[BE] Ethical Directive on Identification in a Judicial Context

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Hannes Cannie
Department of Communication Sciences / Center for Journalism Studies, Ghent University

The *Vlaamse Raad voor de Journalistiek* (Flemish Council for Journalism Ethics) has issued a directive (15 April 2010) on identification in a judicial context. This Council is an independent self-regulating institution that supervises journalistic work in all Flemish media upon the filing of a complaint by a member of the public, thereby guaranteeing that journalistic ethics are upheld. It can also issue ethical directives and recommendations on its own initiative. The new ethical directive is concerned with the way the media deal with suspects, persons convicted of a crime and victims in news coverage. It emphasises that journalists, when planning to identify a suspect, person convicted of a crime or victim through words or images, should always balance the conflicting interests at stake: on the one hand, the public's right to be informed as much as possible and, on the other hand, the right to privacy of the person being reported upon. The directive's aim is to aid journalists in carrying out this delicate balancing exercise.

The directive refers to the Belgian *Code van journalistieke beginselen* (Code of Journalistic Principles, 1981), which states that editors and journalists must respect individual dignity and privacy and avoid impermissible interferences in personal pain and distress, unless this is necessitated by considerations related to the freedom of the press. Reference is also made to the case law of the European Court of Human Rights, which has consistently held that disclosure of private data is only allowed if it contributes to a debate of public interest. That is why the directive takes as its starting point that restraint should be exercised when revealing names or other data that enable an individual's identification in judicial news coverage. This also applies to indirect identification. There are, however, situations in which identification could be preferable.

The decision to fully identify a suspect or a victim should not be made by an individual journalist, but should be the result of collective deliberation on the part of the editorial department. Considerations related to the public interest in media coverage should play a key role during this deliberation and when the public interest is invoked this must always be justified. The directive adds that every journalist should be able to refuse participation if he/she is of the opinion that a journalistic action is problematic from an ethical point of view.

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The directive outlines some specific situations with distinct focus on suspects, convicts and victims, with a separate chapter devoted to minors, in each situation designating the preferred solution. Its main principles are the following: identification of suspects should be exceptional, due to the presumption of innocence. Also, identification of persons convicted of crimes should be carefully deliberated, due to concerns about their reintegration into society. Full identification of suspects and convicted persons, as well as images in which they are recognisable, are only allowed in specific circumstances, such as an overriding public interest, danger to society, very grave criminal acts or where there is consent. When considering whether to identify victims, journalists and editorial departments should as much as possible respect the concerns of the victim and those close to him/her. Full identification of victims, and images in which they are recognisable, are, as a matter of principle, prohibited (identification of victims of sexual violence is even prohibited by law, unless there is explicit, written consent). Identification should be even more exceptional if the media coverage concerns minors, especially victims who are minors. But also when minors are (alleged) perpetrators, full identification and images in which they are recognisable, remain, as a matter of principle, prohibited. The directive concludes that the specific circumstances of each case could lead to another justifiable choice. The journalist or the editorial department must, however, always be able to explain any choice that leads to identification.

Richtlijn over identificatie in een gerechtelijke context

http://www.rvdj.be/sites/default/files/pdf/richtlijn201007.pdf

Directive on identification in a judicial context

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