

Outreach Strategy for the
Constitutional Court of Serbia

OUTREACH STRATEGY FOR THE CONSTITUTIONAL COURT OF SERBIA

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The purpose of this strategy is to provide recommendations for enhancing the work of the Constitutional Court of Serbia in public outreach. However, the overview, analysis and recommendations may serve a broader audience and provide useful information to any judicial institution that aims to improve its outreach functions.

For its preparation, background materials provided by the OSCE Mission to Serbia and the Constitutional Court of Serbia were reviewed; an assessment of the Court's current outreach capabilities was conducted through meetings with various members of the Constitutional Court and the OSCE, as well as the media, legal and judicial profession, civil society and NGOs; a selection of news-clippings were analyzed (both a selection prepared by the Constitutional Court and the content of Pristop Clipping database), available public opinion data was taken into consideration; the media environment was surveyed; relevant legislation, case law, jurisprudence and historical circumstances were studied, and the Constitutional Court's publications and other materials were examined.

The first part of the strategy (p. 11—40) discusses the basis for the formation of public opinion of the judiciaries. The second (p. 41—67) addresses the issue of the preparation of the strategy. It gives an overview of the current state of the institution, provides an assessment and identifies priorities, defines target audiences and communication goals, and gives recommendations and proposals for their implementation (communication plan).

Confidence and authority of the judiciary

Public confidence is one of the key factors for the existence, legitimacy and efficiency of the judiciary.¹ The courts' primary function is to independently and objectively uphold and apply the Law (or in this case the Constitution) through process and decisions in individual cases.

As noted in *Prager and Oberschlick v. Austria* (1995)² the judiciary, as the guarantor of justice, has a special role in society and must enjoy public confidence if it is to be successful in carrying out its duties. The phrase "authority of the judiciary" includes, in particular, the notion that the courts are (and are accepted by the public at large) the proper forum for the settlement of legal disputes and for the determination of a person's guilt or innocence on a criminal charge. What is at stake in regards to 'protection of the authority of the judiciary' is the confidence which the courts in a democratic society must inspire.³

The basic communication tools of the Court are its decisions. The Constitution of the Republic of Serbia defines the Constitutional Court as an autonomous and independent state body designated to protect constitutionality and legality, as well as human and minority rights and freedoms. By constitutional definition its decisions are final, enforceable and generally binding.⁴

1 Although there are substantial differences between constitutional and regular judiciary, examples from the latter will be also used to illustrate the main issues facing any independent judicial institution and its public and media relations. One pragmatic reason for this can also be the current general public perception, which often does not distinguish between the competences of both. In such cases confusion of symbolic values can occur due to simple terminological (semantic) similarities. For example, the same stereotype gets applied to all types of judges, competences of different courts are confused and cases misfiled, or, as noted during interviews, sometimes even members of the professional public unconsciously use the word Supreme Court, instead of Constitutional Court.

2 *Prager and Oberschlick v. Austria*, European Court of Human Rights (ECHR) judgment of 23 May 1991

3 *Kyprianou v. Cyprus*, ECHR judgment of 15 December 2005.

4 Constitution of the Republic of Serbia, Art. 166

The objective of such decisions is not only limited to individual issues and their direct protagonists, but also, and even more importantly, to create a general public awareness of the laws of the country for future similar cases. This is particularly more so with the Constitutional Court, as is defined by the term “generally binding”. If the decisions are the only or the main communication tool, however, the majority of the public might not be able to comprehend their individual nor systematic, wider meaning. It is necessary that the work of the courts is adequately presented to the general public, as it needs to understand what they do and why that is important.

Appearance of justice being done is even more crucial than its functional implementation. Although (as will be shown later) there are crucial differences between judicial and political branches of power, and consequently methods of their promotion, it is worth noting the thinking of Machiavelli’s statement that although there are many possible qualities that a prince (i.e., an authority figure) can be said to possess, he should not be overly concerned about having all the good ones, but he should rather seem to possess them.⁵

Throughout the history of civilizations, the concept of law has moved through various phases. It started out as being considered a divine concept, but over time has transferred its authority (through a more humanized symbolization of the ruler-head) towards the current nominal holder of power, the people, and the pragmatic trinity of branches of power. Although the importance of the perception of the law, and of treatment and dissemination of information on it had been well understood throughout times,⁶ its authority was most often enforced, primarily by force, by the executive power.

If the judiciary does not enjoy the confidence of the public or the support of the executive branch, for example, its authority may remain restricted to the power of the arguments, the power of the word. While this is the basic nature of judicial work that most judges might agree to, and although the Serbian Constitution clearly emphasizes that the decisions of the Constitutional Court are final, enforceable, and generally binding, the authority of its “word” might eventually prove not to be understood by a sufficiently large public, and consequently the authority not heeded. This can be exemplified by occasional historical disregard by the other branches for certain decisions of the Constitutional Court, reflected most often in the lack of their execution.

While our primary concern is with the public opinion and understanding of the Constitutional Court which is held by external public groups, it must also be realized that public opinion can have significant effects on the practical functioning of the institution as well as internal levels. It can influence the work and efficiency both on an organizational, and on a personal level within the judiciary, among its justices and staff members. The effects can often be observed in bigger media-exposed cases, when otherwise professional participants get exposed individually and personally; it is not only their personal identity that is exposed, but also their previous work which is judged, along with their actions and personal connections, even if these have no connection with the process whatsoever.⁷

5 Machiavelli, Niccolo, *The Prince (Il Principe)*, Chapter 15, Everyman’s library, 1992 (1532), p. 70—71

6 e.g., Justinijanova digesta, Knj. 1, Službeni glasnik, Beograd, 2003, p. 16—43

7 Zakonjšek, mag. Emil, Izzivi obrambe v velikih kazenskih procesih, Podjetje in delo, št. 7/2006, GV Založba, Ljubljana, 2006

Negative publicity can impact or even influence the workflow due to its effect on individuals, and can indirectly or even directly produce bottlenecks on an organizational level. On the systematic level, publicity can pressure various stakeholders, even external to the institution itself, thus influencing its factual⁸, financial, or even legal position among other structures.

Negative or critical publicity can cause apathy, fear or even material damage, as well as being a threat to the career, personal status, or reputation of a person. In the absence of appropriate treatment, the stress of such situations can also induce serious health problems.⁹

Intemperate and unbalanced attacks on the judiciary can create a false impression of a failed legal system. Such a picture is at odds with reality and threatens the stability and independence of the legal system. It is a picture very easily painted in simplistic media campaigns, but which significantly contributes to understanding and public confidence.¹⁰ Another (perhaps consequential) example of low levels of confidence in the general judicial system may also be perpetuated appeals of certain individuals at all possible levels.

Roberts identifies a number of reasons why public confidence is key for the courts' functioning. The example of criminal law judiciary, being one of the more important segments of social cohesion, show that most crimes are reported to the police by ordinary citizens, but they become less likely to do so if they do not have the trust in the police's response.¹¹ Cooperation of the public is also crucial during the procedures against the suspect/accused. Success of the prosecution is usually possible only if the victim or a witness cooperate and testify. The public will cooperate with the police and the prosecution, and consequently with the judiciary, only if they have trust in the judicial system as a whole.¹²

General public opinion on the courts and law

While specific public opinion polls related to the Constitutional Court of Serbia were not available during research, the closest estimate can be made on the basis of a CeSID public opinion poll performed in Serbia in the spring of 2009. According to the results of this poll only 7% of the population had confidence in the Judiciary (an aggregate of 2% had complete confidence and 5% had it in most cases). In 2008, the aggregate percentages were similar, with 3% having complete confidence.

8 e.g. availability of personnel, premises, material conditions, changes of legislation or even constitution, etc.

9 more Seligman, Martin E.P. et al., *Why Lawyers Are Unhappy*, *Deakin Law Review*, vol. 10 No 1, 2005

10 Eames, Geoffrey, *The Media and the Judiciary*, Speech by Justice Geoffrey Eames to the Melbourne Press Club, Annual Conference, 25 August 2006; www.pressclubonline.com/Assets/102/1/Eames.pdf, accessed 25 July 2009

11 Roberts, Julian V., *Public Confidence in Criminal Justice: A Review of Recent Trends 2004–05*, Report for Public Safety and Emergency Preparedness Canada, November 2004

12 Roberts, *ibid.*

On the other hand, an aggregate 52% did not have confidence, while 17% were ambivalent and 25% did not know.¹³

The rate is similar with the Executive and Legislative branch, who fare equally poorly or even worse. The highest percentages of confidence lay with the Church (39%), the Army (27%) and the Police (20%), while the politicians hold the highest percentages of non-confidence (Government – 64%, President – 54%, Legislature – 70%).¹⁴ A Transparency Serbia survey conducted in 2007 showed that Serbia's citizens thought the judiciary and health system were the most corrupt, preceded only by political parties.¹⁵

The general perception of courts and judiciary in general, with level of public trust in the institution being only 7%, would seem to follow the pattern of most other transitional countries, were it not as strongly pronounced. In Slovenia, for example, the current level of trust in the judiciary is at 18%. However, the level of trust in the judiciary has fallen steadily since 1995, when it was at 43%, until 2004 when it bottomed out at 16%.¹⁶ In the United States, a similar effect could be observed with the US Supreme Court, which has lost 24% between 2002 and 2007 (from 58% down to 34%).¹⁷

Public opinion surveys show that public confidence in courts is on the decline in most of the world. The public's attitudes, assumptions, ideas, or prejudices result from definite influences. One must try to find out what they are in any situation in which one is working.¹⁸

Criticism, expressions of lack of trust and doubts in efficiency or functioning are faced by many other social structures, and are not unique to judiciary alone. Brundage shows in historical examples that many of the same criticisms could be levied against any occupational group whose members professed noble ideals that were difficult to observe in practice – priests, nuns, monks, bishops, popes, physicians, theologians, philosophers, kings, and knights – all fell short of their ethical aspirations from time to time. Hostility toward lawyers, however, seems especially bitter, vicious, generally shared, and longer sustained than that voiced against those others.¹⁹

Lawyers have never been popular.²⁰ They regularly deal with disputes that arise out of ambiguous circumstances in which no party is clearly right or entirely in the wrong. Human beings cling stubbornly to the illusion that it is possible to frame rules that will cut through all uncertainties so that, no matter how murky the problem, any reasonable person can reach a clear-cut decision. Since human relations are seldom straightforward, lawyers who frame complex arguments and introduce subtle distinctions inevitably come to be seen as tricksters who manipulate the rules to suit their client's

13 According to the results of Centar za slobodne izbore i demokratiju (CeSID) poll, Belgrade, 2009

14 CeSID, *ibid.*

15 Human Rights in Serbia 2008, Belgrade Center for Human Rights, 2009, p. 236

16 Politbarometer, CJMMK, June 2009, http://www.cjm.si/PB_rezultati

17 Newport, Frank, Americans' Confidence in Congress at All-Time Low, Gallup News Service, 21 July 2007, <http://www.gallup.com/poll/27946>

18 Bernays, Edward L., *Public Relations*, Norman, 1952, p. 163

19 Brundage, James A., *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Court*, Chicago, 2008, p. 478

20 Brundage, p. 485

wishes – and to maximize their own earnings.²¹ Brundage shows on examples from medieval history, that clients often showed little appreciation for their lawyers' efforts on their behalf and frequently felt aggrieved by the lawyers on whom they depended. In any legal action, at least one party inevitably loses and that party is apt to blame both his own and his opponent's lawyers for the loss. Even clients who emerged victorious from litigation routinely begrudged the legal fees they had to pay in order to secure what they regarded as their due.²²

The courts and the judiciary in general tend to share a similar sentiment by the public. The cases with which the courts and judiciary deal with on a daily basis are by nature of their work embedded in a negative context. Lack of understanding or distinction between attorneys and judges, or even different types of courts or judges by the general public can result in a negative attitude toward all members of the legal profession.

Surveys also indicate that the level of public trust and confidence directly corresponds with the level of public knowledge about the courts.²³ In the long term it is a lack of sufficient understanding (and an excess of misunderstanding) that breeds mistrust. This becomes even more relevant when we realize the nature of media reporting, its changes with the advent of the digital revolution, creation of news or media-interesting material, their prevalence in the process of formation of opinions, and their impact on the reality. At the same time we cannot disregard the specific circumstances of a particular country, or the socio-political environment.

Times have changed, and the recent period has brought about a conjuncture of significant changes in both the economic, political, as well as media landscape. Criticism of the judiciary, that was once limited primarily to private fora, and not a common public occurrence, found its way into daily news, established its position, and contributed its speculative material to the perception and opinion of the public.

Economic and social changes, especially the introduction of private ownership, increased the levels of litigiousness in the post-Yugoslav society. Many types of disputes that were previously latent, or resolved within other institutions of the society²⁴, were suddenly being delegated to the judiciary. General court statistics confirm this, and the increase of cases is also one of the reasons for the main groups of constitutional appeals – the ones related to the right to a trial in reasonable time, or to judicial backlogs. Unfortunately, the courts were not adapted to such changes, and dissatisfaction and loss of confidence grew, eventually finding its way into the media.

The technological development of computers, internet, mobile phones, digital audio-video technology, and other innovations, have lowered the costs of production and changed the nature of the communications industries, including the media, both printed as well as electronic. Changes and concen-

21 Brundage, *ibid.*

22 Brundage, p. 486

23 Fruin, Richard L.; Judicial outreach recognized as a judicial function, www.ncsconline.org

24 e.g. various traditional or religious community based methods or mechanisms of dispute settlement or resolution, socialist self-regulatory conciliation councils, etc.

trations in ownership structures, and an increase in available channels and frequencies have had an additional impact on many regions, Serbia included, often resulting in a negative effect on the quality of reporting and of available reporters.

New media, a consequence of advances in digital technology and consequent liberalization of the media market, have also turned the attention of the public from a narrow and linear, relatively homogeneous, traditional view of obtaining information (such as only one daily news show or books), towards numerous diffused and heterogeneous sources, which are becoming less and less controllable. Because of such changes, although production costs are continuously getting lower, the traditional media are losing their dominative position to new media and communications tools and this will have even further implications on the future perceptions of courts. With the growth of blogs, discussion boards, video sharing, social networking sites etc., on the Internet, a corresponding increase in the number of inappropriate communications directed at the judges and judiciary is already being reported.²⁵ With increasing competition, such dynamics lead toward sensationalism and tabloidization. The quick development of information technology offers the public increasingly new opportunities of mass communication and instant access to large quantities of information. At the same time, however, such opportunities decrease the length of an individual's attention and acceptance of particular products of the information market, and increase the development of new expectations of the media consumers. They are not satisfied merely with regular and accurate news, but need to be shocked.²⁶

The relation between the courts and the media

Judicial cases usually form good material for media interesting stories. Unfortunately, these only rarely present the work from the position of the judiciary. Interests of the courts (fair trial) and of the media (freedom of expression) can consequently come into conflict for a number of different reasons, and often negatively affect the required confidence.

The purpose of a judicial procedure, as stated in Prager and Oberschlick,²⁷ is to provide an objective forum for reaching decisions. The nature of the judicial proceedings is regulated by the norms in order to ensure their objectivity and fairness. A basic condition for this is a rational, argument-based and impartial forum, as defined by procedural rules. Judicial business process is, simply put, procedure based and focused on reaching an objective and complete decision. It is usually a subsequent

25 Similarly Mary McQueen, president of the National Center for State Courts, p. 10, Symposium on New Media and the Courts, Tucson, 2008, www.rehnquistcenter.org/MediaConference/documents/SymposiumMaterials.pdf ; accessed 25 July 2009

26 Teršek, mag. Andraž, O svobodi izražanja in svobodi tiska, Pravna praksa, št. 26/2003, GV Revije, Ljubljana, 2003
Teršek appropriately mentions the findings of Jean Baudrillard (Simulacres et simulation, 1981) who 'discusses virtual terrorism, hyperreality of illusion, media publicity, clones and simulacras, holograms and supermarkets. [...] All these are all extreme phenomena, which cannot be dealt with by critical and dialectical thought any more. A thought, that can deal with extreme phenomena, must itself become extreme.

27 Prager and Oberschlick v. Austria, European Court of Human Rights (ECHR) judgment of 23 May 1991

result or continuation of previous conflicting interests or disputes. Their background is usually a two- or more sided and conflict-based relationship, often also emotionally charged, which began well before a law suit, initiative or an appeal reached the court. In the end, only one side can win. The consequence of almost any judicial decision is also a feeling of discontent by at least one side in the case.

While the judiciary is focused on the procedure, the media is focused on concrete, short-term results which allow for a story to be written. The objective of the press, if we abstract the economic interest, is primarily to create content, which will attract an audience of media consumers, such as, readers, viewers, listeners, etc. Vercic says that while the journalists and the media compete for consumers, this is not only because of money, but also because of vanity.²⁸

Regardless of the actual reasons, such competition often tends to overlook the interests of either the judicial process or judicial administration. Controversial issues that are being dealt with by the courts often form good material for news and other media formats.

The key daily questions of the media are ‘Where? and How?’ to get suitable content, and its quality depends much on available resources and costs of production. The media are usually burdened by strict deadlines, and a desire for exclusive material on hot or breaking news. In general, they prefer bad news to good with a ratio of 7 to 1. The story, regardless of its complexity, is limited to a couple of minutes of TV coverage or a text of 2000 characters. The speed of reporting and the quality of reported information are often inversely proportional, especially when quasi-legal information is being interpreted by non-legal, lay reporters.

Reasons for incorrect interpretation can also be found in the complexity of the legal language. Court’s decisions use a highly technical and complex language, whose full meaning can only rarely be suitably transferred by the journalists into their medium and its format. Most journalists are typically also generalists and do not possess the required knowledge for a thorough understanding of the legal procedures. Consequently they often rely on available information, sometimes regardless of its actual quality.

Other factors such as human resources, editorial preferences and policies, ownership structure, advertising requirements, or the managements influence on editorial work all additionally influence the nature of news production within a particular media company or even branch (e.g., press, TV, internet).

Most mass media require stories on a daily basis, but the judicial procedure is often stretched over a longer period of time. As the media need to be quick and current in order to compete in the market, they often bypass formal procedures, which are relatively long, and often also dull and dry. A trial is a complex and sophisticated entity, which requires a unity of time, space, and action.²⁹ At the same time it is an intellectual and logical process, as well as a social ceremony, whose role is to streamline the

28 Verčič, Dejan, et al., *Odnosi z mediji*, GV Založba, Ljubljana, 2002, p. 21

29 Šorli, Marko, *Vodenje »velikega kazenskega procesa«*, *Podjetje in delo*, št. 7/2006, GV Založba, Ljubljana, 2006

emotions of the public, to enforce the respect of adopted values, and to deliver decisions which will create trust in the operations of the judiciary. The media often rips this entity to pieces.³⁰

The media also often engages in the discovery of various (legally) relevant and irrelevant facts, and a process of an informal trial begins, during which expectations on how “participants” of the proceedings should behave get formed.³¹

The dynamics of media environment requires a reduction of the decision-making process to the level of a story, in which there is not enough room for all the details. Usually, the format of the media requires protagonists and various other roles to provide statements in order to present “the other side of the medal.” As journalistic standards of *audiatur et altera pars* are less strict than judicial, the resulting report may often be one-sided if such statements are not available by the reporter’s deadline. If cameras are not allowed into the court, or the media does not have a video-recorded statement from a representative of the court, for example, the electronic media lack production material, which is a big problem both for them, as well as for the institution. In such cases, the media often resorts to video material obtained outside of the courtroom, and consequently the “trial by media” depends only on such pictures.

Such stories often tend to be uncritical regarding claims of one side in the proceedings, or tendentiously critical of the other, or even the court – the decision maker itself.

The nature of most modern media also often blurs the distinction between reporting and commenting, especially in media-interesting or politically-exposed themes. Often proactive or biased writing may occur, which includes stereotypical or even factually incorrect statements. The media can also collect, select, and publish the information on their (usually editorial) discretion, interpret them freely, and use their comments to shape the perception of the events.³²

What the public finds out from the press, how it is covered and what is sacrificed by the press may be pushed in different directions by the pursuit of profitability. Moreover, the press as an institution may want to maintain control over the dissemination of information. Out of this control, the press is able to build justifications for intrusiveness and to minimize the importance of the outlooks of individuals or even representatives from institutions that are not given voice through the media.³³

After an initial eruption of a “scandalous” story, the information about it often disappears from the press completely, and the story never gets a suitable media resolution.³⁴ Nevertheless, the impression

30 Šorli, *ibid.*

31 Zakonjšek, *ibid.*

32 Merc, Božidar, *Svoboda medijev*, Pravna praksa, št. 25/2005, GV Založba, Ljubljana, 2005

33 Kaiser, H. Archibald, *The Media and the Judiciary in the Democratic Process*, The Commonwealth Judicial Education Institute, 1995, str. 4, <http://cjei.org/publications/kaiser.html> accessed 25 July 2009

34 Tekavc, Janez; *Medijsko sojenje*, Media Watch, Ljubljana, 2001, <http://mediawatch.mirovni-institut.si/bilten/seznam/10/pravo/#14>

set by the story remains. Media dramatize abnormal cases until, over time, they have normalized dramatic cases.³⁵

Leighley shows, with reference to the US Supreme Court (which may serve as an example for the Constitutional Court), that heavy focus on Court decisions does not translate to thorough coverage, and many types of cases are covered in greater proportion than their objective importance – as determined by the number and scope of the cases – would imply. A more thorough understanding of the Court and its societal consequence might be realized if the media chose to report less immediate responses. Not only by choosing to focus on decisions but also in failing to report on longer-term consequences, the media likely provide citizens with a biased and superficial view of the Supreme Court.³⁶

Sources of stories

Such distortions are, of course, being exploited in numerous ways. News stories do not just happen by themselves. In most cases it is not the media, but primarily the sources of these stories, who define the nature of most breaking and opinion making news. Most themes that eventually find their place in the daily media are a part of more or less sophisticated media strategies of case parties or other interest groups. These externalize their judicial proceedings for various purposes, among others also influencing the course of proceedings, publicity, or influencing the public perception of the decision or its legitimacy. Public relations have become a commodity, being quite casually used by more institutions, groups, and individuals, than there is available mass media attention.³⁷

The same story can always be retold from numerous, even differing viewpoints, and it is often the one who is most assertive who gets the desired level of publicity. The attractiveness and eventual newsworthiness of the story often depends not on facts and their objective and complete reconstruction, but on the motivation of its source. It is eventually defined by subjective elements, such as prejudices, myths, and stereotypes. Which these are, and how dominant they are, depends largely on the established legal and, more importantly, general culture of the society. They eventually determine and provide the typical themes that are most frequent or which influence the public's opinion more strongly.

Various specific patterns of speech, myths and stereotypes that form the basis for negative (critical) treatment of the judiciary in the media and the society as a whole can be identified. While issues related to the scope of judicial jurisdiction or competences, length of proceedings, and allegations of

³⁵ Similarly Haltom, William; *Reporting on Courts: How the Mass Media Cover Judicial Actions*, Chicago, 1998, p. 186

³⁶ Leighley, Jan E., *Mass Media and Politics: A Social Science Perspective*, New York, 2004, p. 125

³⁷ Interestingly it often seems that it is the attorneys themselves who are the main sources or catalysts of stories that provide the courts with negative publicity. A Slovenian attorney recently bluntly stated in an interview that he is not using the media to promote himself or his office, but to influence the proceedings of the court. There are also allegations of certain Serbian media which deliberately publish disinformation with the perceived intent of influencing particular legal or judicial procedures.

corruption present some of the biggest court related media themes in transitional countries, different topics arise in other countries, such as political bias or judicial creativity. Intensively stereotypical criticism of the judiciary has become a regular occurrence in almost all comparative systems during the last couple decades.³⁸

The experience of the Yugoslav socialist system, as well as subsequent political conditions in Serbia, have also created a specific understanding of national institutions, including courts and their competences, which may serve as a hotbed for certain lingering or unrealistic perceptions. The country has been through a period of extreme political instability, wars and economic collapse, which by assessment has not given cause for a growth in confidence. Frequent changes of political systems and applicable laws have also created numerous perceived injustices in the eyes of the public, and confused the understanding of the concepts of legality and constitutionality.

The main factors in the political environment stem from the formal introduction of the separation of powers and general elections as the means for obtaining political power, and the consequent abuse of such a system. In the second half of the 1900s, the Judiciary in Serbia formed a part of their system based on unity of power. Although it had previously existed formally as a special function of the government, it did not constitute a separate power, independent from the legislative and executive powers. In this system, the Constitutional Court operated within the scope of the system of unity of powers, with the National Assembly as the highest body. In essence all three powers were “harnessed” by the Party which had controlled them through membership commitments and responsibilities of the party members, who were, almost without exception, part of its core structure. In 1990 a new post-socialist Constitution was passed, and the question of the relationship between the three powers was raised. An occasional disregard for the Court was shown in the way of lack of implementation of the decisions, although political attacks on the Court were reportedly almost completely absent. In 2006 a new Constitution was adopted, and from the normative aspect, almost everything has been undertaken to guarantee the rule of law and effectuate the supremacy of the Constitution. However, as president Nenadic says, the constitutional principles are effectuated in the context of realistic social circumstances and these are a partial obstacle to the full effectuation of the constitutional solutions.³⁹

Interestingly, the long-standing tradition of the existence of the constitutional judiciary seems to have resulted in the Constitutional Court of Serbia being spared of evident and crude attacks from either legislative or executive powers.⁴⁰ Indeed it seems that, from the viewpoint of the qualitative nature of reporting, and based on the perceived effect of individual media units, the rating of the Constitutional Court in the media is, at the moment, relatively good. Negative reporting is exceptional and infrequent. The Court should, however, anticipate the possibility that with an increase in quantity, complexity, and importance of its cases, increased and more frequent public exposure and scru-

38 More in Brown, David, *Popular Punitiveness, the Rise of the »Public Voice« and Other Challenges to Judicial Legitimacy, Confidence in the Court Conference*, National Judicial College of Australia, ANU, Canberra, 2007

39 Nenadić, dr. Bosa, Vučić, dr. Olivera, *The Impact of the practice of the Constitutional Court on Society*, World Conference on Constitutional Justice, Cape Town, 23—24 January 2009, http://www.venice.coe.int/WCCJ/WCCJ_E.asp

40 Similarly Nenadić, *ibid.*

tiny might follow. Also, as the general perception and opinion of other (regular) courts and judiciary is mostly negative, a realistic danger of stereotypical association with them exists.

Using the comparative example of the Slovenian political culture, Ude finds that the holders of political power understand the idea of Rule of Law (Pravna država) and its content neither as a crucial element of the state, nor as a constitutional tool for limiting the government's power. They rather try to present it as a program objective of their political agenda, often by publicly delegating the responsibility for its implementation to the courts, and less often consider it a collection of values and behavior which they are expected to unconditionally follow themselves.⁴¹ Additional examples can be seen in stories where prejudicing statements are given, often thus building unrealistic expectations in the eyes of the public (in criminal cases often compromising the presumption of innocence), or when responsibilities for various politically critical issues are being publicly shifted to the judiciary, regardless of its actual competences.

Effect on opinion and confidence

With this analysis we have attempted to show that there are numerous, heterogeneous, and interdependent factors that influence the publicity of a judicial institution, and with it, awareness, understanding, and consequently the behavior of the public. Public awareness and understanding of an institution are neither automatically affirmative, nor do they depend entirely on the institution itself. They are shaped by a dynamic interaction of various and often contradictory information.

Meaning is socially constructed and dynamic as the culture evolves. Negative stories seem to form the main framework of current reporting on the judiciary in general. Statistics show that media concentrates on reporting bad news because people prefer (with a ratio of 7 to 1) to hear bad news than good.⁴² This is concurred by an internal overview of reporting on the Constitutional Court in 2008, with negative to affirmative ratio being approximately 6 to 1. Although a single news item is unlikely to change attitudes or behavior, it can be claimed that a sensationalistic article is read and perceived by a larger segment of the public than its retraction, and can in time form a trend in other media that influences the general opinion.

At the end of the day, the effect that a published or presented story made on the public is difficult to erase. It joins the existing formation of the general cultural production and impacts both individual as well as public perceptions, thus forming the foundation of confidence. The media's influence is cumulative and long term.⁴³ Although these steps are small and incremental, similar stories eventually form myths and stereotypes.

41 Ude, dr. Lojze, Politika in pravo – razkorak med deklariranim in dejanskim, Podjetje in delo, št. 6/2005, GV Založba, Ljubljana, 2005

42 Baines, Paul, et al., Public relations: contemporary issues and techniques; Oxford, 2004, p. 128 lists the findings of a Center and Jackson report (2003)

43 Baines, *ibid.*

In effect, such stories represent a form of a myth. The distinguishing mark of a myth is that truth and error, fact and fable, report and fantasy, are all on the same plane of credibility.⁴⁴ It reinforces itself through repetition, and eventually creates a distorted perception of reality.⁴⁵ According to Lippmann, the pattern of stereotypes forms the center of our individual beliefs and significantly determines which groups of facts will be seen and in what light they will be seen.⁴⁶ Similarly, key metaphors that are used determine what and how we perceive and how we think about our perceptions.⁴⁷ For when a system of stereotypes is well fixed, our attention is called to those facts which support it, and diverted from those which contradict.⁴⁸

44 Lippmann, Walter; *Public opinion*, London, 1922; Lippmann states that 'the myth is not necessarily false. It might happen to be wholly true. It may happen to be partly true. If it has affected human conduct a long time, it is almost certain to contain much that is profoundly and importantly true. What a myth never contains is the critical power to separate its truths from its errors. For that power comes only by realizing that no human opinion, whatever its supposed origin, is too exalted for the test of evidence, that every opinion is only somebody's opinion. And if you ask why the test of evidence is preferable to any other, there is no answer unless you are willing to use the test in order to test it.'

45 Barthes, Roland, *Mythologies*, 1957, p. 109—159; Myths, according to Barthes, are stories that represent and shape collective expression. They are a type of speech, which is stolen and restored in a particular, motivated way. Their characteristic is to transform a meaning into form. According to Barthes, any semiological system is a system of values; the myth-consumer takes the signification for a system of facts: myth is read as a factual system, whereas it is but a semiological system. The knowledge contained in a mythical concept is confused, made of yielding, shapeless associations. It is a formless, unstable, nebulous condensation, whose unity and coherence are above all due to its function. Its function is to distort, its mode of presence is memorial. The fundamental character of the mythical concept is to be appropriated. It plays on the analogy between meaning and form, and there is no myth without motivated form, which is disturbing from the point of view of ethics. As such, myth is a value. Truth is no guarantee for it, and nothing prevents it from being a perpetual alibi. Repetition of the concept through different forms, the insistence of a kind of behavior reveals its intention. The very principle of myth is to transform history into nature.

46 Lippmann, *ibid.*

47 Abrams, Meyer Howard, *The mirror and the lamp: romantic theory and the critical tradition*, Oxford, 1953

48 Lippmann, *ibid.*, uses interesting and telling examples from the post-World War I period with an emphasis on the city of Rijeka for his conclusion of chapter 3.9. (Stereotypes; Codes and their enemies):

'Thus to the Italians in Paris Fiume was Italian It was not merely a city that it would be desirable to include within the Italian kingdom. It was Italian. They fixed their whole mind upon the Italian majority within the legal boundaries of the city itself. The American delegates, having seen more Italians in New York than there are in Fiume, without regarding New York as Italian, fixed their eyes on Fiume as a central European port of entry. They saw vividly the Jugoslavs in the suburbs and the non-Italian hinterland. Some of the Italians in Paris were therefore in need of a convincing explanation of the American perversity. They found it in a rumor which started, no one knows where, that an influential American diplomat was in the snares of a Jugoslav mistress. She had been seen.... He had been seen.... At Versailles just off the boulevard. ... The villa with the large trees.

This is a rather common way of explaining away opposition. In their more libelous form such charges rarely reach the printed page, and a Roosevelt may have to wait years, or a Harding months, before he can force an issue, and end a whispering campaign that has reached into every circle of talk. Public men have to endure a fearful amount of poisonous clubroom, dinner table, boudoir slander, repeated, elaborated, chuckled over, and regarded as delicious. While this sort of thing is, I believe, less prevalent in America than in Europe, yet rare is the American official about whom somebody is not repeating a scandal.

Out of the opposition we make villains and conspiracies. If prices go up unmercifully the profiteers have conspired; if the newspapers misrepresent the news, there is a capitalist plot; if the rich are too rich, they have been stealing; if a closely fought election is lost, the electorate was corrupted; if a statesman does something of which you disapprove, he has been bought or influenced by some discreditable person. If workingmen are restless, they are the victims of agitators; if they are restless over wide areas, there is a conspiracy on foot. If you do not produce enough aeroplanes, it is the work of spies; if there is trouble in Ireland, it is German or Bolshevik "gold." And if you go stark, staring mad looking for plots, you see all strikes, the Plumb plan, Irish rebellion, Mohammedan unrest, the restoration of King Constantine, the League of Nations, Mexican disorder, the movement to reduce armaments, Sunday movies, short skirts, evasion of the liquor laws, Negro self-assertion, as sub-plots under some grandiose plot engineered either by Moscow, Rome, the Free Masons, the Japanese, or the Elders of Zion.'

Some other more important factors which determine perception by the public are the public's attention, timing, and clarity, frequency and consistency of messages.⁴⁹ How information is formulated, the quality of such stories and their media presence (whether it is negative (critical), positive (affirmative), or neutral), and how prominent they are among other available information, significantly influences the process of its qualification.

One practical consequence that arises from this and is relevant for public relations programs is that a higher quantity of media occurrences in which a particular person, institution, or an idea are mentioned significantly increases their prominence. If, for example, a certain individual is daily seen by the public in the media, the public will associate that person more with the topic he is regularly addressing, and automatically increase the level of salience,⁵⁰ and consequently trust in that person. Similarly, if a false negative association is not clearly disproved, it may become regarded as truth. The prevailing stereotypes and myths eventually create individual opinions, and through that consequently form the most relevant opinion maker.

The Serbian human rights report for 2008 similarly notes that 'notwithstanding numerous reports on the work of the judiciary, neither legal experts nor the general public have obviously seriously analyzed the essential problems plaguing this branch of authority. Assessments of the work of courts mostly boiled down to reiterating the correct albeit oft reiterated criticisms of their dilatoriness, inefficiency and the low public trust they command.⁵¹

Accordingly, the informative content is missing from mainstream media, since it is only rarely considered news worthy. Good news is not news. Consequent prevalence of other, often misleading information, especially when combined with authentic personal experiences, dilutes and eventually changes the traditional perceptions and beliefs. Unless the organization forms policies that routinely contain or counter negative production, negative perception may prevail over time, regardless of its actual, but unsuccessfully publicized activities or outreach programs. Negative myths and stereotypes become prevalent and assume dominance in communication over affirmative and educational content, effectively jeopardizing both the authority and integrity of the institution.

Schulz says that it is not realistic to expect that an organization could survive constant criticism without having to restructure itself. She explains it through a model of an established media-driven discourses model, which initially begins with (1) disapproval (over a particular judicial decision or the court) aided by media and political rhetoric, moves into (2) discourses of disrespect through debate

49 Lippmann, *ibid.*

50 Salience is a term that refers to the relative importance or prominence of a piece of a sign. In communication, salience is used as a measure of how prominent or relevant perception coincide with reality. Crano posits that one's direct experience with an issue or attitude object increases the salience and consequently the potency of that attitude, and the level of consistency between attitude and behavior. (Crano, William D., Attitude strength and vested interest, 1995 in [http://en.wikipedia.org/wiki/Salience_\(communication\)](http://en.wikipedia.org/wiki/Salience_(communication)))

51 Human Rights in Serbia, *ibid.*

and discord media reports, then to (3) discourse of diminution through media questions, and finally into (4) discourse of direction, by politicians' media driven responses⁵².

Reaction

As defined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the exercise of freedom of expression carries with it duties and responsibilities, and may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for **maintaining the authority and impartiality of the judiciary**.⁵³

The press plays a pre-eminent role in a democratic society. As ECHR observed in *Handyside v. The United Kingdom*:⁵⁴ “Freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man. This freedom is applicable not only to “information” or “ideas” that are favorably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no “democratic society”. This means, amongst other things, that every “formality”, “condition”, “restriction” or “penalty” imposed in this sphere must be proportionate to the legitimate aims pursued.”⁵⁵

The *Prager and Oberschlick v. Austria* decision⁵⁶ also stated that although the press must not overstep certain bounds set, *inter alia*, for the protection of the reputation of others, it is nevertheless incumbent on it to impart information and ideas on political questions and on other matters of public interest in a way which is consistent with its duties and responsibilities. This undoubtedly includes questions concerning the functioning of the system of justice, an institution that is essential for any democratic society. The press is one of the means by which politicians and public opinion can verify that judges are discharging their heavy responsibilities in a manner that is in conformity with the aim which is the basis of the task entrusted to them.

The levels of allowable expression on judges and judicial proceedings are, nevertheless, different from levels of expression on politics. One of the main reasons is the different nature of judicial power from

52 Schulz, Pamela D.; *Rougher than Usual Media Treatment; Media, Politics and the Judiciary: A Discourse Analysis of media reporting and justice usual*; The Australian National University, 2007, <http://law.anu.edu.au/nissl/Schulz.ppt>

53 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Art. 10, Par. 2

54 *Handyside v. The United Kingdom*, ECHR judgment of 7 December 1976

55 *Ibid.*

56 *Prager and Oberschlick v. Austria*, ECHR judgment of 23 May 1991

the political power. The judiciary is, in a comparative perspective, traditionally viewed as the least political branch within the systems of checks and balances. As judges are elected to their positions based on their qualifications and mostly on a long-term or permanent tenure, they are expected not to base their decisions on the whim of the public opinion, but rather more long-term values and legal tradition. Unlike members of the executive and legislative branches, individual justices have no incentive for courting the media, other than managing the institution's image.⁵⁷ It may therefore prove necessary to protect confidence against destructive attacks that are essentially unfounded, especially in view of the fact when judges who are criticised are subject to a duty of discretion that precludes them from replying.⁵⁸ Justices of the Constitutional Court of Serbia are, similarly, prohibited from commenting on potential or pending cases. Limits of acceptable criticism are, for example, considered wider by the ECHR when they concern a judge who had decided to enter the political life.⁵⁹

Objectivity, impartiality and independence from external pressure, including public opinion, are seen as some of the basic tenets of judicial ethics by the judges themselves. One of the defining decisions on the subject of reporting on courts is *Sunday Times v. The United Kingdom*, which says “There is, however, a general recognition of the fact that the courts cannot operate in a vacuum. Whilst they are the forum for the settlement of disputes, this does not mean that there can be no prior discussion of disputes elsewhere, be it in specialised journals, in the general press or amongst the public at large. Furthermore, whilst the mass media must not overstep the bounds imposed in the interests of the proper administration of justice, it is incumbent on them to impart information and ideas concerning matters that come before the courts just as in other areas of public interest. Not only do the media have the task of imparting such information and ideas: the public also has a right to receive them.”⁶⁰

ECHR case law shows that limitations of the freedom of expression aimed at maintaining the authority and impartiality of the judiciary are justifiable only in exceptional situations. The Court in Strasbourg recognises that the states have a certain margin of appreciation in determining the existence and extent of the necessity of an interference with the freedom of expression. The State must prove that the restriction was necessary in a democratic society because of a pressing social need and that the restriction was proportionate to the protection of the endangered value. That assessment is, however, subject to a European supervision, and Strasbourg affirms the legitimacy of restrictions narrowly.⁶¹

Sanctioning critical publicity of the courts by legal means is proving neither effective nor necessary in this modern information age. In the United States, a common law system which has developed alongside information revolutions, and where contempt of court orders and various preventive orders are normatively allowed, their use has become almost non-existent in the recent decades. Gag orders proved not to be effective, as they have not deterred reporters from pursuing their stories. It is

57 Leighley, *ibid.*, p. 124

58 *Kyprianou v. Cyprus*, ECHR judgment of 15 December 2005

59 *Hrico v. Slovakia*, ECHR judgment of 20 July 2004

60 *Sunday Times v. The United Kingdom*, ECHR judgment of 26 April 1979

61 Similarly Vrabc, Jaša; Varovanje avtoritete in nepristranskosti sodstva kot razlog za omejitev svobode izražanja – sodna praksa Evropskega sodišča za človekove pravice, *Pravosodni bilten*, št. 1/2007, Ministrstvo RS za pravosodje, Center za izobraževanje v pravosodju, Ljubljana, 2007

also understood, that when information is leaked despite a court order, the result is often flawed, incomplete, overstated, one-sided, not in proper context or otherwise inaccurate. The same can be said about any unnecessary or insufficiently explained restrictions on access to information, or a “no comment” comment, when one is requested. A comparison can be given to the effect of book censoring, where the best thing that can happen for a publisher is to have his book banned in some jurisdiction because it increases the sales of the book everywhere else.⁶²

Another, democratically more appropriate method, is to counter critical information with one’s own, informative and affirmative media production. This can be broadly divided into reactive and proactive activities.

Reactive activities are usually the result of external requests or requirements for the institution’s statements or replies. When a judicial institution is faced with negative, critical, misleading, unjust or disproportionate reporting, different methods can be utilized to counter it. In general it often proves most effective to realize, that a single news item does not constitute a significant change in awareness. Reaction should be aimed at a quick neutralization of the story. It is recommended that polemics in the media be avoided, and at most, limited to factual corrections. Too substantive replies or editorial letters often just add fuel to the story, prolong its duration, and subject the judicial process to the requirements of the media format and audience. When an institution is faced with a news story which results from a motivated source, this might often be just the result which the source desires, and reaction should be carefully considered, preferably by employing the basic rules of crisis management.⁶³

In order to ensure a balance to negative media attention in the long run, it is therefore advisable rather to take the preventative initiative at the formation of the image and its perception on a proactive level. The institution should not merely react to issues that are imposed on the judiciary from the outside, but rather systematically fill the void of currently absent positive information through additional internal production.

It is important to be proactive. The institution should not to rely on the external interests to define its role in the public, but rather take the initiative in engaging the public on its own terms. If, for example, the majority of media contacts occur as a result of external sources, such stories often tend to be presented as conflict based. If the institution is perceived by the media or the public as constantly reacting in a defensive manner, it may become considered “problematic”, regardless of the objectivity of such a perception. Communication with the media should be constant; otherwise it can often be too late for an adequate or timely reaction, when a new, individual issue arises. The reporters might not know the contact persons or their addresses, nor the basic technology and terminology of the institution.

62 Hayslett, Jerriane, et al.; Confidentiality in the Courts and Media: The Gathering Storm, National Conference on Courts and Media, Washington, D.C., 2005, p. 33—39

63 See Crisis Management, p. 67

With this in mind, many courts have started systematically engaging in their own public relations activities, primarily on a reactive basis, and eventually on a proactive public relations platform, including media relations and outreach activities.

Public relations

As Bernays⁶⁴ puts it, we are enmeshed with our world through a two-way process. The publics we come into personal contact with affect our attitudes and actions while the publics we never meet affect us through symbols – words and pictures in newspapers, books, magazines, radio, television, motion pictures, lecture platforms, and other communications media. Through this process, we come to understand or misunderstand the world around us, and through it we are understood or misunderstood. Since we are dependent on others and want to be understood, it is important that our conduct, attitudes, and expressions be guided by the consciousness of our public relations.⁶⁵

The mission of public relations is to build working relations with all of an organization's publics. Through this an individual or a group can ensure that public decisions are based on knowledge and understanding.⁶⁶The basic concepts of public relations are similar throughout cultures and industries, although they need to be fine-tuned to their particular specifications and functional requirements.

Although any kind of communication is ultimately a potential tool for informing the public, it is the mass media, along with personal, independently perceived experiences, that provides the main source of information. The quality of this information, consequent perception and the effect the established perception has on the public's confidence of the courts, or any other institution, for that matter, is in close correlation with the institution's media and general cultural presence. Such a presence depends largely on an institution's public relations activities, which include both media relations, as well as outreach activities and other relations designed for other public groups. The courts need to be aware of the importance of systematically presenting their work in a way that creates confidence and establishes their authoritative position.

Outreach programs, although relatively new, have an important judicial function. They are designed to proactively engage specific groups and provide them with direct experience, for example, extend

64 Bernays, *ibid.*, p. 7–10

65 Bernays, *ibid.*

66 Bernays, *ibid.*

services to those not usually accommodated by an organization, or who may not otherwise have access to those services.⁶⁷

Public outreach, however, requires media support and cooperation, and should not be independent, but rather considered an extension of regular public and media relations activities. Success of outreach programs depends largely on good and reciprocal relations between the institution and the media, because it is the media who are primary generators of public awareness and understanding, as well as the main vehicle by which institution's messages can successfully reach its intended target groups.

The Constitutional Court must consequently tailor the organizational structure of its public relations and outreach activities in order to be compatible with its constitutional role, the established conditions in the society, and accordingly to its available resources. The rules regarding access to and distribution of information of the Court are already deduced from the principle of an open court. The primary judicial function of the institution should be functionally adjusted and continually adapted to the modern (media and political) environment; while public relations and communication management methodology (or internal understanding thereof) should be integrated into its organizational structure, in order to successfully communicate with all of its relevant public groups.

67 Examples of such activities are publicized by the National Center for State Courts on: http://www.ncsconline.org/Projects_initiatives/PTC/PublicUnderstand.htm

The effect of outreach activities is evident from surveys on the overall opinion of the California court system. In the period between 1992 and 2005, the percentage of those who considered it excellent or very good rose from 14% to 30%, and of those who considered it poor or fair fell from 52% to 33%. (Fruin, p. 102)

The following activities should be performed when preparing a long-term (and sometimes also a short-term) communications strategy:

- Business goals of the institution should be defined (by the management of the institution)
- The current situation should be analyzed (by public relations managers (PR))
- Priorities should be set (PR)
- Communication goals and the intended audience should be defined (PR)
- A communication plan should be developed (PR)
- A budget should be prepared (PR)
- The plan should be implemented (PR)
- The plan should be evaluated (PR, confirmation by management).

THE CURRENT STATE OF THE INSTITUTION

Position and organization

Formally⁶⁸, the Constitutional Court of the Republic of Serbia is an autonomous and independent state body designated to protect constitutionality and legality, as well as human and minority rights and freedoms. The Court has a long tradition, as it was first established in 1963 with the aim of preserving the supremacy of the Serbian Constitution and constitutional justice, as well as protecting constitutional rights and freedoms. It held its first session on February 15, 1964. Until the adoption of the Constitution of 1990, the Constitutional Court operated within the scope of the system of unity of powers, with the National Assembly as the highest body. In 1990 the regime of Slobodan Milosevic passed a constitution which substantially curbed citizens' rights. This constitution was finally replaced in 2006 by a new Constitution which changed the competences of the Constitutional Court considerably. The Law on the Constitutional Court was adopted in November 2007 and the Court started its work on 10 January 2008.

The new Constitution introduced a mixed system for the selection of 15 justices, that includes a combination of an election and appointment system with the proportionate participation and influence of all three branches of power. Justices are appointed for tenure of office of 9 years, with the possibility of being re-elected or re-appointed only once.

The Constitutional Court is represented by the President. Decision making at the Court takes place within the Council and decisions are made with a majority vote of all judges, and exceptionally with a two-third vote.

So far only 10 justices were appointed, and the appointment of the remaining five rests with the High Court of Cassation that is yet to be established, expectedly in 2010. In addition to this, approximately 25 judicial assistants and 30 members of technical staff are employed.

Competences

The Court's competences under the new Constitution include deciding on issues of:

- normative control – control of constitutionality and legality of general legal acts (where prior, preventive control has been introduced);

68 Constitution of the Republic of Serbia, Art. 166

- conflicts of competence / jurisdiction;
- protection of territorial autonomy and local self-government;
- ban of activities of political parties, trade unions, and civic associations;
- ban of a religious community;
- existence of a violation of the Constitution by the President of the Republic;
- election disputes for which the Law did not prescribe the jurisdiction of the courts;
- constitutional appeals, etc.

Two functions of the Court are introduced anew: the preventive normative control of constitutionality and legality of general legal acts and the constitutional appeal.

The constitutional appeal is a legal remedy, which according to the 2006 Constitution of Serbia (Article 170), may be lodged against an individual act and/or action by a state body and organisation exercising delegated public powers that violate or deny human or minority rights and freedoms guaranteed by the Constitution. Only appeals against violations, which have been committed after November 8, 2006, are allowed admission.

As part of its new competencies, the Constitutional Court of Serbia is the court of last instance in reviewing complaints at the national level before a case is delegated to the European Court for Human Rights in Strasbourg, thus becoming the ultimate national guardian of human rights and freedoms.

Participants

Proceedings before the Court are initiated by way of proposal, request, constitutional appeal, other appeal or act, or initiative. Initiation of a proceeding must be in written form. Access to the Court is direct, and no legal qualification is required for constitutional appeals.

There are no taxes for procedures taking place before the Court.

The procedure is carried out in Serbian language with the use of Cyrillic script, and official use of other languages and scripts is allowed in accordance with the law.

Participants in the proceedings are accordingly:

- State bodies, bodies of the autonomous provinces and local self-government units, deputies, in the proceedings for the assessment of the constitutionality and legality (authorized proposers);
- Anyone who initiated the proceedings for the assessment of the constitutionality and legality (initiators);
- A body that adopted the law, statute of the autonomous province or local self-government unit and other general act the subject of which is the assessment of constitutionality or legality, as the parties that have concluded a collective agreement;
- Political party, trade union or civil association whose statute or other general acts is the subject of an assessment of constitutionality and legality or in regards to which a decision in being made on its prohibition;
- A religious community whose activity is under consideration for prohibition;
- Everyone at whose request a procedure is being carried out for the deciding on an election dispute and for whom the jurisdiction of the court is not prescribed, as well as the body for the carrying out of elections in relation to whose election activity the dispute is being initiated;
- State and other bodies which accept or deny a competence, as well as anyone who could not effectuate their right due to the acceptance or denial of a competence;
- The Government, Republic Public Prosecutor and body competent for the registration of political parties, unions, civil associations or religious communities, in a proceeding for the prohibition of the activities of political parties, trade unions, civil associations and religious communities;
- Submitter of a constitutional appeal, as well as state body or organization, that have been delegated public powers against whose individual act or activity an constitutional appeal has been submitted;
- A body foreseen by the statute of the autonomous province or local self-government unit in the proceedings based on an appeal, if by way of an individual act or activity of the state body or local self-government unit the exercising of competencies of an autonomous province or local self-

government unit is disabled, as well as the body against whose individual act or activity the appeal has been submitted;

- The National Assembly and the President of the Republic, when a decision is being made as to the existence of a violation of the Constitution in the proceeding for his/her dismissal.
- Judges, Public Prosecutors and Deputy Public Prosecutors in the proceedings relating to an appeal on the termination of their term of office, as well as the body that has made the decision on the termination of the term of office;
- Other individuals in accordance with the law;

NOTE: see “Defining target groups and goals” for the application of groups of participants to communication activities (p. 49)

Main issues

Due to changes of the Constitution, the Court did not operate during 2007, and a significant number of cases from previous years awaited the newly appointed judges.

In 2008, the Constitutional Court had worked on approx. 3.500 cases. Of these, 934 were related to normative control, 1.927 were constitutional appeals, and 576 cases were determined not to be subject to Court’s jurisdiction.

Approximately 2.000 appeals and other initiatives were received in 2008 altogether. The Court held 70 sessions, and decided on 786 cases. 423 were related to normative control, and 363 of them were constitutional appeals. All of the cases from 2006 and a part from 2007 were solved.

In 2009 (until June 30, 2009), the Court received 162 cases of normative control (a projected increase by 48% in comparison with 2008) and 1.190 constitutional appeals (increase by 52%). It solved 207 cases of normative control and 424 constitutional appeals, thus almost reaching the productivity of the previous year in half the time. While the number of normative control decisions is similar (-2% decrease), the productivity on constitutional appeals has increased by 134%.

Nevertheless, **403 normative control cases and 2.221 constitutional appeals remain unsolved.** A continuous increase of new cases is expected in the foreseeable future.

Among constitutional appeals, almost 25% are related to the right to trial in reasonable time. The rest are divided mostly among the right to fair trial, to legal remedy, social rights, right to work, property,

arrest, and various aspects of discrimination. Only a small percentage of them is eventually admitted and adopted, while the majority gets dismissed or, eventually, denied.⁶⁹

The overload of new appeals seems often to be a “logical” consequence of the Court being perceived as the appellate level to regular judicial proceedings. Due to low level of recognition and distinction, the Court is becoming the court of “ordinary people and ordinary cases.” Although baseless, such appeals nevertheless still require procedural resolution, which significantly lengthens the average decision making process. This has already created substantial backlogs, which will in time increase and might require systematic, and not individual solution.

Prior to that it may also contribute to a dilution of relevance and conceptual cohesion of individual decisions, and could also have additional negative consequences on the credibility and authority of the court itself.

Initiatives for normative control of constitutionality and legality seem to have the possibility of becoming an equally pressing caseload issue, as procedural legitimation is given to almost any citizen.⁷⁰

Although the number of judgeships in the new Constitutional Court has been considerably increased from the previous nine positions only, the Court remains understaffed due to five vacant positions and a lack of professional support staff for each of the justices. It seems that even with additional judges, the problem of too many new cases will remain, and may constitute a threat for normal functioning of the court.

69 According to the statistics of the Constitutional Court from 08. 10. 2009, 981 appeals were decided on in 2008 and

70 2009. Out of these, 63 were adopted (6,4%), 148 were denied (15,1%), and 770 (78,5%) were dismissed.

Although the Court faces a similar problem with the quantity of initiatives for normative control, more emphasis is given to constitutional appeals in this strategy. Nevertheless, the same tools and similar target groups may be used when addressing the issue of initiatives as well.

OVERVIEW OF CURRENT ACTIVITIES

Public relations activities of a judicial institution can be defined as those, which are required from the institution by legislation, and those, which are voluntarily decided upon for functional or pragmatic purposes.

The public nature of the Court's work is more specifically defined by the Law on the Constitutional Court (Art. 3), which states that the Court provides publicity through public deliberation of cases, publishing of decision, providing information and press releases to the mass media, and in other ways. The Court can exclude publicity only in exceptional cases where other rights are protected. On the other hand, neither justices nor other employees of the Court are allowed to publicly express their opinion on any matter that may be the case of Court's deliberation.⁷¹

The legislation also gives various additional rights of access to the media (Zakon o javnom informisanju / Public Information Act (PIA)⁷²) and general public (Zakon o slobodnom pristupu informacijama od javnog značaja / Freedom of Information Act (FOIA)), thus providing for a general level of transparency for most institutions, including the Constitutional Court. Such activities are usually considered reactive, as they are the result of a previous external request.

Proactive activities are the result of the institution's recognition of a certain need, and its ability to engage different public groups directly, without an explicit or formal requirement.

Following the adoption of the 2006 Constitution and the introduction of new competencies of the Constitutional Court, the institution and its management have understood the need to familiarize the general public with the enhanced normative competences of the Court, as well as with the benefits of those legal remedies. Some steps have already been taken to this end. The Constitutional Court is already successfully engaged a number of different reactive and proactive public relations activities.

⁷¹ Zakon o ustavnom sudu, Art. 3 (Constitutional Court Act)

⁷² Translations of the acts' titles are unofficial, intended to provide basic indication and comparative understanding of their general scope and content.

Currently, the publicity of Court's work is ensured primarily by:

- **Media cooperation:** members of the media regularly attend the Court's Councils; the Court gives regular press releases (Saopštenja), statements, and announcements regarding its work; it also conducts press conferences and meetings with members of the press, radio, and TV; individual media queries are dealt with directly by the PR officer;
- **Court publications:** all Court's decisions are published in the Official Gazette of the Republic of Serbia; a collection of decisions of the Constitutional Court is published yearly (Bilten); selected caselaw is published on the website; other publications on the work and activities of the Court are also published;
- **Website:** basic information of the Court is available on the website www.ustavni.sud.rs;

In addition to this, we should also consider the following as part of **other** public relations activities:

- requests on the basis of **FOIA**
- **lectures and other events** involving justices of the Court

Public relations organization

At the end of 2008 the Constitutional Court has created a post of a Public Relations Officer. According to the systematization of the Court his responsibilities include:

- organization of press conferences
- preparation of press releases
- organization of interviews and public speeches of the President
- informing the media on regular sessions of the Council
- informing the public on the activities of the Court, individual decisions, Court's legal opinions, as well as Court's opinions and positions regarding the state of constitutionality, legality, and protection of human rights and freedoms following an order by the President and Head of the Office,

- cooperation with the media with the purpose of prompt and accurate informing on the work and activities of the Court
- reviewing media reports regarding the Court's activities, and undertaking measures when reporting is inaccurate
- reviewing media reports on other topics which might be of relevance to the Court's work, analyzing them, informing the President
- preparation of replies on the basis of the FOIA
- other activities according to the order of the President and the Head of the Office

Media cooperation

A regular and two-way cooperation with the media has been established. **Sessions** of the Court are open to the public, and accredited reporters attend regular sessions of the Council on a weekly basis.

Press notices are sent to the media in advance, announcing the time and schedule of regular sessions of the Court Councils. After the Councils, reports or **press releases** (Saopštenja) are published on the web site, generally already on the same day. They provide brief reports on all the cases the Council has considered. In 2008, 101 were published.

Special announcements are given when decisions with wider effect on the society or law are adopted. The Court or the President hold **press conferences** a couple of times a year on a regular basis, and also when conditions require so. **Interviews** and public speeches by the President are organized occasionally.

Press clippings are done weekly and bi-weekly on reports regarding or relevant to the Constitutional Court.

The majority of reporting initiated by the media is done on specific cases, while the court or its role were considered in only a lesser amount, primarily during the period of its initial constitution phase. Only a small percentage of media reporting has dealt with the Court itself in an affirmative way in 2008. The rate seems to have increased in 2009, possibly due to the engagement of the PR officer.

In the recent period the Court has attracted media attention primarily through themes related to individual politically interesting cases filed with the Court, such as various cases related to prohibition of conflict of interests (National Election Commission – judges; National Assembly deputies and

mayors; etc.), issues related to unconstituted nationalistic organizations (Obraz, Nacionalni stroj), Serbo-Russian gas agreement, and several others.

At the time of the research it seems to be safe to predict that some of the more intensive future themes will be related to issues such as re-election of regular judges, and to the increase in the number of new constitutional appeals.

Media reporting has been so far mostly accurate. In 2008, the daily paper Politika and press agency Tanjug regularly provided information on the work of the Constitutional Court in a professional and correct manner. Some daily papers, agencies and electronic media conducted themselves in such a manner often (e.g., Fonet, Beta, Novosti, Blic, Radiotelevizija Srbije), while the rest followed the Court sporadically. Reactions to articles because of inaccurate information on the activities of the Court (letters to editors) were sent only a couple of times, and were also published by the media, mostly with the effect of neutralization of the story.

Reports on the Court mostly come from press agencies, and only the biggest media (e.g., Politika) follow its work regularly. The initial source of media stories on the Court usually lies outside of the institution itself, primarily with initiators of proceedings, or with other persons interested in their outcome. In many cases, the Court becomes the target of media inquiries and expectations following a “hot potato” effect, when alleged competence is “delegated” to the institution when others want to avoid it.

Currently, most media activities of the Court are reactive. Proactive activities of the Court (e.g., protocolar events, etc.) are so far only seldom accepted, but are present (e.g., interviews with the President on pressing issues of national importance or interest), and will most likely steadily increase both in quantity and quality with the Public relations officer’s continued engagement of the media.

Court’s publications

A collection of the Court’s decisions and other acts is published yearly in the form of a Bulletin. The Court has also drafted and prepared a manual on how to properly fill in a constitutional appeal (currently part of the Bulletin), that will be adjusted for individual use, printed and distributed in the form of leaflets and/or brochures and web material.

Publications on the Constitutional Court (“Zbirka propisa o Ustavnom sudu” i povodom četrdesetpetogodišnjice rada “Ustavni sud 1963 – 2008)) were published in cooperation with the Official gazette (Službene novine). In cooperation with international organizations various translations of the Serbian Constitution and relevant legislation were published.

Website

The official web site of the Constitutional Court is www.ustavni.sud.rs. It includes basic information on the Court's:

- Hierarchical position
- Organization
- Competences
- Constitutional framework
- Legislation regarding the Court
- Procedural rules
- Workload and performance information
- News
- Reports on regular council sessions with case information (Saopštenja)
- Reports on other activities and work of the Court
- Contact info
- Information on the library and publications
- Information on cooperation with other countries' constitutional courts,
- Selection of case law
- Collection of yearly reports (Bilten)

No analytical data on the website usage and performance is available at the time.

Other

There were 22 requests for public information access in 2008. Individual requests by members of the public based on the Freedom of Information Act are replied to by the PR officer.

The Court's President and other justices also address the professional public through various public speeches, round tables, conferences and lectures on a relatively regular basis. Both the frequency, as well as attendance of these activities by the professional public are increasing.

So far, and in a relatively short time, the Constitutional Court and its Public relations officer have managed to present the image and work of the Court and of the President quite effectively and with positive results.

General public

The absence of proactive media relations or outreach programs in the past years is evident, as the court enjoys a low level of recognition, both in the media as well as general public. Creation and management of public perception is a longterm process, and some of the reasons for this are explicable, and eventually mendable.

Although the previous president of the Constitutional Court has had a rather outspoken media presence, the institution itself was not highly prominent or promoted. Additionally, the Court's competences were much narrower, limited mostly to normative control, whereas access by the general public through constitutional appeals was at the time not available, and consequently public interest was low. The intermediate period of the Court's non-existence, and its subsequent reemergence in a completely reformed role, have thus created a relative tabula rasa among the general public.

Citizens are largely unaware of the role of the Constitutional Court in society. There also seems to be a substantial lack of distinction with other courts and judiciary in general. A low level of recognition can also be exemplified by the fact that even some members of the professional public often (unconsciously) use the term "Supreme Court" when they want to refer to the Constitutional Court. As the general perception and the opinion of the courts and judiciary is not positive, a danger of association with other courts (and related stereotypes) exists.

Lack of recognition of the Constitutional Court may, interestingly, prove to be an important factor for the success of the outreach strategy, as it does not need to neutralize negative stereotypes or prejudices regarding its role and behavior.

Professional public

Currently, most emphasis and available materials seems to be aimed at the professional public. This is also one of the most important publics, as it can also be the most relevant and influential opinion maker both on a general, as well as individual level.

The participation of the president and other justices in professional conferences and round tables on various topics connected to the Court's work and position in society, seems to be already effectively providing direct outreach with one of the most relevant publics. Although relevant individuals (i.e., the president and other justices) do not seem to be highly recognizable in the general public, the reputation of the institution and its members in the professional circles seems to be high. It also seems to have strong potential for further strengthening, as well as spill-over to other, more general public groups.

The decisions and their well structured presentation in the yearly publication Bulletin seem to be one of the most important sources of information on the Court's work. It was noticed, however, that they include a copyright notice on the front page which seems rather unnecessary, both from the point of copyright legislation⁷³, as well as from the point of public relations and the desire to increase professional and general understanding. Use and further dissemination of adopted decisions of the Constitutional Court should be welcomed and encouraged. Instead of a copyright notice, a suitable reference with the indication of a proper way of quotation of Court's decisions could be recommended.

At the moment, however, the terminology used in the Court's materials seems to be too professional for other public groups. As such it requires a thorough understanding of legal terminology, legislation and structure of the decisions, and is consequently difficult to understand by other publics. A real danger exists that such publics could misunderstand the role of the Constitutional Court, or that in individual cases the understanding of its role be falsely interpreted.

Successful outreach materials should be written in the language that could be understood by a person with 11 years of schooling (3rd year of secondary school). Messages for the wider population should be therefore made as simple as possible. Translation of complex and abstract legal phrases into media interesting and coherent everyday language, simultaneously being restricted by the media format, is demanding and may require outside linguistic consultation. Use of permanently employed non-legal communication specialists (in addition to a legally educated communication officer) is recommended to prevent unconscious jargon and professional terminology. Pictorial material (e.g., graphs, diagrams, photos, etc.) should be prepared and used if possible.

73 Zakon o autorskim i srodnim pravima, Art. 6/2 (Copyright Act)

Media

It seems that, from the viewpoint of the qualitative nature of reporting and based on the perceived effect of individual media units, the rating of the institution in the media is, at the moment, relatively good. Negative reporting is exceptional and infrequent, and no major or continuous negative themes have been identified.

Most journalists that report on the work or activities of the Court seem to be poorly acquainted with its position, competences, or procedure. Consequently, the danger of misunderstanding exists when they are faced with a proposal of an interesting topic by interested external parties. On the other hand, they seem to be unwilling to report on general or protocolar activities of the Court, as they probably fail to understand their relevance or do not consider them newsworthy.

A number of positive and affirmative media units has, nevertheless, been published or broadcast in different media, mainly on the topic of the Court's position in the society, including a number of strategically important interviews with the President. Such content might, however, attract media attention primarily in the beginning of the institution's existence, when the role of the Court is yet unknown both to individual mediums, as well as to the general public.

While there is no adequate empirical or analytical data which would show a comparative perception of the judicial institutions in Serbia, we need to resort to several perceived elements, which may influence the levels of public perception, or more correctly, the levels of perception by general mass media. Some of the interlocutors from the media suggested that currently the Constitutional Court has almost no relevant ranking among comparative Serbian institutions.

Amongst legal institutions, the ones that were mentioned most commonly for their exemplary media relations or outreach activities, include Special Prosecutor's Office for War Crimes, network of commercial courts (Trgovinski sudovi), Supreme Court, District Courts (Opštinski sudovi) of Kraljevo and Niš, etc.⁷⁴ It is our assessment, however, that these institutions are not directly comparable to the Constitutional Court, neither from the viewpoint of their systemic role, nor their business or com-

74 The Supreme Court has, for example, produced a number of publications for the general public, and also co-produced a television documentary on the history of Serbian judiciary. The court in Niš established a Memorandum of Understanding with the local media with the aim of facilitating better relation between the courts and the news media, and to promote existing outreach programs, which help educate the public about the work of the courts. The Special Prosecutor's Office for War Crimes has especially been noted for successful public relations activities.

munication goals.⁷⁵ It would definitively not be appropriate for a judicial institution such as Constitutional Court to establish a media relations system which would imitate the existing political or marketing strategies, or which would be based on personal promotion of individual judges.

The Court has, thus far, successfully maintained both its objectivity as well as its authoritative position when addressing media requests or publicity. It is estimated, that despite current low level of recognition among the media, this will steadily improve over time and through individual experiences and contacts.

Nevertheless, the Court should anticipate the possibility that with an increase in the quantity, complexity, and importance of its cases, increased and more frequent public exposure and scrutiny will follow. Increased exposure might at the same time, if not managed carefully, legitimize particular interest groups to use the same channels of communication for externalizing internal business processes for various reasons, e.g. influencing specific procedures, promoting a political agenda, self-promotion, personal or institutional discrediting, etc. Without routinized reactive and adequate proactive public relations measures such attitude might change toward a more critical negative direction.

Press releases (saopštenja), for example, currently provide the media with a regular and detailed understanding of the court's weekly operations. They seem, however, much too complex for effective approach toward the general media (or public), as they usually include information on all cases that the Court decided on.

In the long run, the Court should start preparing media attractive press releases related to specific topics or cases. Potential reactive activities should be preempted by proactive information on cases which can be identified as media-interesting. Specific cases and allowable information that can be released by the Court can be combined with themes related to the Court's own priorities, in order to induce a desired media dynamics.

75 Special Prosecutor's Office for War Crimes (hereinafter: SPOWC), for example, deals with a relatively low number of cases, which are similar in the manner of legal procedures and terminology required, and deal with content which has already been identified as media interesting. Despite, or maybe even due to the politically delicate nature of the issues, the SPOWC has managed to establish its position in the media environment through an assertive and proactive public relations strategy. This can be partly also due to the fact that they are not a judicial, but a prosecutorial office. This also means, that SPOWC primarily presents their work and theses which they have initiated themselves, whereas decision making is usually a responsibility of the judiciary. In most cases, the source of their stories lays with themselves, which represents a substantial difference to judicial institutions. As such SPOWC is able to provide a continuous discourse on an historically interesting content, often also without mentioning specific cases. Consequently, the SPOWC is able to control the daily media dynamics, and seems to hold the highest ration of neutral reporting. While such methods might be considered too activist, they just may identify the recipe for successful obtaining of awareness and support of the national and local media.

Other

The technical capacity of the Constitutional Court is satisfactory as it is well-equipped with desktop computers, with an internal network and access to the Internet. Its information management and system administration human resources are, however, outsourced, and currently seem inadequate. While the Court has an official website, the information on the Court's jurisprudence, activities and decisions that can be accessed is basic and its structure and terminology are mostly limited to the professional public. The Court is mostly dependent on the Administration for general procurement⁷⁶ for website management, which limits its control and flexibility of adapting the content. Editing and structural adaptation are limited, and also, no analytical data on the website usage and performance is available at the time. Ideally, however, the website should serve as the main medium of the institution. Basic recommendations for further development of the website are attached.

The Court also has a rudimentary electronic case management and case law systems, which do not allow for efficient analyses of their content. This could increase the danger of unequal treatment of similar cases on the internal level, and it also limits the potentials for proactive presentation of particular cases or case-law themes. Basic recommendations for the adaptation of the case law system are attached.

Visual identity of the court's materials currently seems to be outside of the scope of public relations activities. Nevertheless, the Court should consider defining the rules and standards for all of its major publications (e.g., colors, fonts, margins, styles, etc.) in order to establish a strong and recognizable visual presence, as well as to streamline the production process and prevent potential discrepancies and deviations.

Organization

It is important to realize that communication of the Constitutional Court with the media is not the communication of the Constitutional Court's justices. Judges judge, and while their main communication tool are their decisions. Maintenance of objectivity and its appearance need to be assured at all times. The exception to this is the role of the President, whose position is not only managerial, but also symbolic. As such, the President has the authority over communication as well. For practical purposes, however, this role is delegated to an authorized person, who through such assignment also assumes responsibility for successful execution of delegated tasks. Public statements of the President should therefore be planned and strategically employed in coordination and consultation with the public relations officer (or department).

⁷⁶ Uprava za zajedničke nabave, part of the executive branch

Formal limits on commenting by members of the Constitutional Court exist on pending or potential cases, which also narrow the choice of available communication themes. In practice, such limits are often enforced through voluntary self-censorship by the Court itself, despite frequent requests for comments.

Direct commenting or even simple statements on pending cases themselves should also be avoided by the President. In such cases danger exists that case parties might allege prejudice or bias in specific or subsequent cases, and public exposure could legitimize replies by other interested subjects and may lead into uncontrollable and potentially harmful polemics.⁷⁷ Ideally, these comments (in principle these would not be comments, but basic allowable information packed into an appropriate media format) should be left to a non-judicial spokesperson.

The task of such a source is to ensure openness and credibility of the institution, accessible speakers for the media, and at the same time perform a role that can provide all the information, but has a very limited potential for jeopardizing the reputation of the institution. The spokesperson of the Court should be known to the media as a person, and should be as accessible for communication as possible. Individual outreach to identifiable individual members of the media is required and should be planned in order to reach out to all media, not only react to those that initiate contact first. The media need to be strategically acquainted with an interlocutor who can explain the technology of the Court's work, its terminology and dynamics. They also may need other materials, for which they do not ask in the questions or inquiries, but which could be beneficial to them, such as photographs or various other documents (e.g., graphs, diagrams, tables, etc.).

It is important that all activities of the institution, not only activities regarding regular work, follow a central communications strategy and well-identified goals. Unless the Court tries to achieve a coordinated, integrated, technically efficient approach to productive action and interaction between itself and the public, there is waste effort, which lessens the possibility of achieving its objectives. An integrated and as much depersonalized system of public relations must be ensured within the organization.

The current system of organization is unclear in this regard, as it seems that PR is subordinated to the Head of the Office of the President. Ideally, such a position should be independent from the judicial or administrative work, answerable only to the President, kept informed and coordinated with the President on all matters of importance to the institution.

Although media relations so far seem exemplary, as many affirmative, proactive contents were successfully placed in most of the major media, including electronic, it also seems that too many tasks are currently delegated to just one person. Ideally, public relations should be the task of a department. In judicial systems it is recommended that the posts should be filled with a combination of a lawyer with (at least) basic communication knowledge, and a journalist / communications specialist.

77 At the same time it should be noted that communication with the case parties or appellants is not part of the general public relations, but of the basic, judicial operations of the Court.

The role of public relations should be to seek channels and ways to promote the desired image and messages among various public groups, and this should be done with the input material provided by other departments of the Court. Also, public relations should not rely on one person only, but should take into consideration the breadth and quantity of responsibilities, as well as the need for substitution in cases of absence. Public relations should be organized as a system and should possess sufficient potential not only for urgent reactive relations, but more importantly, creative proactive implementation of the institution's message.

On the reactive level it should allow for effective internal and external communication, routinized dissemination of documents and other information on the state of cases to interested publics, and for enabling timely and efficient response to all media inquiries and detected negative occurrences.

Beside reactive activities, it is necessary for the institution to have sufficient resources for ensuring constant production and distribution of proactive content on topics relevant to the Court itself, thus allowing for creation of its own affirmative media dynamics. New information channels need to be opened, and basic conditions for systematic dissemination of content to all interested, and even non-interested or latent, publics. Capabilities for a regular production of new, additional information material, need to be ensured. Information should be as user friendly as possible, depending also on the future anticipated re-use by other media disseminators.

The work of public relations should be closely coordinated with the administration of the website, production of other publications, and case law.

Such core content should not be the responsibility of the public relations, in order to avoid conflicting priorities. Preparation of the raw materials, primarily the decisions and basic reports on the Council sessions, for example, should be responsibility of other sectors of the institution.

DEFINING TARGET GROUPS AND COMMUNICATION GOALS

The main goals⁷⁸ of the proposed strategy are:

- improving the capacity of the Constitutional Court to increase citizens' awareness of their constitutional rights and of the means at their disposal to effectively challenge any alleged incursion onto those rights;
- increasing the level of public awareness of the Constitutional Court's roles in guaranteeing the rights of citizens;
- increasing the percentage of admissible appeals by easing the constitutional appeal procedure and its understanding.

In this particular project a concern has developed that a direct approach of increasing the citizens' awareness of the Court, i.e. within the general public, might prove counterproductive. Direct communication could be counter-efficient due to a current general misunderstanding of the competences, as well as impressions of widespread abuses. The increased public exposure might simply increase awareness of the Court and of a possibility of an appeal, whereas details would be overlooked. As a result this would not automatically increase the percentage of admissible appeals, but rather increase the absolute number of the appeals and other initiatives, thus further overburdening the Court and causing additional problems, most notably backlogs, which may negatively influence the perception of the institution. This could become a liability the Court would not until then achieve the sufficient capabilities for dealing with them in due time.

⁷⁸ A goal is a statement of the institution's mission or vision, is stated in general terms and lacks measures (e.g., improve awareness). An objective is a clear and measurable statement, written to point the way toward particular levels of awareness, acceptance or action. A single goal may be the basis for several objectives. (Smith, Ronald D., Strategic planning for public relations, 2005, p. 69-73)

Due to this it is recommended to reconsider and widen the initially intended audience (i.e., potential applicants), and focus on creating conditions which will allow for higher openness and responsiveness to the messages of the Court in the future. It is not possible to induce attitude change, or even action, before achieving attention, comprehension and knowledge of the public first.⁷⁹ The goal of increasing the number of admissible appeals with the general public is therefore not possible without all of these steps being undertaken first.

Along with the general public more specific target groups should be targeted and involved in a coordinated way first. A “buffer-zone” with a high level of credibility, ability to influence, and capability for increasing awareness and resisting negative publicity should be created first. It is recommended that instead of targeting the general public or potential applicants directly, they should be targeted indirectly, through additional activities aimed at opinion leaders (e.g., honorary advisory board), professional and internal public (e.g., events, publications, case-law), and media (e.g., events, press releases, co-production).

Alternatively, if that proves insufficient in the long run, a change of legislation which would limit access to the Constitutional Court might eventually prove necessary. In such case communication goals would be (at that stage) directed toward achieving support for such a change.⁸⁰

According to the competences of the Constitutional Court a number of different public groups⁸¹ can be identified:

- appellants in general or specific groups of appellants by case type,
- members of institutions that are eligible to initiate proceedings,
- members of institutions that are most often identified as objects of appeals or initiatives,
- political public (which has the capability of changing the Constitution or legislation),
- professional public (legal associations, other courts),
- (law) students,
- group leaders (e.g., individual leaders of various organizations or groups),

79 e.g., Fishbein model of attitude-behavior relations

80 As was the case with Slovenia’s Constitutional Court in 2006/2007.

81 Public differs from mass depending on the level of its homogeneity. Mass is heterogeneous, more or less defined by the coincidence of living in the same town or reading the same newspaper, while public is homogeneous, united by the same issue of interest. (Grunig et al., *Managing public relations*, Orlando, 1984, p. 143)

- opinion leaders (e.g., individual journalists, columnists, literates, academics, NGO and civil society leaders, community leaders, clerics, teachers, athletes, etc.),
- media,
- specific communities (e.g., ethnic or religious minorities, etc.),
- internal public (e.g., Court's employees), etc.

Priority should be given to the following publics ⁸²:

- General public (potential appellants)
- Professional public
- Opinion leaders
- Internal public
- Media

We suggest the following concurrent communication goals:

- Increasing recognition and awareness by journalists and media
- Increasing awareness and support by professional public and opinion leaders
- Increasing understanding by the general public
- Integration of communication activities on the level of institution (internal public)

⁸² It is the function of a public relations program to associate its special pleading with ideas to which the public is receptive. (Barnays, p. 166) Ideally, the messages, terminology, and themes should be as targeted at a particular group as possible. Unless the exact publics and their particular issues are defined it is impossible to select the media that will best convey the message to them. (Baines, p. 115)

POTENTIAL COMMUNICATION OBJECTIVES

Ideally, communication objectives should be measurable,⁸³ which allows for evaluation of their efficiency and future adaptations of the strategy and tactics. Before specific objectives can be set, we should determine the position we seek with our publics, and its measurability depends on our ability to correctly establish the current state.⁸⁴

If we want to increase public awareness with the general public, we should first establish the state of current awareness, and then focus on particular elements which should be adjusted. For this, a poll needs to be conducted first. It should allow the Court to identify both the current perception (e.g., positive, negative), understanding (e.g., basic terminology, competences, individuals, etc.), as well as the issues that are most crucial to the public (e.g., personal experiences with most common allegations of human rights violations).

The objective for the general public should then be set to:

- increasing the established percentage of confidence by proactively addressing the issues which are featured most prominently.

Other potential objectives (also outputs or outcomes, depending on the groups) could be:

- increasing the rate of media units whose source lays within the institution itself and whose content is in line with the approved strategy (public: media),
- increasing the number of quoted or cited landmark cases (public: professional public publications),

⁸³ Overall it is recommended that all objectives be SMART: Specific, Measurable, Achievable, Realistic, Timed

⁸⁴ Similarly Smith, *ibid.*

- creating a honorary advisory body (public: opinion leaders),
- educating all members of the internal public on public relations (public: internal)

GENERAL PUBLIC – POTENTIAL APPELLANTS

“Happy families are all alike; every unhappy family is unhappy in its own way” is the famous beginning of Tolstoy’s *Anna Karenina*, and it suitably illustrates the reason for the dilemma of how to successfully address the general public. Each appeal is ultimately unique in its own way, and to the appellant often represents a certain *raison d’être*.

Three conditions are required for the existence of the public: it is facing a specific issue, it identifies the existence of an issue, organizes itself with the goal of solving the issue.⁸⁵ With such consideration of different levels of target groups, different types of publications and other materials should be prepared. Groups which have not yet identified an issue and may not have formed a definite public, should nevertheless also be taken into consideration of outreach programs and communicated with, otherwise they would eventually inform themselves from other sources.

In order to determine priorities and key messages for the groups of potential, currently latent appellants, as well as to provide objective indicators for future measurement of the activities’ efforts, additional research is required. A poll of the current public awareness should be conducted, and the most common reasons for inadmissibility analyzed.

In the absence of other specifications, our initial recommendation would be to initially target the largest identifiable group of potential appellants whose current behavior is significantly impacting the Court.

An example of such a group are potential appellants on the basis of the right to a fair trial or to a proceeding within reasonable time. Some of the objectives that could be set might be to decrease the number of such appeals (by persuasive messages), or increase the number (percentage) of admissible

85 Dewey, John, *The Public and Its Problems*, 1927

appeals (by empowering messages). Messages could be focused at either instructing the appellants on most important elements of the appeal with the aim of achieving the adequate level of formal admissibility, or at discouraging potential applicants by providing examples of inadmissible or unsuccessful cases. A combined approach is recommended, with prepared materials and publications being used for empowering, and media being used for persuasion.

For the purpose of increasing the quality of appeals (empowering), various published materials should be prepared (e.g., leaflets, brochures). Information on reasonable material and procedural standards for typically admitted appeals should be presented in a language understandable to the lay public, including examples on what is not admissible or appropriate.⁸⁶ Such guidelines should be distributed at publicly accessible locations of institutions which are most often the object of appeals (e.g., first level courts, police stations, etc.).

Due to a limiting format of any published publication, further information should be made available in an even more user friendly way on the Court's website. It should include a selection of most common questions and answers, graphical examples of most common mistakes as well as appropriately filled appeals and their attachments.

If decided upon local events, invitation and participation of local opinion and group leaders should be planned, and the messages directed at them. But, ideally, such consent building should be initiated on a national level, with local events serving as reinforcers of messages. In effect, should such messages be addressed at the general public on a local level, outreach might have a limited effect on the general public due to a relatively low absolute number of listeners / spectators. Such events might even further increase the perception of the Constitutional Court as a "popular court" for "ordinary people," and attract additional inadmissible appeals or initiatives only because of an increased awareness of the Court's existence.

Additional educational activities on preparation of admissible appeals should be conducted, possibly by involving external lecturers, and not the Court's justices themselves.⁸⁷

Website

A website is the most potent medium of a modern institution. Internet is quickly becoming one of the main and most direct information sources, and has the potential to fill the void of informative and affirmative information on the institution.

⁸⁶ An example of such material had been prepared in the course of this project.

⁸⁷ The symbolic value should be taken into account. Also the issue of partiality might be raised if the Court is too activist in providing advice to its future appellants, or expectations of the public in their particular cases might become too high, could eventually fail to materialize, and as a result subjective confidence might be lowered.

It gives an ability to provide information on Court's decisions, opinions, statements, or announcements to the general public (or even more specific public groups) when such information is missing (or not published, inadequately pronounced, or no longer available) from the mass media. It should be noted that most media provide a high level of information clutter, that their messages have a relatively short message life, and that their effect is ultimately largely ephemeral due to a constant daily production of new content. At the end, it is the message and (the effect on) its intended recipients that are crucial, and with time, the website can become the main (or at least complimentary) information point for all interested publics.

Currently, the Court's website is informative and functional, but currently seems to lack user friendliness both on external (user) and internal (PR, editor, administrator) levels, as well as control of administration which is currently with Administration for general procurement.

In order to assist in its eventual adaptation, the Web site should first include some kind of analytical tool, e.g. Google Analytics,⁸⁸ which would provide a measurable feedback on the use of provided information and tools. For planning it is necessary to know the current numbers of users, their structure, the most often visited content, and in particular the sites which are usually final destinations of visitors. As for case law, this would enable control and overview over the use of the existing decisions.

According to the analytical results of statistical tools and user feedback, an appropriate redesign and improvements can be recommended.

Some objectives could then be set at:

- increasing the number of unique users,
- increasing the number of users who have read specific case law documents or news items, or
- improving the user experience and effectiveness of information (measured by number of clicks per visit, or by top exit pages).

With internal control of the web, as well as with stabilization of internal production of proactive materials, the use of other web potentials, such as social networking sites (e.g., Facebook, Twitter) could be considered at later stages for targeting specific groups of users (esp. young, educated, technically savvy – future members of our target groups).

88 <http://www.google.com/analytics/>

PROFESSIONAL PUBLIC

The professional public consists of various types and groups of (primarily) legally educated public, or other public groups which have a higher-than-average level of understanding and/or experience with the Court.

The Court and its members are already increasingly involved in various lectures, roundtables and conferences aimed at the professional public. Such events should be coordinated and promoted as part of integral public relations activities.

Members from the professional community should be encouraged to participate in the Court's outreach activities. Such activities should be further transformed into media-attractive packages, as they provide for good, unpretentious publicity, within which the Court can be presented as just one of the protagonists.

In the professional public's perception, the Court's authority is ultimately defined by the quality of its decisions. It is therefore highly important that decisions that relate to their work be well presented – the public needs to understand why they are important for the public. Case law database and a user-friendly access to the Court's decisions should be redesigned according to suggested specifications.

Additionally, as members of the court are allowed to lecture on Law Faculties, such participation could also form, or at least influence, a part of the public opinion about the court. However, due to the delicate nature of the academic autonomy, analysis of such cooperation could not be prepared for this report.

Case law

A case law database is one of the most important outreach tools for the Court. It is primarily addressed at the professional public, but can also be adapted to use by other publics if the required user friendliness and search-ability is considered.

Currently it consists of approx. 296 decisions on appeals from 2009 and 102 from 2008. Documents on the web are available in cyrillic script only, and are in html form. They are not structured. Search is not possible.

It is urgent that additional data management standards are implemented, as they will allow for more efficient search and prevent eventual confusion, when the quantity increases over years. The existing case law database is not numerous yet, and it seems that transfer of the existing files into structured database form is possible.

A structure of a typical case law document should be prepared as a template for database creation. The following structure seems crucial in order to provide efficient search capabilities:

- document ID (text)
- case number (predefined format)
- date of filing (date)
- date of decision (date)
- type of act (predefined menu)
- type of decision (predefined menu)
- type of initiator (predefined menu)
- abstract (text)
- content (text)

The most relevant content of the decision should be evident from the abstract.

Additional fields are optional, but could significantly assist in contextual search of documents:

- relevant articles of constitution (text or potentially predefined menu)
- relevant legislation and articles (text; individual acts defined by abbreviations; different acts within the same document separated by period mark in order to provide search-ability)
- identification of legal field according to a predefined taxonomy (predefined menu)

Development of a predefined and stable taxonomy of legal institutes (key words) would enable a more mnemonic approach to search of documents. One basic option might be adoption of titles used for articles in the constitution. Ideally, the key words should be adjusted to EUROVOC thesaurus, thus enabling automatic translation into other languages and connectivity with other, primarily European constitutional and case law databases.

Although the Court uses mixed anonymization policy, which allows for publishing of successful appellants' personal data, it might be worth considering the impact of mnemonic strength of cases which are not anonymized. According to this use of full names of parties (initiators, appellants)

would be recommended, and additional database fields would be required in this regard. One of the effects of this is also a decrease in inappropriate or inadmissible cases.

Database administration rights should be exclusively with the Court. Administration should be web based. A single application can be used for both input, editing of content, as well as front end presentation of documents.

SQL and XML technology should be used in order to allow subsequent adaptation of the form to various target audiences. Currently, the decisions are published in electronic html form and in cyrillic only. Use of simple transliteration software can provide both cyrillic and latin version.

Both case management and case law databases are urgent for the purpose of easier identification of similar cases and themes. They would also facilitate further use of accurate statistical and other information, and thus also forms valuable material for preparation of proactive themes.

OPINION LEADERS

Honorary Advisory Body

An example of a potentially efficient outreach strategy would be to directly engage selected group and opinion leaders⁸⁹ with the goal of increasing their awareness of the importance of the Court's role and the issues it is facing among them, and achieving their involvement in the Court's outreach activities.

The President could, according to her status in the society, establish an informal honorary advisory body on outreach activities of the Constitutional Court, or alternatively sponsor an external event (or a series thereof) aimed at dealing with the same issues.

A group of selected individuals from relevant, ideally non-legal and supra-political walks of life⁹⁰ should be invited to participate with their opinions or suggestions, ideally those who enjoy a high level of credibility and trust.⁹¹

89 Group leaders are key figures in the molding of public opinion of particular groups that make up the large public, and his acceptance of a given idea carries with it the acceptance of many of his followers and through many channels. It is through group cohesion and group leadership that one can awaken public interest most speedily and constructively. (Barnays, p. 164)

90 Or a cross-section of various political options.

91 e.g. individual members of the media, writers, columnists, bloggers, movie directors, civil society and NGO group leaders, academics, church leaders, etc.

The basic issues (problems) of the Court should be presented to these individuals as a matter of national importance, and that the Court is well aware, that its success in establishing a working and respected system depends not on the Court's activities alone, but on a continuous development of a general culture, of which legal culture is just a part.

Such involvement of specific individuals should not, however, allow for an impression of partiality or bias when the same individuals or their groups might become participants in the Court's proceedings. It should be made clear from the start, that such activities are separate from the Court's decision making process, and that there is no affiliation between the Court and politics.

In effect their selection should ensure a multidisciplinary approach toward an agreement on issue of strategic importance – how to ensure a sufficient / optimal level of public understanding of law and courts. At the same time it would ensure direct introduction of the issues relevant to the court to opinion leaders of various public groups, and involve them into creation of awareness and understanding, primarily through taking the chance of addressing them directly with the issues the Court, and the society with it, is facing.

Such a group (or its individual members) could eventually assist the efforts of the Court in implementing its outreach activities among groups which are more effectively accessed and addressed by such individuals, as well as provide a potential buffer and support should negative conditions arise.

It is also most likely, that such a group and its findings would provide the activities of the Court with more legitimacy in the eyes of the public as well as media, than any unilateral activities, regardless of their quality.

A possible output could be, for example, preparation of an informal memorandum of understanding with the main national media or press associations within a period of one year. Although this might currently seem unnecessary due to relatively positive relations of the Court with the media, it would, through the process of its creation and cooperation of the involved participants, provide an investment for the future, as it would enable all stakeholders to reach a higher state of mutual awareness.

INTERNAL PUBLIC

Ideally, public relations activities of an institution should be integrated into the overall organizational structure of the institution, and not only dependent on one or two individuals.

The internal public forms a large part of direct experiences on which the public bases its opinion of the institution. One part of this is the direct contact between the parties and employees of the court, which occasionally occurs when applications are being filled, or when parties to the proceedings exercise their rights to conversation with the secretary of the Court.⁹²

92 Poslovnik o radu ustavnog suda, Art. 106 (Operational Rules of the Constitutional Court)

At the same time all members of the internal public serve as ambassadors within their own personal communities (e.g., family, friends, neighbors) on a daily basis. As such they usually enjoy high levels of credibility, and can promote the messages of the institution effectively.

On the contrary, should the internal public be dissatisfied or poorly instructed on the policies of its institution, it may serve as a source of negative or counterproductive information.

It is therefore paramount to periodically instruct all members of the institution on its key issues and policies, including the issues the court is facing in the public relations area, and they should be integrated into the strategy and its implementation as much as possible. At least a part of responsibility for a good public image of an institution ultimately lies with each of its members.

Especially the justices, the secretary of the Court, and potential judicial clerks should be identified as an audience that is to be educated about the importance, methodology and techniques of media and public communication, and (subject to other priorities) involved in the preparation of the public relations material (mainly basic production and selection of decisions, and verification of the final PR product).

It is also recommended that members of the court, who have regular dealings with external public (not media), undergo training for communication with demanding/difficult clients.

THE MEDIA

On one hand, the media is to be considered a vehicle for the institution's messages for other target groups, and on the other it is also one of the most important target groups itself.

The channels for circulation of our ideas are as varied as the means of human communication. Mass media is, however, the most important vehicle, and among these different media can be used to reach different target groups, and with different potency.

As a vehicle for the institution's message, the choice of media depends on the chosen objective, and the consecutively chosen publics. Only after messages and themes for particular public are established, can it be determined in what kind of a campaign and by which media they are to be used.

Not all public relations media are addressed to the mass public. Effective public relations may rely both on mass media as well as specialist or even individualized events and publications. A cost effective media choice is one that closely matches the promoters' consumer profile with the medium's audience profile.⁹³ With this in mind, media should be selected and targeted.

Different types of media have different persuasive capabilities and limitations.⁹⁴

93 Bass, Tony; Workshop: Public Relations, the Media and the Judiciary, workshop materials; European Institute of Public Administration (EIPA), Luxembourg, 2007

94 The table prepared on the basis of content by Bass, *ibid.*

MEDIUM	PRO	CON
Newspapers	<ul style="list-style-type: none"> • access to large audiences • effective for local reach • flexible • fast • feedback possible 	<ul style="list-style-type: none"> • not selective • short message life • clutter • cost varies based on circulation
Magazines	<ul style="list-style-type: none"> • highly selective • selective binding possible • high quality production • high credibility • long message life • long lead time • high pass along rate 	<ul style="list-style-type: none"> • high clutter • delayed and indirect feedback • rates vary based on circulation and selectivity
Television	<ul style="list-style-type: none"> • large audiences possible • appeals to many senses • emotion and attention possible • demonstration possible • low costs per contact • long lead time 	<ul style="list-style-type: none"> • very high costs overall • high clutter • short message life • viewers can avoid exposure • day-after recall tests for feedback
Radio	<ul style="list-style-type: none"> • high geographic and demographic selectivity • short lead time • relatively inexpensive • good local coverage 	<ul style="list-style-type: none"> • short exposure time • audio only • high clutter • zapping possible • delayed feedback through day-after recall tests
Internet	<ul style="list-style-type: none"> • potential for audience selectivity • customized tracking and other feedback tools possible • useful for branding and reinforcement of messages • linking between topics (sites) of interest/complementarity • blogs are the fastest growing sector of the internet 	<ul style="list-style-type: none"> • demographic skew to audience • very high clutter • zapping possible • great variation in pricing • privacy concerns
Direct mail (incl.e-mail)	<ul style="list-style-type: none"> • high audience selectivity • personalization possible • novel, interesting stimuli possible • low clutter • no cost (e-mail) 	<ul style="list-style-type: none"> • perception of junk mail / spam • feedback possible through response • high cost per contact (paper based)
Direct marketing	<ul style="list-style-type: none"> • development of databases • high audience selectivity • relatively free of clutter 	<ul style="list-style-type: none"> • privacy concerns • measurable responses • cost per inquiry can be calculated

In general, the institution should be able to fit into the media business process both for its reactive, and even more so proactive public relations activities. It must have a designated spokesperson available at short notice, must continuously educate and train employees on how to handle media inquiries, and should expect the unexpected. Inquiries should be responded to quickly, taking into account the media schedules.⁹⁵ When proactive messages are being promoted, the institution should take into consideration the potential newsworthiness and intended target audience.⁹⁶

A wide variety of traditional and new media exists in Serbia, both in print and electronic media. The production of printed newspapers has fallen in recent years and is currently around a total of 600.000 issues of all printed newspapers per day. Among these, BLIC has the highest edition with approximately 150.000 per day. Electronic media seem to have a bigger rate of accessibility. Among televisions, Radio television Serbia (RTS) has both the highest rating (level of confidence) as well as the highest number of viewers. The quality of reporting also depends on the tradition and economic situation of a particular media.

There also seems to be much untapped potential in the use of electronic media, especially television, for the production of proactive material. Such material does not need to be limited to news, but could rather concentrate on own production of documentaries or feature stories. The experience of the Supreme Court in preparation of a television documentary of the history of Serbian judiciary seems worth following, as such medium allows for best introduction of complex topics to the widest public. Local televisions are more specific and heterogeneous, but are even more willing to accept suggestions for production material. In such cases, use of contacts from the group of opinion leaders should be considered.

As a target group per itself, members of the media, primarily journalists, editors, commentators, and copywriters, should be invited to participate in activities for the opinion leaders.

Proactive messages

Before a decision can be made which media to use, we must choose the messages and themes we plan on using in the campaign.⁹⁷

The keys to placing a story in the media are:

- making it newsworthy

95 See more: Assessment / Organization

96 See more: Proactive messages

97 See General public – potential appellants for proposed types of messages in a particular campaign.

- targeting the right media AND journalists
- timing the release to greatest effect
- presenting it for ease of production

In everyday practice it is the media editors who assess the news worthiness of the story and determine whether it will be published. According to Bass, 90% of all press releases are binned.

In exceptional cases (e.g., small communities, good personal relations of individual members of the institution and the media, etc.) there may be exceptions to such a rule. While these are highly valuable, the system, however, should not rely on subjective elements only. The institution should aim at depersonalizing its operations and developing methods and know-how which could effectively be used by a number of qualified and trained individuals.

Engineering of consent must create news. News is not an inanimate thing, but rather an overt act that makes news, and news in turn shapes the attitudes and actions of the people. A good criterion of whether something is or is not news is whether the event juts out of the pattern of routine. The developing of events and circumstance that are not routine is therefore one of the basic functions of engineering of consent. Events so planned can be projected over the communication systems to infinitely more people than those actually participating, and such events vividly dramatize ideas for those who do not witness the events.⁹⁸

A good story usually has people in it, has a point, is short but packed with detail, is well written, tells the reader something new and is therefore interesting.⁹⁹ Media requires stories that relate to real life and give examples on real people. Themes that we choose have to be on a level which is perceivable by the targeted audience. If the concept is too specific, technical, or abstract, it might not achieve the desired effect. The material prepared by the institution should take the chosen media's format into consideration, and, if possible, use graphic material and photos.

Chosen themes should appeal to the motives of the public.¹⁰⁰ On the level of the judiciary these can easily be found among the cases the Court deals with (e.g., a non-legal, life-based presentations of the stories behind adopted appeals). A potentially effective theme in the case of the newly positioned

98 Barnays, p. 168

99 Bass, *ibid.*

100 Motives are the active conscious and subconscious pressures created by the force of desires. Psychologists have isolated a number of compelling appeals, the validity of which has been repeatedly proved in practical application. Self-preservation, ambition, pride, hunger, love of family and children, patriotism, imitativeness, the desire to be a leader, love of play – these and other drives are the psychological raw materials of which it is important to be aware of in an endeavor to win the public to one's own view. (Barnays, p. 166)

Constitutional Court might also be to combine the motive of patriotism with the wish image¹⁰¹ of the institution.

One of the possibilities for identification of themes and messages is also to take advantage of the existing myths and stereotypes.¹⁰² An example of this can be the use of the slogan “It does not pay to be a debtor anymore!”, thereby playing on the established assumptions of the public, when the Supreme Court of Slovenia introduced a new system for small claims, and promoted with success the use of the new electronic filing system. Similar myths regarding backlogs, discrimination, human rights’ violations, etc., can be used for promotion and awareness raising of the Constitutional Court’s work and its importance.

A public relations campaign must also carefully consider the power of symbols. They may be defined as a shortcut to understanding and action. Their acceptance is emotional and expresses an associative mental process stemming from familiarity.¹⁰³ One symbolic aspect could stem from the Court’s constitutional role of being the guardian of the Constitution and the guarantor of the effectuation of human and minority rights, and association of this ideal with the image of the President or her insignia, for example.

However, the value of symbols might change over time, and they may become diluted or tainted. Appearance of strategic individuals with a strong symbolic role, such as the President, should be only occasional, and well prepared. For this reason it is recommended that a spokesperson or other speakers from amongst the justices are used for less important or informal matters.

While the issue of targeting the right media had been discussed previously, timing, strategically, depends mostly on the individual business goal of a particular campaign and the sequence of intended messages. On a daily basis, however, it is usually related to keeping in mind the production deadlines of particular editorial rooms / news redactions, competition with other stories etc., or the low-downs in news-worthy materials (e.g., during the summer) which may offer more potential for proactive material.

Materials should be presented for the ease of production. Pictorial material (e.g., graphs, diagrams, photos, etc.) should be prepared and used if possible. Limitations and structure of a particular media format should be taken into consideration (e.g. when writing for the newspaper, limit yourself to 2000 signs, integral statements on television should not be longer than 20 seconds, a radio speaker reads approx. 15 lines per minute etc.).

101 If the PR strategy is designed for a new and unknown organization or an organization that is going through a process of repositioning itself in the system, as may be the case of the Constitutional Court, the aim could also be to create a wish image in the minds of the publics. The danger here is the temptation to project a biased or overenthusiastic image. (Baines, p. 107)

102 Barthes claims, that the best weapon against myth is perhaps to mythify it in its turn, and to produce an artificial myth – all that is required is to take its signification as the first term of the second myth. (Barthes, p. 135)

103 Barnays, p. 166

Successful outreach materials for the general public, which includes the majority of media consumers, should be written in the language that could be understood by a person with 11 years of schooling (3rd year of secondary school). Messages for the wider population should be therefore made as simple as possible. This does not relate, normally, to the regular documents, deliberations, or activities, but only to the messages that serve as signifiers of their meaning for the purpose of general education.

Translation of complex and abstract legal phrases into media interesting and coherent everyday language, simultaneously being restricted by the media format, is demanding and may require outside linguistic consultation. Use of permanently employed non-legal communication specialists (in addition to a legally educated chief communication officer) is recommended to prevent unconscious uses of jargon and professional terminology.

Crisis management

While it is recommended that most public relations functions be as routinized as possible, consequently relieving the President and other justices from unnecessary daily involvement with the media (and public)¹⁰⁴, the Court should prepare contingency plans for extraordinary events which can be routinized only to a limited extent, and which require intervention of the leadership.

Most often, such situations initially occur in the form of unexpected requests for comments or statements (on issues that might jeopardize the authority of the institution if presented only unilaterally), whereas the institution only rarely has enough time and space for preparation and maneuvering. In such cases, it is very important for the institution to know how to react, and to react with predefined methods and approach which seek to lower the risk of compromising the integrity of the court.

For example, allegations of inappropriate personal relations of a judge can arise suddenly, and perhaps even without a clearly identifiable source or its intentions. Or, maybe, a discrepancy in case law is found in (for the lay public) the “same types of case”. Another version of this could even be found, and might be worth exploring further, in cases where competences or responsibilities of the Court are being alleged without any formal or constitutional basis. Despite of this, such allegations might attract public or media attention and require an appropriate reply. The issue of formally un-constituted neo-nazi groups might form an example of this, which, nevertheless, contributed to a part of the perceived information about the Constitutional Court. Other contingencies, which could also fall within normal competences of the Court, but which would attract extraordinary or increased media attention (such as, e.g., the President of the Republic being dismissed by the National Assembly for a violation of the Constitution), should be considered when time is available.

¹⁰⁴ e.g. press releases (saopštenja), website, routinized responses to request for information on the status of individual cases / proceedings, access to documents, etc.

After a careful consideration of reliable and accurate data, and subject to the planned course, clear and well defined statements should be prepared. We should avoid avoiding the media, and the “no comment” comment.

Blame-shifting should be avoided as well. If necessary, we should accept responsibility, but not also the guilt (the media is not the court!).

Messages must take into consideration the requirements of the expected media formats, be attractive for the public, but remain within the limits of professionally and institutionally acceptable. An effective message is simple, consistent, and uses an appropriate and adequate tone. It should be short and focused on the issue / problem. The key points should be few, and repeated a number of times within the same message. The point about writing for the public of 3rd graders should be remembered here. The story, as initially imposed from the outside, might be framed but the content can be co-arranged. If faced with electronic media, rules of non-verbal communication should be considered.

Individual speakers must be chosen. Only a limited number of individuals from a single institution should appear in the public media. Unauthorized commenting should be prohibited, and current legislation and organizational rules are satisfactory in this regard.

All individuals who are directly implicated in the communicating of the event must communicate as one. Each and all of them should send an agreed upon message to the selected media, thus giving an appearance of a unified and well defined standpoint. For this purpose, as many possible media (and public) questions and inquiries must be anticipated and rehearsed during preparatory phase. Only well-thought-out and organized communication with interested publics is allowed.

When preparing a message in crisis situations, it is advisable to make sure that we:

- Possess reliable and accurate data.
- Are sincere about our abilities, needs, and problems.
- Avoid “no comment” comment.
- Avoid blame-shifting / pointing statements.
- Know exactly what we want to say.
- If necessary, are willing to accept responsibility, but do not declare yourself about the issue of guilt, unless absolutely certain (the media is not the court!).
- Avoid hypothetical questions.
- Are telling the truth.

- Have done our best to present the issue in a way that will be understood by a wide public.
- Avoid using legal language.
- Avoid using too many technical information, which could dilute the message itself.
- Have adapted the message to the media format (e.g., 2000 characters, 30 seconds)
- Use 2 (3 at most) key sentences / messages (for the media!)
- Have used the potentials of using graphic materials (e.g., graphs, diagrams, pictures, etc.)
- Have tested our reply / message, before sending it out to the public.
- If the statements are given to the camera, take into consideration special rules of non-verbal communication.

