

QUESTIONNAIRE

Image and sound recording at courts

1. What type of legislation regulates the image and voice recording at courts in your country and in what way?

In Spain there is no specific legislation regulating image and sound recording in the courts beyond the right to freely communicate accurate information and the principle of the public nature of the legal actions enshrined in the Spanish Constitution, the judgments of the Constitutional Court on the access of reporters to oral hearings – essentially, Constitutional Court Judgment 56/2004 – and that set forth in the Spanish Law on Criminal Procedure [Ley de Enjuiciamiento Criminal], which establishes that "the debates of the oral hearing will be public, under penalty of nullity".

Constitutional Court Judgment 56/2004 indicates, in relation to the access of the audiovisual media to courtrooms and the content of the constitutional right freely to communicate information, that *"it must be affirmed that both the use of those technical channels for the obtainment and dissemination of the news in the general access source of information (and public hearings constitute this) and the installation, instrumentally necessary, of the accurate technical sections where the news is produced form part of said content. Along these lines, it should be highlighted that image notably enriches the content of the message directed at the forming of a free public opinion"*.

2. Is there a separate provision (legislation, recommendation, regulation, etc...) regarding image and sound recording at courts, court buildings, court hearings, court events?

In 2005, the General Council of the Judiciary (CGPJ) approved a Communication Protocol – which will be updated this year – containing recommendations on the access of the audiovisual media to courthouses. As a general rule, the advocated stance is to facilitate their work outside the courthouses during the examination phase (setting up areas from which they can make their live connections and from which the entrance of those involved in the newsworthy case is visible) and to allow them access to the hearings during the oral trial phase.

3. Is the practice relatively uniform regarding image and sound recording at different courts in your country? If not, what characterizes the types of recordings and what are the possibilities?

The differences essentially stem from the characteristics of the courthouse: the most important ones – the Supreme Court and the High Court, but also some Provincial Courts – have an institutional signal which enables the full recording of the oral hearing. In other smaller courthouses or those with fewer resources, the access of the

cameras is usually permitted during a limited period at the start of the hearing to take images of the court and the parties – this is what is known as 'mute' – that serve to illustrate the information.

4. If recording is permitted, how is this applied in practice? Where is it permitted (in front of the building, in the court room itself, on the corridor, etc...)?

As indicated in the answer to question 2, during the examination phase – which is governed by confidentiality – the audiovisual media work outside the courthouses. In the oral hearing phase they access the inside of the courtrooms. As a general rule, the recording of images in areas within courthouses which are not in the courtrooms is not permitted, in application of Constitutional Court Judgment 56/2004, which established that "*the corridors or other areas of that building are not general access sources of information, as beyond the premises in which the public proceedings are held, the right of access has an instrumental character; that is to say, passage to reach said premises*".

5. Are there common problems relating to image and sound recording and if so, what are these?

We do not usually encounter problems of this type. Furthermore, experience has shown that they are even less frequent in the courthouses – such as the Supreme Court or the High Court – in which the presence of reporters is more common.

6. Is a contribution required from the subject in order to record image and/or sound? Is there a difference in this aspect between public figures (judge, prosecutor, policemen, etc...) and others attending the trial (parties, witnesses...)?

The text that will soon update the Communication Protocol of the General Council of the Judiciary of 2005 establishes the following criteria in this respect:

- Shots that enable the full identification of the accused may be recorded if there is a relevant public interest due to the severity of the events being tried and the impact that they may have on public opinion, if it is a public figure or publicly well-known individual – and particularly if the events are related to a public activity – or if they have given their express or tacit consent having previously appeared voluntarily in the media. If none of these requirements is met, it will be possible to take rear and side-on shots of the accused.
- Recording images that make the identification of the victims easy will be avoided, except when they have given their express consent.
- For the recording of the image of the witnesses and experts who are not public servants, express consent is required.
- In the case of trials with a public jury, it will be ensured that the images thereof do not facilitate the individual identification of its members.
- With regard to the public servants who participate in the hearing, Article 8.2 a) of Spanish Organic Law 1/1982, of 5 May, on civil protection of the right to honour, personal and family privacy and to

self-image establishes that the right to self-image will not prevent *“the capture, reproduction or publication by any medium, when dealing with persons who exercise a public position or a high-profile profession or profession of public projection and the image is captured during a public event or in places open to the public”*. This affects judges and magistrates, state prosecutors, legal secretaries, forensic doctors and experts who hold the status of public servant.

7. In case the recording takes the place at the court room, who decides about how the recording is done (location and movement of the press in the court room, who can be recorded, what is the time frame of the recording)?

It is the presiding judge who has the power to regulate the access of the media to the courtroom and the way in which this takes place.

The exception to the general rule of the public nature of judicial proceedings is regulated in Article 680 of the Law on Criminal Procedure, which establishes that *“the presiding judge may, nonetheless, rule that the sessions be held behind closed doors when required on the grounds of morality or public order, or the due respect to the victim of the crime or their family”*, adding that the ruling must be recorded *“in a reasoned ruling”*.

Also, Article 232 of the Organic Law on the Judiciary states that *“in exceptional circumstances, for reasons of public order and the protection of freedoms and rights, judges and courts may, by means of a reasoned ruling, limit the scope of public access and order all or part of the proceedings to be secret in nature”*.

Finally, Article 6 of Regulation 1/2005 of the ancillary aspects of judicial proceedings, approved by the Plenary of the General Council of the Judiciary on 15 September 2005, points out that *“in general, access of the accredited media to proceedings held in public hearings will be permitted, except in the cases in which constitutional rights and values may be affected, when the Judge or Presiding Judge may deny said access by means of a reasoned order”*.

Usually, it is the Communication Office that makes the judge aware of the interest of the media to follow a certain judicial proceeding and it, in coordination therewith, communicates the form of access to the courthouses and the eventual limitations thereof to the media.

8. Do courts keep the press informed on current cases or substantive decisions? If so, are there any specific rules?

The judicial bodies habitually communicate the decisions taken in the cases of interest to the media. They do so through the Communication Office, offering equal treatment to the media, transmitting the information to all at the same time. In the cases in which the judicial authority considers that the successful outcome of the investigation is not jeopardised, the Communication Office also provides the media with a copy of the judicial ruling as soon as it has been notified to the parties present in the proceeding.

9. Is the recorded material made available to the subjects before is it published? If yes, in what way?

No

10. In case incorrect information is published about the courts, or the content of a statement change in the course of post production, are any measures taken? If yes, what are the means of correction?

In case of erroneous information, the usual practice is that the Communication Office contacts the media outlet responsible therefor in order to provide it with the correct information and request that it correct the news published. The judges and magistrates, with the assistance of the Office if they deem it necessary, can also exercise the right of rectification regulated by Organic Law 2/1984.

In the most serious cases, in which professional malpractice on the part of the reporter is noted, the Communication Office can strip said party of the accreditation that allows them to access the courthouse.

Strengthening of court PR: new trends of communication

1. What type of social programmes are organized by your court in order to bring the public closer to the court?

The Communication Office develops several activities with the objective of informing the public of the functioning of our Justice system:

- "Educando en Justicia" ("Educating on Justice") programme: this takes place in educational establishments and usually consists of the simulation of a trial, such that the students can understand what role each of the parties plays (judge, state prosecutor, barristers, etc.) The programme is complemented with student visits to courthouses, where they can attend real trials, after which the presiding judge takes their questions.
- "Informar en Justicia" ("Reporting on Justice") programme: directed at the media, explaining to them in a detailed manner the functioning of the Judicial Administration as well as the differences between the different areas of law. The objective is that they have sufficient knowledge to avoid the errors that usually arise in the judicial news and to help them to portray a faithful image of the functioning of Courts and Tribunals.
- Supreme Court Open Days: these are held once a year and have a double objective: to publicise the highest body of the Spanish judicial system and the historical and artistic heritage housed in its seat, a palace constructed in the 18th century. During the visits, the public have the opportunity to converse with the judges of the court.

2. What kind of CSR programmes are organised by your court in the framework of corporate social responsibility?

3. Are the programmes focused on a specific field of law? Are there significant programmes and events for a given field (e.g. domestic violence)?

The "Educating on Justice" programmes usually focus on subjects such as bullying in school or crimes against privacy committed on

social networks, which directly affect young people. The "Informing on Justice" programme has recently focused on the area of civil law and, more specifically, on the lawsuits of consumers affected by the sale of hybrid financial products and mortgage clauses.

4. Are the programmes designed for specific groups of society (e.g. rights of children, helping the disabled)?

As has been explained, the "Educating on Justice" programme is geared towards students, while the "Reporting on Justice" programme is directed at media professionals.

5. Is there cooperation with partners organisations, non-governmental organisations relating to these programmes?

The programmes are carried out in collaboration with educational establishments, usually after the signature of an agreement with the regional authorities with competences in the area of education, and with the media and journalists' associations.

6. How and where are said programmes and results communicated?

The programmes have been being carried out for several years, such that the educational establishments request them year after year. The education authorities also publicise them, as do the journalists' associations among their members.

7. What are your court international relations? In order to maintain them, do you have programmes, invite partner judges or send your own judges and experts to partner courts?

8. Is your country involved in international scholarship programmes, exchange programmes or study visits?

9. Is there a separate platform for the communication of international relations -foreign website, etc.?

The website of the General Council of the Judiciary, www.poderjudicial.es, contains content - essentially institutional information - in English and French.

10. Does your country or court use social media surfaces. If yes, what type of events are published?

The website of the General Council of the Judiciary is home to a Transparency Portal with all kinds of institutional and economic information on the institution, and in which the agendas of the meetings of its bodies - committees and plenary - and the minutes thereof are published. In the Judicial News section there is information on the rulings adopted by the different Spanish courts, often including the judgments passed.

Furthermore, the General Council of the Judiciary has a profile on Twitter - @PoderJudicialEs - with more than 30,000 followers, and another on Facebook.

Means and measures of crisis communication

1. How is a crisis defined in the life of a court?

The Communication Protocol in extraordinary situations, approved by the General Council of the Judiciary in 2009, defines a crisis as "any extraordinary situation that may endanger the reputation of the Judiciary because of the media perception of an event seen as out of the ordinary".

2. Is there a crisis communication plan at your court?

Yes, the aforementioned Communication Protocol in extraordinary situations.

3. If do you have a plan for crisis communication, what is the content?

The Protocol establishes the steps to follow in the event of a crisis, detailing the preventive mechanisms (in the first 24 hours all the information possible must be gathered; create documents with the messages to be transmitted, define audiences and establish priorities; and reach an agreement with the Communication Office of the judicial body affected on the appropriate messages for each audience); the action protocol (it is essential to transmit the information to the public with a single, categorical voice); and the establishment of a Crisis Office to monitor the events. The actions of the Communication Office in crisis situations will at all times be governed by the principles of transparency, accuracy, quality, flexibility and publicity.

4. Is there a declaration order in case of a crisis? If so, what is this order?

5. What are the primary surfaces for the communication in case of a crisis?

The Communication Office will transmit the information gathered through all the means at its disposal, both formal (website, press releases, etc.) and informal (calls to the media, 'whatsapp' groups with specialist journalists, etc.)

6. What are the main messages in case of a crisis?

We will try to explain as quickly as possible what has occurred, what measures have been implemented in view of what has occurred and what steps are planned for the coming hours or days. The objective is to avoid, as far as possible, the erroneous and/or contradictory information produced in these cases and to generate the confidence of the public in its institutions.

7. What basic principles need to be followed during crisis communication?

Those referred to in the response to question 3: transparency, accuracy, quality, flexibility and publicity. I underline the importance of having a single spokesperson to guarantee that the message is unequivocal.

8. How are the publications documented and followed during the crisis?

The Communication Office monitors the judicial information in the media, whether written, audiovisual or digital, on a daily basis. In crisis situations or special events, summaries or special single-subject reports are prepared.

9. Is there any communications after the crisis and if yes, what is like?

At the end of the crisis situation, the Communication Office performs an analysis and assesses the impact and effectiveness of the actions taken during it.

10. How can a crisis be prevented? What crisis preventing strategies are used?

The Communication Office works to maintain fluid communication channels with all the judicial bodies, making it possible to know immediately what matters may generate alarm among the public or crisis situations. A constant assessment of the current context is also conducted, such that both the General Council of the Judiciary and the judges and magistrates involved in the matter are prepared.