

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

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

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

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

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

Recalling that the media have the right to inform the public due to the right of the public to receive information, including information on matters of public concern, under Article 10 of the Convention, and that they have a professional duty to do so;

Recalling that the rights to presumption of innocence, to a fair trial and to respect for private and family life under Articles 6 and 8 of the Convention constitute fundamental requirements which must be respected in any democratic society;

Stressing the importance of media reporting in informing the public on criminal proceedings, making the deterrent function of criminal law visible as well as in ensuring public scrutiny of the functioning of the criminal justice system;

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;

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;

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;

Desirous 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, and to foster good practice throughout Europe while ensuring access of the media to criminal proceedings;

Recalling its Resolution (74) 26 on the right of reply – position of the individual in relation to the press, its Recommendation No. R (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, and its Recommendation No. R (97) 21 on the media and the promotion of a culture of tolerance;

Stressing the importance of protecting journalists' sources of information in the context of criminal proceedings, in accordance with 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);

Recalling that this recommendation does not intend to limit the standards already in force in member states which aim to protect freedom of expression,

Recommends, while acknowledging the diversity of national legal systems concerning criminal procedure, that the governments of member states:

1. take or reinforce, as the case may be, all measures which they consider necessary with a view to the implementation of the principles appended to this recommendation, within the limits of their respective constitutional provisions,
2. disseminate widely this recommendation and its appended principles, where appropriate accompanied by a translation, and
3. bring them in particular to the attention of judicial authorities and police services as well as to make them available to representative organisations of lawyers and media professionals.

Appendix to Recommendation Rec(2003)13

Principles concerning the provision of information through the media in relation to criminal proceedings

Principle 1 - Information of the public via the media

The public must be able to receive information about the activities of judicial authorities and police services through the media. Therefore, journalists must be able to freely report and comment on the functioning of the criminal justice system, subject only to the limitations provided for under the following principles.

Principle 2 - Presumption of innocence

Respect for the principle of the presumption of innocence is an integral part of the right to a fair trial. Accordingly, opinions and information relating to on-going criminal proceedings should only be communicated or disseminated through the media where this does not prejudice the presumption of innocence of the suspect or accused.

Principle 3 - Accuracy of information

Judicial authorities and police services should provide to the media only verified information or information which is based on reasonable assumptions. In the latter case, this should be clearly indicated to the media.

Principle 4 - Access to information

When journalists have lawfully obtained information in the context of on-going criminal proceedings from judicial authorities or police services, those authorities and services should make available such information, without discrimination, to all journalists who make or have made the same request.

Principle 5 - Ways of providing information to the media

When judicial authorities and police services themselves have decided to provide information to the media in the context of on-going criminal proceedings, such information should be provided on a non-discriminatory basis and, wherever possible, through press releases, press conferences by authorised officers or similar authorised means.

Principle 6 - Regular information during criminal proceedings

In the context of criminal proceedings of public interest or other criminal proceedings which have gained the particular attention of the public, judicial authorities and police services should inform the media about their essential acts, so long as this does not prejudice the secrecy of investigations and police inquiries or delay or impede the outcome of the proceedings. In cases of criminal proceedings which continue for a long period, this information should be provided regularly.

Principle 7 - Prohibition of the exploitation of information

Judicial authorities and police services should not exploit information about on-going criminal proceedings for commercial purposes or purposes other than those relevant to the enforcement of the law.

Principle 8 - Protection of privacy in the context of on-going criminal proceedings

The provision of information about suspects, accused or convicted persons or other parties to criminal proceedings should respect their right to protection of privacy in accordance with Article 8 of the Convention. Particular protection should be given to parties who are minors or other vulnerable persons, as well as to victims, to witnesses and to the families of suspects, accused and convicted. In all cases, particular consideration should be given to the harmful effect which the disclosure of information enabling their identification may have on the persons referred to in this Principle.

Principle 9 - Right of correction or right of reply

Without prejudice to the availability of other remedies, everyone who has been the subject of incorrect or defamatory media reports in the context of criminal proceedings should have a right of correction or reply, as the case may be, against the media concerned. A right of correction should also be available with respect to press releases containing incorrect information which have been issued by judicial authorities or police services.

Principle 10 - Prevention of prejudicial influence

In the context of criminal proceedings, particularly those involving juries or lay judges, judicial authorities and police services should abstain from publicly providing information which bears a risk of substantial prejudice to the fairness of the proceedings.

Principle 11 - Prejudicial pre-trial publicity

Where the accused can show that the provision of information is highly likely to result, or has resulted, in a breach of his or her right to a fair trial, he or she should have an effective legal remedy.

Principle 12 - Admission of journalists

Journalists should be admitted to public court hearings and public pronouncements of judgements without discrimination and without prior accreditation requirements. They should not be excluded from court hearings, unless and as far as the public is excluded in accordance with Article 6 of the Convention.

Principle 13 - Access of journalists to courtrooms

The competent authorities should, unless it is clearly impracticable, provide in courtrooms a number of seats for journalists which is sufficient in accordance with the demand, without excluding the presence of the public as such.

Principle 14 - live reporting and recordings in court rooms

Live reporting or recordings by the media in court rooms should not be possible unless and as far as expressly permitted by law or the competent judicial authorities. Such reporting should be authorised only where it does not bear a serious risk of undue influence on victims, witnesses, parties to criminal proceedings, juries or judges.

Principle 15 - Support for media reporting

Announcements of scheduled hearings, indictments or charges and other information of relevance to legal reporting should be made available to journalists upon simple request by the competent authorities in due time, unless impracticable. Journalists should be allowed, on a non-discriminatory basis, to make or receive copies of publicly pronounced judgments. They should have the possibility to disseminate or communicate these judgments to the public.

Principle 16 - Protection of witnesses

The identity of witnesses should not be disclosed, unless a witness has given his or her prior consent, the identification of a witness is of public concern, or the testimony has already been given in public. The identity of witnesses should never be disclosed where this endangers their lives or security. Due respect shall be paid to protection programmes for witnesses, especially in criminal proceedings against organised crime or crime within the family.

Principle 17 - Media reporting on the enforcement of court sentences

Journalists should be permitted to have contacts with persons serving court sentences in prisons, as far as this does not prejudice the fair administration of justice, the rights of prisoners and prison officers or the security of a prison.

Principle 18 - Media reporting after the end of court sentences

In order not to prejudice the re-integration into society of persons who have served court sentences, the right to protection of privacy under Article 8 of the Convention should include the right to protect the identity of these persons in connection with their prior offence after the end of their court sentences, unless they have expressly consented to the disclosure of their identity or they and their prior offence are of public concern again or have become of public concern again.

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EXPLANATORY MEMORANDUM to 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

I. Introduction

1. The Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the European Convention on Human Rights or ECHR) guarantees freedom of expression and information under Article 10, the right to the presumption of innocence and to a fair trial under Article 6 and the right to respect for private and family life under Article 8.

2. The provision of information in relation to court proceedings, and in particular criminal proceedings, corresponds to the right of the public to be informed on matters of public concern, including justice. The right to a fair trial under Article 6 of the ECHR includes hearings in public and the public pronouncement of judgments. Openness to the public can be achieved by the media. However, Article 6 allows also for the exclusion of the public and the media from all or parts of the trial for a limited number of cases referred to in Article 6 itself. The exclusion of the media would also have to comply with the narrowly interpreted possible restrictions of freedom of expression and information under Article 10 of the ECHR. Where private information is disclosed during a trial, Article 8 of the ECHR may require the protection of the privacy of this information.

3. Prominent cases in several member states concerning the media and the courts have caused wide public attention and debate about such issues as secrecy of investigations, the influence by the media on witnesses and judges, the presence of media in courtrooms as well as audiovisual recordings of trials.

4. Against this background, in 1996, the Steering Committee on the Mass Media (CDMM) identified the issue of media reporting in relation to criminal proceedings as being of common interest to all member states, when it proposed the creation of a Group of Specialists on media law and human rights (MM-S-HR) with a view to developing common principles for the protection of freedom of the media as well as other fundamental rights of individuals at stake before, during and after criminal proceedings. After having analysed national laws and practices as well as the relevant case law of the European Court of Human Rights, the MM-S-HR drew up a draft Recommendation on the provision of information through the media in relation to criminal proceedings, which was finalised by the Steering Committee and its Group of Specialists on freedom of expression and other fundamental rights (MM-S-FR) in 2003.

5. The Committee of Ministers adopted Recommendation Rec(2003)13 at the 848th meeting of the Ministers' Deputies on 10 July 2003.

II. General commentary

6. This recommendation is addressed to governments of member states and hence their public authorities, including courts. Any recommendation of the Committee of Ministers is an instrument of political commitment, and not a legally enforceable instrument. Through its adoption by the Committee of Ministers, it binds all member states.

7. The recommendation does not seek to directly address the private sector, and in particular the media or journalists. It is at the discretion of the member states to use measures which they consider appropriate in order to safeguard and protect the rights and interests of everyone in relation to criminal proceedings as outlined in this recommendation, depending on their respective circumstances and legal traditions.

8. The recommendation provides guidelines for public authorities in the light of Articles 6, 8 and 10 of the European Convention on Human Rights. It does not intend to alter these provisions as well as the obligations of member states under the Convention. Furthermore, it does not intend to limit the standards already in force in member states which aim to protect freedom of expression.

9. In the preamble of the recommendation, certain related recommendations and one resolution are recalled. Resolution (74) 26 on the right of reply recommends member states to recognise the right of reply and correction where media reports have been incorrect or otherwise infringe the rights of individuals. Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure includes the recommendation, that “information and public relations policies in connection with the investigation and trial of offences should give due consideration to the need to protect the victim from any publicity which will unduly affect his private life or dignity. If the type of offence or the particular status or personal situation and safety of the victim make such special protection necessary, either the trial before the judgment should be held in camera or disclosure or publication of personal information should be restricted to whatever extent is appropriate”. In Recommendation No. R (97) 13 concerning intimidation of witnesses and the rights of the defence, member states are recommended to take appropriate legislative and practical measures to ensure that witnesses may testify freely and without intimidation. In the context of organised crime, the exclusion of the media and/or the public from all or part of the trial should be considered. Finally, Recommendation No. R (97) 21 on the media and the promotion of a culture of tolerance contains principles for media reporting without inciting to ethnic intolerance.

10. Following the case law of the European Court of Human Rights concerning journalists’ sources, the MM-S-FR had elaborated Recommendation (2000) 7 on the right of journalists not to disclose their sources of information, which was adopted by the Committee of Ministers on 8 March 2000. Although the main focus of the present recommendation is on the right of the media to report about criminal proceedings, the MM-S-FR felt that Recommendation (2000) 7 should be referred to in this context, as journalists reporting about criminal proceedings might also disseminate information received from confidential sources. Recommendation (2000) 7 and Article 10 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights, would generally protect those sources in such a case.

11. Member states are held “to disseminate widely this recommendation and its Appendix, where appropriate accompanied by a translation”, as the dissemination of the recommendation is a prerequisite for its proper implementation.

III. Commentary to the Recommendation

12. The specific recommendations or principles appear in the Appendix to the recommendation. This Appendix is an integral part of the Recommendation itself. It is only for sake of clarity that the individual “principles concerning the provision of information through the media in relation to criminal proceedings” are grouped in the Appendix.

13. For the purposes of the recommendation, the term “criminal proceedings” shall be understood as any action taken by judicial authorities or police services as well as investigating bodies under the framework of penal law and procedure.

Principle 1 (Information of the public via the media)

14. Article 10 of the European Convention on Human Rights guarantees the right of the public to receive information of public concern. The principle of a public hearing and a public pronouncement of judgments under Article 6 ECHR is part of the fair administration of justice. Since media have a particular role in disseminating information to the public, they should be able to disseminate information about the activities of judicial authorities and police services. The right of the public to receive information on matters of public concern is of particular importance in this context; it includes the right for the media to freely report and comment on the functioning of the criminal justice system. The European Court of Human Rights established, for instance, that the media are one of the means by which politicians and public opinion can control and verify whether judges are discharging their heavy responsibilities in a manner which is in conformity with the aim which is the basis of the task entrusted to them.¹

Principle 2 (Presumption of innocence)

15. Article 6, paragraph 2 of the European Convention on Human Rights guarantees the right to the presumption of innocence. This right is primarily a procedural right vis-à-vis judicial authorities, which defines the burden of proof in criminal proceedings. However, the fair administration of justice requires also that the presumption of innocence is not prejudiced indirectly through opinions and information relating to pending criminal proceedings disseminated by the media. The European Court of Human Rights has stated that “journalists reporting on criminal proceedings currently taking place must, admittedly, ensure that they do not overstep the bounds imposed in the interests of the proper administration of justice and that they respect the accused’s right to be presumed innocent” (Du Roy and Malaurie v. France (2000) para. 34). This being said, the Court holds that an absolute and general prohibition of media reporting about criminal proceedings would be unnecessary and impede the right of the press to inform the public about matters which, although relating to criminal proceedings, may be in the public interest (ibid., para. 35 and 36).

¹ Eu. Court H.R., *Prager and Oberschlick v. Austria* (1995), Series A, no. 313, para. 34.

Principle 3 (Accuracy of information)

16. The accuracy of information is important for both the credibility of judicial authorities and police services as well as the credibility of the media. Therefore, Principle 3 recommends that only accurate information should be provided, i.e. information based on facts or reasonable assumptions. Where the information is based on such assumptions, this should be clearly indicated. Although the truth of information might finally be judged by a court of law only, this Principle shall prevent that inaccurate information is provided knowingly or even on purpose, since it could undermine the authority of the law enforcement authorities and of the judiciary as well as compromise the rights of the parties to criminal proceedings.

Principle 4 (Access to information)

17. Principle 4 recommends that journalists should not be excluded from access to information on an arbitrary basis, for instance due to personal, political or other reasons, where such information has already been obtained lawfully by other journalists.

18. National legal systems may also specifically grant access to official documents in this context in accordance with Articles 6 and 8 of the European Convention on Human Rights.

Principle 5 (Ways of providing information to the media)

19. Under Principle 5, judicial authorities and police services should provide their information to the media through organised and authorised channels, rather than by judicial and police officers on an individual basis. The term “authorised officers” is to be understood in a wide sense, indicating that the authority concerned should designate a staff member for that purpose. Other “similar authorised means” in the sense of this Principle could include, for instance, the provision of oral information by official spokespersons on the spot, as well as written information material about a particular criminal proceeding given to journalists in advance of a trial.

20. Some national judicial authorities and police services have developed their internal guidelines for contacts with the media, including rules for the preparation of press releases. Such internal guidelines might be useful for ensuring a high common standard among domestic authorities. This will enhance the reliability of information and should contribute to the quality of media reports. Under national law, police services may have less discretion than judicial authorities to provide information to the media concerning their work.

Principle 6 (Regular information during criminal proceedings)

21. Where journalists and the media are not informed about criminal proceedings which have gained the particular attention of the public through the persons involved, the seriousness of the facts or other circumstances of public concern, it is likely that journalists will pursue their own journalistic investigations. Such journalistic investigations conducted in parallel to judicial investigations may, under certain circumstances, bear the risk of having a negative effect on those judicial investigations, for example by publicly disclosing information, portraying witnesses or contacting criminal offenders. This being said, parallel journalistic investigations might also have positive effects, such as detecting witnesses or suspects.

22. Some member states have prescribed by domestic law the secrecy of criminal investigations and police inquiries as a fundamental procedural principle. As stated by the European Court of Human Rights in its *Du Roy and Malaurie* judgment of 3 October 2000, however, an absolute secrecy of criminal investigations would not be compatible with Article 10 of the European Convention on Human Rights.

23. Principle 6 therefore recommends that, under such circumstances, judicial authorities and police services should keep the media informed during criminal investigations, so long as this does not prejudice the secrecy of investigations and police inquiries or delay or impede the outcome of the proceedings. If there is nothing new to report, judicial authorities and police services should also mention this.

Principle 7 (Prohibition of the exploitation of information)

24. The commercial exploitation of information about on-going criminal proceedings by judicial authorities and police services could undermine the impartiality of the judiciary and the police. In addition, it could exclude journalists and media from access to such information due to its cost. In the same vein, information should not be exploited for purposes other than those relevant to the enforcement of the law.

25. This Principle does not, however, exclude the charging of fees for the provision of information by judicial authorities or police services, in order to cover the expenses pertaining to the production and dissemination of that information.

Principle 8 (Protection of privacy in the context of criminal proceedings)

26. Everyone has the right to the protection of private and family life under Article 8 of the European Convention on Human Rights. Principle 8 recalls this protection for suspects, the accused, convicted persons and other parties to criminal proceedings, who must not be denied this right due to their involvement in such proceedings. The mere indication of the name of the accused or convicted may constitute a sanction which is more severe than the penal sanction delivered by the criminal court. It furthermore may prejudice the reintegration into society of the person concerned. The same applies to the image of the accused or convicted. Therefore, particular consideration should be given to the harmful effect which the disclosure of information enabling their identification may have on the persons referred to in this Principle.

27. An even stronger protection is recommended to parties who are minors, to victims of criminal offences, to witnesses and to the families of suspects, the accused and convicted persons. In this respect, member states may also refer to Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure and Recommendation No. R (97) 13 concerning the intimidation of witnesses and the rights of the defence.

Principle 9 (Right of correction or right of reply)

28. Member states are recommended to recognise in their domestic law and practice a right of correction or reply or the possibility of bringing a complaint to a press council under Resolution (74) 26 on the right of reply. Principle 9 recalls this right in relation to criminal

proceedings, where incorrect information may prejudice the presumption of innocence, for example. In addition, Principle 9 recommends granting such a right also against incorrect press releases of judicial authorities and police services, which would not otherwise qualify under Resolution (74) 26. Judicial authorities and police services should nevertheless bear in mind that there may be greater danger of prejudicial influence if they do not disclose information to the media.

Principle 10 (Prevention of prejudicial influence)

29. Opinions and information about matters which are the subject of criminal proceedings might, when they are disseminated publicly in the media, have a prejudicial influence on the presumption of innocence, as referred to in Principle 2. This risk is especially high where juries or lay judges are involved in criminal proceedings. Therefore, Principle 10 recommends that judicial authorities and police services should abstain from publicly providing information which bears a risk of substantial prejudicial influence to the fairness of the proceedings. In this context, the term “judicial authorities” shall also include prosecutors and investigating judges. The evaluation of the risk of prejudicial influence should be made on a case-by-case basis, in the light of the circumstances of each case.

Principle 11 (Prejudicial pre-trial publicity)

30. Virulent media reporting might, in exceptional and rare cases, have a negative influence on a given criminal proceeding, in particular on jury members, lay judges and witnesses. It is not the intention of this Recommendation to harmonise the legal remedies for accused under such circumstances. However, the MM-S-FR felt that a recommendation containing principles on the provision of information through the media in relation to criminal proceedings should also contain a principle recommending to member states that there should be an effective legal remedy, where the provision of information is likely to result, or has resulted, in a breach of the right to a fair trial.

Principle 12 (Admission of journalists)

31. Article 6 of the European Convention on Human Rights guarantees the fundamental right to a public hearing and the public pronouncement of a judgment. Such publicity is achieved by allowing the public to attend hearings and pronouncements of judgments, as far as members of the public are interested in attending, and depending on the capacity of the courtroom. Where seats in courtrooms are not sufficient to accommodate all persons interested, judicial authorities might also consider transmitting a hearing audio-visually to another courtroom, if such facilities exist.

32. By admitting the media to public hearings and pronouncements of judgments, much greater publicity can be achieved. Under certain circumstances, however, the fair administration of justice may require the exclusion of the public from all or part of a hearing under Article 6 of the ECHR.

33. Principle 12 recommends that journalists should be admitted to public court hearings and the public pronouncement of judgments without discrimination and without prior formal and pre-determined accreditation requirements. Any discrimination would be contrary to the freedom of the media as guaranteed under Article 10 of the ECHR and could lead to a lack of

publicity required under Article 6 of the ECHR. As a general principle, the media should not be excluded from court hearings, unless and as far as the public is excluded in accordance with Article 6 of the ECHR.

Principle 13 (Access of journalists to courtrooms)

34. Since the media provide wider public access to court hearings through their reporting, courtrooms should accommodate a sufficient number of seats for journalists. Depending on the public interest in a given hearing, larger courtrooms with more seats should allow for greater accommodation. The latter obviously depends on the circumstances and the availability of courtrooms. The presence of the media should, however, not exclude the participation of individual members of the public.

Principle 14 (live reporting and recordings in courts rooms)

35. The live reporting or recording by the media of the voice or image of persons present at court hearings may have an undue influence on those persons. Witnesses may either be intimidated or attracted by cameras or the media, which might have an impact on their true reporting of facts. Victims may also feel intimidated by them. Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure as well as Recommendation No. R (97) 13 concerning the intimidation of witnesses and the rights of the defence refer to this phenomenon. For instance, pictures could be taken before the proceedings start. This being said, members States are entitled to take any legal provisions which they consider useful to protect certain categories of persons such as minors or handcuffed accused persons.

36. Principle 14 draws the attention of member states to such a possible influence and recommends that live reporting or recordings by the media in courtrooms should only be possible where expressly permitted by law or the competent judicial authorities. Such exceptional express permissions will provide a predictable and non-discriminatory legal framework. For instance, it might be determined that trials of historical importance can be recorded or filmed and possibly disseminated at a later stage. The same may be applied to criminal proceedings at a superior court instance, especially where such proceedings are a mere review of the law or essentially based on written submissions by the parties.

Principle 15 (Support for media reporting)

37. Judicial authorities may have an interest in supporting reporting about criminal proceedings by making available, upon simple request and where practicable, announcements of scheduled hearings, charges and other relevant information. Where they have such information, the media will be less likely to produce inaccurate reports which might have an undue influence on juries and lay judges or prejudice the presumption of innocence. Therefore, Principle 15 recommends providing such support in due time and where practicable. Such support should not be made subject to accreditation. During the proceedings, a representative of the court should be, as far as possible, available for the media in order to respond to their requests for clarification. Finally, journalists should be able to disseminate or communicate judgments to the public, without undermining the protection of privacy under Article 8 of the Convention of Human Rights.

Principle 16 (Protection of witnesses)

38. As mentioned above, media reporting about witnesses may have an intimidating effect on them, especially where the identity of a witness is disclosed. This might even be contrary to the witness protection under Recommendation No. R (97) 13 concerning the intimidation of witnesses and the rights of the defence. Therefore, Principle 16 recommends that the identity of witnesses should not be disclosed by the authorities to the media or by the media themselves, unless a witness has given his or her prior consent, the identity of a witness is of public concern, or the testimony has already taken place in public.

Principle 17 (Media reporting on the enforcement of court sentences)

39. Public scrutiny over the fair administration of justice is largely carried out through the media. The enforcement of court sentences is part of this administration of justice. Therefore, freedom of the media should include the possibility for journalists of having contacts with persons serving court sentences, as far as this does not prejudice the fair administration of justice, the rights of prisoners and prison officers or the security of a prison.

Principle 18 (Media reporting after the end of court sentences)

40. It is part of the fair administration of justice to allow for the re-integration into society of persons who have served their court sentences. Media reporting about cases and prisoners after the end of court sentences may prejudice such re-integration. Therefore, Principle 18 recommends that the right to the protection of privacy under Article 8 of the European Convention on Human Rights should include the identity of these persons and their prior offence, unless they and their prior offence are or have become of public concern. A simple anniversary of a crime would thus not be sufficient. However, persons and their offences may, for instance, be of public concern if those persons violate criminal law again or where their prior offence was a crime without a limitation period, such as crimes against humanity or genocide. The latter crimes are, for example, defined by the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes of 1974.