

Guidelines on Trials and their Coverage on Television

Barcelone, October 6th, 1997

1. The Catalan Audiovisual Council calls on institutions to prepare educational materials and publications to inform the public that despite any possible errors in the justice administration, this is the only process through which judicial guarantee can be obtained. The Council also calls on the media to be receptive to this message, to broadcast it and, in exercising their freedom of opinion and speech, to inform the public that when a sentence has been made, final credibility must rest with the judges.

2. The justice administration has to get used to the legitimate media pressure to which it is subjected in trials that rouse significant public interest. To prevent against a lack of information, the Council calls on the justice administration and court presidents, within the context of a particular trial, to facilitate journalists' work by appointing a person to act as a media spokesperson or a news device to keep the media informed at all times. All the steps involved in this process must always be transparent. The Council recommends the media treat any statement from these spokespeople as credible, subject to freedom of speech.

3. The Catalan Audiovisual Council confirms the need for a legislative initiative aimed at standardising the circumstances in which it is appropriate to exclude the publication of judicial activities where it is necessary to guarantee the basic rights protected under the Constitution and in line with the matters established in articles 6.1 and 10.2 of the European Convention for the Protection of

Human Rights and Fundamental Freedoms and article 14.1 of the International Pact on Civil and Political Rights. Until such time as these measures are adopted, the Council recommends television companies abstain from broadcasting the intervention of witnesses called before the courts, in particular expert witnesses and people giving testimony during oral proceedings (although not in the summary phase or following a ruling).

4. The media should bear in mind that even though trials are public, particular people who provide evidence might not be in court of their own free will but rather as a result of a legal principle or court mandate. As such and as long as they are not public figures, these people have the right to safeguard their right to privacy and their image. Freedom of information about public trials must be absolute, but television companies should abstain from broadcasting pictures of witnesses unless otherwise authorised to do so.

5. The media should take particular care with regard to information that may affect children or young people concerning the facts of a trial in order to protect their privacy and personal development in the social environment. The media should restrain from broadcasting names, voices, pictures or other information that could lead to the identification of minors when they appear as victims, witnesses or defendants in criminal cases. The exception is for cases where they appear as the victims of a homicide.

6. The resource that some television programmes use that involves reconstructing what happens in court does not meet the procedural guarantees needed for total credibility. If reconstructions are used, the Council recommends the media warn viewers that reconstructions follow script criteria and are not vouchsafed by judges or judicial guarantee.

7. The media should observe the ethical principle of differentiating between information and opinion when covering trials. The media should not confuse

facts with interpretations made by any party involved. Information should be plural and must show all the positions of the parties involved in the process in an objective fashion.

8. Jury trials should be treated with particular care. Jury members should never appear on a television programme about a case they are involved in until after the sentence has been made public.

9. The arrival of cable TV has resulted in regular live broadcasts of court cases. The legal authorities should set out regulations on this matter that respect freedom of speech and that guarantee the rights of all the parties involved. Until such time as these regulations are prepared, the Catalan Audiovisual Council recommends that trials be broadcast using general shots to prevent an image treatment which could, through the peculiarities of this particular discourse, be confusing or which could affect viewer subjectivity and lead the public to be favourably or unfavourably predisposed towards the people on trial.

10. The Catalan Audiovisual Council proposes that the College of Lawyers and the College of Journalists organise a joint congress to draw up a draft of self-regulation standards about the coverage of trial information to propose them to the broadcast media to win a series of commitments from all broadcasters with regard to joint compliance and freely made agreements. With regard to these commitments, and as a way of ensuring they are met, self-regulation standards should appear in any media found to be in breach.

Appendix: Collaboration Agreement between the High Court of Justice of Catalonia, the Catalan Audiovisual Council, the Col·legi de Periodistes de Catalunya and the Fundació del Consell de la Informació de Catalunya

The following parties:

Honourable Guillem Vidal Andreu, President of the High Court of Justice of Catalonia,

Honourable Francesc Codina, President of the Catalan Audiovisual Council,

Honourable Montserrat Minobis, Dean of the Col·legi de Periodistes de Catalunya, and

Honourable Francesc Ledesma, President of the Fundació Consell de la Informació de Catalunya

Do hereby declare:

That this collaboration agreement has been reached as the result of the parties' willingness to establish more fluid and permanent contact between the Justice Administration and the communications media;

That the Catalan Justice Administration, with a clear vocation to informational transparency, wishes to open itself to the communications media and foment its institutional role as the representative of the State judicial authority in Catalonia;

That the Justice Administration would like to carry out educational and communications endeavours aimed at citizens to ensure to the latter that only through the current judicial system can all the legal guarantees be obtained, despite any occasional errors committed;

And that all the actions aimed at improving the relationship between the Justice Administration and communications professionals have to be framed within an absolute respect for current legislation and the Col·legi de Periodistes de Catalunya's Code of Ethics.

For this reason, the signing parties recommend that the communications media be receptive to this message, that they inform about it and that, when exercising their freedom of expression and opinion, they also transmit to citizens that utmost credibility has to be given to judges when their sentences are final and made public and that, in any case, they must respect the constitutional guarantee of the presumption of innocence which protects all citizens.

As a result, the parties Agree:

1. That the Justice Administration has to become accustomed to the licit pressure exercised by the media during trials and judicial processes which raise considerable public attention and that the Justice Administration shall respond to the communications media, without this depending on the individual judge's or court's disposition.
2. That the Justice Administration shall guarantee all communications media equal access to institutional functions and courtrooms. For the latter, it will create press rooms and provide the necessary tools to offer the communications media decent and modern conditions in which to work.

3. While bearing in mind that each judge and court is empowered to regulate access and determine whether or not the media can record sounds and images depending on the trial and the needs demanded of their respective tasks, the High Court of Justice commits itself to mediate to facilitate the communications media's access to all courtrooms, even if this access is restricted, so as to not violate any right.

4. It shall also request the necessary material from the Ministry of Justice to provide the communications media with audio and visual feeds from inside the courtrooms.

5. The Justice Administration shall guarantee that the sentences will be made public and that they will be communicated impartially, in all cases bearing in mind the right to privacy, honour and personal image of the affected parties.

6. Communications professionals shall take special precautions with the information communicated and shall use all the means at their disposal to contrast said information and give the authorised spokesperson the due credibility without prejudice to the freedom of expression of either party. They shall also specify their information sources when citing different judicial agents.

7. Communications professionals shall commit themselves to respect the presumption of innocence of the accused parties and the right to privacy, honour and image of witnesses when entering and leaving the courts, all without submitting the latter to any type of harassment.

8. Communications professionals shall give special attention to victims, minors and protected witnesses, and in no case shall the latter's identities be revealed.

9. The treatment given to judicial decisions has to be respectful even if they may be legitimately criticised.

10. The signing parties shall collaborate in training communications professionals dedicated to providing information in the judicial area. In this sense, they recommend that communications media management watch over and establish the necessary mechanisms for this training to be possible.

11. The Catalan Audiovisual Council's guidelines regarding so-called *parallel trials* and fictitious reconstructions of the events under trial shall be respected.

12. The Catalan Audiovisual Council shall issue reports and determinations whenever necessary and considered convenient to guarantee that the above recommendations are met.

13. The High Court of Justice of Catalonia is committed to informing the Catalan judicial bodies of this agreement.

14. The signing parties shall carry out the necessary communications regarding this collaboration agreement in their respective areas of influence and action.

15. The content of this agreement shall be communicated to the Ministry of Justice, to the General Council of the Judicial Power's Communications Commission and to the Director of the Judicial School for their knowledge and should they consider any relevant educational measure pertinent.

16. A commission shall be created with equal representation amongst the four parties to monitor and track this agreement and adapt it as necessary to new circumstances and situations.

The territorial ambit of this agreement is the Autonomous Community of Catalonia. This agreement shall be valid as of the date of its signing. And, as proof of conformity, it is signed in Barcelone on November 17th, 2003.