into custody, the media published articles calling the suspects “the Afghans” and “the murderers” from the onset. This reinforced stereotypes about ethnicity and crime and formed a negative image and perceptions about foreign nationals travelling to Greece. It culminated in the organisation of multiple protests mainly by the extreme right political organisation Golden Dawn (Chrysi Avgi) which accelerated the aggressive rhetoric against immigrants.

A similar pattern of disclosing personal information about the accused can be spotted in the case of [Katerina, one of the cases of HIV positive women](#) in Greece. Soon after Katerina was arrested, the public prosecutor issued an order for publishing her pictures along with her personal information. A number of NGOs and human rights organisations raised their voice against the disclosure of private data regarding all the suspects. The civil society organisations argued that sensitive medical data processing, such as data on HIV positivity, can only be lawful if permission is granted by the Hellenic Data Protection Authority. The prosecution attempted to justify the disclosure of medical results with the argument that it was ordered due to public health concerns and for the purpose of preventing the spread of the virus. National NGOs responded that it was a disproportionate measure given the devastating intrusion into the privacy of the accused women. It is particularly concerning that one’s medical condition could become a ground for discrimination reinforced by public authority actions. The fatal ending of Katerina’s life forcefully demonstrates the psycho-social effect of such discriminatory actions on one’s mental health. Similarly, in the [Gabriel Cruz case](#) from the very beginning of the trial a number of personal details were disclosed about the accused woman of

Dominican origin. The subsequent petitions requesting her extradition to the Dominican Republic and pronouncing her a *persona non grata* is illustrative of the ways in which the unnecessary disclosure of personal details about a suspect or accused may accelerate xenophobic and discriminatory attitudes in society.

From the case studies described above it can be concluded that it is a matter of utmost importance to avoid publicizing sensitive personal details about a defendant that may foment discriminatory attitudes in society. It should be considered on a case-by-case basis whether the disclosure of specific information might lead to discrimination against the defendant and/or the social group they represent. Above all, the main consideration should be whether disclosure is absolutely necessary for the effective execution of the criminal proceedings. If this is not the case, public authorities should keep such information to prevent discriminatory attitudes towards the individual defendant and the minority or vulnerable groups they represent.



MEDIA COVERAGE

INTERNATIONAL STANDARDS

Thus far, there is no international legal framework providing mandatory rules to media practitioners on reporting information regarding criminal proceedings. The media are regulated at the national level by laws and non-legally binding codes of ethics. However, international organisations and associations of journalists have developed non-compulsory ethical codes with an international scope. The aim is to establish uniform principles of conduct for journalists to deliver information to the public in a manner that does not violate the rights and interest of individuals, and society as a whole.

Among the various international documents, three acts could be distinguished and are widely recognized: the *Global Charter of Ethics for Journalists* adopted in 2019 by the International Federation of Journalists⁴², the *Code of Ethics* adopted by the Society of Professional Journalists (hereinafter SPJ)⁴³, and the Council of Europe *Resolution on Ethics of Journalism*.⁴⁴ The Global Charter was drafted in continuation to the Declaration of Principles on the Conduct of Journalists existing since 1954 and is based on major texts of international law, in particular the Universal Declaration of Human Rights. The SPJ Code of Ethics originated back in 1926, while its most recent version was released in 2014. Thereby, both codes contain long-standing rules and ethical standards that have been revised according to modern developments in the field of media and journalism. On a European scale, the Resolution on Ethics of Journalism provides that information and opinions expressed by media practitioners must respect the presumption of innocence, in particular in cases which are still sub judice, and to refrain from making judgements.

⁴² International Federation of Journalists (2019), [Global Charter of Ethics for Journalists](#), June, 2019.

⁴³ Society of Professional Journalists (2014), [Code of Ethics](#), September, 2014.

⁴⁴ Council of Europe, Parliamentary Assembly (1993), [Resolution 1003 \(1993\) Ethics of Journalism](#), 1 July, 1993, Art. 22.

Based on the general principles laid down in these international instruments, the following ethical standards for media coverage on criminal cases, with a focus on the protection of the rights to a fair trial and privacy of suspects and accused, are suggested. The standards outlined below are in line with the Council of Europe recommendations on the provision of information through the media in relation to criminal proceedings, so as to achieve consistency and coherence of the guiding principles for both media and public authorities.

STANDARD 1:

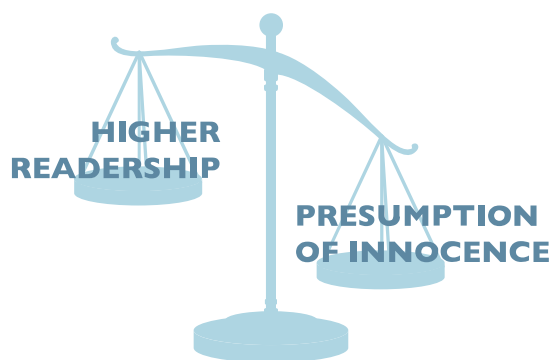
Balance the right to a fair trial with the public's right to know



All human rights are inalienable and indivisible, but exercising one right should be balanced against the rights and freedoms of others. The public's right to know encompasses the ability to access all types of information held by public bodies with a few exceptions such as classified data. In the context of criminal proceedings, that includes disclosure of information by judicial and police authorities, and all other public bodies involved in the proceedings. Usually, the media have the role of mediator communicating the information provided by public authorities to the general population. Journalists are responsible for its correct and objective presentation. Thus, media coverage on criminal cases, especially such of high public interest, is a major element for the fulfilment of the public's right to information related to criminal justice.

Journalists are not obliged to obtain information only from official sources and could conduct separate investigations as well as get in contact with other stakeholders, including the defendants, victims, their lawyers and family members, witnesses, members of the local community, etc. Indeed, it is part of the journalists' duty to inform the public about all viewpoints and facts in order to report comprehensive and objective information. Although the main purpose of journalism is to search and provide information about the truth, interference with the legal process and attempts to take over the exclusive powers of the judiciary to prosecute, investigate and rule judgements are problematic. In particular, excessive and unethical media coverage on criminal cases could lead to a "trial by media". The concept is traditionally defined as "the impact of television and newspaper coverage on a person's reputation by creating a widespread perception of guilt or innocence before, or after, a verdict in a court of law". Since the late 20th century, trial by media has been a common phenomenon in a number of countries⁴⁵.

⁴⁵ Suresh, N., Sara George, L., (2021), "Trial by Media:



Human rights law, both at the national and international level, has recognised that every person, suspected or accused of a crime, should have their guilt or innocence determined by an impartial court of law and within a fair and effective legal process. The presumption of innocence is one of the components of the right to a fair trial and shall be respected not only by the judiciary and law enforcement bodies, but also by media outlets, given their ability to influence the attitudes and perceptions of society. Today, the media are increasingly becoming a “public court”, albeit not authorised to serve in this capacity. Media practitioners usually do not feel obliged to act in accordance to legal principles as “innocent until proved guilty” or “beyond reasonable doubt”. Therefore, “trial by media” must be avoided and countered, as it undermines the rule of law and the capabilities of judicial authorities to properly conduct a fair trial. The legal principle stipulates that a fair trial could be achieved only by a hearing before an independent and impartial court of law.

Several case studies demonstrate that the media tend to violate the presumption of innocence in criminal cases that attract high public attention. The press infringes on the presumption of innocence by (1) publications stating premature judgements on a defendant’s guilt preceding a final court ruling, (2) disclosure of personal details that intentionally portray the accused or suspected person in an unfavourable manner, (3) disclosure of evidence during the pre-trial stage that has been retrieved by illegal means, (4) use of accusatory and prejudiced language about the defendant. A plausible explanation of these practices is the aim of media companies to increase their reader and viewership, pursuing sensations by catchy headlines and provocative text. It may result in intense public unrest eventually evolving into social movements that put pressure on the authorities to impose more severe punishments to the perpetrators. In relation to this, the Council of Europe called for “news organisations [to] treat information

not as a commodity, but as a fundamental right of the citizen. To that end, the media should exploit neither the quality, nor the substance of the news or opinions for purposes of boosting readership or audience figures in order to increase advertising revenue.”⁴⁶

Media coverage on [the murder of Manolis Kantaris at Athens city center](#) was extensive since the very first days of the proceedings. Shortly after the arrest of the suspect, newspapers published unofficially disclosed evidence, a video and photographs of the crime scene obtained from security cameras in the crime area. Similarly, the media disseminated mugshots of the suspects for the [murder of Antonino Barbaro](#) obtained from an anonymous source and video footage of the arrest of the alleged perpetrators. According to the Italian Data Protection Authority “disclosure of mugshots, not justified by proven police’s need, constitutes an illicit processing of personal data.”⁴⁷

Another example of media malpractice related to coverage of criminal cases is using headlines that imply guilt. The Council of Europe’s ethical rules for journalists gives explicit guidance for the formulation of headlines and summaries – these must reflect as closely as possible the substance of the facts and data presented, which should be ensured by the appropriate means of verification and proof and impartiality in presentation.⁴⁸ Contrary to these rules, in the initial phases of the criminal proceedings on the [murder of Antonino Barbaro](#), a local newspaper posted a piece titled “Francofonte, they killed a 67-year-old man with 27 stab wounds for 700 euro: Carabinieri arrest the perpetrators of the murder”. Another example is observed in the media coverage on the case of [the murder of Manolis Kantaris at Athens city center](#). Soon after the alleged perpetrators were detained headlines like “The murderers of Kantaris remanded in custody ” appeared in the press.⁴⁹ In the [the murder of Pamela Mastropietro](#), a newspaper front page stated “The Nigerian who tore the girl apart was not allowed to stay here” not only in the absence of a verdict, but even before the suspect was effectively arrested.⁵⁰ In the case of [the car accident in which journalist Milen Tsvetkov died](#), the Bulgarian National Radio published a news item on

⁴⁶ Council of Europe, Parliamentary Assembly (1993), [Resolution 1003 \(1993\) Ethics of Journalism](#), 1 July, 1993, Art. 15.

⁴⁷ ARISA website (2021), [Case Studies, The murder of Antonino Barbaro](#).

⁴⁸ Council of Europe, Parliamentary Assembly (1993), [Resolution 1003 \(1993\) Ethics of Journalism](#), 1 July, 1993, Art. 4.

⁴⁹ ARISA website (2021), [Case studies, The murder of Manolis Kantaris at Athens city center](#).

⁵⁰ ARISA website (2021), [Case Studies, The murder of Pamela Mastropietro](#).

its website about filing the indictment act with the headline “The prosecutor’s office brought to court Christian Nikolov, who caused the death of Milen Tsvetkov” along with a picture of the accused looking down and chained among court guards on his way to the courtroom. All of these headlines strongly imply the guiltiness of persons that still had the legal status of suspects and accused at the time of publishing the news articles.



In the cases examined above, a behavior pattern in which the media jump to conclusions about the culpability of offenders and mislead the public can be observed. As already noted, public perception on one’s guilt or innocence could affect the criminal proceedings against the accused and their lives. As an example, in the [Professor “Fakelakis” case](#), the media treated the accused with disrespect and humiliation from the outset, labelling him with a nickname that suggested he had committed the alleged crimes of bribery and blackmailing students. Arguably, the assiduous media attention to the case contributed to prolonging the accused’s pre-trial detention for 10 months. Moreover, it led to disciplinary proceedings against the professor by the TEI of Central Macedonia, which decided in favour of his definitive dismissal while the trial was still pending. In this regard, the rector declared that the presumption of innocence is not applicable to academic duties and, regardless of the absence of a verdict, claimed:

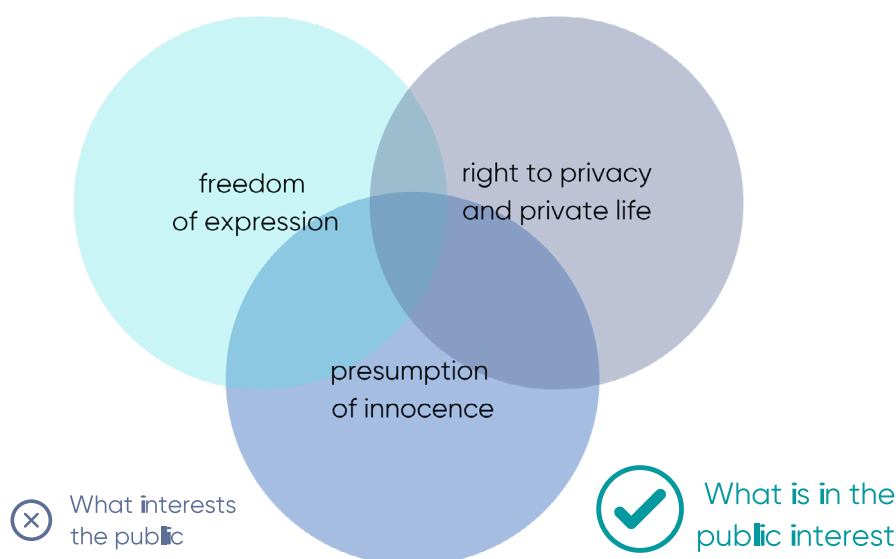
“We ought to protect the academic environment at this moment and not allow a man who is accused of all these things to upset our institution”.

The case of the [car accident in which journalist Milen Tsvetkov died](#) received massive media coverage, as the victim was a prominent professional journalist himself, and the defendant was the son of a Bulgarian MP. Soon after the arrest, a news

agency published a piece exposing various information about the suspect's family, their companies and links with political figures, together with family photos retrieved from the suspect's social media profiles. The narrative was built on the assumption that the suspect was a spoilt young man whose parents' money and power allowed him to be arrogant and break the rules without punishment. In a news article the words "murderer" and "a rich man's son" appeared in relation to the suspect. Soon after the incident, a number of footages of the incident from the neighboring commercial buildings' CCTVs leaked in the social networks and circulated in the media. The videos were later added as evidence to the investigation, but their publishing magnified immensely the public's rage against the alleged perpetrator.

In the [Sotirya murder case](#), the brutality of the crime and the specifics of its investigation attracted significant media attention, which involved interviews with many people who were not directly linked to the criminal proceedings (witnesses, the chase volunteers, lawyers, psychologists, psychiatrists, politicians, etc.) The more publicity the case received, the stronger social reactions were generated. These culminated in public demands for a maximum sentence for the defendant – an illustrative example of public pressure on courts to decide in a certain way. Eventually, the accused for [the Sotirya murder case](#) was sentenced to the maximum term. Whether there is a linkage between public demands and the final judgment is disputable, but it is reasonable to assume that non-fulfillment of the public claims could have led to protests and outcry. It is noteworthy that later on, under the prospect that the sentence might be reduced from life imprisonment without parole (the gravest) to 30 years in case the accused person made a confession (as per the Bulgarian Criminal Code then in force), the victim's family and local community organised a petition and a protest rally urging for legislative change that would not allow the provision to be applicable to offenders charged with premeditated murder. The initiative succeeded and the parliament adopted the respective legislative amendments. Strong public opinions shaped and reinforced by media coverage on criminal cases seem to have the ability to change national penal law. This is indicative of the media's considerable power and the responsibilities indissoluble from this power.

The respect to the presumption of innocence in media reports is crucial for preventing miscarriages of justice, and minimising the harmful impact on the lives of the suspects and accused persons, which is in turn an essential part of a just society. The public’s right to information and freedom of speech are essential for democracy, but they should be fulfilled to the extent that no other fundamental rights such as those to private life and fair trial are infringed. Some studies reasonably suggest that in balancing the triad of freedom of expression, the right to privacy and private life, and the presumption of innocence, it is necessary to distinguish between “what interests the public” from “what is in the public interest”.⁵¹



STANDARD 2:

Defamation and unfounded accusations shall be regarded as serious professional misconduct



The Council of Europe Resolution on Ethics of Journalism prescribes the principle of a clear distinction between news and opinions. On the one hand, news is information about actual facts and data supported by appropriate means of verification and proof. On the other hand, opinions convey thoughts, ideas, beliefs or value judgments on the part of media companies or journalists. Ethical journalism should allow audiences to easily distinguish with certainty news publications from articles expressing the subjective opinion of the author.⁵²

⁵¹ ARISA website (2021), [The Presumption of Innocence and Media Coverage of Criminal Cases](#).

⁵² Council of Europe, Parliamentary Assembly (1993), [Resolution 1003 \(1993\) Ethics of Journalism](#), 1 July, 1993, Art. 3 – Art. 6.

Media coverage on criminal cases should rely primarily on facts and official information. Expression of subjective beliefs or judgements regarding the culpability of the defendant is inappropriate, as media practitioners are not authorised by law to determine a person's verdict. Article 10 of the *Global Charter of Ethics for Journalists* lays down the basic principle that distortion of facts along with slander, libel, defamation and unfounded accusations are considered serious professional misconduct.⁵³ The *SPJ Code of Ethics* specifically states that ethical journalism should consider the implications of identifying suspects before they face legal charges as well as the long-term impact of publications.⁵⁴



Case studies revealed that suspects and accused persons are frequently presented in a negative way since the moment of their arrest, and become subject to defamation and accusations in the press. An example can be seen in the [Professor “Fakelakis” case](#) where the suspect was defamed and mocked by the media from the very first day when students submitted a complaint against him to the Ombudsman. The media immediately created an offensive nickname and addressed him as professor “Fakelakis” in all related articles (in Greek *fakelaki* means “a small envelope” in which money offered as a bribe are usually put). The media aroused public expectations for rapid sanctions, thus creating an extremely unfavorable situation for the defendant. It is noteworthy that his pre-trial detention lasted for 10 months and he was dismissed for good from his academic duties despite the fact that the trial was still pending. Obviously, the humiliating factors and unethical media coverage of the case had an adverse effect on his personal and professional life, his trial as well as the life of his family members.

Pursuing a powerful story, some journalists rely on strong and insulting language to describe the suspect and accused people. The use of derogatory language increases the perception of guilt attributed to the addressee and may be an act of defamation. For example, an article headline about the [Sotirya murder case](#) read: “The freak from Sotirya, who raped and killed little Christine, whines in a complaint to the court”, and the article itself contained offensive labels like “monster” and “freak” stuck to the suspect. These words appeared repeatedly in various media publications. A tabloid online media used the strongest qualification in reference to the accused – “the cruel murderer” and “the perverted Roma” – when informing about his struggle to find a lawyer. The media also posted un-

⁵³ International Federation of Journalists (2019), [Global Charter of Ethics for Journalists](#), June, 2019.

⁵⁴ Society of Professional Journalists (2014), [Code of Ethics](#), September, 2014.

verified information about the accused of the [Sotirya murder case](#), disseminating unproven claims of fellow villagers that he had often committed rapes and robberies. These claims were based on rumors and the village mayor said in an interview that no one ever filed an official complaint to the police. Additionally, some media publications noted that under unofficial sources the accused had been sexually harassed in the Burgas prison, while serving his previous sentence – a conjecture that was neither linked to the current prosecution, nor confirmed by official sources.



Name-calling and defamatory statements regarding suspects and accused persons in media publications may damage the reputation of innocent people.

As mentioned above, internationally recognised ethical standards condemn unfounded public accusations brought about by media professionals. Nevertheless, it was observed that journalists following the case of [the murder of Antonino Barbaro](#) did not fulfil their duty to report objective information to the public and made accusations grounded on unconfirmed evidence. Basically, the press acted as a public court with prejudiced headlines such as “Francofonte, they killed a 67-year-old man with 27 stab wounds for 700 euro: Carabinieri arrest the perpetrators of the murder” published a day after the arrest was broadcasted live.⁵⁵ In the absence of official information by the authorities, it is difficult to presume that the public had any room for doubt left regarding the suspects’ guilt. More articles with similar accusatory tone were published prior to the court’s final decision, which eventually acquitted the implicated brothers. The analysis on the case stresses the accusive attitude towards them demonstrated in an episode of a popular TV show presenting a report on the criminal case two days after the arrest. The host narrated the story of the murder around the hypothesis that an

⁵⁵ ARISA website (2021), Case Studies, [The murder of Antonino Barbaro](#).

old, simple person was killed for €700 of unpaid rents by his landlords (the arrested brothers). The report also included an interview with the defendants made shortly before their arrest. During the interview, the journalist had a confrontational attitude and referred to rumours that the brothers had beaten other tenants, thus indirectly presenting the suspects as violent and unscrupulous.

In contrast, an example of ethical media coverage on criminal proceedings was found in “[the Herd](#)” case. Until the publication of the sentence, the media referred to the perpetrators as “alleged”, or as being “accused of rape”.⁵⁶

STANDARD 3:

Provision of information or opinion on criminal cases should not contribute to hatred or prejudice in society



The duty of journalists to ensure that the dissemination of information or opinion does not contribute to hatred or prejudice in society and does not facilitate the spread of discrimination on any ground is enshrined in the *Global Charter of Ethics for Journalists*.⁵⁷ Considering the media’s power to shape public opinion, the information in substance, and the manner of its delivery is able to provoke strong reactions that may turn into social unrest. It is able to design and alter social perceptions of guilt and innocence. In turn, an emotionally generated social environment may affect the execution of a fair and impartial legal process. The incitement of hatred and prejudice regarding one’s guilt during ongoing criminal proceedings should be avoided by all media practitioners. The case studies indicated that hate speech and pre-judgments in the media occur more frequently when the defendant belongs to a certain vulnerable or minority group that is traditionally subject to stereotypes and marginalisation.

The feature that the cases of [the murder of Manolis Kantaris at Athens city center](#) and [the murder of Pamela Mastropietro](#) have in common is that the defendants were non-nationals. A similar misconduct by media practitioners is observed in Greece and Italy, who refer to suspects or accused by their nationality drawing a division line between “us, the nationals, the victims” and the “others, foreigners, the perpetrators”. Given the cruelty of the crime of [the murder of Pamela Mas-](#)

⁵⁶ ARISA website (2021), Case studies, [The Herd](#).

⁵⁷ International Federation of Journalists (2019), [Global Charter of Ethics for Journalists](#), June, 2019, Art. 9.

[tropietro](#) (victim's body dismemberment), and the defendant's belonging to a marginalised group (an immigrant from Nigeria), space was opened up for creating various speculations and eccentric claims disseminated by the media. A wide variety of theories were put forward, ranging from Oseghale's (defendant) membership in cults dedicated to voodoo rituals to describing these supposed rituals in detail, e.g. Oseghale eating the victim's heart. The analysis pointed out that this generated daily and close public attention to the case, becoming a downright example of creating moral panic. Moral panic is a condition or event in which a person or group of people becomes identified as a threat to society's values and interests, which is particularly problematic when one's culpability is yet to be judged by a court of law. No proof or supporting evidence for these excessive claims were provided in media publications, but the sensational language sufficed to influence the perceptions of the wider public, stirring up xenophobic feelings. Moreover, it affected the investigation, as the periodic and uninterrupted emergence of hypotheses of voodoo rites and cannibalism led investigators to produce fast denials. The prejudiced conjectures, highly suggestive to the reader, were continually reiterated in the period before the final passing of a verdict of guilty. In addition to his immigrant status, the media repeatedly linked the defendant with accusations of drug dealing, rape and murder, again at the pre-trial stage. In a broader context, the case was tried while the issue of immigration had been the main topic in the political debate of the time. The media coverage on the case enhanced the stereotypical representation of immigrants as criminals and contributed to a hateful attitude and exclusion of the social group altogether.⁵⁸

In Greece, another country where immigration is a persisting and controversial problem, the foreign nationality of the three accused persons for [the murder of Manolis Kantaris at Athens city center](#) was stressed in multiple news pieces about the case. They were referred to as “the Afghans” and “the murderers” from the very beginning of the criminal proceedings, thus reinforcing stereotypes about crime and ethnicity as well as negative perceptions and emotions about foreign nationals coming to Greece. The media “investigation” of the crime left no doubt as to who were the perpetrators, supported with incriminating references on their lifestyle involving alcohol and drug use, previous time in prison and apprehension for drug dealing. The implications on the local community were illustrated by the memorial march organised by inhabitants of the neighbourhood where the crime was committed. The assembly aimed at protesting against the high crime rate in

⁵⁸ ARISA website (2021), Case studies, [The murder of Pamela Mastropietro](#).

the district and the insecurity and fear this provoked. A prominent argument of protesters was that the rise of criminality was due to the increasing number of foreign nationals living in the area. The political context should also be noted here. The murder coincided with the emergence of an extreme right political formation in the country with a strong presence in Athens. The political formation propagated fascist ideas and had a major role in organizing protests and in keeping the aggressive rhetoric against foreign nationals at the forefront. The murder of Manolis Kantaris was one of the factors that led to the organisation of far-right raids where more than 100 foreign nationals were injured and a 21-year-old Bangladeshi was killed.⁵⁹

Given its social role and ability to influence the public opinion, ethical media are expected to fulfill their duties in a responsible and cautious manner when reporting information about the investigation and persons involved as suspects or accused of a crime. The media should also bear in mind the negative consequences on the social order and issues that may arise as a result of amplified intolerance. For instance, it can result in increased hate speech and hate crimes motivated by prejudice towards minority groups, creating obstacles to their social inclusion and peaceful co-existence. In this regard, the Council of Europe argued that “the media must play a major role in preventing tension and must encourage mutual understanding, tolerance and trust between the various communities”.⁶⁰

STANDARD 4:

Report information in a non-discriminatory manner



Just as the fundamental human rights are interconnected, so the ethical standards that the media should follow in terms of communicating information about criminal proceedings are interlinked. Reporting information for suspects and accused in a discriminatory manner is a prerequisite for increased social hatred and bias towards particular groups, as well as generalisation and marginalisation that may shape public expectations towards the trial’s outcome. This is problematic, since pressure could be posed on investigation, judges or jury to rule a person’s culpability, so as to meet public expecta-

⁵⁹ ARISA website (2021), Case studies, [The murder of Manolis Kantaris at Athens city center](#).

⁶⁰ Council of Europe, Parliamentary Assembly (1993), [Resolution 1003 \(1993\) Ethics of Journalism](#), 1 July, 1993, Art. 34.

tions and thus avoid the decline of social confidence in the judiciary.

The media have a crucial role in this process if they create a negative image and publish incriminating assumptions before the trial is concluded. At its core, the delivery of information that intentionally puts a specific focus on the defendant's race, nationality, social or ethnic origin, national minority group, and others, suggesting their culpability, is an attempt at discrimination and violation of the presumption of innocence. Moreover, the way in which minority groups having a different ethnic or racial background are portrayed by the media can reinforce negative stereotypes. Nevertheless, the case studies show that it is a common practice for the media to use personal details in order to amplify the idea of guilt attributed to that person and thus gain more reactions and public attention to the story. In terms of international ethical rules, *The Council of Europe Ethics of Journalism* explicitly states the moral obligation of the media to defend democratic values and to reject all discrimination based on various grounds.⁶¹ *The Global Charter of Ethics of Journalism* combines the obligation of journalists to ensure that dissemination of information does not contribute to social prejudice with the rule to avoid facilitating the spread of discrimination through their publications.⁶² Journalists must observe these ethical rules even more closely when reporting on criminal cases, as a number of human rights, including but not limited to fair trial and privacy, are concerned.



The examination of the case studies shows that discriminatory language is used primarily on the grounds of the suspect's or accused person's ethnicity or nationality. As already pointed out, in some news materials on the case of [the murder of Manolis Kantaris in Athens city center](#) the defendants were named as "the Afghans" and "the murderers" by the press. Some of the publications also disclosed their full names along with personal information such as their illegal entry into Greece and release from the Kassaveteia prison. They also mentioned that the suspects were temporary residents on humanitarian grounds, as there was an ongoing war in Afghanistan. In addition, a few posts described the suspects as drug addicts and alcoholics. Altogether, these pieces created a perception that the defendants belonged to certain socially excluded groups, such as migrants, substance addicts, recidivists, etc. As a result, their guiltiness appeared probable to the general public.

⁶¹ Council of Europe, Parliamentary Assembly (1993), [Resolution 1003 \(1993\) Ethics of Journalism](#), 1 July, 1993, Art. 33.

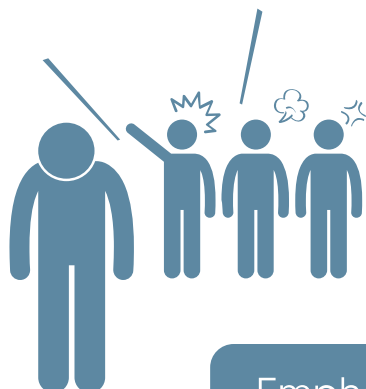
⁶² International Federation of Journalists (2019), [Global Charter of Ethics for Journalists](#), June, 2019, Art. 9.

It should be taken into account that the general population is not necessarily interested or familiar with legal principles and the stages of the legal process, thereby it is credulous and does not always critically evaluate the information in news publications.

Similarly, in the case of [the murder of Pamela Mastropietro](#), newspaper headlines described the defendant as “The Nigerian who tore the girl apart was not allowed to stay here” and claimed “he is a murderer, very murderous: he literally tore the girl to pieces and hid her body in two trolleys”. A number of articles were written with headlines like “Pamela Mastropietro, the horror of the second autopsy: The Nigerians made her suffer, then flayed her” or “Pamela Mastropietro, how she was killed: Journey into African horror”, a “cold and inhuman” slaughter”. Thus, the main message of the publication, incorporated in the title, clearly and undoubtedly points at the perpetrator of the brutal crime, again, prior to a hearing before a court.

If one looks at the [Gabriel Cruz case](#), it becomes evident that from the very beginning of the trial, there were many personal details that were disclosed about the accused (including her photographs, age, nationality, current and previous occupations, etc.). Many media channels reported that the defendant was originally not from Spain, but from the Dominican Republic. A non-governmental organisation called SOS Racismo raised concerns over how media portrayal of criminal cases could actually incite racism and hatred. Even Spain’s National Markets and Competition Commission (CNMC) warned the country’s two major media groups, Mediset and Atresmedia, for spreading hatred while reporting the case. To make matters worse, the Facebook and Twitter profiles of four main media companies – LaSextaNoticias, Telecinco, A3Noticias and Noticias Cuatro – confirmed the presence of a parallel trial on social media marked by racism, xenophobia with the major part played by the media as facilitators of this kind of discourse.⁶³

⁶³ ARISA website (2021), Case studies, [Gabriel Cruz case](#).



Emphasis on the suspect or accused's personal characteristics as nationality or ethnicity may increase discrimination, xenophobia and intolerance in society.

In 1997, the Council of Europe formally recognised that “the media can make a positive contribution to the fight against intolerance, especially where they foster a culture of understanding between different ethnic, cultural and religious groups in society.”⁶⁴ Ethical journalism should ideally provide accurate, fair, reflective and informed coverage of various issues and events that are important to the citizens and shall enhance democratic values. By analysing the case studies, a pattern behavior can be observed in which the media underline personal details like the ethnicity of the accused person which motivates intolerance, ignorance and hatred and may result in social tension and discrimination. According to internationally recognised ethical standards, in reports on criminal cases journalists should use concise and factual language.

STANDARD 5:

Rectification of errors or published information found to be inaccurate



Ethical journalism requires rectification and correction of published information that is found to be inaccurate. It is enshrined in Article 6 of the *Global Charter of Ethics for Jour-*

⁶⁴ Council of Europe, Committee of Ministers (1997), [Recommendation No. R \(97\) 21 on the Media and the Promotion of Culture of Tolerance](#), 30 October, 1997.

nalists, which specifies that rectification should be done in a timely, explicit, complete and transparent manner.⁶⁵ The SPJ *Code of Ethics* also declares the principle of seeking the truth and reporting it through regular gathering, update and correction of information throughout the life of a news story.⁶⁶ All newly discovered data should be made available to the public in pursuit of an objective and comprehensive presentation of the story. In case of mistake, it should be acknowledged, corrected and clarified, so that no room for doubt is left. This ethical standard is recognised by the Council of Europe in its *Resolution on Ethics of Journalism*. It prescribes that national legislation should be in place, providing sanctions and compensation in the event of incorrect information or opinion published by news media, at the request of the persons concerned.⁶⁷

In line with the Council of Europe Resolution, Italian law requires a rectification of information after a change in the legal status of a person. It is also an ethical imperative enshrined in the Italian Journalists' Code of Conduct (*Testo unico dei obblighi del giornalista*), where Article 8 provides that journalists must always and in any case respect the presumption of innocence of the accused persons, and in the event of an acquittal, they must report it with adequate prominence, correcting and rectifying what may have been written *ex ante*.⁶⁸ The case of [the murder of Antonino Barbaro](#) in Italy demonstrates a failure of the media to effectively rectify wrongful accusations and erroneous information, as well as to prevent the harmful implications on the suspects' lives. As mentioned above, the defendants experienced the adverse effects of media coverage limited to the initial phases of the proceedings, i.e. the suspects' arrest, coupled with the accusatory rhetoric in the following reportages. Since the Giaccotto brothers were acquitted and released from detention, neither online, nor traditional media have yet corrected the information presented previously or reported to the public the final ruling on the case. It is noteworthy that the Giaccotto brothers have requested the media to rectify the incorrect information, but their request remained unfulfilled. This case indicates another fundamental problem of general order – the disrespect of the right to be forgotten.

⁶⁵ International Federation of Journalists (2019), [Global Charter of Ethics for Journalists](#), June, 2019, Art. 6.

⁶⁶ Society of Professional Journalists (2014), [Code of Ethics](#), September, 2014.

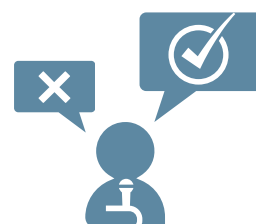
⁶⁷ Council of Europe, Parliamentary Assembly (1993), [Resolution 1003 \(1993\) Ethics of Journalism](#), 1 July, 1993, Art. 26

⁶⁸ ARISA website (2021), Case studies, [The murder of Pamela Mastropietro](#), p.7.

An example of the rectification of errors in published information was observed in the case of [the car accident in which journalist Milen Tsvetkov died](#). It was broadly covered by the media, with one of the topics on point being the defendant's drug abuse and addiction. After the police and Prosecutor's Office announced the name of the driver and his positive drug test, a number of articles appeared in online and traditional media specifically unravelling the defendant's experience with drugs. For example, an article entitled "Milen Tsvetkov's killer was a drug specialist, discussing with friends their effects on the brain and body" published parts of the defendant's personal correspondence disclosed within the hearings, where he had discussed the effects of different drugs with his friends. The article claimed that the accused youngster's girlfriend, who was also present in the car at the time of the accident, was using drugs as well. In response, the accused person officially asked the media to make a public apology for the untrue statements about him and said that reading the publication seriously affected his mental health. Respectively, an apology was published and the media admitted that one of the statements was untrue. It is noteworthy that part of the media's explanation of the error read: "We do not have access to the case materials because we are not parties. We rely on oral information." A journalist is expected to evaluate whether unverified information in connection to a pending criminal case should be published in view of its potential negative implications.

Mistakes can take different forms and vary in degree of seriousness, including mis-quotes, misleading wordage, exaggerated or out-of-context facts, incriminating statements, or defamation. Errors can also play a major part in eroding the trust in the media, have serious consequences on certain groups and individuals, as well as severely undermine the journalists' main job to accurately inform the public. The widespread persistence of misinformation by the media is a matter of public concern. The simplest way to overcome this issue should be the rectification of previously published incorrect information in order to achieve maximum amount of transparency. Unauthentic and misleading information must be corrected in full and in a timely manner, so as to prevent misinformation and misperceptions about one's innocence or guilt of committing a crime.

Ethical journalism requires rectification of published information that is found to be inaccurate. A new article should acknowledge the mistake and correct the erroneous information, and to be equally disseminated.

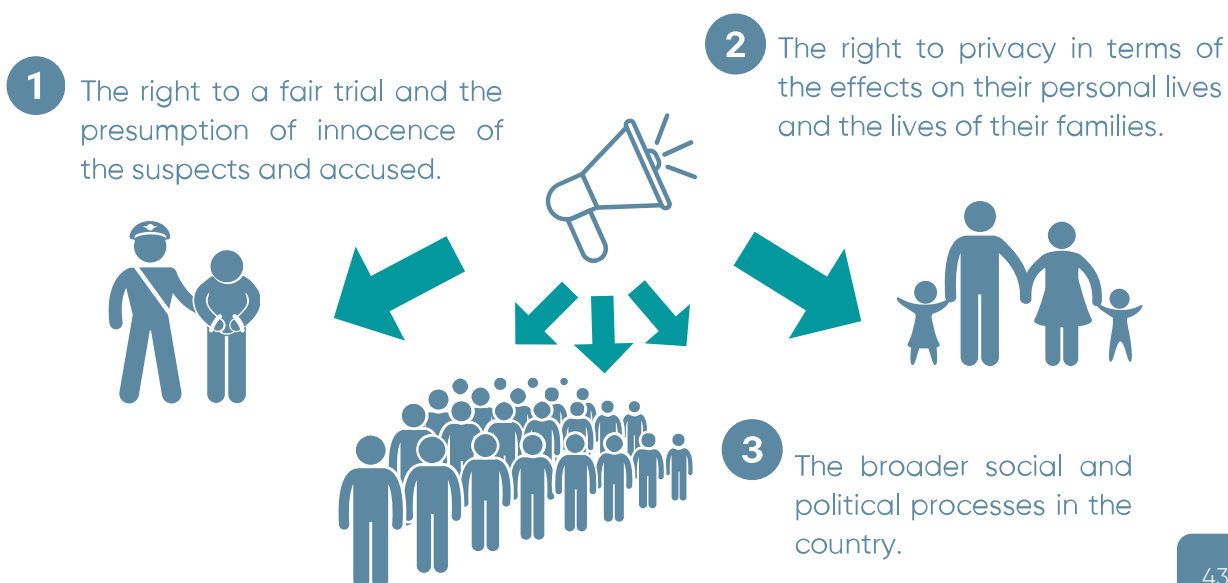




IMPACT AND CONSEQUENCES

First, the distinction between individuals with the legal status of a suspect or accused and persons convicted of a crime should be stressed. Suspects and accused have the right to be considered innocent until they are proven guilty by a legitimate tribunal. Moreover, the defendants enjoy the full range of their rights during criminal proceedings and any restrictions on a suspect's basic rights should be imposed only where necessary. The proper observation of this fundamental legal principle in criminal law is crucial for an effective criminal justice system, for the reinforcement of the rule of law and for the protection of human rights. In the previous chapters of the report numerous examples were presented of negligence and misconduct on the part of the media and national authorities with regard to the presumption of innocence. The present chapter's focus is on the most common implications and consequences of these malpractices that are not compliant with the standards for communicating information about criminal cases in the public domain.

Inappropriate disclosure of information about criminal proceedings by authorities and its coverage in media publications may result in various negative implications that can be categorized in three main groups (see figure below).



IMPACT ON THE RIGHT TO A FAIR TRIAL AND THE PRESUMPTION OF INNOCENCE OF SUSPECTS AND ACCUSED PERSONS

Improper disclosure of information and misleading news materials in the press could result in consequences such as public backlash about the outcome of criminal cases. The case studies show examples of public demonstrations and demands for more severe punishments than those prescribed by current penal laws. It is noteworthy that “no punishment without a law” is a well-established principle in international human rights law. Thus, a key element of Article 7 of the *European Convention on Human Rights* is that “a heavier penalty [shall not] be imposed than the one that was applicable at the time the criminal offence was committed.”⁶⁹ Moreover, Article 15 of the *International Covenant on Civil and Political Rights* expressly mentions the principle of the retroactivity of the lighter penalty, stating “If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.”⁷⁰

In contrast, at several instances petitions for higher sanctions were initiated by groups of the local society at the pre-trial, trial and post-trial stage.

In Spain, a petition for imposing a life imprisonment of the accused woman for the murder of [Gabriel Cruz case](#) reached at least 130,000 signatures along with demands for her extradition. The activists requested the government to ensure that she serves her sentence in poor conditions in prison in the Dominican Republic and to be declared a *persona non grata* in Spain. The arguments behind the petition, namely that “knowing that Spanish justice will fail to provide sufficient punishment and will prove to be too complacent towards this murderer” and that “she would be comfortable in any of Spain’s prisons” shows that principles such as equality before the law and equal treatment can be disregarded by the general public and replaced by discrimination when polarised public opinions are formed. Arguably, such demands would not arise if the public authorities and the media had a more balanced approach towards the accused woman. In particular, authorities and media contributed to the formation of a negative portrayal of Quezada through references to her personality, past and ethnic origin. Likewise, a petition requiring a sentence of maximum term for “the drugged driver who killed

⁶⁹ Council of Europe (1950), [European Convention on Human Rights](#), Article 7 (1).

⁷⁰ [The United Nations General Assembly \(1966\), International Covenant on Civil and Political Rights](#), Article 15 (1).



Milen Tsvetkov” was initiated for [the car accident in which journalist Milen Tsvetkov died](#). The fact that the victim was a prominent journalist along with the detailed coverage of the case by the media have triggered a sharp social response. Numerous people urged for legislative amendments that would increase the sanction for driving under intoxication. It could have affected the punishment of the alleged perpetrator. The petition was signed by over 25,000 people for a very short time. The Penal Code in effect envisioned 3 to 15 years of imprisonment for causing death after the use of alcohol and opiates, which, according to the public, was no adequate punishment for the death of the Bulgarian journalist. In response to the outcry, the ruling parties and the Prosecutor’s Office submitted a proposal for legislative amendments to the Bulgarian parliament for a more severe punishment of 15 to 20 years of imprisonment or a life sentence, and confiscation of the vehicle.⁷¹

Another petition and a protest rally were organised in connection to the [Sotirya murder case](#) in Bulgaria. Although the accused man was sentenced to life imprisonment without parole, the Penal Code envisioned a hypothesis for reduction of the sentence to 30 years in case of confession. The general public disliked this “legal loophole”. The victim’s family and their community organised a petition urging for amendments to the Penal Code that would eliminate this opportunity to people charged with intentional murder. The petition gained a great popularity and was supported by ministers and MPs who later adopted it in parliament.

In three of the above-mentioned cases the accused were presented in a significantly unfavorable manner by both public authorities and media outlets. They have been publicly disgraced as details about their past and private life were published. In addition, publicly expressed opinions about their “bad” characters and personalities appeared in some publications. The incriminatory statements inevitably affected public perceptions and triggered vindictive attitudes. As already pointed out, the media’s power of shaping public opinion should not be underestimated. In addition, people usually have much more sympathy to the victims and their families, which provokes resentment and enmity to the suspect and accused. In the context of the issue at hand, the generated public pressure may affect the criminal proceedings and the execution of a fair trial, demanding, for instance, increased penalties and “extra” punishments.

⁷¹ ARISA website(2021), Case studies, [The car accident in which journalist Milen Tsvetkov died](#).

Although the judiciary is considered politically independent and unsusceptible to public sentiments, legislative bodies consist of MPs that pursue the public approval. The long-run implications, as shown, could be legislative changes providing for tougher penalties introduced as a result of the public desire for revenge in connection to a particular case.

The case studies analysis raised the question whether the public pressure is able to affect the decisions of authorities at the pre-trial stage. A good example in this regard is the [Professor “Fakelakis”](#) case where the accused professor was held in custody for 10 months as a result of the vigorous media attack on him and the great popularity of the case. Additionally, he was suspended from teaching at the university long before his conviction in an attempt of the school to differentiate itself and preserve its reputation. Thereby, his reputation and academic career were impaired even in the absence of a verdict of guilty. In the course of the proceedings for [the car accident in which journalist Milen Tsvetkov died](#), the prosecution changed the indictment with the prospect of a more severe sentence. The initial offense of causing death after the use of alcohol and opiates, penalized by 3 to 15 years of imprisonment, was replaced by a more serious offense of intentionally causing death when driving a vehicle, punished by 15 to 20 years of imprisonment. Thus, although legislative changes were not adopted, the public demands for a stricter penalty were partially satisfied. Another case where the high publicity influenced the course of proceedings was observed in the [cases of HIV positive women](#). The accused women were detained for more than six months after their arrest and immediate disclosure of their photographs and personal medical data by the Greek authorities was made. Since the first day of publishing the sensitive information, the detained women received pro bono legal support by various actors (organisations, lawyers, civil society initiatives, etc.). Eventually, the women were released from custody, the felony charges were rejected and the indictment was changed, and the women were acquitted. The advocacy and public support certainly helped their defense, access to legal aid, and the full enjoyment of the right to a fair trial, right to effective remedy and other inter-related rights. The present analysis is not able to detect and prove with certainty a direct connection between the media publicity and the imposed coercive measures. The main aim is to contribute to the existing volume of literature in the field by raising questions and providing concrete real-life examples.

IMPACT ON THE RIGHT TO PRIVACY OF SUSPECTS AND ACCUSED PERSONS

Besides the possible impact on the decision making in terms of the criminal proceedings and the trial, suspects, accused, and their families may suffer from various negative consequences in their private lives. Due to the high publicity, such persons are frequently labelled, humiliated and experience significant life changes regardless whether the final judgement is conviction or acquittal. The story of [Katerina, one of the cases of HIV positive women](#) is an illustrative example. Under the public pressure and the extremely outspoken media exposure, Katerina experienced mental health deterioration, she relapsed to drug use and tragically committed suicide before the final judgement. The case study quoted a volunteer of the Solidarity Initiative that closely supported the accused women:

“One question troubled their minds. Katerina often wondered ‘Why do they publicly humiliated us?’. It was not prison that bothered them. What annoyed them was the public humiliation.”⁷²



The case examination draws attention to the negative experience of the other prosecuted women as well. The lengthy proceedings marked by scandals and immense publicity affected their lives and the lives of their families. A quote from an interview with one of the accused women depicts their situation as follows:

“Four years after, I still wonder how much this case still sells? How much humiliation and degradation it can still hold? Even today for the news concerning us we are ‘the HIV positive women’. [...] And our photos remain posted on the internet. Let the stigmatisation of people who have a disease of deviate from ‘normality’ stop. Let the disgrace and degradation against us stop, because we do not stand it anymore.”⁷³

The impact on the family members of Katerina and the other women is equally important. The examination pointed out that Katerina’s father attempted suicide and lost his job after the arrest of his daughter. Another accused woman’s relatives also lost their jobs, children and siblings were expelled from schools, and whole families were subjected to rumors and social stigma. Family members and people connected to suspects and accused frequently share the burden with their prosecuted relative and lose their anonymity.

⁷² ARISA website (2021), Case Studies, [Katerina, one of the cases of HIV positive women](#).

⁷³ ARISA website (2021), Case Studies, [Katerina, one of the cases of HIV positive women](#).

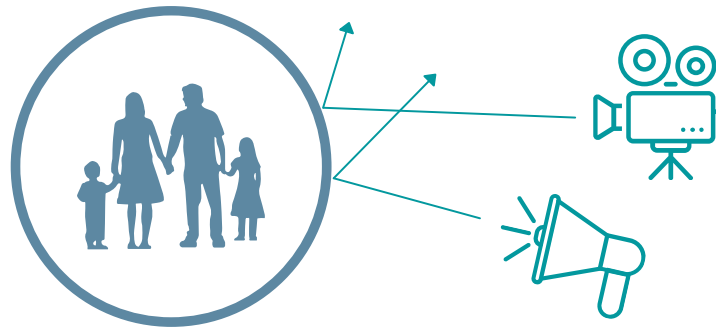
Overexposure to the media is one way to influence the lives of suspect and accused and their family members. On the other hand, insufficient information provided to the public could also be unethical and cause damage to the lives of suspects and accused. For instance, the coverage of the case of [the murder of Antonino Barbaro](#) was limited to their arrest and first days of the proceedings, primarily by local media channels. However, the unethical disclosure of information included live broadcast of the arrest and ungrounded accusations by journalists. Furthermore, the media failed to provide rectification of the errors even when the suspected brothers were liberated after 130 days of detention, as no evidence confirming their guilt was found. Defamatory publications affected the public opinion especially in the local community. The long-term implications could be illustrated by the arguments in the brothers' request for compensation for the unjust pre-trial detention:

“This sad judicial incident has blocked [the brothers'] every prospect and has thrown all members of [their] families into the deepest prostration, who, in addition to the suffering caused by the unjust detention of their relative, have suffered the mockery of being marginalized by the social body.”⁷⁴

The case studies show that it is common for journalists covering a criminal case to scrutinise the private life of the defendants. This is especially relevant for high-profile cases involving popular persons. In the case of the car accident in which journalist Milen Tsvetkov died, a personal information, photos and allegations about the accused man's family and people from his close circle appeared in the press. Shortly after the suspect was arrested and his name was revealed by the authorities, journalists investigated his family, their business and links with political figures in a series of articles. Pictures obtained from their personal social media accounts were also published and eventually the whole family had to delete their profiles. The two passengers in the suspect's car also got the media's attention, as one of them was the suspect's girlfriend. The girl was involved in the legal process not as a suspect, but as a witness. The media violated her privacy by publishing pictures and revealing her social media account that was attacked by resentful users. It could be accounted online harassment. Some articles contained allegations that the girl was a drug user judging solely by the impression and the 'look' of her pictures, while no significant proof was provided to support these claims⁷⁵

⁷⁴ ARISA website (2021), Case Studies, [The murder of Antonino Barbaro](#).

⁷⁵ ARISA website (2021), Case studies, [The car accident in which journalist Milen Tsvetkov died](#).



Media should respect and protect the privacy of the suspects or accused and their families.

IMPACT ON SOCIAL PROCESSES AND THE BROADER POLITICAL SITUATION

The criminal cases that attract high attention in media may bring certain issues onto the public and political agenda. The examined case studies provided indicative examples of the impact on society and the political processes in the respective countries. Some cases that touch upon existing social problems, such as migration, discrimination, or radicalisation, usually disturb the public and generate turbulent reactions that can evolve into raids, protests, and demonstrations. That was observed in [the murder of Manolis Kantaris at Athens city center](#) where the accused persons were foreign nationals. In light of the then topical issue of immigration in the country, the memorial march organized by the local community to honour the victim turned into a protest against the growing number of immigrants in the district whose presence instilled insecurity and fear among the locals.



As politics follows and responds to the social dynamics, political parties tend to use criminal cases that have gained popularity to promote certain points and objectives of their party programs with the aim of attracting voters during a political campaign. A relevant example is the [case of Manolis Kantaris murder](#). A far-right political formation used the case in its campaign, characterized by propaganda of fascist ideas, nationalism, and violent demonstrations. The fact that the accused persons of the murder were from Afghanistan and Pakistan was used to incite hatred and intolerance towards foreign nationals living in Greece. The culmination of events was the organisation of riots that injured dozens of migrants

and even caused the death of a young migrant from Bangladesh.⁷⁶ Similarly, in Italy, a public outcry emerged over [the murder of Pamela Mastropietro](#) where the accused was a Nigerian national. The case was broadly covered by the media and had a strong societal impact. It has led to two major consequences: a xenophobic raid and an exploitative use of it during the political campaigns for the forthcoming general elections in 2018. The first demonstration was of an Italian citizen who was strongly affected by the murder case and decided to take the law into his own hands by opening fire on a group of random dark-skinned individuals of African descent. In the moments following his arrest, the perpetrator stated that his initial intentions were to go to court and murder the accused person for the Pamela Mastropietro case, but he changed his mind and decided “open fire at random black people.”⁷⁷

Later it was revealed that the shooter was involved in a right-wing political party that criticized and condemned immigration and actively contributed to the politisation of the issue in Italy. Immigration was a central topic of the general elections campaign and the case study analysis pointed out the process of securitisation of the issue of migration and the exploitative use of the criminal case during the campaign. Far-left politicians used the case to spread the message that illegal immigrants are an existential threat to society and promised to adopt extraordinary and arbitrary measures, such as the repatriation of 600,000 illegal immigrants. Subsequently, the election results showed a rise from 0.69% to 17.4% of the votes for the far-left compared to the previous elections.⁷⁸

Furthermore, the accused person for the [Sotirya murder case](#) was of Roma ethnicity and the case was used by Bulgarian far-right political parties to gain political benefits. The perceptions of Roma people as criminals is particularly widespread among Bulgarians. Politicians from a far-right political party, VMRO, spoke publicly about the murder case not only to strengthen such stereotypes, but to incite tension and division between ethnic Bulgarians and Roma communities. Members of VMRO also made the radical proposal for amendments of the Penal Code to introduce chemical castration to people sentenced for pedophilia. There is no information whether an official proposal was submitted to parliament, so it could be assumed that these statements sought to attract the support of voters that may find the radical measures appealing. Another example could be found in the sexual harassment in [the Herd case](#) where the public outrage provoked by it was also

⁷⁶ ARISA website (2021), Case studies, [The murder of Manolis Kantaris at Athens city center](#).

⁷⁷ ARISA website (2021), Case Studies, [The murder of Pamela Mastropietro](#).

⁷⁸ ARISA website (2021), Case Studies, [The murder of Pamela Mastropietro](#).

translated into numerous demonstrations throughout the country, which were publicised and supported by the main left-wing political parties, including the ruling party at the time - PSOE. In response to the public resentment, the left-wing party publicly announced its intentions to reform the Spanish Criminal Code in the section on crimes against sexual freedom and sexual indemnity by introducing harsher penalties.

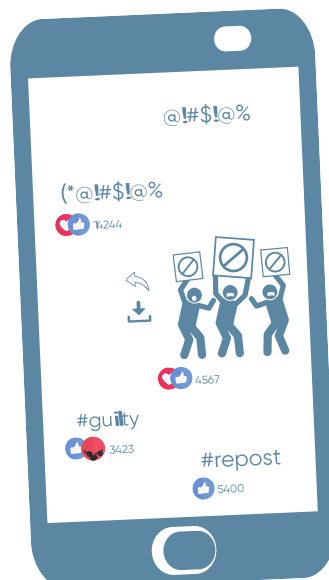


Politicians, especially far-right and far-left parties, may use highly publicized criminal cases for short-term political gains although it entails lengthy negative effects as enhanced stereotypes, marginalisation and division between social groups.

The case of [Katerina, one of the cases of HIV positive women](#) made an impact going beyond the personal lives of the accused women and their families, to Greek society at large and even at the international level. The case is characterised with a serious violation of the right to privacy and medical confidentiality of a vulnerable group of HIV positive women. The solidarity movement that emerged in support of the accused women involved international and national organisations, together with a large part of the population and human rights institutions as the Ombudsman. A wide public debate unfolded on the delicate balance between disclosure of information made on the grounds of public health concerns and the protection of fundamental human rights such as human dignity founded in the European legal civilisation. Part of the debate focused on the role of the media and its practices for delivering such information to the public. The Association of Editors of Athens condemned the publication of photographs by newspapers, TV channels, and websites, which “contributed to the public humiliation of certain women, violating blatantly the code of ethics and the professional morality of journalists”. Furthermore, the Joint United Nations Programme on HIV/AIDS (UNAIDS) issued a press release expressing its concern over the actions of Greek authorities involving the arrest, detention, mandatory HIV testing, publication of photographs and personal details, and the pressing of criminal

charges against the women.⁷⁹ In addition, the famous case was analysed from a political perspective. The women were arrested within an operation for combating the “the increased AIDS rates due to illegal prostitution and illegal immigrants” launched by the minister of health. The analysis indicates that citizens who criticised the illegal disclosure of information by public authorities considered their actions a “pre-electoral witch hunt”. This demonstrates that the presumption of innocence, among a number of other rights, might be violated as result of pursuing political objectives.

Lastly, social media and networks provide platforms for many people to express their opinion on current events, including criminal proceedings exposed in media, and even to form activist movements and groups. Movements organised through social media usually expand rapidly. It is noteworthy that social networks create a favorable environment for the expression and dissemination of radical views, including such pertaining to the two sides of a criminal case – the offense or the defence. The more people are involved, the more influence and social pressure on the legal process is imposed. The cases studies show that social movements may take the form of hashtags, groups, discussions, etc. The conviction for sexual abuse in [the Herd](#) case instead of one for rape aroused great indignation that was translated into social media campaigns through hashtags such as #noesno or #yositecreo. There were 466,864 posts on Twitter related to the conviction only in three hours.⁸⁰



Online media and social networks provide platforms for expressing various, sometimes radical, views. The authorities and media should cautiously consider what information to publish online. Once posted on the internet, it is nearly impossible to be completely deleted later.

⁷⁹ ARISA website (2021), Case Studies, [Katerina, one of the cases of HIV positive women](#).

⁸⁰ ARISA website (2021), Case studies, [The Herd](#).

CONCLUSIONS

The case studies analysis revealed some examples of the negative effect of unethical media exposure and inappropriate disclosure of information regarding criminal cases, but the impact and consequences could be as various as the multiple specifics of a criminal case. Further examination of more cases is likely to shed light on other implications. The present analysis aimed to demonstrate the influence of extensive and unregulated publicity of ongoing criminal proceedings on the public views, perceptions and opinions, which takes the form of a multifaceted negative impact on the individuals that are suspects or accused, their families, and society at the local, national or international level. To address this issue, it is extremely important to introduce and monitor for the compliance to universal and mandatory rules and standards for communicating information regarding criminal proceedings. A positive step forward would be to incorporate the existing standards specified in the above-mentioned non-binding international instruments into an appropriate document that would ensure a higher level of compliance. It may take the form of self-regulations of judicial and police authorities, and media outlets with the establishment of a monitoring body. Alternatively, the compliance with existing international standards can be strengthened by their replication in relevant national legislation or international legally-binding instruments. Furthermore, it is recommended to organise trainings, awareness-raising and educational activities with a focus on the issue of communicating information about criminal cases and the negative implications that might follow from it in the context of fundamental human rights. Such activities would contribute to a better understanding of the problem and to pinpoint solutions through multi-stakeholder discussions between public authorities and media outlets. It is of utmost importance that the delicate balance between rights (e.g. the right to information vs. the right to privacy) is ensured when mandatory regulations are drafted. The standards suggested in this report are based on internationally recognised instruments and can serve as a model for the adoption of further regulations.

