

Report of the ENCJ working group Judiciary and the media

Last year, the Netherlands Council for the Judiciary suggested a ENCJ working group on the theme Judiciary and the media and other related issues. Early February 2006 the first meeting of this working group took place in The Hague. In total 16 participants from 11 European countries joined the meeting: Finland, Hungary, Ireland, Italy, Latvia, Netherlands, Poland, Slovak Republic, Spain, Sweden and the United Kingdom.

The first day the working group started with a lecture by Mrs. Lieve Gies with the title '*Addressing distorted media reporting: are we throwing out the baby with the bathwater?*' Mrs. Gies is working at the Department of Law, Keele University in England and did research on court-media relations of the Dutch Judiciary. Although she sees the necessity and the advantages of an active communication program of courts she is also very critical and warns for techniques as 'spindoctoring' and manipulation by the courts of the media.

1. Media and public trust in the Judiciary

We started with a discussion on ways the media can influence the public trust in the judiciary. It was stated that in fact we don't know what public confidence is and therefore it is difficult to influence and measure it. Do we mean trust in the integrity of the judiciary? Or are we referring to trust in the individual judge?

The participants agreed that the media have a role to play in ensuring that people are given a fair trial. Their role as watchdog contributes to maintaining public confidence in the judiciary. One of the problems all participants recognize is the lack of sufficient knowledge of journalists. In Spain the judiciary has launched a programme to inform journalists on the judiciary. In seventeen locations the Spanish judiciary founded media offices with experienced journalists. They work for the judiciary but know exactly how journalists work and what kind of information they need. The Spanish judiciary launched a second programme 'educating justice'. This programme is focused on schoolchildren and their teachers to provide information about the judiciary.

In Finland they tried to launch a likewise programme for journalists but there the journalists were very reluctant to participate in education programmes organised by the judiciary. The journalists are afraid they lose their independence when they participate in an education programme organised by the judiciary. The members of the working group support the idea that giving active information to the press is in fact positive "manipulation" to retain respect for the judiciary.

2. The role of the Council for the Judiciary or the Ministry of Justice in press relation.

The general idea of the participants is that the role of the national organisations of the judiciary must be limited and mainly supportive for the individual courts. In most countries the Council of the Judiciary does not comment on individual cases, but does consider it its task to respond on general topics on a national level.

Considering the relations with the press there are great differences between the several countries. In Ireland the judges never speak with the press, while in Sweden the journalists can speak directly with the judge who handles the case. In the Netherlands there are press judges who exclusively speak to the press. In common law countries the Contempt of Court Act tries to prevent journalists from reporting information that could affect the outcome of a court case.

Problematic for the confidence in the judiciary are politicians expressing their opinion on an individual court case in public. This phenomenon is experienced in almost all-European countries and there is a tendency that more and more politicians express their criticisms in public.

3. Discussion on the opinion of the Consultative Council of European Judges (CCJE) on “Justice and society” from November 2005.

The CCJE has started in 2000 and has an advisory role towards the Committee of Ministers of the Council of Europe. Since that date the European judges gathered in the CCJE meet every year to discuss a different topic related to the judiciary and to propose recommendations to the Committee of Ministers. The status of these recommendations is not clear. Mostly they are used as inspirations for the national governments.

During the 6th meeting in November 2005 the relation between Justice and Society was discussed based on the outcome of an extended questionnaire send to all European countries. One of the specific subjects was the relation of the courts with the media. It became clear that some members of the working group could not consent to all recommendations. It was agreed upon that the working group would propose some adjustments to the Steering committee with the request to send it to the CCJE. In relation to this topic we talked about the anonymity of the decisions on the Internet. It was interesting to notice that in almost all countries there is discussion about the question whether names of the litigants, defendants, etc. can be placed on the website of the Judiciary.

4. Organization of the media relations

The last topic of the day was the organisation of the media relations in daily practice. It was interesting to hear how other countries are dealing with the press and cameras in the courtroom and to exchange experiences with each other. In England, Wales and Scotland cameras are not allowed in the courtroom, in Ireland only in court appeal cases while in the Netherlands parts of the procedure can be filmed. In England recently a discussion started on this theme but the majority of the judges are still against allowing cameras in the courtroom. Research in the United States has pointed out that court cases on television can influence the confidence in the judiciary in a negative way. Mostly the programmes are very entertaining and have a sensational character, but it usually does not cause enhanced trust in the judiciary.

Conclusions

At the end of the meeting the working group discussed the possible future activities. The working group concluded that the situation in every country differs and for that reason developing an European model for the organisation of the media relations is useless.

Instead of a model the working group sees many advantages in an inventory of best practices in the field of communication and press relations. The working group recommends the appointment of a researcher who can make a matrix of topics and best practices such as:

- publication of judgements on the internet
- camera's in the court room
- public information
- guidelines for the press

- spokespersons in the court

For the long term the working group has the intention to broaden her focus on other subjects like public information, the Internet and anonimizing pronouncements.

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