

Third Study Commission Questionnaire 2019

Kazakhstan

At the International Conference held in Marrakesh in 2018, the Third Study Commission, which focuses on Criminal Law, decided that in 2019 it would study

“The Media in Criminal Cases: Protecting the Integrity of the Proceedings and Communications with the Media”.

The impact on daily life of the media in general and the electronic media in particular has increased notably in the last 10-15 years. The judiciary cannot escape that development, and criminal proceedings are particularly affected by it due to the public interest on criminal cases.

Therefore, we will discuss the possible impacts resulting from the influence of the media on criminal proceedings, the protection of those proceedings from that influence, and the maintaining the integrity of those proceedings in the face of such influence.

On the other hand, active communication with the media can be a chance for a better understanding of the work of the criminal courts and gives the judiciary the opportunity to explain the work of the court and the content and meaning of judgements to the public. For this reason we would like to talk in a second part of the meeting about the status of the media toward the courts and the question of active communication between court and media.

In order to facilitate discussion, provoke thinking, and to assist us in learning from colleagues, we ask that each country answer the following questions:

A. Protecting the integrity of the proceedings

1. Are there regulations about how the media work inside the courthouse and the courtroom? If yes, please explain.
2. Are the media permitted to transmit directly from the courtroom, or make a record of the proceedings? If no, how does the court prevent such transmission (for example by using Twitter) or record taking? If yes, do you think that direct transmission from a criminal courtroom can be damaging for the case? Please explain in what way, and which situations you find the most at risk?

3. May the media talk to the judge(s), the jury members, the prosecutor, the defence lawyer, the accused, the witness etc. before, during and/or after the hearing? If yes, are any conditions attached to this?
4. Are there any restrictions on what the media may report before/ during the case, and/or after the verdict? If yes, please explain. Do these restrictions apply in every case?
5. Have you ever experienced a situation where a party in a case has been influenced by the media in a manner that was damaging for the case? (For example a juror/jury who wants to find the defendant guilty due to a media report that suggests the accused is guilty, or a witness who says, as a result of reading about the case in the media, something quite different when giving evidence to that which they said during the investigation? If yes, how did you handle the problem?
6. What can a judge do to ensure that the members of the court or the jury remain unbiased and are not influenced by the media? Is there anything you view as being particularly important, or essential?

B. Communication with the media:

7. Do the media, during a hearing, have special privileges compared to others in court? If yes, which do you find the most relevant or significant?
8. Do the courts communicate the content of a verdict to the media and the public and, if yes, in what way? Do you have, for example, a court spokesman or a media judge or do you give press releases or have some other form of communication with the media? If yes, which do you find the most relevant or effective?
9. Do the courts cooperate in any other way with the media and, if yes, in what way? If yes, which do you find the most relevant or effective?

Please send your answer to:

Lene Sigvardt, Co-President

LES@domstol.dk

Dieter Freiburghaus, Co-President

dafreibi@protonmail.com

Sally Cahill, Vice President

HHJ.Sally.Cahill.QC@ejudiciary.net

Secretariat of the IAJ/UIM

secretariat@iaj-uim.org