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REPORT

**PUBLIC RELATIONS: EXPERIENCE OF THE
CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA**

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Honourable colleagues!

Please allow me first of all to thank the organizers of the event for the invitation to be among the speakers of this respectable forum.



What allows me to speak in this event about public relations (PR)? The answer is short: we have great experience. The Constitutional Court of the Latvia is respected by the society. As positive evaluation of the activities of the Constitutional Court in the public relations field I would like to mention only one fact – granting of the Ciceron Award for adjudication of matters in a way which Ciceron would find praiseworthy. It is an Award, which is granted by the jury of independent experts^{vii} to scientists and public officials, known to the society. Even though the Award was presented to the Chairman, we hold that it is the evaluation of the activities of the whole Court body.



It is a great pleasure for me to discuss this topic together with the representative of such a famous Court as the Federal Constitutional Court of Germany. Every-body of us knows, that the history of this Court is the History of success. Many courts, also the Constitutional Court of the Republic of Latvia are taking into consideration the case-law of the Federal Constitutional Court. We are willingly learning from the German colleagues also several tricks, how the court procedure and work of the staff is functioning.

However, there are some small differences in both courts, namely, how the things in the field of relations with mass media are carried out. We have several times discussed these differences with our German colleagues. And in my presentation I would like to show, that we need them. The Constitutional Court in the time of political transition, especially in the small country could and should do some things in a different way as compared with the German Constitutional Court does.



The name “public relations” today sounds like magic. It is the field where everything seems to be possible, if you have somebody like a magician in the post of the press secretary.

The question, what the name “PR” means, could be answered in a different way. There are many theories and definitions about what it is. I won't take part in this discussion of scientists in the PR field. I am a lawyer; I'm not one of PR specialists.

However it's obvious, that we could speak about at least two meanings of PR. In the wider, scientific sense PR covers a wide scope of different relations. In a narrower sense, I can say, every-day meaning, we are speaking about PR as the job that is done by the press-secretary or other PR specialist.



The job, done by PR specialist is of big importance, but this job cannot radically change the image of the court. One could compare this job with the job of a cosmetician. A naturally ugly face could be made better, but only to some extent

The face of the Constitutional Court first of all is made through its everyday functioning and through the behaviour of judges and staff. PR is made by everything: judgments, other decisions, answers to the letters of individuals, manner how the secretary answers a phone call and how the chancellery speaks with visitors etc. Even the manner how the staff members are speaking about the chef at home could make PR.

To have a respect in public first of all one should invest in the everyday job and in the internal communication of the Court.

My opinion is that the good face of the Constitutional Court of Republic of Latvia first of all was and is based on this every day job.



In the first conference of the Secretary generals I have already mentioned our special experience in 1999. The Chairman of the Constitutional Court has mentioned it in his presentations as well.

Several very high officials announced that the Constitutional Court should be liquidated. It turned out that a really independent court, which reached its decisions on the basis of the law, without taking into consideration "hints" of other powers, inconvenienced the activities of some high officials. The conflict was solved due to the activities of the so-called fourth power – mass media that actively defended the Constitutional Court, especially after the Chairman of the Court informed them that before reaching the Decision the Constitutional Court had experienced "pressure". Gradually the above officials started "backsliding" and even announced that they had not wanted to liquidate the Constitutional Court but had just wanted to improve proceedings of the Court.

Was this situation a miracle of good job of press secretary of Constitutional Court? Rather no. Of course, she had done her job. But the reaction of mass media was significantly wider than the activities of press secretary. The reaction of mass media was because of the courageous judgments of Constitutional Court.



It is very important, that in its everyday functioning the Constitutional Court follows the values it is enshrining in its decisions.

For example, the Constitutional Court stresses in its judgments the role of the right to freedom of expression, which includes the right to receive information. It is very important, that at the Constitutional Court one can realize this right and can receive information he need.

In the time when society is changing from the total information control to the society where freedom of information is granted, the Constitutional Court must not only support this process through its judgments, but also show an example for other state institutions regarding access to information and tolerance to the different opinions, critical opinions inclusive.

On the one hand Court should be possible open for journalists, who would like to search information themselves. On the another hand there should be a contact person, who could mediate between very complicated law matters and the need of journalists to present the information in the simpler form.

The Constitutional Court was the first one in the Latvia judicial system, which owned the home-page and had its own press secretary. Only some time later another court followed this experience.



Significant field is the openness of Constitutional Court sessions. Article 27 of Constitutional Court Law provides:

“(1) Sessions of the Constitutional Court shall be open except in cases when this is contrary to the interests of protecting state secrets, commercial secrets as well as protecting the inviolability of the private life of a person.

(2) Persons, present at the Court session may make written notes and audio records, not leaving their seats. During the Court session video recording, photographing as well as audio recording outside the places envisaged for public may be completed only with the agreement of the Chairperson of the Court session and so as not to intrude upon the Court process.

(3) The decision about reviewing the case at a closed session shall be adopted by the Constitutional Court. At a closed session the case is reviewed by observing all the provisions for proceedings. The Court decision shall be announced publicly in all events.”

However, since Constitutional Court is functioning, no closed sessions have been held .

The law prescribes, that during the Court session video recording, photographing as well as audio recording outside the places envisaged for public may be completed only with the agreement of the Chairperson of the Court session and so as not to intrude upon the Court process. In practice the Chairperson each time has agreed to presence of cameras in the courtroom all the time the journalists need. For example, in April of this year there was a public hearing in a very sensitive case about the education reform. There were four cameras of different TV companies in the courtroom all the time.

That is the big difference comparing with the practice of German colleagues.

Of course, as Latvia is a small country with not so many TV companies, it is possible, at least up to now, to have enough places for everybody.

To have many cameras in courtroom is not really convenient. But we hold, that to allow presence of this kind was very important especially in the beginning of functioning of the Constitutional Court. It was necessary to put an end to the old tradition of the totalitarian society – the tradition to take every important decision behind the closed doors.



There was also one extraordinary situation as concerns the camera in the court room. The case was on the legality of compensations paid to members of Parliament (Saeima). At the session of the Constitutional Court the Chairman of the Administrative Commission of the Saeima had the nerve to address the following indicative hint to the Court:

“... If you are speaking of our controlling possibilities, then, you see, in our country the Saeima itself determines not only the whole State budget, but the Saeima budget as well. Thus, it is on our conscience how big our budget is, as we may determine it as we wish. By the way, we determine your budget as well. See!”

I wouldn't ask you, if anything like this could happen in Germany. I think that nothing like this will happen once more in Latvia, because mass media were present in the above court session. This speech of the deputy was showed in the same evening in all TV canals and the scandal arose. The deputy has had a difficult time because of his speech in the court room.



However, since written proceedings are possible, there are few public hearings. Mass media get only the text of the decision and the explanatory information of the press secretary. Mass media often ask for comments. They need a face to show in the TV. Also they are asking judges for interviews or participating in discussions etc. The court position is, that no interviews or comments from judges to the judgment could be given. Mass media could get all possible explanatory information only from the press secretary.

There were only a few exceptional cases when a judge gives some explanations about the decision.



Another situation is, if the question about the functioning of Constitutional Court in general arises. Unfortunately, in the time of transition surviving of the Constitutional Court as independent judicial body could depend from the support of the mass media. So in the questions concerning functioning of Constitutional Court in general, court must make really active PR work. I would like to speak about this problem, because I know, that there are representatives from some other countries, where similar problems arise.

In the time of transition the Constitutional Court sometimes must put up a heavy fight to hold its position as an independent judicial body and to be able to make its decisions without interference of the government and the Parliament. In such a fight Constitutional Court can't stay alone. The best companion in such a case is mass media. The outcome of such a fight significantly depends on successful public relations and support of mass media.



I have already mentioned two examples of our old times. I have to unfortunately also mention more recent events, which cause some doubt about the democratic maturity of the Latvian government. Namely, it concerns an ad hoc draft law, which the government has submitted for review at the Parliament in order to commission the Constitutional Court with the duty of reviewing a concrete matter and "consult" the government about the unsigned international agreement. If the Saeima will adopt the draft law in its submitted wording, it is possible that the Republic of Latvia Constitutional Court will be recorded in the Guinness Book. I am still hoping that it will not happen. The essence of the above is as follows:

The scientists of the sector of law have two different viewpoints on the compliance of the draft of the Latvian-Russian border agreement, initialled on August 7, 1997, with Article 3 of the Satversme. The Agreement provides for leaving to Russia Abrene – the territory, which in accordance with 1920 Peace Agreement was the territory of Latvia, but during the Soviet occupation was annexed to Russia. At this moment it is under the control of Russia.

One of the interpretations of Article 3 of the Republic of Latvia Satversme is that it has been elaborated on the basis of border agreements, concluded at the time of adoption of the Satversme (in 1922) and thus the term "the territory of Latvia" includes the territory, which is enshrined in these agreements. One of these agreements is the 1920 Peace Agreement, which includes Abrene in the territory of Latvia. If Abrene were given to Russia it would mean amendment of Article 3 of the Satversme. In accordance with the Satversme it is possible only on the basis of a referendum, which has been fixed in Article 77 of the Satversme.

The second possible interpretation of Article 3 of the Satversme is that Article 3 of the Satversme allows concluding international agreements, in which the borders of the territory of Latvia are determined and which amend the established in international agreements State territory without the referendum at any time.

Undeniably, the legal arguments of the concrete dispute are being immensely politicized. In fact, in the connection with the above agreement there was a government crisis.

The Republic of Latvia Constitutional Court Law establishes that conformity of international agreements with the Satversme shall be reviewed at the Constitutional Court even before their ratification, but only after they have been signed. To solve the above crisis with the help of the Constitutional Court, the politicians have thought of nothing better than to adopt a separate ad hoc law on review of one concrete case at the Constitutional Court.

In its turn the opposition has announced that as soon as the law is adopted it will submit the claim to the Constitutional Court on its unconformity with the Republic of Latvia Satversme. Thus the Constitutional Court may find itself in a rather ambiguous situation. On the one hand the above ad hoc law obliges it to initiate a case within 20 days, on the other hand – the law itself will be contested at the Constitutional Court...

What was the reaction of the Constitutional Court? A really active presentation of its point of view about the procedure envisaged in ad hoc law. The Chairman of the Constitutional Court took part even in the TV discussion about that matter.

However I would like to stress, that the Chairman didn't say any word about the matter whether the Agreement complies with Constitution. He was presenting his point of view only on procedural matters.

As result the draft law is still in the Saeima Legal Affairs Committee without having had any reading of it. However, the story doesn't have its end yet.

Thank you for your attention!