

Responses of Turkish Association (YARSAV)

to the International Association of Judges'  
1<sup>st</sup> Study Commission Questionnaire entitled:

**QUESTIONNAIRE – FIRST STUDY COMMISSION – NOVEMBER 2014**

**Media (including social media) in the Courtroom and Effect on Judicial Independence**

**Broadcast and Print Media**

- 1) Are there statutes, rules or orders of the courts (hereinafter referred to collectively as “rules”) that govern persons who are representatives of the media while they are reporting on judicial proceedings?
  - a) If “yes,” do they apply in criminal proceedings,
  - b) civil proceedings, or
  - c) both.

*The proceedings before the adjudicating court (Civil and criminal court) including the delivering of the judgments and orders are in general open to the public. However, sound and radio/TV-broadcasting recordings and sound and film recordings for the intended purpose of public demonstration or publication of the content are prohibited.*

- 2) Please briefly describe such “rules” governing members of the media, addressing when possible whether they govern:
  - a) taking of photographs
  - b) use of sound/video recording equipment
  - c) use of live, text-based communications.

**All set out in the law above.**

- 3) Are the media permitted to televise or otherwise tape and broadcast court proceedings?
  - a) If “yes,” what types of proceedings:
    - i) Criminal trials - **NO**
    - ii) Civil trials - **NO**
- 4) Where there is a real risk that disclosure of the matters in court proceedings will cause substantial and demonstrable prejudice in the proceedings, what are the possible actions/measures available to a court to avoid such prejudice? **If the statutory criteria were fulfilled, the court would order reporting restrictions to be imposed. Our courts do not hesitate to order restrictions on the publication in media.**

Whether or not the media are permitted to televise court proceedings, to what extent are judges in favor of or opposed to televising or otherwise taping and broadcasting court proceedings? **It is impossible to get opinions of all judges without proper survey. However, it can be said that judges mostly are not favor of taping and broadcasting court proceedings. The reason is**

**not just\only about their own opinions based on the necessity of the broadcasting or taping but also structural problems in the courthouses like their sizes or capacities.**

- 5) What are the general views of the citizen population about whether court proceedings should be televised or otherwise broadcast? For example, do people care about what is happening in the courts such that they want to see televised proceedings; do they support televised proceedings or are they critical of them, and what are the bases of such support or criticism?

**There has been no explicit or implied desire to see court proceedings even no voice regarding that.**

### **Social Media**

- 6) In addition to what has been identified in response to questions 1 and 2, above, regarding the media, are there “rules” that govern persons (both members of the media and citizens generally) who are delivering information about judicial proceedings through the use of social media?
- a) If “yes,” do they apply in criminal proceedings,
  - b) civil proceedings, or
  - c) both.

**The answers to No. 1 and No. 7 also concern the reporting in social media.**

- 7) Please briefly describe such “rules” governing persons (media members and citizens generally) who are delivering information about judicial proceedings through the use of social media, addressing when possible whether the rules govern:
- a) taking of photographs
  - b) use of sound/video recording equipment
  - c) use of live, text-based communications.

**See above for remaining questions on social media.**

- 8) Where there is a real risk that disclosure of matters in court proceedings will cause substantial and demonstrable prejudice in the proceedings, what are the possible actions/measures available to a court to avoid such prejudice? For example, may the court simply ban the use of all communication devices in the courthouse; may the court bar the public and the media from the courtroom; may the court bar certain persons from attending the court proceedings if they have caused problems in the past?

**In the case of irregularities the presiding judge may ban the use of communication devices and persons from the courtroom. However, a case by case review is required. Previous similar infringements of the same person alone are generally not enough to allow the judge to ban the person from the court room.**

- 9) With respect to use of social media, such as twitter, that may create an actual risk in a particular case adversely affecting fair and proper administration of justice, apart from imposing a ban on such social media are there alternative procedures available to prevent or limit that risk?

**The constitutional provision states that “Court hearings shall be open to the public. It may be decided to conduct all or a part of a hearing in a closed session, but only in cases where absolutely necessitated by public morals or public security. Special provisions regarding the trial of minors shall be laid down in the law.”**

- 10) When social media is used to publicize court proceedings, should the conditions limiting or prohibiting use of social media such as twitter be determined by:
- a) system-wide statutory or procedural rules,
  - b) left to the discretion of presiding judge on a case-by-case assessment,
  - c) some combination of general rules and case-by-case assessment?

**c- some combination of general rules and case-by-case assessment**

- 11) Accepting *arguendo* that there should be a balance between the goal of achieving fair and proper administration of justice and the goal of delivering accurate detailed reports of judicial proceedings to the public, can this be achieved if the use of live, text-based communications in court houses is permitted and all bans on and control over the use of social media are eliminated?

**It could be discussed that on the ground that there must be general rule flexible and comprehensive without details. As known it is almost impossible to have complete control over the communication and use of social media. Actually, the tendency for this question is negative among judges.**

### **Publicity and the Courts**

- 12) Who on behalf of the courts should respond to inquiries from the media and other members of the citizen population to share information about the court proceedings with the public: judges, executives of the courts, some other designated person? Who and why?

**The chief public prosecutors, as the responsible person of the courthouses, may answer all questions from the media, give information on ongoing prosecutorial proceedings as far as they are not confidential. However, there is no structure that information regularly be made public by written press releases. There is an ongoing project allows chief judges and chief public prosecutors to give information regarding the cases. Some courts have been chosen as pilots. Nevertheless implementation is very weak. Judges may very occasionally speak in general terms outside court in interviews of speeches, but not about individual cases.**

- 13) What sort of information should be shared:
- a) Explanation of the facts and law applicable to a case – **if it can be answered by reference to sentencing remarks or a judgment made in court.**
  - b) Explanation of the court procedures applicable to a case – **basic but not legal questions may be answered, in consultation with court officials.**
  - c) Explanation of a judge's ruling in a case – **by reference to remarks or published judgments in a case.**
  - d) Other kinds of information, and if "yes," please describe briefly.
- 14) Where there are serious criticisms of a court proceeding, particularly criticisms that are factually inaccurate or are based on a misunderstanding of the law, what, if anything, should that court do to correct the inaccuracies or otherwise to respond to the criticisms?

**The content of single decisions of the court will not be commented, whether by the administration of the court nor by the press officers of the court. However, the ministry of justice, the high council of judges and prosecutors or the responsible prosecutors or judges in pilot cities may give additional explanations if they are useful for the better understanding of judgments. The judges that have given a judgment do not comment on their judgment.**

If the particular court involved should not do anything to respond, should the central governing body of the judiciary take any action to respond in order to correct inaccuracies? Why or why not?  
**An assessment of a judgment is only possible through a substantive examination by appellate courts. On the other hand, information with respect to proceeding can be given by the central governing body of the judiciary.**

- 15) If the criticism of the court is well-founded, what, if any, should be the response of the court or the court's central governing body?  
**If the criticism relates to Judicial Conduct it can be investigated by Judicial Inspectors based on the order of the relevant chamber of the Supreme judicial Council.**
- 16) If not already covered in the preceding responses to the questions 15, 16 and 17, how are such matters handled in your country?
- 17) If all prohibitions and restrictions on the use of all forms of media (print, television, social media) in the courthouse were abolished, what in your view would be the consequences for judicial independence?

**The consequences would relate more to the administration of justice than to judicial independence in first insight. However it will probably cause some undesired consequences according as the cultural climate of the country. Therefore judges will not feel themselves free to act since they are not able to control the court order in some certain circumstances.**