



**LIETUVOS RESPUBLIKOS GENERALINĖ PROKURATŪRA
PROSECUTOR GENERAL'S OFFICE OF THE REPUBLIC OF LITHUANIA**

Consultative Council
of European Prosecutors (CCPE)

Our ref.: *17.2-6225*
Your ref.: dated 6 February 2013

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**RE: ANSWERS TO THE QUESTIONNAIRE FOR THE PREPARATION OF THE CCPE
OPINION ON THE RELATIONSHIP BETWEEN PROSECUTORS AND MEDIA**

Answers to the Questionnaire on the relationship between prosecutors and the Lithuanian media provided by the Prosecutor General's Office of the Republic of Lithuania.

Answers:

A. Existing legal provisions and regulations

1. Relationship between prosecutors and media is regulated by the following:
 - Law of the Republic of Lithuania on Provision of Information to the Public. This Law establishes the procedure for collecting, preparing, publishing and disseminating public information and the rights, duties and liabilities of public information producers, disseminators, participants therein, journalists and institutions governing their activities. This Law is applied to all state and municipal institutions and agencies, including the Prosecutor's Office.
 - Law of the Republic of Lithuania on the Right to Obtain Information from State and Municipal Institutions and Agencies. This Law ensures the right of persons to obtain information from state and municipal institutions and agencies, defines the procedure for the implementation of the right and regulates actions of state and municipal institutions and agencies in relation to the provision of information to persons.
 - Guidelines on the Publication of the Pre-trial Investigation Data approved by the Order of the Prosecutor General of the Republic of Lithuania No. 1-48 of 10 February 2011. The aim of these Guidelines is to ensure the successful criminal prosecution, protection of the pre-trial investigation data and the public's right to information with a view of securing human rights and freedoms, the interests of the state and the public. The Guidelines on the Publication of the Pre-trial Investigation Data are mandatory to the prosecutors, heads of pre-trial investigation agencies or their subdivisions, pre-trial investigation officers, employees of the pre-trial investigation agencies and subdivisions (representatives) of the Prosecutor's Office or pre-trial investigation agencies, which (who) are in charge of public relations.

- Description of the Procedure on the Provision of Information to Producers of Public Information approved by the Order of the Prosecutor General of the Republic of Lithuania No. I-49 of 10 February 2011. This Description establishes the form, means and procedure of provision of information from the Prosecutor General's Office and territorial Prosecutor's Offices to producers of public information, as well as the rights of the prosecutors, public servants or employees working on the basis of the employment contract, who provide the information.
2. Yes, the prosecutors of the Republic of Lithuania maintain relations with the representatives of the Lithuanian media. Provision of the information to journalists within the Prosecutor General's Office is coordinated by the Specialists of the Communication Division, while four Regional Prosecutor's Offices each has one Chief Specialist (for communication). The information, which has been approved by the prosecutor, is also frequently provided to the press by the Communication Specialists.
 3. Information to the press may also be provided by the representatives of the agencies of pre-trial investigation (police, Special Investigations Service, Financial Crime Investigation Service, Customs, etc.), but only to the extent permitted by the prosecutor. The effective legal acts of the Republic of Lithuania do not grant the right for the lawyers or parties to the proceedings to provide information to the press.
 4. Yes, the information about the progress of high-profile pre-trial investigations or closure of such criminal cases is provided by arranging joint press conferences of prosecutors and police officers (or heads or investigators of other pre-trial investigation agencies).
 5. The prosecutors can communicate the information during any stage of the procedure, i.e. during the pre-trial investigation, during the court proceedings and after the judgment.
 6. Yes, the judges are authorised to inform the press during any stage of the court proceedings.
 7. Yes. The purpose of the activity of the Republic of Lithuania Seimas Ombudsmen is to protect a person's right to good public administration securing human rights and freedoms, to supervise fulfilment by state authorities of their duty to properly serve the people. Any person, including the representatives of the media, may apply to the Seimas Ombudsmen. The gross violations of the rules governing public information may be addressed to the self-regulatory bodies of the media. One of them is the Office of Inspector of Journalist Ethics, whose mission is to ensure respect for human rights and freedoms in the field of provision of information to the public, promote civil society, a critical approach to the processes of provision of information to the public, raise legal awareness of the society, perception of human rights, promote harmonious relationship between the producers and disseminators of public information and the public and to encourage the responsibility of the producers and disseminators of public information. Another self-regulatory body of the media is the Ethics Commission of Lithuanian Journalists and Publishers. It is a collegial self-regulatory institution of public information producers and disseminators, whose functions are provided for in the Republic of Lithuania Law on Provision of Information to the Public.

8. Article 177 of the Code of Criminal Procedure of the Republic of Lithuania provides that the data of the pre-trial investigation may not be made public. Such data may be made public before the hearing of the case in court only by the prosecutor's permission and only to the extent determined as permissible. It is prohibited to publish the data about juvenile suspects and victims. When necessary, a prosecutor or a pre-trial judge shall warn the parties to the proceedings or other persons who were witnesses to the procedural actions of the pre-trial proceedings that it is not permissible, without his authorisation, to make the information about the pre-trial investigation public. In such cases a person shall be warned and shall attest it by his signature about his liability under Article 247 of the Criminal Code of the Republic of Lithuania.

Paragraph 8 of the Guidelines on the Publication of the Pre-trial Investigation Data approved by the Order of the Prosecutor General of the Republic of Lithuania No. 1-48 of 10 February 2011 specifies that the data about the person's private life may be published only with the consent of the person and if the publication of the information does not cause any harm to the person. In the absence of the person's consent, the data about the person's private life may be published only when the publication of such data may help disclose violations of the laws or criminal acts.

9. The Prosecutor General's Office of the Republic of Lithuania has the Division of Internal Investigations, which either independently or by the commission of the Prosecutor General (his Deputy) performs official inspections concerning the procedural activities and procedural decisions of the prosecutors, the acts discrediting the name of the prosecutor, violations of the law and draws up conclusions of the official inspections. Such procedure ensures legitimacy of the activities performed by the prosecutors and enforces the service-related liability of prosecutors. The Official Inspection Commission proposes imposition of a specific service-related penalty on the prosecutor (censure, reprimand, reduction of the qualification rank, transfer to a lower position or dismissal from service). The final decision is passed by the Prosecutor General.

The Republic of Lithuania Law on the Prosecutor's Office provides that the Prosecutor General may form the Prosecutors' Ethics Commission for the investigation and evaluation of violations of the Prosecutors' Ethics Code. The purpose of this Commission is to investigate possible violations by the prosecutors of laws, misconduct in office or actions discrediting the name of the prosecutor, also other infringements of the Ethics Code and to present its conclusions. The Commission is formed from seven members. The College of the Prosecutor's Office of the Republic of Lithuania nominates two member prosecutors of the Commission, the Prosecutor General nominates other two member prosecutors, one of whom must have been nominated by the Trade Union of Prosecutors, and the President of the Republic of Lithuania, the Chairman of the Seimas and the Prime Minister each nominate one person, who must be of good repute. The Commission may decide that the prosecutor has committed the violation of law, misconduct in office, actions discrediting the name of the prosecutor or any other infringement of the Ethics Code and may propose imposition on the prosecutor of a specific service-related penalty (censure, reprimand, reduction of the qualification rank, transfer to a lower position or dismissal from service). The final decision is passed by the Prosecutor General.

10. Disclosure of information about pre-trial investigations may result in the institution of a pre-trial investigation regarding disclosure of the data of the pre-trial investigation without authorisation. This may also result in the performance of official inspection and imposition of service-related penalties.
11. There are no provisions, which forbid publishing the name and surname of the prosecutor, when he/she is in charge of the case. In practice, it sometimes happens when the name and surname of the prosecutor who leads the pre-trial investigation, is not disclosed for the purposes of avoiding any direct contacts with the prosecutor by journalists and preventing disturbance of the prosecutor's duties while conducting a pre-trial investigation. In such cases the communication with the media is maintained by the Communication Specialists.

B. Organisation of Communication

12. Information to journalists in the form of press releases, by telephone or e-mail may be provided by the Public Relations Specialists of the Prosecutor's Office or directly by the prosecutors. The prosecutors maintain direct communication with journalists by giving their comments during press conferences or after the court sessions in courts.
13. Yes, the prosecutors can arrange press conferences or make joint press releases in cases of international investigations. In such cases, the specific communication means with the media would be separately agreed in each particular case.
14. When arranging press conferences, the prosecutors of the Republic of Lithuania maintain communication through all means of media, but answers by telephone or e-mail may be given to some means of media.
15. The Republic of Lithuania does not have any legal acts allowing the prosecutors to give an advantage to single journalists. The Description of the Procedure on the Provision of Information to Producers of Public Information approved by the Order of the Prosecutor General of the Republic of Lithuania establishes the principle of equivalence, which means that on the initiative of the Prosecutor's Office, the information about its activities must be provided at the same time to all producers of public information.
16. The provision of information to journalists within the Prosecutor General's Office of the Republic of Lithuania is organised by the Specialists of the Communication Division, who are all public servants, but not prosecutors. The provision of information within four Regional Prosecutor's Offices is organised by Chief Specialists for Communication (one Chief Specialist for Communication in each Regional Prosecutor's Office), who are the employees working on the basis of the employment contract. In practice it sometimes happens when prosecutors directly communicate with the representatives of the media (when a journalist personally calls the specific prosecutor and asks for a comment or invites him/her to a particular TV/radio broadcast). The Description of the Procedure on the Provision of Information to Producers of Public Information approved by the Order of the Prosecutor General of the Republic of Lithuania No. I-49 of 10 February 2011 specifies those who may provide information to journalists. In any other cases the prosecutors must inform the Communication Specialists of the Prosecutor's Office about any contacts by the producers of public information in order to find out about the pre-trial investigations conducted and(or) led by the Prosecutor's Office, and then the provision of information to journalists is performed by the Communication Specialists.

17. On most occasions the journalists communicate with the prosecutors through the Specialists of the Communication Division of the Prosecutor General's Office or through Chief Specialists for Communication of four Regional Prosecutor's Offices. Journalists do not need any special authorisations.
18. The data about the obvious event of the criminal act, i.e. publicly available information about the place, time and other relevant circumstances of commission of the criminal act, are permitted to be disclosed. In each particular case the prosecutor individually decides which data of the pre-trial investigation may be disclosed. The prosecutor, who upholds public charge, may publish or comment on such data of the pre-trial investigation, which have been examined or announced during the public hearing of the case in court, also such data, which would not prejudice the success of the ongoing investigation and the hearing of the case in court.
19. There are Guidelines on the Publication of the Pre-trial Investigation Data approved by the Order of the Prosecutor General of the Republic of Lithuania No. 1-48 of 10 February 2011, the aim whereof is to inform the public, to protect the victims' interests, to ensure the presumption of innocence and the procedural rights of individuals, to increase the transparency of the activities performed by the Prosecutor's Office and agencies of pre-trial investigation and the society's understanding of the peculiarities of criminal procedure.

The Strategic Plan of the Prosecutor General's Office of the Republic of Lithuania for the years 2013-2015 also defines the criteria for the efficient development of communication in order to achieve the desired results. They are the availability factor of the information published by the Prosecutor's Office, the number of comments given by the prosecutors to the means of mass media, the number of initiatives not related with the direct activities of the prosecutors and the changes in the percentage of those who give a favourable assessment of the activities of the Prosecutor's Office on the basis of the market research data.

Both documents are followed in practice.

20. Since 2007, the Communication Division of the Prosecutor General's Office performs the monitoring of public opinion survey results regarding the opinion of the Lithuanian population about the Lithuanian Prosecutor's Office, which are published in one of the largest national daily newspapers "Respublika". The monitoring of public opinion survey results regarding the population's confidence in the Prosecutor's Office, which are published in another largest daily newspaper "Lietuvos rytas", is also performed since 2010.

The analysis of the monitoring of the information disseminated/published by the Prosecutor's Office was performed on the initiative of the Prosecutor's Office in 2011. It showed that the information about the Prosecutor's Office was provided by the Lithuanian media in averagely 79 publications per day.

C. Proactive media approach of the prosecution service

21. Journalists who wish to get acquainted with the prosecutor's decision or an indictment in concrete criminal case, or prosecutor's decision on termination of pre-trial investigation, have to address the prosecutor supervising the relevant case. It cannot be stated unequivocally that media can access prosecutor's decisions, because in each case prosecutor makes his own independent decision on whether to give journalists the access to procedural documents or not. Website of Prosecutor's Office regularly publishes information about pre-trial investigations and the course thereof which are of great interest in the society. In addition, the public is always informed about the procedural decisions made in these investigations.

22. Every year in the Prosecutor General's Office and territorial prosecutor's offices events for pupils and students are organized. These events aim to enhance and promote the conception of legal state among young people, provide them with information about the profession of prosecutor, explain what assistance is provided to the victims of crimes and what is juvenile's liability for improper behaviour towards peers.
23. Yes, sometimes with the help of mass media prosecutors and officers of pre-trial investigation institutions address the society with request for help; for example, seeking to identify the person or people who have suffered from particular criminal offence, a photograph or identikit of a wanted person is presented to the journalists working at television, internet websites or printed press, and people are encouraged to assist in particular cases.

D. Professional training of prosecutors and journalists, their ethics, conduct and means of communication

24. No.
25. Yes, every year training programs for prosecutors also include training on how the prosecutors should interact with media.
26. No, but sometimes meetings with representatives of media are organized, during which these issues are discussed.
27. No.
28. There is Lithuanian Journalists' Union functioning in our country; however, neither the chairman nor members of the Union have the right to regulate media's interaction with prosecutor's office or any other state institution.

E. Regulation of media activities

29. In case there are alleged violations of norms regulating provision of information, the following self-regulating media institutions can be addressed:
- Office of the Inspector of Journalist Ethics which seeks to ensure that human rights are freedoms are respected when providing information to the public, enhance public spirit, encourage critical attitude towards the processes of provision of information to the public, increase public awareness, increase perception of human rights and foster harmonious relations between producers and disseminators of information and the society, and encourage responsibility of producers and disseminators of information, or
 - Commission for Lithuanian Journalist and Publishers' Ethics which is a collegial self-regulating institution of producers and disseminators of public information and which carries out the functions as prescribed by the Republic of Lithuania Law on Provision of Information to the Public.
30. Criminal Code of the Republic of Lithuania provides for criminal liability for libelling, i.e. criminal offence when a person spreads false information about another person that could arouse contempt for this person or humiliate him or undermine trust in him, and/or libels a person accusing him of commission of a serious or grave crime or in the media or in a publication. The Criminal Code also provides for criminal liability for public or non-public insult. A person shall be held liable for this criminal offence only subject to a complaint filed by the victim or a statement by his authorised representative or at the prosecutor's request. In Lithuania criminal offences of this type, such as label and insult, are attributed to the category of private prosecution cases, and thus no pre-trial investigation is initiated and carried out in such cases; also, prosecutor does not participate in these cases (he neither

organizes nor supervises the pre-trial investigation). Nevertheless, there are several exceptions thereto.

When criminal offences are of great significance to the public or damage has been made to a person who cannot defend his legal interests due to grounded reasons, a prosecutor, disregarding the fact whether there is a complaint filed by the victim or a statement by victim's authorised representative, is obliged to initiate criminal proceedings. Pre-trial investigation has to be initiated and carried out also when identity of the person who has allegedly committed abovementioned criminal offences (libel, insult) is not known. When that person is identified, a notification about suspicions is served to him, and pre-trial investigation in respect of him is terminated, whereas the victim is explained about his right to proceed with criminal proceedings under procedure of private prosecution, and apply directly to the court to submit his complaint about the alleged committed offences.

When deciding whether a criminal offence is of great significance to the public, it is necessary to consider the fact that victim's position or social status, or his nationality, or race, religion or any other social or relevant dependence to the group of people or individuals does not determine the public significance of a criminal offence, because all people are treated equally by law and the court. When deciding about the criminal offence's significance to the public, in each case it is necessary to assess how the society, the state and the legal system could be affected if criminal proceedings into that particular offence or other analogous offences were not initiated.

The object of the abovementioned criminal offences namely, libel and insult, covers the honour and dignity of a natural person, whereas violation of reputation of a legal entity is a tort and thus object of civil proceeding. A natural person can defend his honour, dignity and professional reputation by means of civil proceedings too. A person has a right to demand that any information that humiliates his honour and dignity and that is false was denied under court's order as well as material and non-material damage incurred due to the dissemination of such information was awarded. When false information is disseminated through mass media (press, television, radio etc.), a person about whom the information was spread has the right to write a denial and demand that the mass media concerned print or otherwise publish it to the public free of charge. Mass media has to print or otherwise publish that denial within two weeks of the receipt thereof; however, it can refuse printing or publishing that denial only if the content of denial text contradicts the good morality principles. If mass media refuses to print or otherwise publish the denial or fails to do that within the set period of time, the person shall have the right to apply to the court. The procedure and terms of denying information which is false and humiliates person's reputation shall be defined by the court.

31. The Criminal Code provides that journalists, the same as all other persons shall also be liable for libel, and they can be punished by a fine or restriction of liberty, or arrest or imprisonment for a term of two years. Similarly, a person who insults another person can be punished by community works, a fine or restriction of liberty or arrest or imprisonment for a term of one year.
32. According to the laws of the Republic of Lithuania, censorship of public information is prohibited in the Republic of Lithuania. Any actions which aim at controlling the content of information in the mass media prior to publication thereof are prohibited, except for the cases specified in laws.

Legislative acts do not grant authorisation to the prosecutors to supervise mass media and apply any sanctions for violations. Having established violations of legislative acts and when defending the public interest, a prosecutor has a right to apply to competent institutions (court, Inspector of Journalist Ethics or Commission of Lithuanian Radio and Television)

requesting that these institutions applied particular sanctions within the limits of competence of these institutions. On the basis of claimant's request (the request can be submitted by a prosecutor who defends the public interest in cases provided for in the laws) in the civil proceedings, the court can pass a ruling on imposing provisional preventive measures namely, on prohibiting mass media to disseminate information that violates person's interests.

33. No.

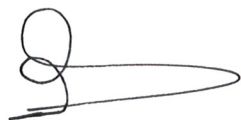
34. Yes.

35. No.

F. Other Information

36. In Lithuania there is a number of internet websites with one or two persons (not necessarily journalists) working there who by appealing to the society's right to know, collect information from law enforcement institutions (prosecutor's office) and publish that information with prejudice against that institution. Effective legislative acts do not provide for exceptions who can collect information, in order to secure society's right to know. Besides, effective legislative acts do not provide for possibility not to provide information (at least for some time) to the mass media which are recognized by self-regulating media institutions as having violated ethics or are declared to be non-ethic mass media.

Mr. Darius Valys



Prosecutor General of the Republic of Lithuania

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Translation corresponds to the original text.

Mrs Erika Jadovienė and Mrs. Viktorija Šeštokienė, translators of the Prosecutor General's Office of the Republic of Lithuania, have been warned about criminal liability under Article 235 of the Criminal Code of the Republic of Lithuania for making false or deliberately misleading translation.

