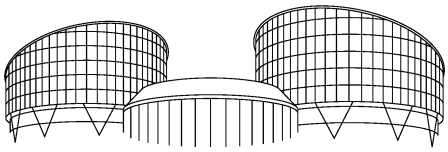

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Opening of the Judicial Year

Seminar

The Authority of the Judiciary

Communication strategy in Latvia

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Before turning to the question of communication by the courts in Latvia, it is necessary to explain the background briefly. On 3 April 2008 the Judiciary Act was supplemented with rules providing for the establishment of a Judicial Ethics Committee. This Committee examines individual complaints and delivers opinions with regard to the professional ethics of judges.

Since judicial ethics may refer to almost any behaviour, the Ethics Committee turned to the question of how and when judges are seen by the public. It was realised that this occurred in exceptional situations, when judges answered questions posed by journalists after court sittings or after pronouncing only the operative part of a judgment. On some occasions refusals by judges to speak with the press had been shown on television, creating a negative attitude among the public, particularly when these refusals were made in an unfriendly manner. This conveyed the impression that judges were hiding from the public. Although such situations were not shown on television every week or even every month, the media failed to provide balance by reporting positive news from the courts. The signal thus conveyed was clear enough – the courts are not willing to talk to the public. The Ethics Committee considered such a situation unacceptable.

For this reason, in 2014 the Ethics Committee drafted the Communication Guidelines for the Courts, which were presented for adoption by the Judicial Council (this is a consultative and coordinating institution, responsible for the development of policy and strategy for the judiciary). The Judicial Council supported the idea and broadened the approach by deciding to adopt three documents in this regard. Firstly – the Communication Guidelines for the Judiciary; secondly – the Communication Strategy for the Courts; and thirdly – a Handbook on Communication. The first two documents were adopted by the Judicial Council on 18 May 2015, and the third is currently being drafted.

Why are these separate documents? The reason is that the Communication Guidelines for the Judiciary concern not only the courts, but also all of the

institutions which are represented in the Judicial Council (such as the Parliamentary Legal Affairs Committee, the Ministry of Justice, the Constitutional Court and the Prosecutor's Office). Conversely, the Communication Strategy for the Courts concerns the courts exclusively.

The Communication Guidelines for the Judiciary contain general principles. They set out the aims, tasks and principles of communication, but without specifying the particular persons who are in charge in specific situations. The aims are stated as follows: (1) to promote understanding among the judiciary that all of its activities are based on justice; (2) to strengthen the authority of the judiciary; (3) to promote understanding among the public of the work of the courts. The tasks include, *inter alia*, proactive activities and managing communication in crisis situations.

The Communication Strategy for the Courts has two dimensions –general principles and practical guidelines on who should react, and in which situations. It starts by postulating that the courts must deliver justice and that justice must be seen to be done. It is therefore essential to communicate with the public, and particularly with the media, providing society with information which is true, impartial and understandable. This means that the courts must communicate with the public; this must be done not through legal language, but by *stepping into the shoes of a non-lawyer*, in order to reach people's minds. Otherwise the exercise would be a useless monologue.

There are several types of communication as well as different target groups. Since the mass media is still the main tool for receiving information, the regulation in this area will be considered in more detail.

It must be noted that Communication Departments exist in only two courts in Latvia – the Supreme Court and the Riga Regional Court. The other courts must make use of existing resources which are primarily intended to fulfil other tasks.

There are three main types of communication. The first is the provision of information about a particular case. This includes answering such questions as when the case is due to be adjudicated, by which judge, and when a judgment is expected. This task is fulfilled by the court's administrative staff. As a rule, there should be a designated person at each court who is responsible for such communication.

The second is the issuing of press releases. The court identifies cases which are already or which could be of interest to the public and makes information available accordingly. This is done by administrative staff together with the judge rapporteur.

The third type of communication is direct communication by judges. This is one of the most important achievements of our communication strategy, and inevitably it was one of the topics that was most discussed during the drafting process. The adopted rules stipulate that each court must have a spokesperson. Depending on the court, there may be more than one. For example, there may be one spokesperson for civil matters and the other for criminal matters. Very often this function is fulfilled by the president of the court.

The concept of spokesperson is based on the fact that not all judges are ready and willing to make public comments. At the same time, while the strategy was being drafted, journalists and other persons from outside the judiciary constantly

indicated that the best communication is that from a judge. It does matter who is talking – i.e. whether information is provided by a secretary of the court or by a judge. Judges enjoy the highest authority in the eyes of the public.

The guidelines state that a judge rapporteur may make comments on a case. However, he or she is not obliged to do so. It is pointed out that a judge should bear in mind that communication is particularly welcome in cases where only the operative part of a judgment is pronounced, as well as in cases that are of particular interest to the public.

If a judge rapporteur does not provide any comments but there is a demand from the public for explanations, the principle is that the court cannot remain silent. In such a situation the obligation to communicate lies with the spokesperson.

How does the theory work in practice? Naturally, not all judges are willing to talk in public. There are different reasons for this, starting with the classical argument that a judge has been appointed to adjudicate cases and he or she speaks only through judgments, and ending with psychological resistance.

The Communication Strategy for the Courts was strongly supported by the Judicial Council. It was widely discussed, starting with the presidents of all courts. Initially there was resistance from a majority of judges. Two main arguments helped to diminish this resistance – the idea of the need to communicate so as to promote trust in the judiciary, and the concept of spokespersons, in order to accommodate those judges who were not willing to talk to the public. A few successful examples served as an encouragement for more frequent communication. Last year a survey was carried out among the regional and national media. It showed that communication has improved and that it has become easier for the media to receive information and comments from courts and judges than it was before the strategy was adopted.

By way of example, the Supreme Court had decided on whether to quash the results of the parliamentary elections, and announced only the operative part of the judgment. A press conference was organised, at which a judge explained the main points of the forthcoming judgment. When the full judgment was published several weeks later, public interest was considerably lower. This was firstly because time had passed and, as we all know, the public is primarily interested in *hot* news, and, secondly, because the main reasons for the Supereme Court's decision were already known to the public.

Now we are at a stage when the courts in Latvia are responding more often than before, but this is usually *post factum*. There is a need for more proactive communication – this opinion is expressed by journalists on every occasion. It is in the interests of the judiciary that the courts themselves take the initiative and do not wait for the public and the media to formulate their questions. When questions are addressed to the courts, there is frequently a tendency to consider that something has gone wrong.

Nevertheless, there are very good examples of proactive communication. For example, there are judges from courts at all instances who have gained appreciation for their openness and willingness to communicate. The Supreme Court regularly

prepares press releases providing information on cases that are important for the public. The Constitutional Court, which is outside the reach of the Communication Strategy, provides another example of proactive communication by means of press releases, press conferences and other activities.

There is one question that has not been included in the Communication Strategy, because it cannot be regulated. Namely, in which situations is it appropriate to communicate? It is not necessary to react to every criticism, or to act like an entertainer. On the other hand, the courts cannot wait until their authority has been seriously dented as a result of heavy criticism. This affects public trust in the judiciary.

To conclude, modern society is an information society. This cannot be ignored and the courts must be sufficiently transparent and responsive. The Latvian example shows that the fundamental principle by which a judge is entitled to speak only through his or her judgments is in the process of being transformed.