

ASPECTS REGARDING COMMUNICATION BETWEEN JUSTICE AND CIVIL SOCIETY

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Abstract

Communication subscribes to the notion of transparency in the legal working of authorities who have to publish permanently their work. Transparency involves a mutual communication between authorities and citizens in several aspects: access to public information, transparency in the decisions take, transparency regarding the activities of the legal persons.

Publishing the criminal judgments is made in the form established by the court through the written press or audiovisual or other means of audiovisual communication. The number of appearances can't be more than 10, if the distribution is done through the written press or audiovisual. If other audiovisual media broadcasts, the duration can't exceed 3 months. The prevention of the criminal law must be interpreted in the broader context of crime prevention through measures that should be taken involving the social, economical and juridical plans.

Keywords: communication, civil society, criminal judgments, justice

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Through the article we intend to identify the communication between the judicial authorities and citizen with by achieving the ambitions imposed by the general principles of achieving justice at both national and supra-legislative (international) levels.

The communication also subscribes to the concept of transparency in the workings of the judicial entities, which constantly need to make their work public. Transparency implies a mutual communication between the authorities and litigants in several aspects: freedom of access to information of public interest, transparency in decision making, transparency of budget implementation and the identification of staff in relation to third parties.

The dissemination of criminal judgments of conviction shall be carried out in statement, in the form prescribed by the court through written or audiovisual media or by other means of audiovisual communication, designated by the court. The number of appearances cannot be greater than 10, if the dissemination is made through print or audiovisual means. In the case of audiovisual broadcast by other means, its duration may not exceed 3 months.

The problem of preventing criminal offences under the law must be approached and interpreted in the wider context of the prevention of crime, through complex measures which are adopted taking into consideration the social, economic and legal context beginning with the study and identification of the causes and conditions that lead to or contribute to perpetrating crimes¹.

Specific to the judicial system is the abidance of the principle of public sittings of the sessions of the court. Each person has the right to a public trial in accordance with the ambitions of the European Court of Human Rights thus takes place with the protection of the citizen of a secret that justice cannot be subject to the public. What we want to be done is,

¹ Fl. Steteanu, R. Chiriță, Răspunderea penală a persoanei juridice, Ed. Rosetti, București, 2002, p. 173;

mainly, that better communication of justice in the field of criminal law, through the publication of the conviction, leads to increased confidence of society in the act of justice. Subsequently, the reasons of general prevention are better assimilated by the citizens who having information, in the media, about the large number of criminal convictions handed down by courts shall refrain from violating the law, as explained in a simplistic formula "the power of example."

Establishment of criminal policy of the State must be done by integrating a communication strategy of the judiciary and civil society. The argument on which we base these concerns the public consciousness in the printing of the fact that justice in the field of criminal law is effective, i.e. the extent to which civil society is aware of the nature of the pretzel to sanction offenders, the fear of punishment will generate committing a number of lesser offenses.

The activity of judicial authorities in the field of the promotion of the anti-social phenomenon of crime and criminal liability by punishing those who have committed crimes, rests at the skyline of waiting of the society as a whole, but also to the idea of security of each individual concerned generally recognized as social values to be defended and that the system has the appropriate reactions in the suppression of antisocial facts.

The way for communicating with the society of the factors of the justice is poor and neglected, as a separate state power in its mechanisms currently acts as a gearing close normally disinterested communication with the outside. By the middle of the legislative framework which restricts such potentials, so present in the other powers of the state.

The organizational structure of the judicial is organized only in the interest of functional system, regulated and evaluated referring only to itself, has no interest and is not bound to express the solutions to the outside.

Any attempt in finding out some actions or solutions, it reacts in the sense that it influences the work of the Court, which public opinion has justified the unfavorable phenomenon interprets and sits more strongly the veil of mystery and even potential subjectivity which explains the lack of confidence in justice.

Here is the need for communication, an expression of the decisions of the judiciary while keeping intact the professional beliefs and correct application of the law.

Communication – essential in a modern world vector and at the same time, the correct information from the source of the citizen is a gain of consecrated the constitutional rule of law.

The professional plan of development solutions should be considered, as all existing possibilities in the procedural law, of justice communication with society as a whole, while preserving the specificity of the domain with the proposals and arguments to facilitate communication. This in addition to the existing public consultation processes, pronouncement of judgments in open court, the institution of the bearer of the parquet and other courts, relationship with other legal professional bodies (lawyers, notaries, legal advisors, bailiffs).

In particular, is made in relief the publishing activity, discussing solutions in the media, publishing solutions on the internet, publishing solutions of the European Court of Human Rights on the processes on the portal site and the courts.

The impact of public citizens, curiosity, especially to small communities in which it originated a particular criminal phenomenon, should be taken into account but with leaving the judiciary to keep posting².

Communication itself is seen on the stages of the judicial process, where the explanations are of interest on certain moments of completion of the procedures. The solution is for the interested public opinion and often appears strange on the cases of each particular case reported in other particular cases, where the public or even persons involved may have questions on solutions and different treatment of those prosecuted for justice.

Communication with the public through the media is essential, but you cannot ask magistrates to have skills to justify to the public, because you have complied with the special status of a professional is mainly within the system. The place of communication may be used in connection with the negotiation of a social group no matter how eloquent would it have, and on the other hand communication with society as a whole shall be made by legal structure within the limits of the judiciary power as follows from art. 124-129 of the Constitution and organic laws, texts that govern the system.

Unlike other activities in society, including those of the powers in the state of rule of law, the Court concluded by judicial decision, in relation with the public may not be pursued any notoriety any sympathy, whereas here, the communication can be a success if you have two things: respect justice, confidence and ensure that the law was applied without bias. Apparent issues receive a cognitive assessment, and after they have been drawn up by a discussion on the details of legal interpretation with substantial content.

This awareness cannot take place without a better communication between judicial bodies representing the judiciary and civil society as a whole. Legal instruments that already exist and which can achieve this, we will refer below, must be used and in this direction.

Legal and juridical regulations and criminal policy of the rule of law intended to reduce crime within reasonable limits, to protect social values that fall within the scope of criminal law and ensuring the protection and defense sense for all members of society. These objectives shall be achieved by making the necessary arrangements for the prevention of crimes.

Criminal law, through its content and the penalties provided for, provide so-called general deterrence, and insofar as they are pronounced in criminal punishment, deterrence is achieved concrete special opposite the condemned, but also towards other people prone to committing.

Crime prevention is, therefore, both by raising all persons on entry into the law, which requires special measures for advertising at the time of its promulgation and subsequent legal propaganda a sustained and adequate punishment of those who despised the obligation to comply with the mandatory provisions of the criminal law.

There are in the normative system in force in the two legal texts relating to the theme that we will face this succinct³.

ART. 71 ^ 7 Criminal Code, relatively recently introduced by law No. 278/2006 includes:

² Mitrache, C., Mitrache, C., Drept Penal român, Parte Generală, Ed. Universul Juridic, 2006, București, p. 27;

³ Pașca, V., Codul penal comentat, Partea Generală, Vol. I, Ed. Hamangiu, București, 2007, p. 401;

"Displaying a final decision of conviction or its dissemination is carried out at the expense of the legal person convicted.

By displaying or circulating the judgment of conviction cannot be revealed to the victim's identity, except in cases where there is consent or legal representative.

Displaying the judgment condemning the statement, in the form and places set by the Court, for a period between one month and three months.

Dissemination of the judgment of conviction is made in the statement and in the form prescribed by the Court, through the print media or audiovisual works or by other means of communication audiovisual, designated by the Court.

If the broadcast is made by print or audiovisual court determines the number of occurrences, which may not be less than 10, and in the case of audiovisual broadcast by other means, its duration may not exceed three months. "

Art. 30 of the Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption disposes:

"The final judgment of conviction or acquittal may be published in newspapers, or, where applicable, local, referred to in the judgment."

All in the same way there are a number of international legal acts referring to the publication of judgments of conviction: Criminal Convention on Corruption, adopted at Strasbourg on 27 January 1999, the Corpus Juris (2000), the United Nations Convention Against Corruption, the United Nations Convention Against Organized Crime (Palermo 2000), The African Union Convention (Maputo, 2003), European Civil Convention Against Corruption (1998), the Agreement Establishing the Group of States Against Corruption (GRECO), The European Union Framework Decision on Combating Corruption in the Private Sector (Council of Europe, 2003), the Convention Against Corruption Involving Officials of the European Community or of Member States of the Union, the Council Resolution for a Comprehensive Policy on the Fight Against Corruption within the European Union (Council of Ministers, 2005), The Inter-American Convention Against Corruption (1996), the European Convention on Transfrontier Crimes (STE 132).

Prevention of criminal offences under the law is carried out by a considerable extent and by taking safety measures, such as criminal law sanctions, because these measures and eliminate the danger that some of the States were noted at the time of the offence under the penal law, prevent new offences were committed by the person concerned⁴.

The problem preventing criminal offences under the law must be approached and interpreted in the wider context of the prevention of crime, through complex measures are adopted in social, economic and legal systems on the study and identification of the causes and conditions that lead to or contribute to perpetrating crimes.

We propose our request to have a starting point on regulatory actions that I have described briefly above and finality consists in the identification of legislative solutions for communication needs refilling.

What we want to be done is, mainly, is that better communication of Justice in the field of criminal law, through the publication of the conviction, leads to a high society trusts in the Act of justice. The secondary reasons preventing General are better assimilated by having

⁴ C. Mitrache, C. Mitrache, Drept Penal. Parte Generală, Ed. Universul Juridic, 2006, p. 190;

knowledgeable citizens who, in the media, about the large number of criminal convictions handed down by courts shall refrain from violating the law, as explained in a simplistic example formula "power of example".

Interdisciplinary character and legislative news that is based on this article have not been proposed as reform of the judiciary or best practices in the administration of the judiciary. By way of example, the publication of judgments of conviction on crimes of corruption will result in the removal of stigma put Romania's "corrupt" without corruption. The metaphorical language of creation this license that is found in a document of the Romanian justice is truth striking Romanian society to which the authorities do not show reactions as the phenomenon.

In this way, by the present article we identify solutions for the opening act of justice by the civil society and the citizen.