



CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)

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

Reply from Greece

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.

There is no specific framework; there is, however, an overall prohibition of disclosure by judicial officers (including prosecutors) of information that is part of the investigation procedure of criminal cases, when the latter is secret.

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?

There is no framework governing the method of communication between prosecutors and the media. A Press Office was established only in 2012 at the Prosecution Services in the Court of Appeal and the First Instance Court of Athens (which are the relatively largest agencies of the country), pursuant to their bylaws; such office communicates information on criminal cases that are of interest to the media. In the other prosecution services of the country, information is communicated by the head of the prosecution service.

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 Police has a Press Office and selectively issues press releases about its actions in specific cases of wider interest. The parties to a proceeding are free to provide the press with any information relating to their case, as long as such information is accessible and they consider it necessary to communicate it.

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

No.

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)?

At the moment, given that only the Press Office of the Prosecution Service at the First Instance Court of Athens has been established and is operating, information given to the press by such office are communicated when, at the pre-trial stage, either the prosecutor orders preliminary investigations (before the initiation of criminal proceedings) or when criminal proceedings are initiated, with an order to conduct preliminary or main investigations. As regards the other prosecution services, the head of such services.

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

Judges are not authorised to inform the press.

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

No, there is not.

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”?

Information is communicated to press in a manner that certainly guarantees that the fundamental rights of the persons involved are not violated. In this context, communication does not concern the names of the persons involved, but only the investigated offence. The names of the defendants in certain categories of serious offences, that are enumerated in Law 2472/1997 (on the protection of personal data) are communicated under the guarantees of the judicial authority and by order of the prosecutor. If the media publicise or defame persons involved in a criminal case, in view of the presumption of innocence, they have at their disposal all civil and criminal remedies to lift such insult and prevent it from occurring again in the future.

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?

If a piece of information or document comprised in a pending secret case is communicated, the prosecutor may undergo criminal inspection for the offence of violation of secrecy of judicial sessions (article 234 of the Criminal Code) or disciplinary inspection.

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

In that case, they will deal with it by implementing the legal framework governing the confidentiality obligation in criminal cases.

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 such provisions.

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.)?

This Office communicates with the media through (a) press releases; (b) announcements relating to actions taken by the prosecution service at the court of appeal or the first instance court of Athens in criminal cases of major interest, forwarded by email to journalists accredited in justice-related matters. Finally, (c) information may also be communicated by telephone by the nominated representative of the prosecution service' press office to the said journalists (who have his contact details) in order to provide clarifications or explain some obscure points. In the other prosecution services, by the Head of such services and, in the prosecution service at the Supreme Court, the prosecutor, through his secretariat, informs the media by press releases or emails and/or orally.

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

Yes, orally or by press releases or emails.

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

No.

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

There are no such regulations. However, for ethical reasons, efforts are made not to exclude any media or single journalists.

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?

Where there is a press office, its manager is supervised by the Head of the Prosecution Service. Press releases are issued or information is provided orally or by email. Where there is no press office, the Head of the Prosecution Service makes the communication and there is no need for authorisation.

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

Specialised journalists or journalists accredited to judicial reporting.

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)?

Disclosed information does not include the names of parties or witnesses but, on a case-by-case basis, the name of the prosecutor or the specific section in which he serves and conducted criminal investigation may be disclosed.

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

There is no such policy.

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

There is no such evaluation mechanism.

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)?

On a case-by-case basis, when cases are of wider interest to the public.

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)?

See response 16.

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.

This is police work.

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?

Yes, by attending courses at the National School for Judicial Officials and the continuous training programme for judicial officials.

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

This may be included in the topics addressed by the courses referred to in response 24.

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

There is no such information.

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 an independent body, the Greek National Council for Radio and Television.

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?

In the event that the media insult a person (simple or slandering defamation, if the journalist knows that the fact is false etc.), the victim may turn against the reporter and the media by (a) civil remedies (by lodging an action before the civil court and demand that the insult be lifted and prevented from occurring again in the future, pecuniary satisfaction due to non-pecuniary damage etc.) and (b) criminal remedies (by bringing charges against the perpetrator and asking his criminal sentencing). In the latter case, the Prosecutor is empowered to demand the initiation of criminal proceedings, introduce the case to the Criminal Court by drafting the charges and maintain that the perpetrator is guilty or non-guilty during the trial.

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

The criminal liability of journalists in case they commit slandering defamation etc. is detailed above [question 30, response (b)]. For simple defamation, the sentence may be imprisonment for up to two years and a monetary fine (article 362 of the Criminal Code), while for slandering defamation, the sentence is imprisonment for at least three months (which can, in theory, reach the maximum limit of 5 years) (article 363 of the Criminal Code). Administrative sanctions are imposed by the journalists' trade union, but a peculiar system of "self-limitation" of their actions is in place, by invoking the principle of freedom of expression and the needs of information, so that the overall framework of criminal sanctions is rather inactive and, in any event, ineffective.

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 seizure of newspapers or other publications matter before circulation is prohibited. By way of exception, they may be seized after circulation, by order of the prosecutor, in the following four instances, specified in article 14§3 of the Constitution: (a) offence against the Christian or any other known religion, (b) insult against the person of the President of the Republic, (c) publication which discloses information on the composition, equipment and set-up of the armed forces or the fortifications of the country, or which aims at the violent overthrow of the regime or is directed against the territorial integrity of the State, (d) an obscene publication which is obviously offensive to public decency, in the cases stipulated by law. The Prosecutor may order the seizure pursuant to the foregoing; such seizure may be made further by investigating officers (in the context of preliminary and main investigations, if so ordered). In the light of the foregoing, there is no scope to suggest "preventive censorship" of the press. The Prosecutor has no say in the supervision of media activity, provided that such activity does not lead to the commission of criminal offences, in which case he acquires power.

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?

Given the distinction of powers and the independence of justice, no criticism is allowed about the way judges or prosecutors perform their jurisdictional tasks. Such criticism may be subject to disciplinary inquiries or produce civil or criminal liability. Judicial Associations, whose operation is directly provided for in the Constitution, have occasionally issued notices, whereby they remind about the independence of justice and the limits of criticism that is expected and allowed to be made of the decisions of judicial authorities under the Constitution and the laws.

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

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?

There are no other institutions.

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.

We think that the establishment and operation of press offices are initiatives that need to be boosted and expanded in other judicial services. There is precedent in several European Union countries and the United States. With the operation of such an office, (a) the method of communication between courts or prosecutors and the media could be formulated in a uniform, official and formal way, in order to prevent news leaks, expression of subjective views etc., (b) the public may receive information in an official and regular manner about the activities of the court or the prosecution service in cases of major social interest and information provided by the media would have to be objective since it would be based on official, documented data stemming from the judicial authority that, by definition, respects the principle of secrecy and the fundamental rights of suspects and defendants, (c) At the same time, through such an official press office, the court or the prosecution service may publicise activities of wider interest, relating to its intermediating-social actions, with positive impact on society (participation in campaigns, scientific events, initiatives for minors or vulnerable groups, awareness-raising actions for the rights of citizens, "open door" days etc.). It is necessary to create a clear operating framework of such offices, either in the bylaws of courts/prosecution services or by law.