

Innocent until proven guilty: the importance of respecting human rights in reporting

(Knowledge Transfer)

Project leads

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Abstract

According to EU law, Member States shall ensure that suspects and accused persons are not presented as being guilty, in court or in public through the use of measures of physical restraint such as handcuffs, glass boxes, cages and leg irons. The project, titled “The importance of appearances: How suspects and accused persons are presented in the courtroom, in public and in the media” is funded by the European Union’s Justice Programme (2014-2020). It involves international comparative analysis, as well as a pilot sociological survey and national court reports. The creation of a good practices database and toolkits for courts and journalists was designed to help advance awareness of the issue. In addition to the University of Vienna, further HHC partners for the project include: Aditus, Fair Trials Europe, Human Rights House Zagreb, Mérték, and Rights International Spain.

Keywords

Presumption of innocence, reporting on accused, ethical codes

Aims of the Third Mission activity

The aims of this project are to examine the ways in which and degrees to which media reporting upholds or violates the human right of being regarded innocent until proven guilty. The project aims also identify undesired and good practice in media reporting in six European countries and translate the research findings into also applicable proposals that can support the editorial function in news reporting.

Cooperation partners outside the university sector

European Commission representation in Austria, Professional organisations, NGOs

Cooperation partners from the scientific/ research field

Aditus, Malta Athena Research and Innovation Center, Greece Fair Trials Europe, France Human Rights House Zagreb, Croatia Mérték, Hungary

Faculty

Media Governance and Industries Research Lab, Department of Communication

Timeframe

2017 - 2019

Funding

European Union Justice Programme

Research basis

It is based on my work on media and discrimination and various projects of media representations of crisis related issues and human rights issues in the news.

Social/economic relevance

The project aimed to raise awareness of the importance of upholding the human right of presumption of innocence in media reporting and beyond establishing findings through research, to provide practical recommendations for the professional communities both in the media as well as in anyone involved in addressing a public.

Integration into academic teaching/the curriculum

No

Impact

The Project produced the final conclusions:

- The single most common for 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.

Transfer aspect of the activity

This is a clear transfer of knowledge from research to knowledge for the practice communities of media professionals and judges, as well as all stakeholders involved in making representations about an accused person. The project created not only comparative reports of scientific value but also a final handbook for stakeholders.

Future orientation & sustainability

The project is fully sustainable in that its findings and recommendations constitute documents and resources for stakeholders such as journalists, judges, lawyers, police, as well as governments with which they can adjust if necessary the way in which they communicate to the public the case of an accused person. 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.

Achievement of objectives

The project was approved for its design, efficacy and execution by the funder. The handbook written in German and English and also translated in other languages was mailed to over 300 journalists in the country. The Presse Club Concordia further supported its dissemination to all its members. The European Commission in Vienna supported its visibility and dissemination with a public event at the Europa Haus.

Visibility

Through the Vienna website (see below) as well as websites in all six countries a radio FM4 report the distributions of the toolkit.

Links/Publications

- <https://mediagovernance.univie.ac.at/research/research-projects/sir-the-importance-of-appearances/>
 - https://mediagovernance.univie.ac.at/fileadmin/user_upload/p_mediagovernance/PDF/SIR_Presumption_of_Innocence_ComparativeReportFinal.pdf
 - Final Comparative Report
https://mediagovernance.univie.ac.at/fileadmin/user_upload/p_mediagovernance/PDF/SIR_Presumption_of_Innocence_ComparativeReportFinal.pdf
 - Separate country reports:
<https://mediagovernance.univie.ac.at/research/research-projects/sir-the-importance-of-appearances/>
 - Final TOOLKIT:
https://mediagovernance.univie.ac.at/fileadmin/user_upload/p_mediagovernance/PDF/SIR_Toolkit_German.pdf
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