[BE] New guidelines on the portrayal of minors in the media

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The Code of Journalistic Ethics, drafted by the Flemish Council of Journalism, contains 27 articles. Particular articles are accompanied by a guideline which provides more information on the way a certain principle must be interpreted and implemented by the press. In December 2015, a new guideline was adopted to clarify Article 15, which states that journalists must use certain methods to gather or process information, photos, images and documents, and that journalists must not abuse their capacity, especially vis-à-vis vulnerable individuals such as minors, and victims of crime, disasters or accidents or their family. Minors are often portrayed in the media, generally as a group in society or individually, because a child has been a victim of an accident or has gained popularity because of his or her participation in a talent show. The new guidelines put forward a number of principles which journalists must take into account (a) when they give a minor the opportunity to speak in an article or programme; (b) when a minor is portrayed in a recognisable manner; or (c) when information about minors from archives is used. The guidelines were created after consultation with other European press councils (members of the Alliance of Independent Press Councils of Europe) and the Flemish Children's Rights Commissioner.

The guidelines emphasise that journalists must keep the minor's best interests in mind, and must be attentive to both the minor's right to protection and the minor's right to freedom of expression. In their considerations, journalists must take into account the following elements: the context, nature and sensitivity of the subject, the emotional involvement of the minor with the subject, and the maturity and level of judgment of the minor. When a minor is given the opportunity to speak, the journalist must inform him or her about the intention of the report, in an (age-) appropriate manner. The guidelines very clearly integrate the notion of "consent". The journalist must in principle ask consent from the parents or guardian, or a third party who temporarily or occasionally bears responsibility of the minor. Consent is necessary when it comes to emotionally charged topics, controversial topics or longer features or reports in which the minor is a recurring thread. The more controversial or emotional, the more a journalist must consider whether it is appropriate to contact the parents or guardian directly. The guideline further states that in exceptional cases there may be a demonstrable reason not to obtain consent, and further that consent is not necessary in cases of everyday and non-controversial subjects. In any case, the

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journalist must consider whether or not the minor should be portrayed anonymously or under another name.

With regard to other situations where a minor is portrayed in a recognisable manner, consent must in principle be obtained from the minor him- or herself, and from the parents or guardian, or a third party who temporarily or occasionally bears responsibility of the minor. However, the guidelines enumerate a number of circumstances where consent is not necessary, specifically for general images in public spaces, for recognisable images which are disseminated by official bodies, or when a significant public interest outweighs the interests of the minor.

For events that are accessible by the press or where the press is invited, implicit consent of the persons present is assumed, but when a minor or the person who is responsible for the minor at that time objects to the making of recognisable images, the journalist must take this into account. Again, it is emphasised that it must always be considered whether it should be ensured that the minor is unrecognisable. In exceptional circumstances, where a minor consciously takes up a public role, the threshold to present the minor in a recognisable manner is lower.

The guideline also addresses situations where previously published interviews or images of minors are published again. In such cases, the journalist must take into account the fact that the context of a minor rapidly evolves, on the one hand, and the original context of the publication, on the other hand. It may be recommended not to publish older material again or to ask for permission for re-publication.

Aside from these three situations, the guidelines also refer to other articles or guidelines of the Code, where minors' interests may be at stake. These articles and guidelines address the use of information from social media (guideline Article 22), privacy (Article 23), identification in a judicial context (Article 23) and intimate family or funeral ceremonies (Article 24). Whereas these references mainly emphasise the caution with which journalists must act when minors are involved, the reference to the guideline related to Article 23 contains an important new addition. According to Belgian criminal law, identification of a minor who is the subject of a measure of the juvenile courts is prohibited by law and is a criminal offence. However, the Council of Journalism emphasises in its guidelines that regardless of this prohibition, identification of such minors may be justified from a deontological perspective in certain circumstances. This may be the case (a) when a report does not concern or mention the measure taken by the court; (b) when the personal details which may be published have already been released by the judiciary, the police or Childfocus, for instance in case of a search operation; or (c) in exceptional circumstances of significant public interest, for instance in order to allow a minor to give his or her side of the story. In the latter situation, the minor's interests must be the prime consideration and the journalist

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must explain this.

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Council of Journalism, Guideline regarding press and minors

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