

## **Replies to the questions of the Consultative Council of European Prosecutors**

### **A. Existing legal provisions and regulations**

1. The regulation of relationships between Prosecutors and media stems out from the Section 6(1) of the Law on Prosecution Office, which provides for that Prosecutor in his/her work is independent from any influence of other public and administrative institutions or officials and shall comply only with law, as well as from the Part 5 of the given Section, which provides for that Prosecutor shall have the right to refuse to provide information on the files of inspections or investigations which are in the proceedings of the Prosecution Office.

Additionally the Chapter “Mutual Relationships of Prosecutors and Principles of Conduct” of the Code of Conduct for Prosecutors of Latvia provides for that official written and oral communications of Prosecutor to mass media, and public presentations should be constructive and well-weighted, keeping in mind that those might be perceived as opinion of the Prosecution Office.

Section 396(1) of the Criminal Procedure Law provides for that information obtained during the preliminary criminal procedure as long as it is not completed shall be disclosed only with the permission of investigator or Prosecutor and in the amount specified by him or her. An investigator or prosecutor shall warn a person in written form on criminal liability for disclosure of such information.

The Section 66(2) of that Law provides for that an image of a suspect recorded during procedural operations as a photograph, video, or by other types of technical means shall not be published in the mass media without the consent of such suspect, unless it is needed for the disclosure of a criminal offence.

The Section 7(2) of the Law on Press and Other Mass Media provides for that no files of the preliminary investigation shall be published without written consent of Prosecutor or investigator. In the reflection of court proceedings is not allowed to publish such files, which violate the presumption of innocence. During open court sittings journalists may make recordings by means of technical devices, if that do not hinder the course of judicial procedures.

2. Prosecutors are allowed to maintain direct relationships with the media, that stems out from legal acts referred to in paragraph 1.

3. The institutions referred to in this question have rights to provide information to press on specific cases, keeping in mind that Section 7 of the Law on Press and Other Mass Media prohibits publication of such information that is a state secret or other according to the legal provisions specifically classified secret, that promotes violence and the overthrow of the prevailing order, advocates war, cruelty, racial, national or religious superiority and intolerance, and incites to the commission of some other crime. The files from pre-trial investigations shall not be published without the written permission of the prosecutor or the investigator. Publication of materials that violate the presumption of innocence shall not be permitted in the reporting of judicial proceedings. During open court sittings journalists may make recordings by means of technical devices, if these do not hinder the course of judicial procedures.

It is prohibited to publish the content of correspondence, telephone calls and telegraph messages of persons without the consent of the person addressed and the author or their heirs. The use of mass media to interfere in the private life of persons is prohibited and shall be punished in accordance with the law. It is prohibited to publish information that injures the honour and dignity of natural persons and legal persons or slanders them. It is prohibited to publish information concerning the health condition of persons without their consent. It is prohibited to publish business secrets and patent secrets without the consent of their owners. It is prohibited to publish an information, by which is possible to identify a child who is a victim of illegal activities, under-age offender or a victim, unless consent of persons and institutions referred to in the Children Rights Protection Law is received.

**4.** Yes, the Prosecution Office has experience regarding provision of a joint communications together with other law enforcement institutions, for example, arranging joint police and the Prosecution Office press conferences and informing about any topical criminal cases.

**5.** The Prosecutors during preliminary investigation of criminal procedure have rights to communicate information to the mass media, agreeing provision of information with investigator.

During criminal prosecution (presenting of accusation) Prosecutor can communicate information regarding the criminal procedure to the mass media upon his/her own discretion and in such amount, which he/she considers to be possible and not causing harm to the interests of the preliminary criminal procedure.

During examination of the criminal procedure in the court the Prosecutor can freely express to the press his/her opinion on the criminal procedure in cases which are examined openly. According to the Section 450(1) of the Criminal Procedure Law the criminal case shall be examined in open court hearing (certain categories of the criminal cases shall be examined in closed court hearings). The Paragraph 5 of the mentioned Section provides for that a court ruling shall be announced publicly. If the criminal case is examined in closed court hearing, publicly is announced introductory and findings part, and then in closed hearing – background and description part of the court ruling.

The mentioned legal act allows that Prosecutors in different stages of criminal procedure examination communicate information to the press, but while giving such communication the legal acts referred to in reply to 1<sup>st</sup> and 2<sup>nd</sup> question must be complied with.

**6.** According to the Section 10(1) of the Law on Judicial Power the Judges, while examining cases, are independent and shall act only according to the law.

The Section 19 of that Law provides for that in all courts of the Republic of Latvia the cases shall be examined in open hearings. The examination of case in closed hearing is allowable only in instances provided for by the Law, complying with other regulations regarding court proceedings. The court judgments and rulings must always be announced publicly.

In the Chapter 3<sup>1</sup> “Availability of information” of the Law on Judicial Power are set out detailed regulations on public availability of information related with examination of cases.

In any case judge, while providing information to the press, must comply with the legal acts referred to in reply to 1<sup>st</sup> and 2<sup>nd</sup> question.

**7.** No specific supervision of relationships between Prosecutors and mass media is performed.

**8.** The Constitution of the Republic of Latvia provides for that the State recognizes and protects fundamental human rights according to the Constitution, laws and international treaties binding to Latvia. Anyone has rights to inviolability of freedom and person. Nobody may be deprived freedom and restricted it otherwise that according to the law. The State protects the honour and dignity of the human being.

The Section 100 of the Constitution provides for that everyone enjoys rights to freedom of speech, including rights freely obtain, keep and disseminate information, express his/her own views. The censorship is prohibited.

Section 7 of the Law on Press and Other Mass Media prohibits publication of such information that is a state secret or other according to the legal provisions specifically classified secret, that promotes violence and the overthrow of the prevailing order, advocates war, cruelty, racial, national or religious superiority and intolerance, and incites to the commission of some other crime.

The files from pre-trial investigations shall not be published without the written permission of the prosecutor or the investigator. Publication of materials that violate the presumption of innocence shall not be permitted in the reporting of judicial proceedings. During open court sittings journalists may make recordings by means of technical devices, if these do not hinder the course of judicial procedures.

It is prohibited to publish the content of correspondence, telephone calls and telegraph messages of persons without the consent of the person addressed and the author or their heirs.

The use of mass media to interfere in the private life of persons is prohibited and shall be punished in accordance with the law.

It is prohibited to publish information that injures the honour and dignity of natural persons and legal persons or slanders them.

It is prohibited to publish information concerning the health condition of persons without their consent. It is prohibited to publish business secrets and patent secrets without the consent of their owners.

It is prohibited to publish an information, by which is possible to identify a child who is a victim of illegal activities, under-age offender or a victim, unless consent of persons and institutions referred to in the Children Rights Protection Law is received.

It is prohibited to publish the child pornography and files wherein violence against children is displayed.

It is prohibited to publish erotic and pornographic content, if thereby are being violated procedures provided for by the legal acts governing circulation of erotic and pornographic content.

**9.** If Prosecutor violates ethical aspects related with provision of information to the press, then ethical sanctions can be applied to Prosecutor. Also disciplinary liability is possible. If Prosecutor discloses to the press the sensitive information or state secret, then criminal liability is provided for.

**10.** The Prosecution Office does not specifically manage security risks deriving from disclosing of information regarding Prosecutors and cases.

11. No regulations exist in the Republic of Latvia and no specific procedure is provided for, which would prohibit publishing of names of Prosecutors and Judges dealing with the case.

## **B. Organisation of communication**

12. Basically the representatives of the mass media communicate with Prosecutors through Press Secretary of the Prosecution Office. In some cases the journalist may directly communicate with respective Prosecutor. The needed information is provided to him/her by phone, e-mail or personally. The prosecution Office does not employ social networks (for example, Twitter) in communication with the press.

13. No restrictions exist which would prohibit Prosecutor to take actions mentioned in this question.

14. The Prosecution Office provides information to all mass media which wish to receive it. No mass media has any priority against other mass media.

15. No regulations which would prohibit Prosecutors to give advantage to single journalists (and/or not cooperate with some journalists) exist.

16. Communication of the Prosecution Office with the mass media is mainly organized via Press Secretary, who is employed by the Prosecution Office directly under the Head Prosecutor of the Department of Analysis and Management of the Prosecutor's General Office.

17. The representatives of the mass media basically apply to Press Secretary of the Prosecution Office (by phone or e-mail). They are journalists specialized in criminal law issues and they are not required to pass through accreditation in advance.

18. When providing information to the mass media in relation with the criminal cases, the names of parties, witnesses and prosecutors are not disclosed without their consent. In its turn facts established during preliminary investigation and related or unrelated with case are disclosed, if it does not impede investigation and court proceedings.

19. No specific regulation exist on procedure how information request shall be submitted with the Prosecution Office, and how reply should be provided.

20. As Prosecution Office interaction with the mass media basically is organized through Press Secretary of the Prosecution Office, then no specific regulations regarding systematic supervision and assessment of Prosecutors performance in these issues exist.

## **C. Proactive media approach of the prosecution service**

21. No specific proactive working methods for interaction with the mass media are developed in the Prosecution Office. The updated news mainly related with decisions taken by Prosecutors in criminal procedures which has attracted wide public attention

are provided to Press Secretary for publishing in the mass media by Heads of the Prosecution Office units.

In its turn the procedure for familiarization with the files accumulated in the criminal case is provided for by the Section 375 of the Criminal Procedure Law. It provides for that during criminal proceedings, the files attached to the criminal case shall be a secret of the investigation, and the officials who perform the criminal proceedings, as well as the persons to whom the mentioned officials present the relevant files in accordance with the procedures provided for in this Law, shall be permitted to familiarise themselves with such files. After the completion of criminal proceedings and the entering into effect of the final ruling, employees of the court, the Prosecution Office, and investigative institutions, and persons whose rights were infringed in the specific criminal proceedings, as well as persons who perform scientific activities shall be permitted to familiarise themselves with the materials of the criminal case. From the latter provision stems out that access of the mass media to the decisions taken by Prosecutors and familiarization with files of the criminal case till rendering of final decision is restricted. At the same time it should be noted that all final rulings in the criminal cases are publicly accessible subject to protection of information laid down by the legal acts.

**22.** According to the Recommendation of the Committee of Ministers of the Council of Europe Rec(2000)19 „On the Role of the Public Prosecutor in the Criminal Justice System” Prosecutor General once a year during especially convened meeting provides public report on general performance of the Prosecution Office, achieving of previously declared priorities and performance of Prosecutors. Annual report of Prosecutor General is published in the website of the Prosecution Office where is also provided communications to the mass media and other updated information related with performance of the institution.

**23.** A person directing the proceedings may ask to publish in the mass media the images of persons obtained during procedural activities of the criminal procedure investigation, including those ones captured at the moment of crime commission or identikits, except restriction provided for by the Section 66(2) of the Criminal Procedure Law and set out in reply to 1<sup>st</sup> question.

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

**24.** The Prosecutor’s General Office organizes participation of Prosecutors in seminars (courses and lectures) for improving of professional qualification on wide range of topics. Although no special training on requirements of the European Human Rights Convention regarding freedom of speech and access to information has taken place, Prosecutors have attended training courses on Community law arranged in cooperation with Riga Graduate School of Law in Riga. That training encompassed issues regarding standard of the mentioned Convention and case-law of the European Court of Human Rights in the context of human rights promotion and protection. Facilitation of Prosecutor’s understanding of requirements laid down by the Convention was also ensured by regional seminars in cities of Rīga, Cēsis, Jelgava, Liepāja and Rēzekne.

25. The cooperation with the mass media and rules on compliance with professional conduct during interaction with journalists were considered in several Prosecutor's training events, especially at those ones arranged for heads of Prosecution Office units. The wide attendance in that training should be noted, for example, in seminar "Communication with the Mass Media" participated 48 Head Prosecutors, equal to more than 90% of total number of the Prosecution Office units heads.

26. The Prosecution Office has no information on existence of such specific type training for journalists.

27. No joint training events for Prosecutors and journalists have taken place.

28. No list of professional organizations of the mass media or journalists competent to regulate interaction with the Prosecution Office is laid down by the legal acts. Two in our country existing professional nongovernmental organizations established by journalists, described in reply to 29<sup>th</sup> question, have not shown such initiative.

#### **E. Regulation of media activities**

29. The work of the mass media in the Republic of Latvia is governed by the Law on the Press and Other Mass Media and the Law on Electronic Mass Media. In Latvia exists no joint internal council (or another body), which would regulate activities of the mass media or would examine complaints submitted against the mass media on violations of individual rights. Also the mentioned Laws do not provide for necessity to establish such body. Nevertheless in Latvia is established Association of Journalists (nongovernmental organization) and its main objectives is to improve professional environment of journalists, to defend freedom of speech and press, to facilitate discussion on professional and ethical problems, to defend professional, economical and social rights of journalists, to improve and develop legislation in the field of the mass media, to promote and ensure professional training and growth of its members, to ensure lifelong training for journalists. The Association has founded Ethics Commission of journalists and have developed the Code of Conduct. The Commission also examines complaints regarding actions of the journalists, if provisions of the Code of Conduct are violated (only regarding members of the Association). Additionally in Latvia is established the Union of Journalists of Latvia (nongovernmental organization) founded for purpose of representing and defending of its members professional, labour and other social and economical rights and interests. Also mentioned Union has developed and adopted the Code of Conduct for Journalists. In Latvia exists also National Council of the Electronic Mass Media, which according to the Law on Electronic Mass Media is independent competent autonomous body, that within its competence represents the interests of society in the field of the electronic mass media, as well as supervises the compliance with the Constitution of the Republic of Latvia, laws and other legal acts in their work. The National Council of the Electronic Mass Media accepts, analyses and summarizes proposals and complaints of spectators and listeners, and other information on work of electronics mass media. The Section 7 of the Law on the Press and Other Mass Media provides for information, publishing of which is prohibited (see replies to A section questions). The editor (chief editor) of the mass media is responsible for content to be published in the mass media. The natural and legal persons within six

months (since publishing) have rights to request revocation of information published (broadcasted) by the mass media on such persons, if information is not true, or to request apologizing, if such information has insulted their honour and dignity. The editor of the mass media is obliged to consider applications of such persons.

**30.** The criminal liability for defamation in the mass media is provided for by the Section 157 of the Criminal Law “Defamation”. If there are grounds to believe that criminal offence is committed, the criminal procedure is instituted during which the Prosecutor performs supervision of investigation, criminal prosecution and maintaining of charges in the Court. The Section 235<sup>2</sup> of the Civil Law provides for that everyone has rights to lodge with the court a claim on revocation of information that insults his/her honour and dignity, unless disseminator of such information proves that such information is true. In such cases the claim application with the court should be lodged by person himself/herself or his/her representative according to the procedure laid down by the Civil Law.

**31.** The Section 157(1) provides for liability for intentional distribution of fictions, knowing them to be untrue, and defamatory of another person, in printed or otherwise reproduced material, as well as orally, if such has been committed publicly (defamation). The applicable sentence for commission of such criminal offence is community service or a fine not exceeding sixty times the minimum monthly wage (LVL 12 000). The Section 157(2) of the Criminal Law provides for liability for defamation in a mass media. The applicable sentence for defamation in mass media is custodial arrest, or community service, or a fine not exceeding eighty times the minimum monthly wage (LVL 16 000).

**32.** According to the Section 18 of the Law on Prosecution Office Prosecutor can to warn in written form the editor (owner) of the mass media or according to the Section 20 of the mentioned Law to submit written application to the editor (owner), if it is necessary to interrupt illegal activities, to prevent consequences of such activities or prevent violations. If Prosecutor has found violation, which has no constituent elements of the criminal offence, but he/she has not managed or it was not possible to restore the lawfulness by means of the warning or application, he/she shall lodge with the court a claim application. The Section 12 of the Law on Press and Other Mass Media provides for that Prosecutor General of the Republic of Latvia has the right to initiate that the court examines a matter regarding termination of operation of a mass media (to lodge claim application), if it has published a call to use violent or any other unlawful methods, has published a call not to comply with laws of the Republic of Latvia, has not paid the taxes provided for by the laws of the Republic of Latvia within the deadline and the extent specified and disobey to a check taken by the State financial institutions, has published information which in a criminal case has been found by court judgment to be slanderous and defamatory, a disclosure of the state secret, war propaganda, or violation of racial and national equality and children pornography, or within a one-year period has repeatedly committed other violations of the provisions of this Law (for example, published non-publishable information referred to in the Section 7 of the given Law). The Prosecution Office does not perform a general supervision of the mass media or preventive censorship. A censorship according to the provisions provided for by the Section 100 of the Constitution is prohibited.

**33.** In Latvia is established the Association of Prosecutors of Latvia. It is independent non-profit voluntary professional association which unites Prosecutors of the Republic of Latvia and promotes professional growth of Prosecutors, protection of moral, social and economical interests, strengthening of Prosecutors prestige and judicial power and defending of the rule of law in the country. The Management Board upon request of association member on behalf of the association within its competence defends his/her rights and lawful interests, including in relationships with the mass media.

**34.** The Chapter “Mutual Relationships of Prosecutors and Principles of Conduct” of the Code of Conduct for Prosecutors of Latvia provides for that official written and oral communications of Prosecutor to mass media, and public presentations should be constructive and well-weighted, keeping in mind that those might be perceived as opinion of the Prosecution Office. At the same time, if Prosecutor believes that his/her honour and dignity has been insulted, he/she can lodge the claim with the Court according to the procedures provided for by the Civil Law.

**35.** In Latvia exist no specific body or association, which would be empowered to intervene in cases of groundless attacks of the mass media against the Prosecution Office or some Prosecutors.