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CCPE (2013)1

CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)

Questionnaire for the preparation of the CCPE Opinion No. 8

on the relationship between prosecutors and media

The answers of Iceland

A. Introduction:

The Recommendation Rec(2003)13 of the CoE Committee of Ministers on the provision of information through the media in relation to criminal proceedings referred to the following:

- the commitment of the member states to the fundamental right to freedom of expression and information as guaranteed by Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- 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 they have a professional duty to do so;
- 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;
- 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;
- 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.

B. Questions:

A. Existing legal provisions and regulations

1. Is the relationship between prosecutors and media determined by law or other written provisions? Describe them briefly.

Answer: No not bound by law or other written provision.

2. Are prosecutors authorized to have direct relations with media? If this is not the case, who communicates the information concerning judicial and criminal cases to the press?

Answer: Prosecutors can have direct relation with media under supervision of their superior prosecutors.

3. Which other persons are authorized to provide information to the press within the framework of these cases (police service, lawyers, parties to a proceeding, other persons)?

Answer: In the pretrial state the police can, the defendant's lawyer.

4. Do you have any experience of joint communication by several public authorities (e.g. prosecutor and police)?

Answer: Yes

5. During which stage of the procedure can prosecutors communicate the information (make a distinction between the pre-trial investigation (including formal accusation), the court proceedings and the situation after the judgment)?

Answer: During all stages of the procedure if it does not harm the investigation. Depending on the nature of information.

6. Are the judges authorised to inform the press? If this is the case, during which stage of the procedure?

Answer: Judges do not inform the press. That is a tradition.

7. Is there supervision on the relationships between prosecutors and media in your country? By whom and how?

Answer: No supervision.

8. Are there specific rules which guarantee that the information communicated to the press does not violate the privacy, the human dignity and the presumption of innocence? What are the measures to avoid the phenomenon of "trial by press"?

Answer: There has not been any rules applied to this situation other than the general rules of art. 18 of the Law on Criminal Procedures and art. 136. of the General Criminal Code regulating general code on silence of prosecutors and public officials in general. The supervision of superior prosecutors including the Director of Public Prosecutions (DPP) is also active in general control of how information are provided. This has not been a problem probable due to rather conservative attitude of Icelandic prosecutors to wards possible threat of "trial by press".

9. Are there any sanctions (either disciplinary sanctions or other types of sanctions) against public prosecutors who break the rules of inter-relationships with media?

Answer: No sanction but if serious it could lead to disciplinary sanction and in extreme cases dismissal from duties.

10. How do the prosecution services deal with the security risks caused by disclosure of information concerning the prosecutors and the cases?

Answer: On case to case bases.

11. Are there any provisions set forth to forbid publishing a public prosecutor's (or a judge's) name when he/she is in charge of a case? Are there any procedures that in practice tend to prevent such a publishing?

Answer: No

B. Organisation of communication

12. How prosecutors communicate with the press (press releases, press conferences, directly by telephone or e-mail, use of social networks etc.)?

[Answer: All the above.](#)

13. Can press conferences or other releases be made by prosecutors in cases of international investigations? If yes, which procedure do you follow?

[Answer: The same procedure as in domestic cases but with consultation with the foreign authorities.](#)

14. Is there communication with all the media or with some (newspapers, audiovisual media, internet)?

[Answer: All](#)

15. Are there regulations prohibiting public prosecutors to give an advantage to single journalists (and/or leaving out some of them)?

[Answer: No](#)

16. How is the communication organized by the prosecution services? Do they have spokespersons? If yes, what is their status and are they prosecutors? If no, do the prosecutors communicate themselves? Do they need an authorization to do so? Are prosecutors supervised in this field?

[Answer: The prosecutors communicate. The inferior prosecutors need to seek permission to the superior prosecutor.](#)

17. How does the media communicate with the prosecutors (official representatives, specialized journalists, necessary authorizations)?

[Answer: In every possible way.](#)

18. What kind of information may be disclosed (names of parties, witnesses, prosecutors, certain facts disclosed due to an investigation, whether or not linked to the case)?

[Answer: No names of parties, and no information that can damage the investigation or inform of the tactics of the police and the prosecution in handling cases. Personal and private information of parties cannot be revealed.](#)

19. Is there an official policy encouraging prosecutors to respond to the needs of media, and how is this policy implemented?

[Answer: No](#)

20. Are the prosecutors' communications with media systematically monitored and evaluated by using monitoring, feedback from the public, communication surveys or other measures?

[Answer: No](#)

C. Proactive media approach of the prosecution service

21. Has the prosecution service developed a proactive media approach (access to prosecutor's decision, bringing a selection of relevant cases to the attention of the media)?

Answer: Yes to some degree.

22. Has the prosecution service developed activities to explain the work of prosecutors to the general public and media and to inform them about recent developments (open day in prosecutor office, visiting courts, publishing booklets, developing online teaching materials)?

Answer: No

23. Can communication with media be used as an investigative tool (for instance by spreading identikit around or even pictures showing the commission of a crime)? If yes, please specify.

Answer. Yes it is mostly used to locate accused ore witnesses.

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

24. Are prosecutors trained during their initial and continuous training on the requirements of the European Convention on Human Rights as regards freedom of expression and access to information?

Answer. No

25. Are prosecutors trained on how to interact with media?

Answer: No

26. Are journalists trained on how to interact with the prosecution services?

Answer: No

27. Are there joint training courses, conferences, seminars, etc. organized for prosecutors and journalists in order to help them to better understand each other's role and support each other, in the context of striking the right balance between the above-mentioned rights and the presumption of innocence and the right to protection of private life?

Answer: No

28. Are there professional associations of media and journalists competent to regulate their interaction with the prosecution services?

Answer: No

E. Regulation of media activities

29. Is there an internal board (or another institution) that regulates the activities of media or deals with the complaints lodged against media because of the violation of an individual right within the framework of a criminal procedure?

Answer: Yes

30. Please describe criminal, administrative and/or civil procedure concerning libel, slander, and/or similar violations of a person's reputation. What is the role of the prosecution service in these matters?

Answer: Prosecution of cases of that kind is in the hand of the victim of the violation. The prosecution service has only in exceptional cases prosecuting power in cases of that sort.

31. Please give information about criminal or administrative liability of journalists and the penalties provided by law.

Answer: Cases mentioned above under no. 30 can be penalized by fines and imprisonment up to 1 year, according to art. 234 and 235 GPC. In most cases of violation the sentence is fine and or punitive damages.

32. Please describe protective measures available, respectively within criminal and civil procedures (seizure or prohibition of publications) and the role of prosecutors. Are there measures in your country that are or might be considered as a form of preventive censorship? Is there a role for the prosecutors in supervising media activities?

Answer: No preventive censorship.

33. If a prosecutor is criticized by media for reasons connected with the criminal proceedings, is there a role to play for the prosecutorial associations?

Answer: The association of prosecutors can intervene but that is not common.

34. Is the prosecutor bound by a duty of discretion even if a media campaign has been started against him or her?

Answer: Yes

35. Do you have any institutions (different from public prosecutors' associations) having the power to reply if there are improper media attacks against the prosecution service or individual public prosecutors?

Answer: No

F. Other information

36. Do you have other information or comments about the communication between prosecutors and media in your country? If yes, please describe this information or comments.