

CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)

**Questionnaire for the preparation of the CCPE Opinion No. 8
on the relationship between prosecutors and media**

Replies from Bulgaria

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.

The relationship between prosecutors and media is not legally regulated by Bulgarian national law or other legislative provisions. There is no a special Media /Press/ act.

At the Prosecutor's Office the relationship between prosecutors and media is partly governed by the Instruction for the operation and interaction of the Prosecutor's Office with media (the Instruction) and the Media strategy of the Prosecutor's Office of the Republic of Bulgaria (MS). It should be emphasized that the purpose of the cited regulations is to regulate primarily the behavior of prosecutors towards media, since the opposite is not included in the competence of the Prosecutor's Office.

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?

According to the Instruction and the MS the relation with media is performed primarily by the spokesperson of the relevant Prosecutor's Office, appointed by order of the head of administration, coordinated with the spokesperson of the Prosecutor General, who is also the head of the sector "Publicity and

Communications” at the Supreme Prosecutor's Office of Cassation, but there are also exceptions which are widely-spread.

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)?

The Prosecutor’s Office is competent only to prohibit the disclosure of the materials of the investigation and this is the only one instrument to determine the media behavior of other institutions or persons. At the other cases it is not authorized to do this.

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

Sometimes we conduct coordinated media events with state authorities, but this is not a common practice.

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)?

We usually communicate the information to media at the pre-trial stage. We communicate the information about preliminary inspections only in exceptional cases and on rare occasions at the trial stage.

6. Are the judges authorised to inform the press? If this is the case, during which stage of the procedure?
The relationship between court and media is independent from the one of the Prosecutor’s Office and media. The first one is directly connected with judicial pronouncements.

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

The control of the relationship between prosecutors and media in the Republic of Bulgaria is not legally determined. It is regulated only on internal level by the Instruction of the Prosecutor’s which is cited in question № 1.

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”?

Beyond the legal framework outlined by different laws (Access to Public Information Act; Protection of classified information act; Law for protection of the personal data; Judiciary system act; Penal code; Penal procedure code, etc.) the MS contains restrictions which guarantee that the information communicated to the press does not violate the privacy, the human dignity and the presumption of innocence.

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?

The administrative heads are allowed to impose administrative sanctions towards public prosecutors who break the rules of the Instruction and the MS.

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

The spokespersons of the prosecution services are doing very well so far in this aspect of their relationship with media.

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?

There are no similar provisions but if the monitoring prosecutor in a particular case does not want to be disclosed his/her name in order to avoid being harassed by media or he/she does not want to communicate with media, or for personal reasons, the spokesperson of the prosecution service usually is complying with this fact.

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.)?

Prosecutors communicate with the press (press releases, press conferences, directly by telephone or e-mail, use of social networks etc.) through the spokespersons of the relevant prosecution services, the spokesperson of the Prosecutor General and the department "Public Relations".

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

Yes, but this happens very seldom. There is not stipulated a procedure which has to be followed. We usually discuss every single case.

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

There is communication with all the media.

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

According to the MS the spokesperson submits the same information to all media except the one concerning a concrete journalist investigation of a particular media or the information regarding to a concrete question from a certain journalist – in these cases the information is provided only to the media which has asked the certain questions.

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?

Communication with media is primarily realized by the spokesperson of the relevant prosecution service. The spokespersons are active prosecutors appointed by order of the administrative heads after a consultation with the spokesperson of the Prosecutor General.

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

There are not any restrictions on their communication by the Prosecutor's Office. As a result the communication can be defined as unorganized and often causes problems to the institution and to the prosecutors themselves.

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)?

In general terms we specify:

- details of the crime - when, where, what offense has been committed;
- first and last name of the accused who has this procedural capacity;
- the victim (when the victim is a physical person /a human being/ it is not necessary to be indicated. It depends on the nature of the criminal offence);
- the amount of the damages;
- the mechanism of the crime, if it is not an investigation secret;
- upcoming activities of the Prosecutor's Office, without details, for example: impending instituting technical examination and interrogation of witnesses;

In general, we do not report the witnesses.

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

Yes and it's expression is the Media strategy. The implementation is done by the the Instruction for the operation and interaction of the Prosecutor's Office with media.

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

It is an extremely important issue. The objective, external monitoring that prosecutors at their turn have to evaluate and make conclusions under it unfortunately is almost an impossible task. At the Prosecutor's Office there are no PR experts, sociologists, so our attempts in this direction are not so successful. One of the information agencies makes us content analysis, but this is rather just one fact that does not give results.

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)?

We have worked hard with the spokespersons of the prosecution services already several years in order to achieve a proactive approach to media. But on the one hand, the spokespersons are active prosecutors and their priority is the normal prosecutorial work, which is normal. On the other hand, the conducting of the proactive media policy requires a great deal of enterprise and a lot of time which colleagues find very difficult, because of their official workload. Therefore, this issue requires a lot of work to be done.

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)?

I am going to list only a part of the events that we have held and are going to hold:

- there are developed information brochures which have to help citizens. They are available at the Information center and they are published on the official website of the Prosecutor's Office.
- there are held although seldom joint seminars between the spokespersons of prosecution services and media.
- there are led discussions with students in order to increase their awareness of the work of the Prosecutor's Office.
- In 2013 was signed the Memorandum of Cooperation between the Prosecutor's Office of the Republic of Bulgaria and the Law Faculty of the University of National and World Economy;
- Since this year at the most of the prosecution services is also held "The Day of the open doors".

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.

There is no such practice. Rather, the police uses similar mechanisms.

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?

Rather not.

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

Objectively, it is impossible to organize trainings on the interaction with media for all the prosecutors. That's why we have created the figure of the spokesperson. So the mentioned spokespersons are regularly trained.

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

In previous years there have been such attempts.

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?

No.

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

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?

There is no a common regulator for all types of media.

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?

This issue is not relevant to the Prosecutor's Office

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

The journalists are responsible at the same extent like the other citizens due to the lack of a special Media act. The Prosecutor's Office does not have an opinion in such cases.

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?

The Bulgarian legislation does not provide possibilities for censorship, including the confiscation or banning the publications.

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?

Yes, the professional organisations of the magistrates are entitled to express opinion and – if necessary – to defend their member or colleague. This happens in the practice.

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

Yes, as far as, there is no reason for non-joinder.

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.

F. Other information

35. 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.

N/A.