

ORDER No.6777/5, dated 30.9.2010

ON ADOPTION OF THE REGULATION "ON COURT RELATIONSHIP WITH PUBLIC"

Pursuant to Articles 5, 6 and paragraph 2 of Article 7 of Law No.8678, dated 14.05.2001 "On the Organization and Functioning of the Ministry of Justice", as amended, and the Law "On the Right to Information on Official Documents", the Minister of Justice

ORDERS:

1. Adoption of the Regulation "On Court Relationship with the Public," according to the text attached.
2. This Regulation shall be mandatory to all first instance courts and courts of appeal.
3. Court presidents and chancellors shall be responsible for the implementation of this Regulation.

This Order shall enter into force one month after its publication in the Official Journal.

MINISTER OF JUSTICE

Bujar Nishani

REGULATION

ON COURT RELATIONSHIP WITH THE PUBLIC

I. Understanding the relationship with the public and definitions

1. The purpose of this Regulation shall be to regulate the court relationship with the public. This Regulation aims at ensuring the public awareness on the court activities of the Republic, with or without its direct interest. The objectives of this Regulation shall be:

- a) Establishing the rules of public participation in the court activities.
- b) Detailed regulation of procedures and responsibilities within the court, in order to guarantee the right to information and public relations.

c) Ensuring the right of public to information in a uniform, equal, fair manner and within the reasonable time.

d) Unification of court relations with media.

d) Establishment of procedures for disclosure of information contained in the official documents.

2. This Regulation shall regulate the relationship of the court with the public without including and without hindering the relationship of the court with the parties or participants in the trial. The terms used in the text of this regulation shall have the following meaning:

a) "Court" means the District Court, Court of Appeal, Court for Serious Crimes in the First Instance and in the Appeal.

b) "Public" means, except grammar meaning of the population living within the jurisdiction of a court, any real person interested or any media representative requesting information from the court.

c) "PAO" means the Public Affairs Office.

d) "Press Release" is a document issued by PAO under the authority of the President of the Court that concisely communicates one or several issues to the public. Matters subject to the declaration are related to the adjudication of specific issues, with trial activity in general, as well as with other court activities. Press releases shall always be issued on behalf of the court.

d) "Public Relations" means the mutual relationship of the court on one hand and the public on the other, where the court has a duty to inform the public with accuracy, professionalism and constantly over its operations pursuant to the limitations provided for by the Law and this Regulation. It includes not only the obligation to provide information at the request of the public, but also the obligation of the court to inform the public of its activities without public demand. Elements of court relationship with the public and detailed in this Regulation shall be: information on official documents; Media access to the activity of the court; providing orienting information to the public at the court premises; and other public activities initiated by the court.

f) "Parties and participants in the trial" are natural persons or representatives of legal entities who, according to the Civil Procedure Code and Criminal Procedure Code, appear in court for a particular trial. Their relationship with the court is governed by

the procedural legislation. This Regulation shall neither prevent nor oppose the application of that legislation.

e) "Information" means data that is administered by the court, in accordance with applicable legislation and provided to the public under procedures established by this Regulation. These data are provided in full compliance with their legal status.

ë) "Unrestricted access information" are data contained in court documents, not prohibited by any law to be made public. Documents containing data with unrestricted access shall be listed in this Regulation.

f) "Restricted access information" are data contained in documents administered by the court, whose public availability might be rejected. Documents containing data with restricted access shall be listed in this Regulation.

g) "President" means the President of the respective court recognized under this Regulation as the authority responsible for public relations.

3. Relationship of the court with the public shall be exercised within the limits defined by:

a) Civil Procedure Code and Criminal Procedure Code of the Republic of Albania;

b) The Law on State Secrets;

c) The Law on the Right to Information on Official Documents;

d) The Law on Protection of Personal Data;

d) Law on State Archives;

dh) Law on Public and Private Radio and Television;

e) Any other applicable law.

This Regulation shall apply to the extent where it does not overlap the abovementioned laws.

II. Responsible authorities for court relationship with the public

1. The President of the Court shall be responsible for building, maintaining and improving court relations with the public.
2. The chancellor shall approve the schedule of services rendered by judicial administration structures and shall defines the schedule of public reception.
3. The President shall, in regard to issues of interest to the public and official activities of the court that he/she runs, be entitled to communicate with the public himself/herself or he/she shall authorize the Chancellor to do so.
4. The President shall not communicate with the public in his/her individual capacities regarding to the matters related to trial in his capacity as judge.
5. The task of public relations by the president or the chancellor shall be performed randomly through media communication, taking measures to guide the public in the court premises, taking measures to update the website, administrative management of PAO activity, administrative management of court in general, as well as cognitive and educational activities from the court to community.
6. The President shall be the authority in charge of resolving any disputes that may arise within the court that he/she runs, due to the relationship with the public.
7. In performing the duties of public relations, the President shall be assisted by court administration under the leadership of Chancellor of the court and in particular by PAO.
8. At least once a year, the President shall be obliged to inform the public on the annual activities of the court, the problems that it encounters, and the nature of law violations presenting a concern to the public. This information is accompanied, wherever possible, by statistical data.
9. The President may organize public awareness activities that would provide for the extension legal education within the community. When requested by the representatives of the community, he/she or another person assigned by him/her shall be obliged to participate, to the extent possible.
10. The President shall have the right to accept or reject without any grounds the media invitations for public statements or debates. The President shall consider the media exposure, other than cases specified under items 8 and 9 of this Chapter, in accordance with the court interest in developing normally its activity.

III. Functioning of the Public Affairs Office within the court

1. The organization, functioning and dependence of PAO

1.1. PAO shall be subordinated to the chancellor, who supervises the activities of the office in accordance with the criteria set out by the applicable legislation, with the court's own interest to inform the public of its operations, and in accordance with the media and public interest to be informed of court activities.

1.2. PAO shall perform the following tasks:

a) Maintains constant professional communication with journalists and electronic media;

b) Prepares information leaflets for the public and the media, distributed within court premises, following approval of their content by the President of Court;

c) Advises and suggests the President of the court or presiding judges for public feedback or for providing information to the public;

d) Maintains and updates the website of the court;

d) Prepare press releases on any matter considered appropriate by the President and the judges to be made public.

dh) Communicate press releases on behalf of the court;

e) Prepares and distributes, where technically feasible, for electronic media a disk/tape record of the court hearings.

h) According to the rules established by this Regulation he/she shall administer (receive and transmit for approval) requests from the public (non-party) and the media request for information, and for attending court hearings.

f) Follows and facilitates the electronic media allowed to videotape inside the premises of the court. Ensures the decision of the trial panel/judge to be implemented by electronic media in the court premises.

g) Organizes the work for direct transmission of the hearings in the electronic media, in accordance with rules established by the relevant trial panel.

gj) Administers the audio and video recordings, whenever they exist, for media effect of litigations.

h) Liaises with PAOs of the other courts and coordinates the work to avoid parallel information provided to the public.

i) Organize and manage the process of receiving public opinion for the court, including complains on court activity.

j) Prepares a plan to post the public orientation signs within the court premises and it suggests it to the President of the Court for approval.

1.3. The organization, structure and staffing of PAO for any court shall be appointed by the Minister of Justice according to the following criteria:

a) Number of cases the court considers during a year;

b) The amount of sensitive character judgments to public attention;

c) The number of applications submitted to the court for information or to follow the hearings;

d) The volume of documentary information circulating within a year;

d) The level of income the court generates from its activity.

2. The procedure for drafting and distributing the press release

2.1. For any hearing or after each trial, a trial panel or a single judge shall be entitled to decide to inform the public in a summary on the progress of the case via press release. The judge or the trial panel shall not be forced to do so.

2.2. Press releases can be issued at the request of the trial panel or PAO's suggestion and it shall be issued only on behalf of the court.

2.3. PAO may suggest the judge or the trial panel the advantages and disadvantages for holding a public position.

2.4. While deciding to draft a press release, drafting shall be done by the presiding judge assisted by professional help of PAO.

2.5. Inevitably, a press release pertaining to the litigations should include: the date, place and time of the session, the general circumstances in which the trial is conducted, provision of intermediate or final court verdict, and the informative/explanatory message about the matter concerned.

2.6. The text of the statement shall be drafted in plain and understandable language to the public. It should be informative and explanatory. As appropriate, the statement shall explain the further progress of the case.

2.7. It is forbidden to quote witness statements, statements of judges, prosecutors, lawyers, experts, and other participants in the proceedings into the press release.

2.8. When press statements are not related to litigations, it shall be drafted by PAO and approved by the President of the Court.

2.9. The press releases related to the general activity of the court, number of cases, workload, financial situation and the labor analyses conclusions, shall inevitably be made public.

2.10. The statement may be made on behalf of the assembly of judges or court, but never in the name of the judge. In exceptional cases, the statement can be made on behalf of the judge when there is a public interest in data associated to the judge and always his consent is necessary. Disclosure of any information related to the pending court proceedings shall not be permitted at any times.

3. Administration of requests for information from the public and sessions recording by media

3.1. Requests for information submitted by public or the media (i.e, not by the parties) shall be submitted to the PAO. PAO shall take measures to make significantly visible the place where the requests for information are received.

3.2. Requests for monitoring the court hearings shall be submitted by journalists requesting film images from the proceedings, and as well as by the photojournalists. Journalists who do not require film images shall not submit a request, but they appear directly in the courtroom.

3.3. PAO shall develop standard forms for receiving requests for information or for attending or recording the court hearings. These forms shall be published on the website (where applications are done) and the printed version shall be available in the court premises where the request is done.

3.4. When there are no forms, PAO shall receive and administer the application in the form submitted by the applicant. In this case, PAO shall ensure to clarify specifically what is required and through an accompanying memo, it presents it to the president or judge for his/her consideration.

3.5. The request for disclosure of information on court official documents shall be submitted to the President of the Court by PAO. The latter shall evaluate the legitimacy of the request and shall decide on delivering or withholding the information. Failure to provide information containing official documents issued or administered by the court shall be legally justified. The legal reason shall be explained to the applicant in writing.

3.6. When deciding on the failure to provide information, PAO shall provide a response in writing, informing on the reason for not providing the information.

3.7. When deciding on the disclosure of information, the applicant shall be notified by PAO to address the relevant office in the court to obtain the required data.

3.8. When participation in the trial and recording of court hearings is requested by the media, PAO shall promptly submit the request to the presiding judge. The latter shall, shortly after the opening of the court hearing, notify the other members of the trial panel and the participants in the proceedings of application.

3.9. The application may be rejected only to electronic media, because of one of the following reasons:

a) The court hearing has to do with security measures.

b) One of the parties or participants in the trial does not want to have the session recorded and this objection becomes an obstacle for the conduct of the hearing. Rule II shall not apply to the prosecutor and the lawyer.

c) On reasonable grounds, it is considered that the presence of cameras distorts the flow of the regular court proceedings.

d) Media recording and broadcasting is considered to be used as a tactic of the parties to the proceedings to influence on concealment of the truth or stirring the protagonist attitude of the parties to discredit the expected decision of the court.

3.10. When a court hearing is recorded by the court itself, the electronic media cameras shall not be allowed to shoot. In this case, PAO shall, under the guidance of the trial panel, distribute video images and/or audio from the session, or it shall allow its

full broadcasting by media situated in a special premise outside the courtroom, which is administered by PAO.

3.11. With the permission of the trial panel, PAO may also confine itself to the distribution of photographs of the court hearing for which the public is informed.

4. Preparation and maintenance of the website

4.1. Any court website shall necessarily contain the following elements:

a) Information on the composition of the trial panel. This necessarily includes names, life descriptions and annual declarations of assets for each judge;

b) Information on the administrative staff of the court. This includes names, life descriptions and declaration of assets of the court chancellor and secretary;

c) Information on lawsuits registered by date;

d) Information on electronic lot in real time;

d) Information on the court schedule for any issue registered in the court registers. This includes the intermediate decisions with brief reasoning for postponing the trials and the reason for postponement;

f) Information on the appeal filed;

e) All final decisions by the court, stating whether or not final;

h) Guiding and educational based character information for the parties and the general public;

f) Press releases by the court;

g) On-line inquiry applications or for participation in trials.

4.2. PAO shall, in cooperation with the court chancellor and under the direction of the President, be the responsible authority to update the website in real time.

IV. The relationship of the court with the media

1. Prohibition of recording, broadcasting or unauthorized distribution of court hearings.

1.1. Court hearings may be recordable and allowed to be broadcasted in the media at the request of the media or the initiative of the trial panel. In any case, the recording and broadcasting of the session, complete or partial, shall be made only when it does not violate the rules of due process.

1.2. Electronic media may record and broadcast fully or partially a session by the order of the trial panel, adjudicating on the subject matter.

1.3. The trial panel shall have an exclusive right:

a) to allow or prohibit the complete recording and broadcasting of the session;

a) to allow or prohibit partial recording of the session;

c) to prohibit broadcasting of concrete views during a session, which was previously allowed to be recorded.

1.4. Audio-visual recording in the courtroom shall be made only by radio-television operators with the permission of the trial panel, by security officers in court or by the PAO itself. Any other recording type shall be forbidden.

1.5. President of the Court shall, when there is evidence that the trial of the case is of great interest to the public, or upon the request of electronic media for live broadcasting, informs the trial panel on these issues.

2. The rights and obligations of journalists in the court

2.1. Journalists shall be allowed to attend the open court hearings without any hindrance.

2.2. In exceptional situations, restrictions may be used where the courtroom is insufficient to accommodate all interested parties to attend the hearing. In this case, the President of Court shall decide administratively to allow participants in the courtroom according to the following preferential row: trial participants (parties and lawyers) are initially accommodated; followed by family members and relatives; finally journalists are accommodated. When the number of family members is greater than the number of seats in the courtroom, the president shall set a quota of seats in the courtroom for the family, so as to maintain a representative quota for journalists. In any case, the President must consider in advance the space required for possible placement of cameras. Cameras shall be static and shall always be placed at the end of the courtroom. Use of moving cameras shall be prohibited.

2.3. Where technically feasible, recording and broadcasting shall be made from a special place administered by PAO, always based on concrete determinations by the trial panel. In this case, the President of Court shall decide to accommodate the journalists in respective place.

2.4. Journalists shall be required to attend the trial without making any comments and adhering the rules dictated in session for the conduct of a fair trial.

2.5. The rules set under this Regulation in regard to accommodation in the premises of the court and the courtroom shall apply without exception to journalists and employees of radio and television operators.

3. Procedure for attending the court hearings by the media.

3.1. Each radio-television operator (domestic and foreign), interested to record and broadcast fully a hearing, must submit a written request to the PAO. The application may be filled in on-line when the service is provided by respective PAO.

3.2. The request to participate must be submitted at least 24 hours prior to the time stated for the commencement of the hearing.

3.3. PAO shall submit the filed request promptly to the presiding judge and president of the court for information purposes.

3.4. The request shall be fully or partially granted in opening the hearing, when present in the courtroom are the representatives of the media who submitted the request. This part of session is recordable and is broadcasted without any restriction.

V. General rules of behavior within the court premises

1. Rules for accommodation in the court premises and in courtrooms.

1.1. Rules that apply to everyone in court premises:

- a) Do not speak loudly;
- b) Do not open the door of any judge;
- c) Sit in designated seats;
- d) Do not smoke outside the designated areas;

d) It is forbidden to enter the premises of the court in shorts and vests for men and inappropriate attire for women;

f) Do not consume food. Only the use of coffee machines and soft drinks is allowed;

e) Turn off all electronic equipment, with the exception of portable computers;

ë) Use of mobile phones in the premises outside the courtroom is allowed while maintaining silence;

f) Adhere to security checks at the entrance of the court or at request by any security officer;

g) Do not keep firearms with or without authorization. Exception from this policy applies only to the court security forces and the prison police officers when escorting the defendants.

1.2. In the courtroom, each person participating as a listener, except as provided for under item 1.1 of this Chapter shall:

a) Turn off the mobile phone. If possible, the phone is handed over to the security officer, at the entrance of the courtroom;

b) Not communicate with any participant in the trial and the parties;

c) Not speak for any reasons and with any persons around him/her.

d) Not comment for any reason on facts or statements that listens during the trial;

d) Comply with any order of the judge, before, during and after the court hearing.

1.3. PAO shall displays these rules in any visible place of the court, so as it can be readable by all.

1.4. Court security officers shall not have to wait for decisions or orders by judicial personnel to ensure implementation of the rules in court premises.

1.5. For violation of rules in the courtroom, the security officers shall act under the directives of the presiding judge.

VI. Informing the public on court documents

1. General principles on information of the official documents administered by the court.

1.1. Court information shall consist of unrestricted access information and restricted access information.

1.2. Unrestricted access information shall be published without any restriction on the official website of the court, and in any publication or public information source.

1.3. Any unrestricted access information shall, whether published or not, be provided by the court without restriction. PAO shall prepare the brochures that provide information with unrestricted access and shall present them in a place accessible by any interested party. When this is not feasible, the chancellor of the court shall intervene so the service is provided by the court secretariat.

1.4. Unrestricted access information shall be published by the court assessing the interest and rights of the public to be informed on the activities of the court.

1.5. The court shall be obliged to provide media with unrestricted access, within the day required.

1.6. The court shall provide the restricted access information only in accordance with procedures provided by specific laws on disclosure of information restriction.

2. Providing unrestricted access documents

2.1. The request for obtaining information shall be filed with the court, requiring unrestricted access information. In any court there is a counter/office of public relations, which shall receive requests and provide the information requested by the applicant.

2.2. Application for unrestricted access information is made by completing an application form under the provisions of this Regulation. This form is easily accessible either on the website of the court, or at the counter/office of public relations.

2.3. The court shall, through the public relations office, provide the information requested by the applicant in writing. When this information is published in the form of booklets and it is believed that the material published meets the object of the applicant's request, the court shall be restricted to the delivery of brochure. The court may grant unrestricted access information electronically. Information may be given verbally if it is accepted by the applicant.

2.4. The court may, through the public relations office, create working conditions for all interested persons who want to study materials containing unrestricted access information.

2.5. Information delivered in respect to application is subject to a fee as per commissions defined by Minister of Justice and Minister of Finances.

3. List of unrestricted access documents

The following are considered unrestricted access documents:

3.1. Copies of court verdicts (all levels of jurisdiction).

3.2. Summaries of court practice.

3.3. General information on lawsuits, demands for trial, trial dates and case trial plans.

3.4. Civil lawsuit information on the parties to the proceedings, their generalities, and on the subject of the lawsuit.

3.5. General data on the defendant and formal charges against them.

3.6. Information on the parties (their generalities) and the subject of administrative lawsuits.

3.7. Information on the status of the trial of case (in which phase of the trial is the case, including the appeal).

3.8. Court statistics and annual reports.

3.9. Data on the costs of the court and its budget.

3.10. Name, family composition, wage and declaration of assets of every judge and court staff.

3.11. Court regulations and all internal operational acts.

3.12. Any other information or data not prohibited by law and assessed by the presiding judge.

4. Providing restricted access documents

4.1. Restricted access information may be authorized by the court subject to an estimation of the importance of information and its legal status. This estimate shall always be the responsibility of the president of court, or where appropriate, the respective case panel.

4.2. Restricted access information shall be required and shall always be delivered in writing. The procedure provided by this Regulation in regard to the disclosure of unrestricted access information shall apply to the restricted access information as well.

4.3. Application for access to restricted information shall be submitted to the PAO, which makes it available immediately to the President of the Court. The President of the Court shall decide on his/her own or he/she shall ask for the opinion of the respective trial panel regarding the application concerned. Even though the trial panel is not present for the hearing of the case the information relates to, they shall respond immediately.

4.4. The restricted access information shall be rejected to be provided only when:

- a) it is not required in the manner prescribed in this Regulation;
- b) the data or information is protected by the applicable law;
- c) the data or information violates the flow of a court proceedings initiated or expected to begin in the court where this information is required.

5. List of restricted access documents.

The following are considered restricted access information documents:

5.1. The personal data of each person, provided by the law for the protection of personal data.

5.2. Sensitive data relating to race, origin, religion, philosophical or political views, sexual and health status of the individual.

5.3. Information concerning the private life of anyone, as film materials, photos, e-mail, personal letters etc.

5.4. Financial data (income and expenses) of individuals and legal entities as long as the financial transparency legislation is not applied.

- 5.5. Judicial materials included in a trial file.
- 5.6. Judicial materials in a closed door trial.
- 5.7. Judicial materials of each legal employee on trial.
- 5.8. Personal information on victims, witnesses or experts of a criminal trial. Their names shall not be included.
- 5.9. Personnel files of court employees.
- 5.10. Data relating to the applicant himself/herself requiring information from court.
- 5.11. Information constituting a trade or state secret, according to the definitions of law on secrecy and bylaws of the Council of Ministers.
- 5.12. Information relating to the examination of prosecution applications for taking safety precautions against persons suspected of having committed crimes.
- 5.13. Materials dealing with disciplinary measures of judges, except for the extracts of the enacting clause of decisions rendered by the HCJ.

VII. Applicable sanctions

1. Violation of the rules provided for in this Regulation shall be administratively punished under the applicable legal definitions. Specifically, the administrative sanctions provided for in the Criminal Procedure Code, Civil Procedure Code, the Law on Security in Courts and the Law on the Right to Information on Official Documents, shall be applied by the court or security service for violation of the provisions of this Regulation.
2. Violation of the rules during the trial process shall be administratively punished by a fine or expulsion from the courtroom. The decision in this case is rendered by the trial panel adjudication on the case, based on the definitions in the codes of procedure.
3. In case of violation of the rules stipulated in the legislation on the right to information, the procedures of appeal and administrative and criminal punishment according to rules by the relevant law are applied.