



GUIDELINES FOR ETHICAL AND PROFESSIONAL REPORTING ON JUDICIAL TOPICS



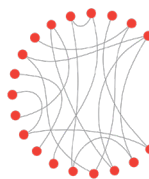
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ABOUT THE GUIDELINES

Dragan Sekulovski

Journalists play a key role in shaping public opinion and it is important for them to report on court matters accurately and impartially. Judicial reporting can be challenging because it requires a deep understanding of legal procedures and processes. The media have a responsibility to accurately and fairly report on court proceedings, without influencing the outcome of the case.

Hence the need to come up with practical guidelines for ethical and professional reporting on the judiciary intended for journalists and representatives of the judiciary in North Macedonia, but also for all other parties who are interested in learning about the professional approach to reporting on this subject.

These guidelines provide a set of principles and best practices that journalists should follow when reporting on the judiciary. It covers several key topics, such as access to information, confidentiality, personal data protection, the principle of presumption of innocence and the rights of all parties involved in the judicial process.

The guidelines also provide directions to representatives of the judiciary on how to communicate about court proceedings with the media in order to accurately and accurately inform the public.

We hope that these practical guidelines will be useful for both media professionals and representatives of the judiciary, and will help obtain a common understanding of the principles of ethical and professional reporting, which will ensure the public's access to accurate and unbiased judiciary-related information.

FROM OUR POINT OF VIEW – HOW TO IMPROVE REPORTING ON COURT PROCEEDINGS?

Adrian Kerimi

Reporting on court proceedings is one of the most difficult topics for journalists to cover and follow. Not because of the scale of the events themselves, but because of the responsibility to convey a sensitive process in a transparent and impartial way to the reader (the public).

When reporting on court proceedings, the journalist must be well familiarized with court processes and the nature of criminal or civil acts, including the stages of the trial. Media coverage of a court process means that the journalist should be aware of several aspects, regarding the moment when the event occurred and under what circumstances, details about the investigative measures that the public may be made aware of, as well as the role of the Public Prosecutor's Office in cases when there are criminal proceedings.

There are several essential elements that journalists should know before entering the courtroom from which they have to report, namely:

- **To have information** on the parties and the general context of the case
- **To be informed about** the proceedings of the prosecution, but also about the court
- **To be familiar** with the civil, i.e., criminal procedure in accordance with the laws.

Being informed about the parties and the context of their presence there is very important for the journalist, as it is important to know who is the plaintiff and who is the suspect and what they are suspected of, as well as who is the victim, witness, what is the role of the possible experts, what is the role of the representatives, who represents the prosecutor's office, the attorney's office, etc. Each party in the proceedings has its own meaning and role, and journalists must be apprised of them because it will make it easier for them, not only to follow, but also to report on the court procedure itself.

The procedures of the Public Prosecutor's Office, as well as of the court, are numerous, from the preliminary investigation procedure to the filing of the indictment, but not every stage in the procedure should be made news. In some cases, activities may need to be undisclosed in order not to disrupt the process. Of course, it also depends

on the level of public interest. The journalist is obligated to be informed about: the interrogation of the suspects, the hearing of the witnesses, the seized evidence and the necessary precautions, depending on the risk assessment. By carefully following these actions, the journalist will be informed about the elements of the charges against the parties.

Court rules can be tedious, but following and abiding by them allows the trial to run smoothly. Before entering the courtroom and before taking their seats, which are earmarked for journalists and the public, the journalists must be prepped, alerting them not to take advantage of any emotional state of the parties and not to abuse their position to compromise the hearing. Any attempt to communicate with the parties, to display emotional reactions or to encourage others to react or take action, contrary to the Rules of Procedure of the Courts, is not allowed.

The beginning of a court process may not be of significant interest to the media, but as the process progresses or if it is postponed several times in a row for various reasons, it should alert the journalist to follow the developments more carefully and keep a watchful eye.

When reporting, it is necessary for the journalist to understand the level of the trial or the stage of the trial. It is very important because that would provide insight on the current state and the developments that follow. In many media reports that refer to a court procedure, a certain dynamic in the reporting can be observed. In most cases, the defendants, their crime and the latest developments are reported, but the specific actions are not always highlighted, nor are details provided about the criminal act, the degree of responsibility (prime suspect, second suspect...), the damage incurred to the other party or the state budget (when it is about abuse of official position/power), the status of the Prosecutor's Office (petitions and proposals) and the legal consequences in relation to the charges and the Criminal Code.

Many reports contain subjective information or they cite articles from the Criminal Code or the Law on Criminal Procedure, but without explaining their meaning and sanctioning. The journalist is obligated to inform the public about the content of the article on abuse of official duty, the article on murder, the article on violence and other articles, because, referring to them only by number, as referenced by the Public Prosecutor's Office or the Ministry of Interior when filing the criminal report, does not provide sufficiently clear information for the public/audience.

The journalist is not a judge; however, they do have the right and duty to explain to the public what specifically happened in the event that led to trial, about the

prime suspect and the pyramid of responsibility, how the parties are represented (defence counsel and attorneys in the capacity of legal representatives) in the indictment made by the Public Prosecutor's Office.

While reporting, the journalist must be mindful of the family members concerns and their emotions. The (emotional) pain must always be respected and heightened emotions that occur in the moment must not be taken advantage of just for the sake of gaining traction of the news or the report.

There is no crime-specific thesaurus, but knowing the vocabulary of criminal proceedings and judiciary terminology makes the work of the journalist and the reader easier. Although it is very difficult to fit judicial terminology into common language, the journalist is obligated to use the criminal procedure vocabulary, so that objectivity is maintained in the reporting.

If the journalist is not familiar with the terminology, an appropriate professional recommendation is to consult with the lawyers and the attorneys involved in the process. This would also help the journalist to deal with this kind of terminology in the future, but also to report by using essentially appropriate language.

Another important element is knowing the Criminal Code. In our country, unfortunately, the Criminal Code and the Law on Criminal Procedure can only be downloaded in Macedonian, which makes the work of Albanian journalists especially difficult when reporting and describing the provisions of the Criminal Code and the Law on Criminal Procedure. In particular, their translation and adaptation into Albanian would help Albanian language media and Albanian journalists to show even more interest in court proceedings and not to report on the work of the courts on an ethnic basis (depending on the criminal act).

The Association of Journalists of Macedonia, as the only association to stand in defence of journalists in the country, played a constructive role by putting strategic pressure on the courts and prosecutor's offices to increase transparency. The effort was only partly successful, although that was not AJM's fault. The reason was the mind-set in the courts and in the prosecutor's offices, which needs to be changed. Both judges and prosecutors must accept that journalists represent the public and they must not be ignored or prevented from performing their duty.

In order to increase transparency in the courts and the prosecutor's offices, including their councils (the Judicial Council and the Council of Public Prosecutors), AJM and the two above-mentioned collective bodies must jointly prepare the recom-

mended document on objective reporting and transparent accountability. This means that the document would include journalists' ethical standards, which journalists are obligated to abide by when reporting, as well as the ethical provisions on the necessity of transparency of judges and prosecutors, i.e., courts and the Public Prosecutor's Office.

A joint initiative is needed for translating and harmonizing the Criminal Code, the Law on Criminal Procedure, the Law on Public Prosecution, the Law on Courts, the Law on the Judicial Council, the Law on the Council of Public Prosecutors, the Decree on Work of the Courts, bylaws, etc, from Macedonian to Albanian.

This will positively impact the education of journalists on reporting, underlining their importance for the basis of the work, while improved knowledge of the laws and legal provisions, in addition to increasing the quality of reporting, would also elevate transparency in the judiciary and in the public prosecutor's office.

Also, joint workshops for training judges and prosecutors by journalists and AJM on public speaking and communication with journalists would also help increase transparency, so that the entire scope of communications does not have to fall on the spokespeople or the public relations office.

INTRODUCTION AND OBJECTIVES OF THE GUIDELINES FOR PROFESSIONAL MEDIA REPORTING ON THE JUDICIARY

Media reporting on topics related to the judiciary and court processes is essential to a functional principle of open justice. The public has the right to know how the courts work, and its trust in justice system depends, among other things, on how much the justice system prioritizes transparency. Public disclosure of court proceedings is a prerequisite for the transparency and accountability of the judiciary¹. Courts are public places, but very few citizens have the opportunity to attend court hearings and witness the events first hand. Only through openness, transparency and direct and regular communication between judges and journalists will the public's trust in the judiciary increase². This is where the importance of the journalistic profession comes into play. The media bring the judiciary closer to the citizens, but are also the main source for informing and familiarizing the public with issues related to the judiciary³.

The media themselves, on the other hand, must respect certain rules and principles, which would avoid a harmful impact on court processes and their outcomes. Hence, the reporting on topics from the judiciary implies being familiar with the legislation that refers to the judiciary, as well as with the ethical principles and standards for professional information in this area.

Judges also need the media to observe justice in action and to show the people that they are performing their role in accordance with the Constitution⁴. Therefore, the media needs unimpeded access to the courts. The lack of technical resources and space should not be used as a reason for removing journalists and the media from the courtrooms⁵. On the other hand, the scarce and belated responses from the courts limit the prospects for serious and objective informing. Such an approach opens up space for speculations and assumptions, which has a negative impact on informing the public, but, above all, on the professional work of journalists.

1 Dimovski S., Ilievski J., Dimitrievski Z. (2014) Јавност во кривичната постапка - Водич за новинари низ кривичната постапка [The public in the criminal procedure - Guide for journalists through the criminal procedure]. OSCE Mission in Skopje, <https://www.osce.org/files/f/documents/0/d/117927.pdf>

2 Раšoski, D. (2021) Студија: Ставови и перцепции на новинарите за транспарентноста на правосудството во Северна Македонија [Study: Attitudes and perceptions of journalists on the transparency of justice in North Macedonia], Association of Journalists of Macedonia, <https://znm.org.mk/analizi-i-publikacii/>

3 Popchevski, K.Lj. (2017) Транспарентност и отвореност: осовременување на судскиот систем во Република Македонија [Transparency and openness: modernization of the judicial system in the Republic of Macedonia]. European Policy Institute - Skopje, Helsinki Committee for Human Rights, http://www.merc.org.mk/Files/Write/00001/Files/Network23/studies/Sudska-transparentnost_brief_Mreza23.PDF

4 Center for Legal Research and Analysis (2019) Како до зголемена транспарентност и отчетност во судството? [How to increase transparency and accountability in the judiciary?] –policy paper, <https://bit.ly/3GP8xI9>

5 Ibid

In order to improve transparency in the judiciary, a Judicial Media Council was established in our country, whose purpose, among other things, is to deal with misinformation in the reporting of court cases. The Council strives to affirm judicial transparency, restore trust in the judiciary, ensure unobstructed public access to justice, thereby ensuring legal security, impartiality and high quality of justice for the people⁶.

Apposite and continuous cooperation between journalists and representatives of the justice system, where both groups know the professional needs of the other group are, will enable the communication of reliable, complete and timely information to the people.

This is aligned with the primary objectives of these Guidelines, i.e., contributing to the professional work of the newsrooms in reporting on judiciary topics, thus improving the public's awareness of and familiarity with relevant topics in this area. The Guidelines consist of two parts, the first of which provides an overview of the judicial system and the relevant legislation, a description of the jurisdictions of the courts in the Republic of North Macedonia, as well as an overview of legal terms. The second part contains guidelines and standards for professional media reporting on topics in the field of the judiciary, which rely on guidelines and recommendations from codes of ethics, documents and publications, both national and international.

⁶ Saiti, J., Cohen, R. etc. (2020) Транспарентно судство: прирачник за судии и новинари, Судско-медиумски совет при Здружението на судии на Република Северна Македонија, [Transparent judiciary: a manual for judges and journalists, Judicial-Media Council at the Association of Judges of the Republic of North Macedonia], <https://bit.ly/3ir0Ecq>

PART 1

**JUDICIAL
ORGANIZATION AND
LEGAL TERMINOLOGY**

Lazar Sandev, M.Sc.

INTRODUCTION TO THE ORGANIZATION OF COURTS

The judicial system in the Republic of North Macedonia is regulated by the Law on Courts, which organizes the basic courts and the courts of appeal, the Administrative Court and the Higher Administrative Court as separate courts and the Supreme Court of the Republic of North Macedonia as the highest court.

Generally, basic courts are divided into courts with basic and extended jurisdiction according to Articles 30 and 31 of the Law on Courts⁷.

In the Republic of North Macedonia, basic courts with basic jurisdiction for the areas for which they were established are competent to adjudicate in the first instance **on criminal acts and misdemeanours**, namely:

- **for crimes** carrying a prison sentence of up to five years, provided that another court does not hold jurisdiction over specific types of criminal acts,
- **for crimes** for which the jurisdiction of a court with basic jurisdiction is determined by *lex specialis*,
- **for all types of misdemeanours**, except for those that are placed by law under the jurisdiction of a state administration body or organization or other body exercising public powers and
- **for appeals and objections** to the procedures under the jurisdiction of these courts.

Basic courts with extended jurisdiction, in addition to the jurisdiction established in Article 30 of this law for the areas for which they were established, are competent to adjudicate on **criminal acts** as follows:

- **for those carrying a prison** sentence of more than five years and for crimes and misdemeanours committed by children,
- **to act on cases of extradition**, transfer of convicted persons, recognition and enforcement of foreign court verdicts,
- **on appeals and complaints** about the procedures for which they are competent and
- **to decide on procedures** for international legal aid, as regulated by law.

In the Basic Criminal Court - Skopje, a specialized court department is established for adjudicating organized crime and corruption cases for the entire terri-

⁷ ("Official Gazette of the Republic of Macedonia" No. 58/2006, 62/2006, 35/2008, 150/2010, 83/2018 and 198/2018 and "Official Gazette of the Republic of North Macedonia" No. 96/2019)

tory of the Republic of Macedonia. The specialized court department is competent to adjudicate:

- **criminal acts committed by a structured group** of three or more persons, which has existed for a certain period of time with the aim of committing one or more criminal offenses punishable by a prison sentence of at least four years, and the intention of directly or indirectly acquiring financial or other benefit,
- **crimes committed by a structured group** or criminal organization on the territory of the Republic of Macedonia or other countries or when the crime is prepared or planned in the Republic of Macedonia or in another country,
- **crimes committed by a police officer**, an authorized official for security and counter-intelligence with police powers, members of the financial police, legally authorized persons of the Customs Administration tasked to detect criminal offenses and authorized officials of the Ministry of Defence who work on detecting and investigating crimes or members of the prison police while performing an official action or for a crime committed outside the service with the use of serious threat, force or means of coercion resulting in death, serious bodily injury, bodily injury, unlawful detainment, torture and other cruel, inhumane or degrading treatment and punishment if the law provides for criminal prosecution ex officio,
- **criminal acts of abuse** of official position and authority from Article 353, paragraph 5, accepting a bribe of significant value from Article 357 and illegal mediation from Article 359 of the Criminal Code, all committed by an elected or appointed person in office, an official or responsible person in a legal entity, and
- **crimes related to unauthorized production** and sale of narcotic drugs, psychotropic substances and precursors as stipulated in Article 215 paragraph 2, money laundering and other proceeds of significant value from a punishable act as stipulated in Article 273, terrorist endangering to the constitutional order and security as stipulated in Article 313, substantial bribery as stipulated in Article 358, unlawful influence on witnesses as stipulated in Article 368-a, criminal association as stipulated in Article 394, terrorist organization as stipulated in Article 394-a, terrorism as stipulated in Article 394-b, crimes of human trafficking as stipulated in Article 418-a, criminal crimes of migrant smuggling as stipulated in Article 418-b, trafficking of minors as stipulated in Article 418-d and for other crimes against humanity and international law regulated in the Criminal Code, regardless of the number of perpetrators.

Basic courts with basic jurisdiction are competent to decide in the first instance on **civil disputes**, namely:

- for **property disputes and other civil-law relations** between natural and legal persons, the value of which is up to 50,000 euros in MKD equivalent, provided that the jurisdiction of another court is not provided by law,
- for **disputes about establishing and contesting** paternity, maternity, establishing the existence of marriage, annulment of marriage and divorce,
- for **legal caregiver services**,
- for **taking care of and raising children**,
- for **obstruction of possession**,
- for **life care agreements**,
- for **compensation** for damage that does not exceed 50,000 euros in MKD countervalue,
- in a **procedure for security and enforcement**
- for **labour relations**,
- in **disputes regarding inheritance procedures**,
- in **non-litigation and probate matters** and
- for **other matters regulated by law**.

Basic courts with extended jurisdiction, in addition to the jurisdictions listed above, for the areas for which they were established, are competent to adjudicate in **civil and commercial matters**, more specifically:

- for **property disputes** and other civil law relations between natural and legal persons, the value of which is over 50,000 euros in MKD equivalent, if the jurisdiction of another court is not provided by law,
- in **commercial disputes**, in which both parties are legal entities or state authorities, as well as copyright disputes, other related rights disputes and industrial property rights disputes,
- in **bankruptcy and liquidation proceedings**,
- in **disputes for determination** and security for forced execution and
- for **disputes** between domestic legal entities and foreign entities arising from their mutual economic, i.e., trade relations.

The Courts of Appeal are competent:

1. to **adjudicate on appeals against the decisions of the basic courts** in their respective areas;
2. to **resolve conflict of jurisdiction** between the courts of first instance of their respective areas and
3. to **perform other tasks determined by law**.

The Supreme Court of the Republic of North Macedonia is competent:

1. **to decide in the second instance against the decisions of its councils** when it is determined by law;
2. **to decide in the third and final degree on appeals** against the decisions of the appellate courts;
3. **to decide on extraordinary legal remedies** against the final decisions of the courts and the decisions of its councils when it is determined by law;
4. **to decide on conflict of jurisdiction** between basic courts from the area of different courts of appeal, conflict of jurisdiction between courts of appeal, conflict of jurisdiction between the Administrative Court and another court, conflict of jurisdiction between the Higher Administrative Court and another court and to decide on transferring local jurisdiction of these courts;
5. **to decide at the request of the parties** and other participants in the procedure for violation of the right to trial within a reasonable time, in a procedure established by law before the courts of the Republic of Macedonia, in accordance with the rules and principles established by the European Convention on Human Rights and Fundamental Freedoms, starting from the case law of the European Court of Human Rights, and
6. **to perform other tasks determined by law.**

Throughout literature and in laws, we will also encounter the terms first instance court, a term used for basic courts, and second instance court, a term used for appellate courts.

The Public Prosecutor's Office is a unique and independent state authority, which prosecutes the perpetrators of crimes and other punishable acts, as regulated by law, and performs other tasks established by law. You will often hear that the Public Prosecutor's Office prosecutes crimes *ex officio*. This is because the public prosecutor's office is competent to prosecute crimes for which the Criminal Code does not provide for private prosecution by natural and legal persons.

The Public Prosecutor's Office, respecting the principle of presumption of innocence, the right to private life and dignity, the right to information and freedom of the media, the right to a fair trial, the right to defence, the integrity, efficiency and confidentiality of investigations, as well as the principle of openness, informs the public about individual cases the office has taken on that are of wider public interest or are important for the performance of the prosecution function.

The organizational set-up of the Public Prosecutor's Office comprises the Public Prosecutor's Office of the Republic of North Macedonia, higher public prosecutor's

offices, basic public prosecutor's offices and the Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption.

In the Republic of North Macedonia, a Basic Public Prosecutor's Office was established for prosecuting organized crime and corruption. In the Basic Public Prosecutor's Office for the Prosecution of Organized Crime and Corruption, a specialized department is established for the prosecution of crimes committed by persons who exercise police authority and members of the prison police. The specialized department has an expert service and public prosecutor investigators from the investigative centre, in accordance with this law. The public prosecutors and the head of the specialized department are assigned by the public prosecutor of the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, from the pool of public prosecutors of that prosecutor's office, upon prior consent of the Public Prosecutor of the Republic of North Macedonia.

Often, in communication with the public and in the criminal proceedings themselves, the abbreviation BPPO (OJO) and the addition of the corresponding city (BPPO Skopje, BPPO Gostivar, BPPO Gevgelija, etc.) are used, which is not incorrect.

The Council of Public Prosecutors has the authority to:

- **give an opinion to the Government** of the Republic of North Macedonia on the proposal for the appointment and dismissal of the public prosecutor of the Republic of North Macedonia,
- **elect and dismiss public prosecutors,**
- **determine the termination of the office of public prosecutor** and decides in the second instance in a procedure for determining the disciplinary liability of public prosecutors,
- **decide on determination of unprofessional** and negligent performance of the function of public prosecutor,
- **monitor the work of public prosecutors** based on the evaluation of their work in accordance with the Law on Public Prosecutor's Office,
- **decides on temporary debarment from the position** of public prosecutor,
- **act on petitions and complaints of citizens** and legal entities about the work of public prosecutors,
- **decide upon a submitted request for disciplinary liability** of a member of the Council,
- **make a decision for a member of the Council** to be able to conduct an immediate inspection of the work of public prosecutors,

- **adopt a Code of Ethics** for public prosecutors at the proposal of the Association of Public Prosecutors.
- **determine the number** of public prosecutors in the public prosecutor's offices with a decision,
- **determine, by the end of February of the current year**, with a decision, the number of vacant public prosecutor positions in the basic public prosecutor's offices for the next two years and submits the decision to the Academy for the Training of Judges and prosecutors,
- **review and evaluate** the annual reports of the public prosecutor's offices,
- **adopt Rules of Procedure**,
- **adopt a decision to suspend** the position of public prosecutor,
- **issue and revoke official** identification cards of public prosecutors,
- **keep a personal sheet** for public prosecutors,
- **submit a report** on its work,
- **give opinions on laws** in the scope of work of the Council,
- **give opinions on the programs of the Academy** for the training of judges and public prosecutors,
- **publish an announcement and conduct a procedure** for selecting a public prosecutor for temporary referral to another public prosecutor's office and
- **perform other tasks, as stipulated by law.**

The purpose of this glossary is to approximate the legal terms used in criminal, civil and administrative proceedings.

CRIMINAL PROCEDURE GLOSSARY

The criminal procedure is determined by the Criminal Procedure Law (hereinafter referred to as the CPC). The purpose of this law is to enable a fair conduct of the criminal procedure, so that no one innocent person is ever convicted, and the perpetrator of the crime is criminally sanctioned according to the terms provided in the Criminal Code and on the basis of a lawfully conducted procedure.

The following is a list the most frequently used terms when notifying the public:

- ▶ **Motion for an extraordinary review of a final sentence** - an extraordinary legal remedy that is filed by a person who has been effectively convicted or the person's defence counsel when the person has been sentenced to an unconditional imprisonment or has been sentenced to a juvenile prison for at least 1 year. It is submitted to the Supreme Court of the Republic of North Macedonia, which is also the competent court to decide on this request.
- ▶ **Motion for the protection of legality** - otherwise known by the abbreviated name **MPL (BZZ)** - is an extraordinary legal remedy against final court decisions, the public prosecutor of the Republic of North Macedonia can motion for the protection of legality if the Constitution of the Republic of Macedonia, the law or an international agreement has been violated, ratified in accordance with the Constitution of the Republic of Macedonia. It is submitted to the Supreme Court of the Republic of North Macedonia.
- ▶ **Expert witness or technical advisor** is a person who has the necessary professional knowledge and is registered in the register of expert witnesses at the Ministry of Justice.
- ▶ **Guarantee** - depositing cash, securities, valuables or other movable property of a higher value, which may be easily converted into cash and be stored, or a personal pledge of one or several citizens that if the defendant flees, repeats or completes the criminal offense or commits the crime that he or she has been threatening with, they will pay the established amount of the guarantee. As an exception, the guarantee may consist of a mortgage for the amount of the guarantee on certain real estate owned by the guarantor, which can be easily converted to cash. Any guarantee in cash is deposited on a separate account of the court.
- ▶ **A victim of a crime** is any person who has suffered damage, including physical or

mental injury, emotional suffering, material loss or other injury or endangerment to their rights and interests as a result of a committed crime.

- ▷ **Appeal** - a regular legal remedy that is filed by the parties against a verdict of the basic courts or against a decision of the basic courts. If the verdict of the first instance court is confirmed, the Court of Appeals will make a decision in the form of a verdict. If the first-instance decision is annulled, the Court of Appeal makes a decision in the form of a decision.
- ▷ **CPL** - Criminal Procedure Law
- ▷ **Investigative procedure** is a procedure that the public prosecutor initiates by passing a decision on investigating a certain person when there is a well-founded suspicion that the person has committed a crime for which he is prosecuted ex officio or upon a proposal.
- ▷ **A legal property claim** is the damage claimed by the injured party in the procedure, which occurred as a consequence of the committed crime.
- ▷ **Public prosecutor** – an employee in the basic or higher public prosecutor’s office or in the Basic Public Prosecutor’s Office for Prosecuting Organized Crime and Corruption.
- ▷ **Public access to proceedings** - In general, the public is allowed in the proceedings. This means that journalists can attend trials and report on them. The public may be excluded, if the court sees fit or at the request of the parties or the injured party, if it is necessary for the purpose of keeping a state, military, official or important business secret, maintaining public order, protecting the private life of the accused, the witness or the injured party, protecting the safety of the witness or the victim and/or protecting the interests of a minor.
- ▷ **Home detention** - deprivation of liberty with an order not to leave the home until a certain stage in the procedure or for the duration of the circumstances/ reasons for which it was imposed.
- ▷ **CC** – Criminal Code
- ▷ **Measures to ensure the presence of the defendant** - measures that can be taken to ensure the defendant is present and there are no obstructions in conducting the criminal proceedings, such as a summons, precautionary measures,

guarantee, being taken into custody, deprivation of liberty, withholding, short-term detention, house arrest and detention.

- ▶ **Precautionary measures** - 1) not being allowed to leave their place of residence or temporary stay; 2) the defendant's obligation to report occasionally to a designated official or to a competent state authority; 3) temporary confiscation of a travel or other document that allows crossing state borders, i.e., a ban on such documents being issued in their name; 4) temporary revocation of driver's license, i.e. a ban on a license being issued in their name; 5) being banned from visiting a certain place or area; 6) a ban on approaching or establishing, i.e., maintaining contacts or relationships with certain persons and 7) a ban on undertaking certain work activities that are related to the crime.
- ▶ **Indictment** - once the investigative procedure is finalized, in cases when the public prosecutor determines that there is enough evidence to support a conviction, he prepares and submits the indictment to the competent court. It is not wrong to use the term **indictment** when informing the public (for example, the public prosecutor initiated an indictment against the person...)
- ▶ **Suspect** is the person against whom preliminary proceedings are being conducted.
- ▶ **Grounds of suspicion** is information that, based on forensic knowledge and experience, can be evaluated as evidence of a committed crime.
- ▶ **Reasonable suspicion is** a higher degree of suspicion based on the obtained evidence that points to the conclusion that a certain person has committed a crime.
- ▶ **Defendant** is a person against whom an indictment has been confirmed, an indictment proposal has been submitted, a proposal to enforce a security measure has been submitted, a private lawsuit or a proposal for issuing a criminal order has been submitted.
- ▶ **Injured party**, in addition to the victim, is another person, whose personal or property right has been violated or threatened by a criminal act and who participates in the criminal proceedings by joining the criminal prosecution or for the purpose of realizing a legal property claim. When the crime has caused damage to state property or its budget, then the State Attorney's Office acts as the state's proxy.

- ▶ **Convicted person** is a person who has been determined by a final judgment to be criminally liable for a specific crime.
- ▶ **Search** is a detailed inspection of a person, means of transportation or a home, under conditions determined by law.
- ▶ **Detention** - deprivation of liberty until a certain stage in the procedure or until the reasons for which it was imposed exist.
- ▶ **Special investigative measures:** interception and recording of telephone and other electronic communications in a procedure determined by a special law; 2) surveillance and recording in a home, enclosed or fenced-in space belonging to that home or business premises marked as private or in a vehicle and the entryway into those premises, in order to create the required conditions for interception of communications; 3) secret surveillance and recording of persons and objects with technical means outside the home or business premises marked as private; 4) secret inspection and search in a computer system; 5) automatic, or other type of search and comparison of personal data; 6) inspecting telephone and other electronic communications, 7) simulated purchase of items; 8) simulated offering and receiving bribes; 9) controlled delivery and transportation of persons and objects and delay in detainment or confiscation of objects; 10) using undercover persons for recording, surveillance and collecting information or data and infiltrating organized criminal groups; 11) opening a simulated bank account and 12) simulated registration of legal entities or using existing legal entities to collect data and create conditions for infiltration.
- ▶ **Preliminary (pre-indictment) procedure** is a procedure in which the public prosecutor undertakes certain actions in order to obtain material and verbal evidence on the basis of which he will evaluate whether to initiate an indictment or an indictment proposal to a competent court.
- ▶ **Preliminary investigation procedure** is a part of the previous procedure and a phase in which the public prosecutor collects evidence because there are grounds for suspicion that a certain person has committed a crime.
- ▶ **Private lawsuit** - filed by any natural or legal person for criminal acts for which the Criminal Code stipulates prosecution upon private lawsuit.
- ▶ **Proceeds from a punishable act** - any property or benefit obtained directly or indirectly by committing a punishable act, as well as proceeds from a punishable

act committed abroad, provided that at the time it was committed it was considered a punishable act according to the laws of the country in which it was committed and according to the laws of the Republic of North Macedonia.

- ▷ **Verdict** - an act of the basic court, by which the indictment is rejected or the defendant is acquitted of the charges or is found guilty.
- ▷ **Finality and validity** - a legally concluded procedure is when the parties have used all regular legal remedies and the judgment of the basic court has been confirmed by the Court of Appeal.
- ▷ **Repetition of the procedure** - an extraordinary legal remedy available to the parties post finalization of the procedure (see Art. 446 of the Civil Code).
- ▷ **A private plaintiff** is a person who filed a private lawsuit for the purpose of prosecuting criminal acts, subject to prosecution upon private lawsuit, as prescribed in the Criminal Code.
- ▷ **Presumption of innocence** - a person accused of a crime shall be considered innocent until proven guilty by a final court verdict.
- ▷ **Inspection of persons, vehicles, luggage and premises** is an authorization based on this and other laws, limited to external inspections of clothing and other objects and luggage by using the visual, audio and olfactory senses, but not including actions by which something that is not visible is made visible by opening, unpacking, etc.
- ▷ **Decision** - an act of the basic courts with which decisions are made on certain procedural issues during the procedure, on determining custody, security measures and other matters in accordance with the Law on Criminal Procedure.
- ▷ **Hearing** - the day scheduled by the court for the parties to appear before the court to discuss the indictment.
- ▷ **Parties to the proceedings:** the plaintiff and the defendant.
- ▷ **Judge of the preliminary procedure** is a judge who, during the preliminary procedure, decides on the freedoms and rights of the defendant in a case prescribed by the Constitution of the Republic of Macedonia, by law and international agreement ratified in accordance with the Constitution of the Republic of Macedonia and for other matters determined by this law.

- ▷ **Witness** is a person who is likely to be able to provide information about the crime and the perpetrator and about other important circumstances.
- ▷ **Summary procedure** - for crimes for which a fine or a prison sentence of up to 5 (five) years is provided. The procedure is initiated by a public prosecutor by filing an indictment or by a private plaintiff by filing a private lawsuit.
- ▷ **Plaintiff** - the public prosecutor and the private prosecutor.
- ▷ **Technical advisers** are experts from the register of expert witnesses, who are hired by the parties when they need expert help in a certain area during the procedure.

CIVIL PROCEDURE GLOSSARY

- ▷ **Appeal** - a regular legal remedy, which is filed by the parties against a verdict of the basic courts or against a decision of the basic courts. If the verdict of the first-instance court is confirmed, the Court of Appeal will issue a resolution in the form of a Verdict. If the first-instance decision is annulled, the Court of Appeal issues a resolution in the form of a Decision.
- ▷ **CPL** - Civil Procedure Law.
- ▷ **Answer to a lawsuit** - a written submission that is submitted by the person who is being sued within the term prescribed in accordance with the Law on Civil Procedure.
- ▷ **Verdict** - decision of the basic court which either approves or rejects the plaintiff's claim.
- ▷ **Repetition of a procedure** - an extraordinary legal remedy, which the parties can use after the procedure has been effectively finalized and if the prerequisites, as stipulated in the Law on Civil Procedure, have been met.
- ▷ **Decision** - a decision of the basic court which decides on procedural issues during the proceedings.
- ▷ **Revision** - an extraordinary legal remedy, which can be declared in exceptional situations, that is, if the contested part of the verdict exceeds 1,000,000 de-

nars, and in the following cases regardless of the amounts: 1) in lifetime support disputes; 2) in disputes regarding compensation for loss of support due to the death of a lifetime support provider; 3) in labour disputes regarding termination of employment; 4) in copyright protection disputes, except for monetary claims on that basis; 5) in disputes relating to the protection and use of inventions and technical improvements, samples, models and trademarks and the right to use a trade name or title, as well as in disputes from unfair competition and monopolistic behaviour, except for monetary claims on those grounds and 6) in disputes in which, in an appeal procedure, the second-instance court changed the first-instance verdict.

- ▶ **Hearing** - the day the court has scheduled for the plaintiff and the defendant to appear at the court's invitation to discuss the plaintiff's lawsuit.
- ▶ **Parties to the proceedings** - plaintiff and defendant.
- ▶ **Disputes of small value** - are disputes in which the claim refers to a monetary claim that does not exceed the amount of 600,000 MKD.
- ▶ **Lawsuit** - an initial act that starts a civil procedure for the protection of rights and obligations.
- ▶ **Claim or petition** - a claim stated in the lawsuit, which the plaintiff asks the court to adopt and impose an obligation on the defendant to undertake certain actions.

ADMINISTRATIVE PROCEDURE GLOSSARY

- ▶ **Public body** refers to ministries, state administration bodies, organizations established by law, other state bodies, legal and natural persons entrusted by law to exercise public authorisations, as well as the municipal bodies, bodies of the City of Skopje and the municipalities in the City of Skopje;
- ▶ **Final administrative act** is one against which an administrative dispute can be initiated.
- ▶ **Valid administrative act** - the administrative act against which no complaint can be filed, nor can an administrative dispute be initiated, which was used to adjudicate on the rights, obligations or legal interests of the party is a valid administrative act.

- ▷ **Administrative matters** refer to any act and action through which the competences of public authorities are expressed or executed, and with which the rights, obligations or legal interests of natural persons, legal persons or other parties to the procedure are resolved or impacted, as well as any other work that is designated as administrative by a special law;
- ▷ **Administrative action** includes the adoption of administrative acts, conclusion of administrative contracts, protection of users of public services and services of general interest, as well as taking other administrative actions in administrative matters, in accordance with the law;
- ▷ **Administrative act** is an individual act of a public body, enacted on the basis of a law, which decides on the rights, obligations and legal interests of the parties. Administrative acts can be titled as a resolution, decision, order, license, permit, prohibition, approval etc;
- ▷ **Services of general** interest are services provided to citizens by legal entities, on the basis of a public authorization issued by a public authority.
- ▷ **Administrative act** is an individual act by which the public authority decides on the rights, obligations and legal interests of a natural or legal person, i.e., another person, who may be a party in a certain administrative matter, as well as an individual act adopted in a misdemeanour procedure.
- ▷ **Administrative acts** can be titled as a resolution, decision, order, license, permit, prohibition, approval, notification or other acts established by law.
- ▷ **Administrative dispute** - judicial protection of the rights and legal interests of natural and legal persons against individual administrative acts and actions of public authorities, in accordance with the Law on Administrative Disputes.

PROCEDURE FOR APPROVING THE PRESENCE OF JOURNALISTS AT COURT HEARINGS

The procedure and rights of journalists for attending public hearings before the courts are foreseen in the court Rules of Procedure.⁸

Reporting journalists and citizens can attend the public hearings before the courts without the obligation to have prior approval from the court. The court provides conditions for their presence and work. Visual (video) and sound (audio) recording,

8 (Official Gazette of the Republic of Macedonia, No. 66 of 9/5/2013)

reporting and taking photographs in criminal proceedings and public broadcasting (reproduction) of the footage is carried out with the approval of the President of the Supreme Court of the Republic of North Macedonia after previously obtained opinion from the President of the Council, the judges, in a manner that is regulated by law. Visual (video) and sound (audio) recording, reporting and photography in civil proceedings and administrative dispute proceedings can be carried out with the approval of the president of the court, with the previously obtained opinion of the judge adjudicating the case and with the written consent of the parties. Outside of the trial, recording and photography may be done in the court building with the approval of the presiding judge of the court in charge of the building.

The request must be submitted within five days before the scheduled hearing. An untimely request will not be rejected if the reasons for the delay are justified.

The recording and photography take place under the supervision of the judge, i.e., the president of the Council, in a way that ensures unobstructed flow of the procedure, order in the courtroom and reverence of the dignity of court.

At the request of the judge, the court clerk or the bailiff, the journalist shows their journalist's identification card for inspection and informs for what media outlet they are reporting.

The media outlet applying for approval for media coverage of a trial may be allowed to bring in one video or TV camera, one audio system and two photo-cameras (two lenses maximum), and one operating person for each of the pieces of equipment listed below.

Videographers and photo-reporters are not allowed to move around the courtroom, make motions or position themselves during the recording in a way that could distract attention or disturb the order in the courtroom.

Photography, recording in court and broadcasting may be carried out based on prior written approval of the presiding judge. Photography and video recording in a building outside of court proceedings is approved by the president who manages the building of the court premises.

Photography during the trial and publicising the photos shall be approved by the President of the Council or the judge. When giving permission for photography and recording, the interest of the public, the interests of the procedure, the privacy and safety of the participants in the procedure are taken into account. Photography and recording in the courtroom, after obtaining approval, takes place under the guidance of the President of the Council and the judges, in a way that ensures the unobstructed flow of the trial and allows order in the courtroom.

EXAMPLES OF DIFFERENCES IN THE USE OF LEGAL TERMINOLOGY WHEN REPORTING COURT HEARINGS

Example 1

Today, before the Basic Court Skopje 1 (Basic Criminal Court), the person NN was brought before an investigating judge (judge of a preliminary/pre-indictment procedure), at the request of the prosecutor's office to be issued with a measure of detention. The proxy (defence counsel or attorney) of the accused pointed out before the investigating judge (judge of a preliminary/pre-indictment procedure) that his client has not committed the crime for which he is accused.

After hearing out the parties, the investigating judge (judge of a preliminary/pre-indictment procedure) granted him (issued) a measure of 30-day detention.

Example 2

Today, the Skopje Court of Appeals issued a verdict (decision) by which it remanded the "XXX" case for reinstatement and adjudication. The four convicted persons (defendants) A.A. B.B., C.C. and D.D. are accused of having committed a crime (criminal act) of abuse of official position and authority, causing damage to the RNM budget in the amount of 12,123,456 MKD. The lawyers (or defence counsel) of the defendants welcome this decision of the Court of Appeals and believe that the prosecution has no evidence at all from which the liability of the convicted (defendants) can be ascertained.

Example 3

Today, the Ministry of the Interior announced that 2 days ago they arrested (detained) several persons who they knew were smuggling (trafficking) migrants, for which they filed charges (criminal charges) with the Skopje Public Prosecutor's Office. We have requested a statement from the prosecutor's office, but they have not issued one so far. According to our sources, unofficially, the criminal charges has already been assigned (tasked) to a public prosecutor, who, in the following days, should decide whether to conduct (open) an investigation against the detained persons.

Example 4

Today, at the trial against the person NN, the defendant's attorney filed a request to recuse the judge presiding over the case (if the case is being tried in the Council, it should be stated "the president of the Council". If an individual judge is adjudicating, it is okay to state "the judge"). As the reason for the recus-

al, the attorney stated that one of the witnesses proposed by the prosecution is a close friend of the judge, which is included in the prerequisites for recusal stipulated by the Civil Code. The judge adjourned (postponed) today's trial (hearing) in order to express their opinion to the president of the court, regarding the request for recusal.

Example 5

Today, the Prosecutor's Office passed a verdict (decision) rejecting the criminal charges of the State Attorney's Office against the persons A.A. and B.B. because there was no reasonable doubt that the suspects caused damage to the budget in the amount of 1,000,000 denars. The State Prosecutor's Office gave a statement that they will promptly file an appeal with the Appellate (Higher) Public Prosecutor's Office and believe that the (basic) prosecutor's office did not take into consideration all the evidence during the investigation based on which the State Attorney's Office claims that persons A.A. and B.B. have committed the crime.

PART 2

**GUIDELINES AND
STANDARDS FOR
PROFESSIONAL REPORTING
WITH REFERENCE TO THE
JUDICIARY**

Dr. Marina Tuneva

ACCURACY, BALANCE AND COMPREHENSIVENESS IN REPORTING

Journalists reporting on judiciary topics should be impartial and objective in addressing topics and with a balanced approach to informing the public. It is the right and obligation of journalists to investigate and inform by carefully checking the content of the materials and information they come across⁹.

The BBC's¹⁰ editorial guidelines emphasize that reporting on court proceedings must be fair and accurate. Imbalance in information, among other things, arises if there is unequal informing about the parties involved in court proceedings.

When reporting on criminal investigations or court proceedings, journalists shall use precise vocabulary so as not to harm those involved in the trial. Court cases shall be described on the basis of what happens in the courtroom, as well as on the basis of making an appropriate distinction between the evidence heard during the trial and the additional issues and topics covered in the journalistic content as context, but which were not said in court¹¹.

Criticisms and comments on court cases must be clearly distinguished from reporting on the course of court proceedings. Journalists should be careful about expert statements, which can be strongly influenced by certain beliefs, and they should not be treated as "definite" facts. It is necessary to consult several interlocutors, for the sake of balance in reporting and comparing different views. Insufficient verification of information and reliance on assumptions and speculations carries great risks and leads to the creation of incomplete stories. This endangers the public interest.

It is necessary to avoid speculations and assumptions about the reported cases as much as possible. In cases of significant breach of this rule, the prospects for a fair trial may be adversely affected. Precisely because of such risks, journalists should be careful not to speculate or make mistakes about the facts related to the case¹².

If there are publicly available documents related to a particular case, they can also be used in the reporting. For any important court decision, the media must equally

9 Svedok (2016) Анализа: судовите и новинарите – јавност зад затворени врати [Analysis: courts and journalists – public behind closed doors], http://nvoinfocentar.org.mk/wp-content/uploads/2016/07/Sudovite_i_novinarite_final-1.pdf

10 BBC, Editorial Guidelines, Section 8: Reporting Crime and Anti-social Behavior - Guidelines, Court Reporting and Covering Trials, <https://www.bbc.com/editorialguidelines/guidelines/crime/guidelines/>

11 IPSO (2022) Guidance on Court Reporting, <https://www.ipso.co.uk/media/2168/ipso-court-reporting-guidance.pdf>

12 McDonald, P., Why is the Media at Court, Lawfully Explained, <https://lawfullyexplained.com.au/prepare-for-court/why-is-the-media-at-court/>, 28.12.202

inform as for any other significant finding by another public body in relation to the subject-matter on which they have already reported.

During the ongoing trial, the journalist will not strive to affect the decisions of the court or present a premature position on the guilt of the subject in question¹³.

Court reporting should be balanced. At all times, during the preliminary stages and hearings by the court, the journalist should aim to equally represent the views of the parties (in criminal cases this means the views of the prosecution and the defence). A report of a criminal act should be followed by a report on the finalization of the case, regardless whether it is a dismissal of charges, an acquittal or a conviction. During the trial, the media will not publish a categorical assessment of the testimony or the positions and attitudes of the parties regarding a particular outcome of the trial. It is vital in reporting to accurately note what is said by the judge, attorneys and witnesses.

It is important to keep in mind that truthfulness and accuracy in reporting does not exclude the journalistic assessment of what is a journalistically valuable angle, i.e. newsworthy for the public interest.

Questions that journalists could ask themselves regarding compliance with the principle of accuracy in reporting:

1. Did we make sure to accurately report every significant element of the case, including the nature of the allegations or charges, the identity of the defendant, etc.?

2. Have we made a clear distinction between the arguments heard in court (e.g., the arguments of both sides) from the judge's findings?

3. Did we do an independent verification of the information in the press release or from another source if it was unclear?

¹³ AIPCE, Finland: Guidelines for Journalists and an Annex, https://www.presscouncils.eu/ethicalprinciples/codes/19_FI.php, 22.12.2022

USING UNDERSTANDABLE VOCABULARY AND TERMINOLOGY

Citizens must have access to comprehensible information about the way court proceedings are conducted and the adjudication process, which will enable them to recognize whether dispute resolution procedures are lawful and efficient.

When reporting in the area of the judiciary, the media should use specific, clear and understandable language. The consequences and outcome of what happened should be presented to the audience in an appropriate, understandable and simple way.

Before reporting on judicial topics, as indicated above, it is necessary to gain an understanding of the legislation in the field of the judiciary, as well as the relevant legal terminology. Journalists must themselves understand the courts and their work before explaining to others what they are doing. The most important thing to learn is how the courts work, then what are the basic steps in a given case, and then reporting is much easier¹⁴. This will enable the audience to properly understand the topics they are informed about.

Awareness of audience perceptions and the level of understanding and appropriate contextualization are important for professional and independent reporting in this area.

Often, insufficient understanding of the problems in this area arises because the information, i.e., the announcements from the courts are too extensive and are conveyed by using a judiciary-specific vocabulary. The need to communicate with the public in an understandable way, without the use of complex legal terminology, is also underlined in the Manual for Communication of the Courts with the Public¹⁵. The Handbook for Judges and Journalists¹⁶ states that press releases and information for the public should be a compromise between the need to observe professional standards and vocabulary, and the need to clarify in a way in which certain matters will best be communicated to the widest possible number of consumers in the public.

In order to facilitate communication with the media, it is recommended that the courts prepare a brief summary explaining the verdicts, especially in cases where

14 Alexander, S.L (2003) *Covering the Courts: A Handbook for Journalists*, Rowman and Littlefield Publishers, INC.

15 Judicial Council of the Republic of Macedonia (2016), Прирачник за комуникација на судовите со јавноста [Manual for communication of courts with the public], <https://bit.ly/3EOdjNZ>

16 Saiti, J., Cohen, R. etc. (2020), Транспарентно судство: прирачник за судии и новинари, Судско-медиумски совет при Здружение на судии на Република Северна Македонија [Transparent judiciary: a manual for judges and journalists, Judicial Media Council at the Association of Judges of the Republic of North Macedonia], <https://bit.ly/3ir0Ecq>

there is increased interest from the public and the media. A good example in that sense is the website of the Supreme Court in Great Britain¹⁷. Summaries are usually written by junior lawyers working as court clerks, for a certain number of cases they handle.

AVOIDING SENSATIONALISM IN REPORTING

When reporting on topics from the judiciary, the media should be extremely careful and avoid sensationalism and unverified information. This is emphasized in Article 8 of the Code of Journalists of Macedonia¹⁸, where it is said that reporting on court proceedings must be sensationalism-free. In doing so, the media should carefully assess whether the public interest is higher than the potential damage they would cause by reporting on a certain topic.

When reporting on court processes, the media should consider the following:

- ▶ **Assess whether making the content** public will cause anxiety and stress among the audience, family and people close to the victims
- ▶ **Make an appropriate assessment about the degree of public interest** and the potential harm caused by the publication of the information, i.e., to determine whether the degree of potential damage is greater than the public interest in the content itself
- ▶ **Be cautious of explicit visual and graphic content, etc.**

Journalists should avoid describing in detail the crime committed and the tactics used. When sharing images and footage of violence, the media should be particularly careful about the potential impact of such depictions on children, minors and other vulnerable groups.

A general recommendation is to avoid exaggeration and over-reporting of minor cases when reporting on court proceedings.

17 The Supreme Court for England, Wales and Northern Ireland, <https://www.supremecourt.uk/>

18 Кодекс на новинарите на Македонија [Code of Journalists of Macedonia], <https://znm.org.mk/kodeks-na-novinarite-na-makedonija/>

PRESUMPTION OF INNOCENCE

One of the basic rules in reporting court proceedings is that until a conviction is announced, the rule of presumption of innocence applies. The European Convention on Human Rights states that anyone accused of a crime is presumed innocent until legally proven guilty.¹⁹

This area is also defined in Article 8 of the Code of Journalists of Macedonia²⁰, where it is emphasized that in court proceedings the principle of presumption of innocence should be respected, all parties in the dispute should be informed and no verdict should be suggested, i.e., insinuated. And in Article 8.9 of the Guidelines for Ethical Reporting in Online Media²¹ adopted by the Media Ethics Council of Macedonia, it is stated that the online media will not report with prejudices and make hasty judgments about the guilt of the suspects, nor will prejudge the outcome of court proceedings, so as not to influence the judicial authorities and the course of proceedings. The Recommendations for Ethical Reporting for Children and Youth²² indicate the need to respect the presumption of innocence for children and youth, equally as for adults, as regulated by the Code of Journalists and as a guaranteed constitutional right in the Republic of North Macedonia.

Some ethical codes from neighbouring countries elaborate this issue in more detail. For instance, the Code of Journalists of Montenegro²³ emphasizes that a person is innocent until proven guilty, even if they have admitted their guilt. This applies even in cases where the fault is obvious to the public. The purpose of courtroom reporting must not be to punish the defendant from a social aspect in a way that the media would be used as a means of publicly shaming them.

Journalists will take into account the uncertainty of the legal process, including the possible innocence of the suspect. Hence, through their reporting, they will clearly present it to the public. In cases when the suspect is acquitted, the journalists will inform about it in a transparent and timely manner. An appropriate journalistic emphasis shall be placed on the news, and a reference shall be made to previously published news and articles related to the case.

19 European Convention for the Protection of Human Rights, https://www.echr.coe.int/documents/convention_mkd.pdf

20 Association of Journalists of Macedonia, Кодекс на новинарите на Македонија [Code of Journalists of Macedonia], <https://znm.org.mk/kodeks-na-novinarite-na-makedonija/>

21 Media Ethics Council of Macedonia, Насоки за етичко известување во онлајн-медиумите [Guidelines for Ethical Reporting in Online Media], <https://semml.mk/dokumenti/korisni-resursi/kodeks/850-nasoki-za-etichko-izvestuvanje-na-onlajn-mediumite>

22 Council for ethics in the media of Macedonia, Препораки за етичко известување за деца и млади [Recommendations for ethical reporting for children and youth], <https://bit.ly/3XcsB6R>

23 Agencija za elektronske medije Crne Gore, Kodeks novinarar/hovinararki Crne Gore, <https://aemcg.org/wp-content/uploads/2018/06/Kodeks-novinarara-Crne-Gore.pdf>

Based on the legal principle that suspects are presumed innocent until proven guilty by a final court decision, the media shouldn't directly or indirectly attribute guilt to the suspect and should avoid any phrases and characterizations that refer to guilt. If a public figure is suspected of committing a crime, they shall have an equal right to the presumption of innocence.

It is recommended that the media not refer to a person's previous conviction if it is irrelevant to the crime for which they are currently suspected, accused or convicted. The previous criminal complaint against a certain person, as a rule, should not be mentioned in connection with news of a different nature²⁴.

The journalist must not publish pictures, which intentionally or artificially depict suspects who have not been indicted as criminals.

PROTECTION OF PRIVACY

The issue of protection of privacy in the context of media coverage of criminal proceedings and pre-trial publicity is not new. The media often profit from increased public attention. Seen through this perspective, covering intimate details of the defendant's private life, especially when the alleged crime is of an "unusual" or "sensationalistic nature" seems like an attractive alternative²⁵. Considering the issues this approach might cause, in the Declaration on Providing Information Through the Media in Connection with Criminal Proceedings²⁶, media publishers and journalists are called upon to respect the dignity, security and right to privacy of victims, suspects, defendants, convicted persons and witnesses, as well as their families, unless the information is of public interest.

Public interest in investigative actions and court processes is high and justified, but, in any case, the media must ensure adequate anonymization of the persons who are directly involved in the proceedings that are in progress. According to Article 7 of the Code of Journalists of Macedonia, the journalist shall respect the privacy of the person, except when it is in conflict with public interest. Depending on the circumstances, the newsrooms may decide whether to publish a person's identity, limit the identification, or completely anonymize it.

The factors that should be especially taken into account are: the intensity of the suspicion, the seriousness of the accusation, the course of the procedure, the de-

24 AIPCE, Denmark: The Press Ethical Rules, https://www.presscouncils.eu/ethicalprinciples/codes/14_DK.php

25 Markov, D. The Presumption of Innocence and the Media Coverage of Criminal Cases, ARISA Project, <https://arisa-project.eu/the-presumption-of-innocence-and-the-media-coverage-of-criminal-cases/>, 20.12.2022

26 Council of Europe, Committee of Ministers (2003), [Declaration on the provision of information through the media in relation to criminal proceedings](#)

gree of recognizability of the suspect or the perpetrator by the public, prior behaviour of the suspect or the perpetrator, etc.

In general, it can be assumed that the public interest prevails if²⁷:

- ▶ **the crime in question** is extremely serious or special in regards to its type and scale
- ▶ **there is a connection between the status of the public** figure and the crime for which they are accused or if the crime for which they are accused is contrary to their public image
- ▶ **a serious crime has been committed in public**
- ▶ **a warrant was submitted by the investigative authorities.**

If there are reasons to believe that the suspect is not capable of committing a crime, the media will refrain from identifying him in the reporting.

In the case of renewed notification of criminal proceedings from the past, as a rule, the name or photo of the perpetrator should not be published, in the interest of their resocialization. The longer the time period since the verdict, the higher the interest in resocialization. In the case of persons involved in the administration of justice, such as judges, prosecutors, lawyers and experts, their identification is, as a rule, made known if the persons in question are still performing their functions²⁸.

According to the Code of Practice in Belgium²⁹, the limited identification, i.e., the publication of the first name, the initial of the surname, the age and the place where the suspect or the convicted person lives depends on the seriousness of the facts, the state of the investigation or the procedure and the public interest in reporting the facts. For minor offenses, restricted identification is not automatically available. If the reporter mentions identifying elements, they shall be particularly careful with other facts, including images and sounds that allow identification. If the journalist makes the images and sound recordings unidentifiable, then they shall try to do so completely efficiently.

Full identification of suspects and convicted persons is a common practice when it comes to significant public interest, that is, in cases where the suspect or convict-

27 AIPCE, Germany: German Press Code, https://www.presscouncils.eu/ethicalprinciples/codes/13_DE.php

28 Ibid

29 AIPCE, Belgium: Code of Practice, https://www.presscouncils.eu/ethicalprinciples/codes/07_BE.php

ed person is a public figure and the public interest justifies their full identification. Furthermore, it may be the case that the suspect or convict discloses information about themselves and does not object to the identification. Also, full identification is possible when it comes to serious crimes, when guilt is expected from a suspect, for example because of a confession, being caught red-handed or because of information from a reliable source, or when the suspect is on the run and the police or the judiciary have issued a search warrant with full identification and/or recognizable images³⁰.

Full identification of the suspect can be a warning to potential new victims.

According to the Handbook of Ethics in Journalism³¹, in the case of persons who are indirectly affected by an accident or who have nothing in common with the crime being reported, the publication of their names and photos is fundamentally wrong and unacceptable. The release of names and/or photographs of suspects accused of murder is, however, justified if it is in the interest of solving the crime or if the crime was committed in public (for example, when the police release the name of a serious criminal on the run). In cases of officials or politicians, publication of names is allowed if the crime is related to the office. This applies to celebrities if the crime they are suspected of is in conflict with their public image (for example, when a famous advocate for children's rights is a paedophile, etc.). Journalists have an obligation to protect the private life of the accused, their integrity and dignity and not to base reports on presumptions of guilt or innocence.

Family circumstances, race, ethnicity, nationality, religious beliefs, sexual orientation or membership of organizations should only be mentioned when relevant to the case³².

When sensitive and personal information about the accused is published, it can result in stigmatization, harassment and endangerment of the individual. For example, when reporting on a criminal proceeding involving a defendant who is a member of an ethnic minority group, publishing information about his ethnicity, if it is not an explicitly relevant factor in the given case, may encourage negative or derogatory perceptions, prejudices, stereotypes or assumptions about the minority group or even encourage hate speech and violence³³.

30 Ibid

31 Chausidis T., Bojarovski Z. (2012) Прирачник за етиката во новинарството [Handbook on ethics in journalism], Association of Journalists of Macedonia, <https://znm.org.mk/wp-content/uploads/2020/07/Priracnik-za-etika.pdf>

32 AIPCE, Denmark: The Press Ethical Rules, https://www.presscouncils.eu/ethicalprinciples/codes/14_DK.php

33 Markov, D. The Presumption of Innocence and the Media Coverage of Criminal Cases, ARISA Project, <https://arisa-project.eu/the-presumption-of-innocence-and-the-media-coverage-of-criminal-cases/>

At the same time, the media must refrain from naming relatives of persons accused or convicted of crimes, unless such information is of public interest.

Information about the convicted, accused or suspected person should not be published if it reveals the identity of the victim of the crime of an extremely sensitive nature. The identity of the victim of such a crime must be protected, unless information about the matter is of significant public interest or, alternatively, if the person himself has given consent.

PROTECTION OF WITNESSES

Journalists should exercise particular caution and sensibility when reporting on witnesses in criminal proceedings, observing rules and regulations regarding non-identification of protected witnesses. Their identity must not be revealed without their consent, except in cases of extreme public interest.

The media should be especially careful when reporting on witnesses of crimes who have been granted the legal status of a protected witness. The duty to guarantee the confidentiality of information sources implies that journalists shall take care not to disclose their identities. The consequences of recklessness can be devastating.

In principle, it is necessary to avoid identifying witnesses in trials, especially where felonies are concerned, unless their identification is necessary for full, fair and accurate reporting of the trial and such identification will not cause a misinterpretation of the truth or the process on trial.

According to Article 106 of the Court Rules of Procedure³⁴, recording and photographing in the courtroom can be stopped or limited, if the court finds that a participant in the procedure could be exposed to danger, embarrassment, harm or could cause obstacles in the application of legal measures of coercion or if it is mandatory due to the nature of the evidence to be produced (interrogation of protected witnesses, minors, etc.).

Pravdiko (2013), Судски деловник [Court Rules of Procedure], <https://bit.ly/3kmnCCf>

PROTECTION OF THE PRIVACY OF MINORS

Young (minor) victims, witnesses and other persons involved in a legal context should, in principle, not be identified. The public may be excluded, in the opinion of the court or at the request of the parties or the injured party, if it is necessary in order to protect the interests of the minor. Before publishing photos and news about minors, it is necessary to pay special attention to the question of whether such publication will be of public interest.

Journalists and media may not publish any details that could reveal the identity of a minor who is involved in a legal process as a victim or witness, unless it is of great public interest and there is consent from the parent or guardian.

The Handbook of Ethics in Journalism³⁵ highlights that the publication or insufficient protection of the identity of minors (interviews with relatives, recordings of the house or the immediate surroundings), informing on details of the crime, especially if it comes to such delicate cases as sexual and domestic violence always exposes the victim to more trauma and increases the tragedy. The responsibility for such re-traumatizing lies squarely with the journalist and the media performing said actions. Information obtained from doctors, social workers, educators, teachers or relatives, which directly or indirectly refers to the identity of the minor, must not be published, because otherwise great damage can be caused.

For example, in 2004, a photograph of four children from a small place in the Banat region, who were physically and educationally neglected, was published on the front pages of several daily newspapers in Vojvodina. The doctors from the hospital in Zrenjanin, wanting to explain to the journalists how the children looked and what they experienced, used photos from the hospital archive and handed them over to the media. Some media, in order to protect the identity of the children, placed a “black strip” over their eyes, but the characteristic appearance of the minor allowed the local citizens to recognize who it was. The code of ethics was also violated through the publication of other data that should have remained unavailable to the general public³⁶.

The Court Reporting Guidance³⁷ of the British self-regulatory body IPSO (Inde-

35 Chausidis T., Bojarovski Z. (2012) Прирачник за etikata vo novinarството, Здружение на новинарите на Македонија [Handbook on Ethics in Journalism, Association of Journalists of Macedonia], <https://znm.org.mk/wp-content/uploads/2020/07/Priracnik-za-etika.pdf>

36 Nedeljkovic, D., Ivanovic, M., Lekovic, S. (2014) Praktikum za izvestavanje o sudskim procesima o korupciji i o istrazivackom novinarstvu, Savet Evrope, <https://rm.coe.int/training-manual-reporting-on-corruption-investigative-journalism-srb/16807823b5>

37 IPSO, Court Reporting Guidance, <https://www.ipso.co.uk/resources-and-guidance/court-reporting-guidance/>

pendent Press Standards Organization) underlines that journalists may not, even if they are legally free to do so, disclose the identity of children under the age of 16 who are victims or witnesses in cases involving sexual assault. In order to avoid disclosing the child's identity, special care should be taken in cases where there is a family connection between the accused and the victim. The word "incest" must not be used in cases where the child victim can be identified. Victims are potentially identified by descriptions such as the location where the violence took place (for example, the family home) or dates or times of encounters that imply some association.

The reporting of crimes or misconduct by minors should not hinder or completely prevent their eventual reintegration into society.

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