

The Importance of Appearances: How Suspects and Accused Persons are Presented in the Courtroom, in Public and in the Media

National Media Report – Spain

Executive Summary

Presumption of innocence is a constitutional right in Spain

- The right of all persons to be presumed innocent is enshrined in Section 24.2 of the Spanish Constitution (1978), along with the rest of judicial guarantees related to a fair trial.
- The publicity of justice is a constitutional principle in Spain, with roots in two fundamental rights: all persons have the right to receive and spread truthful information through any form of media (Section 20.1.d) and all persons have the right to a public trial (Sections 24 and 120).

Spain has no national media authority, infractions by broadcasters are punished by an independent state agency overseeing fair market competition

- Spain stands out in the European context for being a country with no national media authority. At the regional level, however, two Audiovisual Councils exist in Catalonia and Andalusia. The Ley General de la Comunicación Audiovisual passed in 2010 by the Socialist-led government did foresee the creation of an Audiovisual Council with sanctioning power, but this was an idea fiercely fought by the Conservatives and never put in place. At present, the sanctioning of any media malpractice is exerted by the National Commission on Markets and Competition (Comisión Nacional de los Mercados y la Competencia, CNMC), an independent state agency that oversees the fair competition among the private providers of public services.

The complaints committee created by the Spanish Federation of Journalists (FAPE) is the main body of self-regulation

- As for self-regulation, the closest institution to a Press Council in Spain is a complaints committee created by the Spanish Federation of Press Associations (Federación de Asociaciones de Periodistas de España, FAPE) in 2006. Most benchmark media outlets in Spain have pledged to abide with the FAPE code of ethics, and their performance is evaluated by the Commission whenever a complaint is received. The Catalan Committee on Information (Consell de Informació de Catalunya), created in 1996, has been doing the same at the regional level.
- The figure of press ombudsmen, which is kept by newspapers like El País (since 1985) and La Vanguardia (since 1993), is practically non-existent in the rest of the print press but still survives in the national public broadcaster, RTVE.

- The main reference in terms of journalistic ethics in Spain is the code of ethics approved by the federation of press associations, the FAPE. At the newsroom level, legacy newspapers include ethical codes in their editorial guidelines.

Regional authorities in Catalonia and Andalusia have issued guidelines for covering trials since the late 1990s; a nation-wide protocol for the access of media to public hearings was first established in 2004.

- The first guide for covering trials in democratic Spain was first issued by the Audiovisual Council of Catalonia in 1997: "Recommendations about the celebration of trials and their treatment on television".
- In 2003, the Catalan Audiovisual Council agreed with the Supreme Court of Catalonia, the Professional Board of Journalists in the region, and the Catalan Committee on Information, on establishing a protocol of collaboration recommending the compliance with "the constitutional principle of presumption of innocence that protects every citizen".
- In 2004 the General Council of the Judiciary (Consejo General del Poder Judicial), the organ that governs the judiciary in Spain, issued a 'communication protocol' that establishes some recommendations on how to regulate the access of news media to public hearings.
- The Audiovisual Council of Andalusia published in 2013 a 'Guide for covering trials', itself the result of a collaboration agreement between the Council, the Supreme Court of Andalusia and the regional Professional Board of Journalists signed in 2012.

Media landscape: print dailies dying, no news magazines, digital natives thriving, public TV the least trusted in Europe, radio mostly for the old

- Spain is witnessing the near disappearance of its print dailies: over the past decade (2008-2018) Spanish newspapers have lost 73% of their paid daily circulation, with not a single newspaper selling more than 100,000 copies a day. There are no relevant newsmagazines anymore, as they ceased publication in early 2018.
- Although dying in print, legacy dailies are widely popular online. El País (elpais.com) had nearly 19.7 million unique users in September 2018, winning a neck-to-neck battle with El Mundo (elmundo.es), with just 26,000 visitors less. These traditional brands, however, face a harsh competition from digital natives like ElConfidencial.com.
- Absent any tabloid print press, sensationalism in the Spanish media mostly occurs on television, and on political talk shows rather than on traditional news broadcasts.
- Television reaches 85.6% of Spaniards and is a source of news for two-thirds (76%) of the Spanish population who has access to the Internet. The public broadcaster, TVE, is among the least trusted public televisions in Europe, probably a consequence of its traditional dependence of the government in power. Private television is dominated by a duopoly of two conglomerates,

Atresmedia and Mediaset, which attract half of the audience and amass 83% of advertising expenditure.

- Radio is mostly a medium for middle-aged and mature individuals (85% of the audience is older than 35 years, with those above 65 being a fourth of the audience). Most them are male (60%).

Main violations of the right to presumption of innocence by the press:

- Identifying suspects by their full name and image whenever they have some social notoriety.
- Showing suspects being led by the police in handcuffs, usually surrounded by crowds shouting for justice.
- Making references to previous convictions of the suspect.
- Calling suspects criminals.
- Specifying details of the suspects that are not relevant to the story.
- Naming the race or nationality of suspects.

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