



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

## **Opening of the Judicial Year**

### **Seminar**

## **The Authority of the Judiciary**

### **Communication strategies**

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#### **Introduction**

The goal of the Communication strategies is to strengthen the trust and the respect of the public in the judiciary and strengthen the authority of the Judiciary.

The mission of judges and court representatives is to convey the messages of the court and show citizens that the judiciary, as the third branch of government, plays an extremely important role in their everyday lives. In the democratic societies citizens have the right to be informed about work of the courts. Through good communication courts can have educative role and also, by proper and timely communication with media act on prevention of human rights violations, that are very often seen in sensational reporting in media.

While it is necessary to develop openness towards media, it should be always born in mind that the duty of judicial branch is to protect right of privacy, presumption of innocence, right to fair trial, right of victims. It is therefore necessary to develop balance between legitimate right of public to be informed and to be critical on the work of the courts, and rights of all those involved in judicial proceedings. It is not always easy task and courts very often keep an old traditional attitude - it is safe to be quiet.

In today's societies, with the great expansion of social media and need for sensational information, communication becomes even more challenging. However, courts need media, and therefore, they need to develop strategies and certain procedures in communication with media. Good strategy should cover everyday informative communication as well as communication provoked by some crisis.

## **Proactive approach**

The main rule of the good communication strategy should be that communication of courts with public should always be proactive. If courts don't tell their story, someone else will. First story out shapes message, second story is always reactive. We should either work with the press or they will work without us.

If courts and judges do not actively participate in communicating their own story about what they do and how they do it, they risk that the message public is receiving may not be true, positive, or affirmative and very often it will violate the basic human rights. Courts should be constant relevant source of information, or they will have to deal with half information, arbitrary interpretation of the different authors and media scandals.

Good and proactive strategy will build constituency that will support and protect courts.

Public opinion of courts is of the great importance since more public knows about courts it will gain higher trust and confidence. Transparency breeds respect while secrecy triggers mistrust.

Greater public understanding means public more likely to adhere to court rulings.

Courts need to adapt to the stronger influences of the media revolution and a new communication practice.

## **What core messages should be conveyed?**

Courts are fair, impartial, and independent

Courts exist to protect citizens and their rights

Courts are transparent and accessible

Judges are held to the highest levels of accountability

Equal justice under law

## **How to prevent crisis situations**

It has been shown that the greatest interest of the public and media is in criminal cases, especially where is the issue of deprivation of liberty, high profiled cases or acquittal court decisions, when politician very often get involved with inappropriate comments and attacks on judges. Those situations usually provoke some kind of crisis, where judges get disturbed and expect proper reaction of the highest judicial authorities.

Crises are often provoked by:

- absence of proactive communication of a court as a consequence of the absence of a communications strategy
- Insufficient understanding of patterns according to which a crisis situation plays out?
- avoiding the media and media appearances

- reactive, affective, ad hoc communication of judges
- lack of communication skills of judges and courts' leaders
- In order to prevent these situations, the goal of a communication's strategy is to define and explain the basic principles of work of courts and long-term actions of courts – its role, duties and all restrictions based on human rights respect, role of prosecutors etc.

Good communication strategy and communication plan should be understood as

- important tool for the coordination of a court's communication activities
- they help the judiciary meet public's expectations when it comes to access and the right to information,
- a tool that strengthen transparency of actions
- an important support for successful management of courts

#### **Rules for courts to follow in communication with media:**

The distinction should be made between communication with media by courts as institutions and by judges individually.

Judges can express their opinion as individuals but with well known restrictions. They are not allowed to talk about ongoing cases or cases they are involved with. However, judges can talk on issues of general importance, new legislation and similar. In practice in Serbia there are good examples of judges talking for media on issues of general importance. For example - about sentencing policy, about deprivation of liberty, role of prosecutors and limitations of courts, division of power, fair trial principles etc.

Courts in their communication approach keep awareness on following

- Regarding court spokesperson – it is less risky for court manager or spokesperson – also less impactful
- Courts are not the same as other government institutions
- Courts should have strategic approach and have a reason to communicate with media
- Court should not be confrontational or defensive
- Dignity of courts should not be compromised through communications
- Courts have legitimate security and privacy concerns that inhibit certain communications

#### **How to increase faith and trust of public in judiciary:**

It is important to strengthen trust of public in judiciary. It could be done by establishing relations with key audiences:

- the general public, the citizens as a whole,
- the representatives of the other branches (Parliament, the Government, the ministries, local government and relevant institutions),
- court users,

- creators of public opinion - journalists and representatives of media,
- NGOs, professional (academic and judiciary) and business communities (entrepreneurs and their associations)

Also, by raising public awareness on courts' work and their results, which can be done

- by informing court users in order to better understand the judicial proceedings and judicial practice
- by educating public how judiciary functions in order to understand its purpose, role, and responsibility
- by training and educating judges and court staff in public relations with an emphasis on relations with media.
- Having well trained Court spokespersons (should they be judges )

Definition and single communication of key messages and key audiences of courts by shaping and conveying the message to the public is imperative - whether it is everyday communication of the court or communication in crisis situations

Coordinated communication of the court and continuous placement of a consistent message: e.g. courts improve the quality of life for citizens and the society as a whole

Courts have to make a serious effort in order to convey the message concerning the importance of their work to the public.

Courts have to put more effort into telling their own, convincing stories.

Courts have to establish direct communication with public and make the role and purpose of the judiciary as the third branch of government clearer to the general public.

The consistent communication of courts with the external public will increase understanding and credibility of the judiciary and decrease the number of wrong interpretations and misunderstandings of the judiciary and courts' rulings.

#### **Possible communication tools for conveying key messages**

- press releases- on a regular bases and announcements of important court decisions by short explanation of the reasoning of a given judgment
- comments in media – especially proper and timely reactions with regard to statements and comments of high profiled politicians (Who should do it? High judicial Councils or presidents of courts? Crisis situation)
- answers to public queries
- columns
- court leaders' speeches – role of the Court presidents

- presentations – different periodical materials, courts’ bulletins
- brochure - being available in all courts
- blogs – Yes or No
- educational and public material
- social media messages
- Websites

### **Importance of communicating the administration of justice**

- the administration of justice has to be visible to the court users, but also to the community and the general public
- Public hearings as provided by law
- broadcasting of high profiled cases ( Legija – example from Serbian practice) with the consent of all parties and the right of the presiding judge to allow it or not
- filming of hearings for the educational reasons

### **Possibility of using new tools for external communication - social media**

Twitter, Face book, YouTube - channels for spreading important information in order for the public to better understand and perceive work of courts.

It is the most prevalent form of communication today. Reaches younger and more diverse audience. Allows court to take a message directly to people. Builds and engages community and increases transparency

Should courts/judges use social media?

New tools of communication enable publicizing important information that is usually not that interesting to the mainstream media: announcements on cases, information how courts work, courts’ statistics, court’s achievements, new services the court offers, new workplaces, etc. It could be said that it enables the public to see the court from the inside - a different perspective.

„Courts should not be afraid of new communication tools, especially of social media....new generations of people have grown up, and they have completely different expectations about communication and interaction. .. court communication should be as a two-way street.” (Gerret Graff, former editor of „Politico“ and author of book „Courts are conversations: An Argument for Increased Engagement by Court Leaders)

### **Use of special advisers or experts**

The strategic communications advisor should be the part of court administration in the highest courts and Judicial organizations. There are many reasons for this:

- helps to develop concepts and plans that will affect courts in the entire country

- responsible for monitoring, guiding and maintaining the strategic communication of courts, provides necessary guidelines, advice, and responses to the court staff, manages the implementation of the strategic plan and coordinates the development of goals and strategies that are important at the national level
- strategic communications advisor could provide valuable help to court staff in all ordinary and specialized courts in the country and guidelines for using various social platforms, develops communication scenarios in different situations, including crisis, identifies required content on the court's website, creates educational material on the topic of communicating (internal, external, crisis), advising on public appearances of judges and court employees for all court levels

### **What are examples of good practices?**

For sure it is the present practice of European Court of Human Rights.

Court's website is largely used and in the country of my region it has been great tool for judges and also it has educational role and has improved the awareness for the respect of human rights.

Use of the Twitter done by the ECHR can be great example esp. for the Supreme or Constitutional Courts

Courts having communication strategy documents

Courts having communication experts

Annual press conferences done by the Court presidents, presenting the statistics, major events and strategic goals

Regular press releases with the short summaries of the decisions

Annual Reports of the Court's case –law (which should be obligatory for Appeal Courts, Supreme and Constitutional Courts

Cooperation with Law faculties and regular visits of law students

### **Experiences of Serbia**

National Strategy for Judicial Reform for the period 2013-2018 has stressed importance of transparency of the work of judicial authorities and courts.

The High Judicial Council and the Supreme Court of Cassation have provided support to courts to improve transparency of work through several strategic documents.

First, in 2013, the Communication Strategy of the High Judicial Council was adopted, which represents the framework and basis for working on more transparent work of the courts. The Communication strategy defines goals, types, modes of communication and activities. The Communication Strategy in 2016 has been updated and improved.

The High Judicial Council in 2014 provided the Courts with the Guidelines on the Establishing of Commissions to increase public confidence in the work of the courts.

### **Instead of conclusion**

We should always bear in mind that media have a right to information about all state institutions and their work. Work of courts and administration of justice is undoubtedly subject of general interest of great importance for every community. As it was confirmed many times media and journalists play an important public watchdog role.

However, right of media and general public to know should not prevail respect for human rights of all those involved in judicial proceedings. It is the duty of courts to keep balance between conflicting values of these rights and to take due account to fair trial, privacy and dignity, on one hand, and on the other, to the right to information.

The Opinion no. 7 of the Consultative Council of European Judges (CCJE) as very valuable and instructive could be introduced on larger scale, and be used as the strategic material and educational tool.

Moreover, promotion, better understanding and dissemination of judgments of the ECHR should be part of communication strategy of highest courts, which ultimately would enhance legal culture and specifically, understanding of human rights issues.