IAJ FIRST STUDY COMMISSION

Answers: CROATIA

1. The best practice to safeguard transparency of court proceedings is consequent application of law which should provide that, as a principle, court proceeding should be open to the public. Of course, not all proceedings should be open (deliberating, voting, specific proceedings such as juvenile proceeding etc.), but, as a main rule, trials should be open to public. Furthermore, all court decision should be easily accessible to the public through new IT Technologies where ever possible.

Proceedings regarding selection of judges should be also open to the public. If there is a body with authority to select judges, its sessions should be open to the public. That goes in particular if there is an interview with candidates. Decisions of the authority invested with power to elect/appoint judges should be reasoned and subject to judicial review.

Similar to that, administration of judiciary should be open to public particularly when there is important decision that affects whole judiciary. A special feature in that area is need for public debate and avoidance of hasty decisions.

In all areas should be a person or persons assigned for relations to media (spokeperson/s).

2. Within judiciary, the best practice is Code of Conduct supported with ongoing education (workshops, seminars, etc). Such an approach could cover many areas; acceptance of gifts, conflict of interest, relation to the parties, colleagues, media etc.

3. Ongoing ethics education supported with confidential counselling (usually one judge to whom a judge could make a contact when he/she have an ethical dilemma).

The other branch of safeguards should be provided by the State in judges’ salaries, pensions, condition of work and especially workload which can be managed by a judge and which will allow him/her to deliver decisions in reasonable time.

One of important tools is immunity of judges which should exist only for the wrongdoings in connection to exercise of their judicial duties but also with strict responsibility to those who could abuse ill-founded proceedings against judges.
Disciplinary proceedings against judges should be governed by judicial body mainly composed from judges and decisions should be public. This can promote accountability of judiciary and its image and confidence in the public.

4. Regarding transparency threats it is essential to understand of how important is that court proceedings should be really open to public (not only in the theory and by letter of the law without real possibility to have access to court hearings) and the importance of relations to media. Integrity threats could be within and outside of judiciary. Within judiciary are usually judge’s misbehaviour and sometimes court decisions that are not well explained and therefore misunderstood. Outside of judiciary there are many: disregard and attacks from politicians, different particular interests usually presented by malicious media reports etc. Working on judicial independence and impartiality, transparency and acting according code of conduct in and outside of the court are the best practices to deal with transparency and integrity issues.

Judges should deal with issue of corruption but in most countries more as a myth than as real danger but as we cannot close our eyes to the reality and public opinion best way to face this problem is to openly deal with it but with caution not to cross the line of self-accusation only to please the spectators.

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