

Answers of the Prosecutor General's Office of the Russian Federation to the Questionnaire for the preparation of the CCPE Opinion #8 "On the Relationship between Prosecutors and Media"

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

The main parameters of the relationship between prosecutors and the media are established by laws (the Law of the Russian Federation "On Mass Media", the Criminal Procedure Code of the Russian Federation, Federal Laws "On the Order of Reporting the Activities of the Bodies of State Power in Mass Media", "On Combat Against Extremist Activities", "On the System of Civil Service of the Russian Federation", "On Information, Information Technologies and Information Security", "On Access to Information on the Activities of the State Bodies and the Bodies of Self-Government", "On Protection of Children Against Information, Damaging their Health and Development") and by many regulations, issued by the Prosecutor's Office (the Orders of the Prosecutor General of the Russian Federation "On Interaction of the Bodies of the Prosecutor's Office with Mass Media", "On Organization of Work to Ensure Access to Information on the Activities of the Bodies and Institutions of the Prosecutor's Office of the Russian Federation" and etc.).

According to the Federal Law "On the Prosecutor's Office of the Russian Federation", the Prosecutor's Office of the Russian Federation acts openly and publicly to the extent that does not contradict the requirements of the Russian legislation on protection of rights and freedoms of citizens, as well as the legislation of the Russian Federation on the state secret and any other secret, especially guarded by law. The Prosecutor's Office is obliged to inform federal and regional bodies of state power, bodies of local self-government, as well as the public on the state of legality. Moreover, the effect of the Media and representatives thereof on the prosecutor in any form in order to influence the decision, taken by the prosecutor, or to impede his/her activities in any form shall lead to the liability, stipulated by law.

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?

At the present time Russian prosecutors have a right to direct (immediate) relations with the Media. However, the transfer of the information on specific cases is possible solely within the framework of the competences of the Prosecutor's Office as a whole, observing certain procedures that guarantee the rights and freedoms of a person and a citizen, the interests of the public and the state and according to the official positions of certain officials.

The Order of the Prosecutor General of the Russian Federation "On Interaction of the Bodies of the Prosecutor's Office with Mass Media" establishes that the official statements on behalf of the Prosecutor General's Office of the Russian Federation are forwarded solely through the Department for Interaction with Mass Media and only with the consent of the Prosecutor General of the Russian Federation.

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)?

According to the Federal Law "On the Prosecutor's Office of the Russian Federation", nobody is entitled, without the Prosecutor's consent, to disclose materials of inquiries (checks) which are conducted by the Prosecutor's Office until they have been completed. The issue concerning the supply of the appropriate information on the materials of the Prosecutor's inquiries is solely within the competence of the Prosecutor's Office.

Beside the Prosecutor's Office, the body which conducts the case is also entitled to supply the information to Mass Media within the framework of the criminal case and within the limits of its competence.

According to the Criminal Procedure Code of the Russian Federation, the data of the preliminary investigation may be made public only with the permission of the investigator, the inquirer and only in the volume that will be considered by them to be admissible if such disclosure does not contradict the interests of the preliminary investigation and is not connected with violation of the rights and legal interests of the participants of the criminal proceedings. Disclosure of the data on the private life of the participants of criminal proceedings is not allowed unless the participants give their consent thereto.

Moreover, the investigator or the inquirer warns the participants of the criminal proceedings about the inadmissibility of the disclosure of the data of the preliminary investigation that has already become known to them without the relevant permission and for this end the participants sign the statement of non-disclosure with the warning of criminal liability.

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

In the Russian Federation we have the practice of communication of information to the public through the Media by the Prosecutor's Office jointly with other state bodies, for instance, by the prosecutor jointly with the representatives of police or bodies of preliminary investigation in the form of joint press-conferences or round tables.

We also have experience of communicating information to the Media jointly with the institutions of civil society and the Interpol on the issues of extradition.

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)?

In compliance with the established order, the prosecutors may communicate information on their activities to the Mass Media at all stages of the criminal proceedings, including at the stage of the pre-trial investigation, court hearing, as well as after the court decision has been adopted and only in the part, referring to their competence.

In the course of the pre-trial investigation, interaction of prosecutors with the Media may be preconditioned by the necessity of the appropriate communication of the information to the bodies of state power and to the public in order to prevent distribution of false information and for other reasons, connected with service needs.

The statements, made and distributed by the Prosecutor's Office, shall be accurate, unbiased and shall not contain any information of confidential nature.

The prosecutor is entitled, without coordination with other state bodies, to communicate the results of his/her activities to the Media, in particular, the information that criminal cases were forwarded to the court, that the court decisions were adopted on them. The prosecutor may present information about the course and results of the execution of court decisions, assess the facts of initiation of criminal cases and the results of investigation. At that, the reporting of the activities, concerning proceedings, supervision and protection of rights by the Prosecutor's Office, to the Media does not presuppose disclosure of the data, subject to protection as a secret of investigation.

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

According to the Russian law, court proceedings may be public and closed. Information about the cases, examined in the open court proceedings, is available to the Media immediately at all stages of court proceedings. Moreover, the provisions of the Law on the Prohibition to Communicate Information to the Media on the Activities of the Judge in the Court Deliberation Room and to Communicate with Representatives of the Mass Media about the cases under the judge's examination and to express his/her opinion before the court decision has entered into force.

In general the bodies of the court also have a right to inform the Media about their activities.

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

There is no official supervision on the relationships between prosecutors and media in the Russian Federation.

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"?

These rules do exist and their observance by prosecutors and representatives of the Media is ensured by the application of the measures of legal liability for violation of such rules.

According to the Order of the Prosecutor General's Office of the Russian Federation "On Interaction of the Bodies of the Prosecutor's Office with the Media", the statements, made and distributed by the Prosecutor's Office, shall be accurate, unbiased and shall not contain information of confidential nature. When preparing the materials to be communicated to the Media, the prosecutors shall be governed by the Constitution of the Russian Federation which guarantees a right to the protection of private life, personal and family secret, protection of dignity and reputation. It is also prohibited to make public any information which may lead to indication of the personality of a juvenile offender or victim without his/her consent and consent of his/her legal representative.

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?

Yes, there are such sanctions.

At the present time the organization of interaction of the bodies of the Prosecutor's Office with the Media is defined by the Federal Law "On the Prosecutor's Office of the Russian Federation", the Order of the Prosecutor General of the Russian Federation "On Interaction of the Bodies of the Prosecutor's Office with the Media". Moreover, the Order of the Prosecutor General of the Russian Federation "On Organization of the Work to Ensure Access to Information on the Activities of the Bodies and Institutions of the Prosecutor's Office of the Russian Federation" is in force now.

Violation of the rules of interaction with the media entails disciplinary, administrative, criminal and tort liability for the prosecutor for violations of the requirements of the established rules of interaction with the Media if corpus delicti of the relevant offence is found in the actions of the prosecutor.

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

According to the Federal Law "On the Prosecutor's Office of the Russian Federation", prosecutors enjoy special protection, provided by the state, including when there are security risks, caused by disclosure of information concerning the prosecutors themselves and the cases under their examination.

To ensure protection of the life and health of the protected persons and their property, the Federal Law “On State Protection of Judges, Officials of Law Enforcement and Controlling Bodies” stipulates the following security measures: 1) personal security, security of the dwelling and property; 2) granting arms, special means of personal protection and warning of the danger; 3) temporary movement to a safe place; 4) ensuring confidentiality of the information about the protected persons; 5) transfer to another place of work (service); change of work (service) or studies; 6) movement to another place of residence; 7) change of documents; change of appearance. Prosecutors have a right to constantly wear and keep military small arms for personal security (pistols, revolvers) and special means and they have a right to use them.

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?

On the whole there are no regulatory provisions in the Russian Federation which prohibit publication of the name of the prosecutor when he/she is conducting a case.

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

Prosecutors communicate with the press by distributing press-releases, giving answers to journalists’ requests; placing information in the Media; Officials of the Prosecutor’s Office make speeches in the press, on the radio and television; they organize interviews; they prepare and widely distribute joint information materials, books, brochures; they invite representatives of the Media as public assistants, specialists, experts; they hold press-conferences and briefings for the representatives of the Media; they invite journalists at the sessions of coordination meetings, panels; journalists participate in seminars, conferences, “round tables” on the issues of strengthening legality which are held by the bodies of the Prosecutor’s Office; officials and directors of the bodies of the Prosecutor’s Office personally meet journalists of periodic editions, journalists of TV channels and radio; prosecutors and journalists participate jointly in social networks; they place information banners and distribute actual information by the “running letters” of the electronic information board in the places of mass gathering of people.

At the present time Russian prosecutors use all modern technical means for transmission of information and methodological techniques to present information to the Media—telephone lines, e-mails, press-releases, press-conferences and etc.

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

Yes, they can be made by the prosecutors within the established competence. However, there is no special procedure.

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

Relations, based on mutual respect and trust, are built by the Prosecutor’s Office of the Russian Federation with all Media, interested in regular and productive interaction (printed editions, radio, TV, Internet-editions, information agencies).

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

According to the Code of Ethics of the Prosecutor of the Russian Federation, the prosecutor shall be governed in his/her activities by the principle of the equality of citizens irrespective of the citizen’s profession.

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?

The daily professional duty to realize interaction of the Prosecutor’s Office of Russia with the media is the prerogative of special subdivisions and officials who are prosecutors.

The Department for Interaction with the Media, an independent structural subdivision of the Prosecutor General’s Office of the Russian Federation, was established to maintain uniform information policy of the Prosecutor’s Office, to contribute to the protection of rights and freedoms of citizens in the information environment and to ensure interaction of the Prosecutor’s Office of the Russian Federation, its structural divisions with the media.

Official statements on behalf of the Prosecutor General’s Office of the Russian Federation are forwarded solely through this department and only with the consent of the Prosecutor General of the Russian Federation.

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

The media maintains communication with prosecutors in different forms on the basis of the requests of the editor's offices. The relations of the media with prosecutors are governed by the provisions of the Law of the Russian Federation "On Mass Media", according to which the citizens have a right to receive trustworthy information concerning activities of state bodies, bodies of local self-government, organizations, public associations, their officials. The Prosecutor's Office supplies the information on its activities to the media upon the request of the editor's offices and by holding press-conferences, sending statistical and reference materials and in other cases. It is common practice that journalists coordinate their visits to the Prosecutor's Office, observing the established pass control.

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)?

The information which is not prohibited by law, including the names of the parties, witnesses, prosecutors, facts, which are disclosed as a result of investigation and which are connected or not with the case, may be disclosed. The nature of the information which may be disclosed, is indicated in answers to questions 3, 5, 8, 10 and 11.

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

Yes, there is such policy.

The Prosecutor's Office of Russia considers interaction with the media as one of the most important directions of the work and according to the Order of the Prosecutor General of the Russian Federation "On Interaction of the Bodies of the Prosecutor's Office with the Media", the Prosecutor's Office maintains this interaction, taking into account the analysis of the status of legality and prosecutor's supervision; the Prosecutor's Office systematically informs the public through the official Internet representative offices of the Prosecutor's Office, information agencies, the press, radio and television about the state of legality and law and order; it operatively communicates to the media the criminal cases which are forwarded to court and which gave rise to a higher public interest and about the decisions, adopted on these cases by courts, as well as about prosecutor's checks, in the process of which multiple violations of legality were revealed; the Prosecutor's office constantly enhances the forms and methods of work with the media.

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

Yes, they are. The qualitative status of interaction with the media is the subject of the monitoring and performance assessment of the prosecutors. Prosecutors regularly report about their work and interaction with the media.

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)?

The Prosecutor's Office of the Russian Federation has developed and realized a proactive media approach by open and public reporting of its activities in the Internet, press, TV and radio. This information is reported according to the standards of the Russian Law on the state secret and any other secret, guarded by law.

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's office, visiting courts, publishing booklets, developing online teaching materials)?

To inform the public and the media and to explain the work of the Prosecutor's office, the following activities have been taken: to prepare information statements and press-releases (they are placed at the official Internet-representative offices of the Prosecutor's Office; they are forwarded to the editor's offices of the media via e-mails), to hold press-conferences, meetings and receptions; to publish brochures with explanation of laws, booklets on the activities of the Prosecutor's Office; to use the possibilities of the social advertising; to issue departmental periodic printed editions of the Prosecutor's Office; to open categories on the official Internet representative offices to explain the laws and to describe the history of the Prosecutor's Office; to hold competitions of journalists' articles on the Prosecutor's work and to host competitions for prosecutors for the best speech in the media and etc.

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

The bodies of preliminary investigation may use communication with the media as an investigative tool (including for distribution of identikits with images of criminals) according to the Laws of the Russian Federation.

In the course of investigation of crimes, communication of the Prosecutors with the media may be used, for instance, to appropriately inform the bodies of power and the public in order to prevent distribution of false information, gossip and speculations; to reveal and prevent crimes; to search for the guilty with the use of the possibilities of the media and to neutralize attempts of the offenders to counteract the legal actions and requirements of the bodies of the Prosecutor's Office and etc. The statements, distributed by the Prosecutor's Office, shall be accurate, unbiased and shall not contain confidential information.

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?

Yes, they are. As far as the activities of the Prosecutor's Office of the Russian Federation are concerned, the requirements of the European Convention on Human Rights as regards freedom of expression and access to information are realized and enshrined in the Federal Law "On the Prosecutor's Office of the Russian Federation" which established the principle of "glasnost" (openness) of the activities of the Prosecutor's Office of the Russian Federation: "The bodies of the Prosecutor's Office act publicly and openly to the extent that does not contradict the requirements of the laws of the Russian Federation on protection of rights and freedoms of citizens and the laws of the Russian Federation on the state secret and any other secret, especially guarded by law".

The issues concerning the freedom of expression and access to the information are also included in the programmes of advanced training in order to form the relevant practical skills of the prosecutors when they are performing their official functions.

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

Yes, they are. The Order of the Prosecutor General of the Russian Federation "On Interaction of the Bodies of the Prosecutor's Office with the Media", the prosecutors of the subjects of the Russian Federation and prosecutors of the specialized Prosecutor's Office equal to them are obliged to hold a special training seminar annually with the prosecutors of cities, districts, other territorial prosecutors and prosecutors equal to them of other specialized Prosecutor's Offices on the issues of interaction with the media.

Moreover, the Academy of the Prosecutor General's Office of the Russian Federation regularly holds training for prosecutors, responsible for interaction with the media within the programmes of advanced professional training.

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

The Prosecutor's Office of the Russian Federation organizes events to train journalists how to interact with the prosecution services.

These events may be held in the form of participation in "round tables", "questions and answers" nights, press- and online conferences, briefings, organized by the media or with invitation of the media; sessions of the coordination meetings of the heads of the law enforcement bodies of the regions, interdepartmental working groups of law enforcement bodies, Panels of the Prosecutor's Offices, organized with the invitation of the representatives of the media; holding seminars for officers of the Prosecutor's Office, including with participation of the representatives of the media and etc.

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?

Yes, there are. Within the framework of interaction of the Prosecutor's Office with the media, conferences, seminars, "round tables" and similar events are organized, including with the aim to develop forms and methods of joint work to strike the legal balance between the above mentioned rights and the presumption of innocence and the right to protect private life.

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

The Union of Journalists is functioning in Russia with the status of a Creative Public Association, which has the competence to regulate relations with the media. The information on the activities of the Union is available on the information site of this Union—<http://www.ruj.ru>.

In practice there were some cases, when individual organizational forms of interaction with the Prosecutor's Office were realized through the Union of Journalists of the Russian Federation (as a rule by the mutual exchange of information).

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

No, there is not. Complaints, lodged against the media, including because of the violation of an individual right within the framework of a criminal procedure, are examined by the Prosecutor's Office in the general order.

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?

The Criminal Code of the Russian Federation envisages liability both for libel and slander, i.e. for distribution of the deliberately false information, defaming the dignity and honour of another person or undermining the person's reputation.

In the order of civil proceedings and according to the Law of the Russian Federation "On Mass Media", a citizen has a right to request the editor's office to refute the information which is contrary to the reality and which defames

his/her business reputation and which was distributed in this media. If the editor's office of the media does not have any evidence that the information which was distributed corresponds to the reality, the editor's office is obliged to refute it in the same media.

The citizen about whom the information, defaming his/her honour, dignity and business reputation, was distributed, shall have a right to demand reimbursement of damages and moral harm, inflicted by such distribution, alongside with the refutation of such information.

In case libel or slander in any form has been revealed, the prosecutor has a right to initiate criminal prosecution of the person who has committed the libel/slander for which criminal liability is envisaged in the order of public and private and public prosecution, the prosecutor has a right to initiate proceedings for administrative offence and is entitled to apply to court with a statements on protection of the interests of citizens, society and the state, protected by law, and to participate in court proceedings in these cases according to the Procedure Laws.

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

Journalists bear criminal and administrative liability in the Russian Federation on a general basis. Journalists do not have any immunity.

According to article 128.1 of the Criminal Code of the Russian Federation and depending on the qualification features, the libel/slander is punished with a fine in the amount of up to 5 million roubles (approximately 125 000 Euros) or in the amount of the wages or other income of the convicted for the period of up to three years or compulsory work for the period of up to 480 hours.

The analysis of the prosecutor's practice shows that violations of laws in the field under consideration are not homogenous in its nature, direction and content.

Among the violations of laws, often committed by the media in the course of the activities (which are incriminated to the media), the following offences are the most widespread: humiliating the dignity, honour and business reputation (criminal liability, tort liability); invasion of private life and infringement of other non-property rights (criminal liability, tort liability); violations of registration and license rules (administrative liability); violations in advertising activities of the media (administrative liability); violations, connected with pre-election campaigns, refusal to publish compulsory information (administrative liability, tort liability); the use of the media with criminal purposes, including for actions of extremist nature (criminal liability, tort liability); abuse of rights of the media and journalists (criminal liability, tort liability).

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?

According to the Constitution of the Russian Federation and the Law of the Russian Federation "On Mass Media" the censorship of mass information, i.e. the demand to the editor's office of the media by the officials, state bodies, organizations, institutions or public formations to preliminarily coordinate statements and materials (except for the cases when the official is the author or the interviewee) and the imposition of the prohibition on distribution of the statements and materials, their separate parts are not permitted. It is also prohibited to create and finance organizations, institutions, bodies or vacancies the tasks of which or the functions of which are to censor mass information. Restriction of the freedom of the press and other media is permitted only if there is the state of emergency or the military situation.

According to the Law of the Russian Federation "On Mass Media" the moral (non-property) harm, inflicted to the citizen as a result of distribution of the information which is contrary to the reality and which defames the honour and dignity of a citizen or which inflicted him non-property harm, shall be reimbursed according to the decision of the court by the media, the guilty officials and citizens in the amount, defined by the court.

The subject-matter of the supervision activities of the Prosecutor's Office over the enforcement of laws, including in the sphere of the media, includes:

-observance of the constitutional right of citizens to receive information through the media, execution of the laws on the media which are in force in the territory of the Russian Federation by federal bodies of executive power, responsible for regulation, control and supervision in the sphere of the media, by legislative (representative) and executive bodies of state power of the subjects of the Russian Federation, the bodies of local self-government, bodies of military management, their officials and bodies of management and directors of commercial and non-commercial organizations (including the media);

-compliance of the regulations, adopted by the above mentioned bodies and officials on the issues of the activities of the media, with the laws and realization of the right of citizens to information.

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?

No, there is no role like this.

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

The prosecutor has no right to act at his discretion, if he is subject to criticism in the media as a representative of the body of the Prosecutor's Office, but he shall act according to the Law.

If the media interferes in prosecutor's activities with the aim to influence the decision, adopted by the prosecutor, or to impede his activities in any form, then it is illegal and shall entail the liability, envisaged by law.

Interference in any form in the activities of the prosecutor in order to impede a comprehensive, full and unbiased investigation shall entail criminal liability.

The prosecutors also enjoy civil rights and that is why they may seek protection of their legal interests by other means, which are not prohibited by law.

Information on violations, committed by prosecutors, is subject to checks. The check of the information on the fact of any violation, committed by a prosecutor, is solely within the competence of the Prosecutor's Office and the check of the information on the crime, committed by the prosecutor, initiation of a criminal case against the prosecutor (except for the cases when the prosecutor is caught red-handed at the scene of the crime) and the preliminary investigation are conducted by the Investigation Committee of the Russian Federation in the order, established by the Criminal Procedure Law of the Russian Federation.

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?

No, we do not have any.

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.

No, we do not have any other information.