

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

DECLARATION

on the provision of information through the media in relation to criminal proceedings

*(Adopted by the Committee of Ministers on 10 July 2003
at the 848th meeting of the Ministers' Deputies)*

The Committee of Ministers of the Council of Europe,

Recalling the commitment of the member states to the fundamental right to freedom of expression, as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter "the Convention");

Reaffirming that the right to freedom of expression and information constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for the development of every individual, as expressed in its Declaration on the Freedom of Expression and Information of 1982;

Recalling the commitment to the fundamental right to the presumption of innocence and to a fair trial under Article 6 of the Convention and the fundamental right to respect for private and family life under Article 8 of the Convention;

Recalling furthermore the right of the media and journalists to create professional associations, as guaranteed by the right to freedom of association under Article 11 of the Convention, which is a basis for self-regulation in the media field;

Considering the possibly conflicting interests protected by Articles 6, 8 and 10 of the Convention and the necessity to balance these rights in view of the facts of every individual case, with due regard to the supervisory role of the European Court of Human Rights in ensuring the observance of the commitments under the Convention;

Considering also the value which self-regulation by the media and co-regulation can have in striking such a balance;

Aware of the many initiatives taken by the media and journalists in Europe to promote the responsible exercise of journalism, either through self-regulation or in co-operation with the state through co-regulatory frameworks;

Aware also of the need to enhance an informed debate on the protection of the rights and interests at stake in the context of media reporting relating to criminal proceedings;

Desiring to strengthen the responsible exercise of journalism in this context, notably by promoting the adoption of good practice by the media through codes of conduct or other initiatives;

Concerned by the increasing commercialisation of information in the context of criminal proceedings;

Desiring at the same time to foster the right to freedom of expression and information in relation to criminal proceedings, in particular by ensuring access by the media to such proceedings;

Recalling its Resolution (74) 26 of the right of reply – position of the individual in relation to the press, its Recommendation No. (85) 11 on the position of the victim in the framework of criminal law and procedure, its Recommendation No. R (97) 13 concerning the intimidation of witnesses and the rights of

the defence, its Recommendation No. R (97) 21 on the media and the promotion of a culture of tolerance and its Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information;

Bearing in mind Resolution No. 2 on journalistic freedoms and human rights adopted at the 4th European Ministerial Conference on Mass Media Policy (Prague, December 1994) as well as the Declaration on a media policy for tomorrow adopted at the 6th European Ministerial Conference on Mass Media Policy (Cracow, June 2000);

Aware of the seminars on media self-regulation organised by the Steering Committee on the Mass Media in Strasbourg on 7 and 8 October 1998, as well as by the European Commission and Germany in Saarbrücken from 19 to 21 April 1999;

Aware of the public consultation with media professionals which was conducted by the Steering Committee on the Mass Media in January 2002,

Calls on member states:

1. to encourage responsible reporting on criminal proceedings in the media by supporting the training of journalists in the field of law and court procedure, in co-operation with the media and their professional organisations, educational institutions and the courts, in so far this is necessary for understanding court proceedings and the rights and interests of the parties to criminal proceedings and the state which are at stake during such proceedings;
2. to support any self-regulatory initiatives by which the media define professional ethical standards with regard to media reports on criminal proceedings in order to ensure respect for the principles contained in Recommendation Rec(2003)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings;
3. to seek co-operation with self-regulatory bodies in the media field;
4. to involve professional associations in the media field in the relevant legislative processes concerning media reporting on criminal proceedings, for example via hearings or consultations;
5. to make this Declaration available to the public authorities and the courts as well as to the media, journalists and their professional organisations.

Invites the media and journalists:

1. to organise themselves in voluntary professional associations and foster pan-European co-operation between such associations;
2. to draw up professional ethical guidelines and standards for journalists, especially in relation to media reports on criminal proceedings, where such guidelines and standards do not yet exist, and to foster compliance with such professional ethical guidelines and standards;
3. to treat in their reports both suspects and accused as innocent until found guilty by a court of law, given that they enjoy that right under Article 6 of the Convention;
4. to respect the dignity, the security and, unless the information is of public concern, the right to privacy of victims, claimants, suspects, accused, convicted persons and witnesses as well as of their families, as guaranteed under Article 8 of the Convention;
5. not to recall a former offence of a person, unless it is of public concern or has become of public concern again;

6. to be sensitive to the interests of minors and other vulnerable persons involved in criminal proceedings;
7. to avoid prejudicing criminal investigations and court proceedings;
8. to avoid prejudicial and pejorative references in their reports on criminal proceedings, where these are likely to incite xenophobia, discrimination or violence;
9. to entrust reporting on criminal proceedings to journalists with adequate training in these matters.