

2019

“The importance of appearances: How suspects and accused persons are presented in the courtroom, in public and in the media”
- EXECUTIVE SUMMARY

Media Governance & Industries Research
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The importance of appearances: How suspects and accused persons are presented in courtrooms, in public and in the media

A COMPARATIVE REPORT

Partners:

-Aditus (Malta)

-Athena Research and Innovation Center in Information, Communication and Knowledge Technologies (Greece)

-Fair Trials (France)

-Human Rights House Zagreb (Croatia)

-Hungarian Helsinki Committee (Hungary)

-Media Governance and Industries Research Lab, University of Vienna (Austria)

-Mérték (Hungary)

-Universidad Carlos III de Madrid (Spain)

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European Commission



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1. Executive Summary

From October 2017 until June 2019, the Hungarian Helsinki Committee (HHC) oversaw a project designed to counter the presentation of suspects and accused persons as guilty, in courtrooms and public, particularly by the media. The project, "[The importance of appearances: How suspects and accused persons are presented in the courtroom, in public and in the media](#)", was funded by the [European Union's Justice Programme](#) (2014-2020). HHC's partners for the project included: the Media Governance & Industries Research Lab at the University of Vienna, Aditus in Malta, Fair Trials France, Human Rights House Zagreb, Mérték in Hungary, Rights International Spain / Universidad Carlos III de Madrid and Athena Research and Innovation Center in Information, Communication and Knowledge Technologies, in Greece.

The project was specifically designed to promote the aims behind European Union Directive 2016/343¹, which seeks to counter the presentation of suspects in court and in public in ways which may suggest guilt. Article 5 of the Directive specifically states: "Suspects or accused persons shall not be presented in court or in public as being guilty through the use of measures of physical restraints". The project thereby sought to expand knowledge and capacities of stakeholders regarding respect for the presumption of innocence, identify good practices and provide guidance on how to present defendants, and sensitise public authorities, the media and the public with regard to the significance of the manner in which defendants are presented.

This international comparative analysis report documents the process and findings of the project, which also includes the production of a toolkit as well as national workshops to assist journalists in enshrining the presumption of innocence in their reporting.

At the core of this comparative report are conclusions drawn from content analysis of crime-related news published² in quality and tabloid press as well as in online-only press, and also broadcast in television news programmes from June to September 2018, in seven countries: Austria, Croatia, France, Greece Hungary, Malta and Spain.

A number of keywords were identified as a basis for the initial gathering of news reports for analysis and the researchers sought to answer the following questions:

- How is the presumption of innocence at the heart of the Directive reflected in the media of the seven EU member states included in this study?
- Is the presumption of innocence respected by journalists?
- How are accused people and suspects portrayed by the media?
- How does this portrayal influence the perception of defendants as guilty or innocent?
- What are the characteristics of representation of accused people and suspects vis-a-vis the values, norms and legal stipulations of the Directive?
- What further alignment actions may be recommended to the journalists?

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L0343>.

² For full list of media outlets analysed, by country, see Annex 4.

The following conclusions derive from the comparative analysis:

- The single most common form of the violation of the right to presumption of innocence, across all countries examined, was the representation, through video material, images, and text, of *allegations as fact*.
- The violation of the right to the presumption of innocence was highest for suspects who are assumed to not hold the citizenship of the country in question. Among such suspects it was highest among migrants, refugees, or Muslims (or a combination of two or more of the three). The second most consistent form of violation across all countries examined is the deliberate and pronounced underscoring of a suspect's 'foreign' citizenship. Additionally, there was consistent emphasised reference to suspects' status as migrants, refugees or asylum seekers. Also consistent across the countries examined was reference to the suspect's religion if Muslim. Other religious affiliations were not underscored.
- Across the countries examined, regular use is made of 'anonymous sources' for quotes and information that indicate guilt of the suspect; such quotes and information are not countered with rebuttals from the suspect or the suspect's lawyers, or their family members or friends or neighbours.
- Clear evidence of an at least episodic lack of respect for the principle of the presumption of innocence is observable, in all countries, across all the media types examined, but, in order of media type, the violation intensity increased on the whole from at the lower end TV, through daily broadsheets, tabloids, and finally Internet platforms.
- Connections and commonalities between press freedom status and violation of the presumption of innocence were sometimes notable, but overall mixed. One clear correlation between press freedom and the violation of suspects rights to the presumption of innocence is Hungary – the only country among those included in our study, which is ranked by Freedom House as only 'partly free'.
- Press bodies, as regulatory or self-regulatory mechanisms, are failing to counter the systematic violation of the principle of presumption of innocence, especially for migrants and/or Muslims. This is arguably due to the weakened status of regulatory bodies as independent non-partisan bodies, in particular manifested through 1) politicisation of the regulatory body in question; 2) inability to oblige all media outlets (especially the most egregious violators) to recognise their authority and abide by their 'voluntarily accepted' sanctions. Additionally, the most significant of self-regulatory mechanisms – ethical oversight by editors, peer example setting, and voluntary subscription by journalists to the professional values, and principles, of the profession, appear to be systematically failing.