



Institutional Court Communication in the Operation of the Court's Press Office: A European Perspective



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ABSTRACT

The paper focuses on the legal framework governing institutional courts' communication within continental Europe. Courts cannot communicate solely by justifying their judgments in the era of open government and data. Both at the international level and within national legal regimes, there are provisions concerning the structure and tasks of courts' press offices. This paper examines their existence, content, compliance with the European soft law standards (CEPEJ and ENCJ), as well as suitability for professional court communication. The analysis examines various aspects, including the role of judicial spokespersons, their education and experience, the composition of press services, and the forms of proactive institutional court communication. Although it is not possible to establish a comprehensive legal framework (both at the legislative and sub-legislative levels) for the structure and tasks performed by press offices or spokespersons, their existence supports, or even conditions professional courts' communication with the public. They should be composed of individuals with diverse educational backgrounds and experiences, including legal and non-legal education.

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Courts cannot communicate solely by justifying their judgments in the contemporary era of open government and data.¹ The public has a right to be informed about the court's activities, primarily its jurisprudence, and the press is responsible for disseminating such information.² To put it bluntly, courts cannot ignore the public's needs for information.³ A starting point for the analysis is the need for proactive institutional court communication. To be well understood and to create a truthful picture of what is happening in courts, they should not wait for questions or initiatives from outside but instead try to inform the public, including individuals, NGOs, and the media, about their adjudication and engage them in finding solutions to the challenges they face.

On the one hand, the need for openness and transparency encompasses public hearings in all possible forms.⁴ On the other hand, there are numerous possibilities in which courts, as institutions of third-state power, can or should inform the public about how they work.⁵ The analysis investigates their legal status through the courts' press offices. These special sections or only employees (spokespersons) within the courts' structure are responsible for communicating with the public in many courts across various jurisdictions. Their establishment is encouraged in soft law.⁶ A picture of courts in individuals' views, especially when they have not yet had any personal contact with courts, may depend on their perceptions of engagement and professionalism. It is crucial not only that press offices exist, but also what they communicate and how.

The analysis is divided into three sections. The first presents the standards for courts' press offices under European international law.⁷ Although their internal organization is a matter for national legal orders, the basis for their existence in EU law and the Council of Europe is examined. This section addresses a question about the individual's

1 According to a traditional opinions held by judges, courts should communicate only in justifications given in (or through) judgments.

2 In the ECtHR's view, otherwise the press would be unable to play its vital role as a "public watchdog". At the same time, the press should not overstep certain bounds regarding the protection and reputation of others. ECtHR 10 November 2015, *Couderc and Hachette Filipacchi Associés v. France*, no. 40454/07, § 89.

3 Point 244 of the Guide on Communication with the Media and the Public for Courts and Prosecution Authorities, CEPEJ (2018)15, Guidelines on Judicial Communication with the Public and the Media, CEELI Institute, 2026, p. 16.

4 In practice, they are conducted in person, hybrid or online. See Anne Sanders, "Video-hearings in Europe before, during and after the Covid-19 pandemic", *International Journal for Court Administration* 11, no. 3 (2020): 17–20.

5 The means of communication available to judicial authorities are diversified. They embrace press releases, press conferences, interviews granted to journalists, written responses to questions, websites, social media, conferences and public debates, filmed messages, and broadcasting of specific court hearings and rulings. See point 242 CEPEJ (2018)15.

6 Point 19 of the Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities. See also Guidelines on Judicial Communication with the Public and the Media, CEELI Institute, 2026, p. 35–36.

7 It does not embrace the common law legal regulations, which have different experiences with the improvement of the court's communication, including the employment of the Public Information Officers. See Jane Johnston, *A History of Public Information Officers in Australian Courts: 25 Years Assisting Public Perceptions and Understanding of the Administration of Justice (1998–2018)*, (The Australasian Institute of Judicial Administration Incorporated, 2019), 37–42.

right to obtain information about courts' activities, including access to jurisprudence, general principles of the justice system and non-judicial tasks such as organizing scientific or press conferences. The second section illustrates three selected tasks of European national legal orders' press offices and their composition. The emphasis is on the legal basis for their responsibilities and operation, including their location within the courts' structure. In the third section, the identified ideas concerning the functions and position of press offices are discussed and juxtaposed with the legal basis for their existence, as recognized in the previous sections. The analysis leads to answering questions about the relations of the press offices with other courts' authorities, mainly the court's president. It is aimed at presenting the position of a spokesperson in the court's structure, his or her education and competencies. It will consider the variety of information that press offices offer to the public, and that can be demanded from them by individuals or the media.

COURTS' PRESS OFFICES FROM THE PERSPECTIVE OF EUROPEAN LAW

Neither the EU Charter nor the European Convention expressly provides a legal basis for the tasks and structure of the press offices. Article 47 § 2 of the EU Charter⁸ and Article 6 § 1 of the European Convention⁹ refer to the right to a public hearing, but not the court's institutional communication. However, a concept of public hearings encompasses various components, including the right to information about hearings, access to the court's jurisprudence,¹⁰ the ability to report and comment on the court's proceedings,¹¹ as well as the functioning of the justice system as an institution¹² and, more specifically, the administration of justice.¹³ Absence from public hearings may not signify a lack of publicity.¹⁴ It can be provided in various ways, such as through a media report, an individual's request for information, or an academic analysis published in the media, such as a news article or a paper in a scientific journal.

For criminal proceedings, a general public interest in reporting and commenting on the course of action has been observed,¹⁵ similar to the media's influence on judges

8 Charter of Fundamental Rights of the EU (2000/C 364/01), henceforth as the EU Charter.

9 European Convention on Human Rights, https://www.echr.coe.int/documents/d/echr/convention_ENG (accessed June 24, 2026), henceforth as the European Convention.

10 The guarantee of publicity is broadly understood in the literature and jurisprudence, embracing not only parties to the proceedings but the audience, including the media. See: Christoph Grabenwarter and Katherina Pabel, *Europäische Menschenrechtskonvention: Ein Studienbuch* (C. H. Beck 2016), 521. See also ECHR 8 November 2016, *Magyar Helsinki Bizottság v. Hungary*, no. 18030/11, § 101.

11 ECHR 29 August 1997 *Worm v. Austria*, no. 83/1996/702/894, § 50.

12 ECHR 14 May 2008 *July and SARL Libération v. France*, no 20893/03, § 66.

13 ECHR 23 April 2015, *Morice v. France*, no 29369/10, § 134, CJEU 18 July 2017, C-213/15, § 52.

14 ECHR 8 December 1983 *Axen v. Germany*, no 8273/78, § 28.

15 ECHR 26 July 2022, *Mediengruppe Österreich GmbH v. Austria*, no 37713/18, § 48. See also Gernot Lehr, "Pressefreiheit und Persönlichkeitsrechte – ein Spannungsverhältnis für die Öffentlichkeitsarbeit der Justiz," *Neue Juristische Wochenschrift* (2013): 728 and CJEU 7 March 2024, C-740/22, § 56.

in terms of the severity of the penalty.¹⁶ Special rules for informing individuals about these hearings are stipulated in Rec (2003)13.¹⁷ The first principle specifies that the public must have access to information about the activities of judicial authorities and police services through the media. The second principle states the need to present information and opinions about ongoing proceedings concerning the presumption of innocence of the suspect or accused.¹⁸ The following two principles present detailed conditions for fulfilling the fundamental obligation.¹⁹ Nevertheless, the role of mechanisms that open justice to the public is crucial in all proceedings, including civil and administrative. Broad access to information about courts positively affects the democratic legitimization of third-state power and strengthens the separation of powers,²⁰ which is simultaneously a component of the rule of law.²¹

The courts' obligations to act in public arise from Article 10 of the European Convention, which states that "everyone has the freedom to receive and impart information and ideas without interference by public authority". It has a broad scope of application, concerning both the substance of the ideas and information expressed and the form in which they are conveyed. It also includes, inter alia, free access to legal acts²² and the court's adjudication. Courts, being part of the state apparatus, are obligated to provide access to information in their possession due to their statutory competencies.²³ Nonetheless, the ECHR interprets Article 10 to safeguard freedom of expression against various forms of interference.²⁴ The Court expressly stated that Article 10 does not impose positive obligations on state authorities to collect and disseminate information of their own initiative.²⁵ According to Article 10 of the European Convention, courts are not obliged to engage in proactive communication with the public. However, it does not mean that the ECHR imposes any requirements

16 Rudolf Gerhardt, "Die Richter und das Medienklima: Welchen Einfluss hat die Gerichtsberichterstattung auf das Strafverfahren und das Urteil?," *Zeitschrift für die Rechtspolitik* (2009): 250.

17 Recommendation Rec (2003)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings.

18 ECHR also stresses the importance of the choice of words by public officials in their statements before a person has been found guilty of an offence. See ECHR 10 October 2000, *Daktaras v. Lithuania*, no 42095/98, § 41, ECHR 6 May 2007, *Garycki v. Poland*, no 14348/02, § 69.

19 According to Principle 3, judicial authorities should provide to the media only verified information. This information should be available to all journalists without discrimination (Principle 4). The media should be informed about essential acts, provided this does not prejudice the secrecy of investigations (Principle 6). Principle 15 states that the availability of announcements of scheduled hearings, indictments, or charges can be requested by the competent authorities at any time.

20 Jan-Philipp Redder, "Der Grundsatz der Gerichtsöffentlichkeit," *Juristische Arbeitsblätter* (2023): 266; Claudia Venohr, "Justizpressestellen als Dolmetscher komplizierter Sachverhalte," *Justizministerialblatt für Schleswig-Holstein* (2008): 187.

21 Redder, "Der Grundsatz der Gerichtsöffentlichkeit," 266–67.

22 ECHR 18 June 2021 *Yuriy Chumak v. Ukraine*, no. 23897/10, § 47.

23 For example, in ECHR 14 April 2009 *Társaság a Szabadságjogokért v. Hungary*, the Hungarian Constitutional Court was requested by an NGO to grant access to a complaint in a pending case. See § 9.

24 In the ECHR's view, the state's obligation in matters of freedom of the press is to eliminate barriers to the exercise of press functions. ECHR 14 April 2009 *Társaság a Szabadságjogokért v. Hungary*, § 36.

25 ECHR 8 November 2016, *Magyar Helsinki Bizottság v. Hungary*, no. 18030/11, § 61, 89.

in court communication, whether passive or proactive, if a court decides to adopt any of its forms.

First, the ECHR emphasizes that institutional communication should foster trust in the courts.²⁶ It is especially important when judges who have been publicly criticized are subject to a duty of discretion that precludes them from replying.²⁷ An institutional court's communication may be the only solution to respond to unjustified criticism. Secondly, the court's communication should protect sensitive data.²⁸ Thirdly, it should be restrained to avoid creating a sense of bias.²⁹ Proactive communication does not mean communication without any limitations. The more courts communicate on their own initiative, the more they should be aware of the legal barriers and risks associated with revealing information, which does not lead to enhanced trust in them.

Although the legal acts mentioned above do not provide any rules for courts' press services, following these requirements implies a professional organization. In other words, the court authorities or court administration must find solutions to fulfil the requirements of understandable and informative communication with the public. It is conceivable that the court president will be personally responsible for communicating with the public. Another possible option for this task is to establish special sections or positions within the court administration, such as press offices or spokesperson roles. The details on how to organize the institutional courts' communication are set out in recommendations published by the Council of Europe and various judicial associations.³⁰

The recommendations begin with a thesis that courts should be able to communicate about their organization and functions.³¹ They should have a clear vision of what they want to inform, to whom, and how.³² The recommendations encompass detailed rules for the structure and competencies of the institutions and positions responsible for communication.³³ Then, the court's president and other judges are relieved of the task of contacting the media,³⁴ focusing exclusively on adjudication.

The kind of education a press service employee or spokesperson should have, and the types of tasks they should perform, remain open questions. It is beneficial for the judiciary to understand communication techniques and be knowledgeable about

26 ECHR 15 December 2005 *Kyprianou v. Cyprus*, no. 73797/01, § 172, ECHR 25 September 2020 *Bagirov v. Azerbaijan*, nos. 81024/12 and 28198/15, § 78.

27 ECHR 23 April 2015, *Morice v. France*, no. 29369/10, § 128.

28 Such secrecy is justified by other reasons, too. These are the need to protect decision-making process, the interests of the accused, the danger before tampering the evidence. See ECHR 29 March 2016 *Bédat v. Switzerland*, no56925/08, § 68.

29 ECHR *Olujčić v. Croatia* 5 May 2009, no. 22330/05, § 59.

30 For the analysis, two acts were selected. The first is the ENCJ Report. Justice, Society and the Media. 2011–2012. The second is the Guide on Communication with the Media and the Public for Courts and Prosecution Authorities, CEPEJ (2018)15.

31 See point 34 (2018)15.

32 Lauranne Claus, Stefan Rutten, Patricia Popelier, and Bernard Hubeau, "Communication," in *Best Practice Guide for Managing Supreme Courts* (University of Antwerp, University of Ljubljana, Supreme Court of the Republic of Latvia, Supreme Court of Lithuania, Supreme Court of Spain, Curia of Hungary, 2017), 62.

33 Point 44 CEPEJ (2018)15, 2.1. ENCJ Report. See also points 26–29 of the explanatory memorandum to the recommendation CM/Rec (2010)12.

34 It is also recommended that judges refrain from making public comments about their proceedings and judgments to maintain their impartiality. See point 39 CEPEJ (2018)15.

the media and their role.³⁵ Simultaneously, they should be aware of the courts' tasks, which are at the core of adjudication.³⁶ The most desirable solution would be to combine the two spheres into a single team or person who would know how to communicate effectively and professionally with the public, while simultaneously protecting judicial independence and maintaining public trust in the judiciary. The combination of competencies is achievable in the position of a 'press judge', who is a judge with additional education in communication and media knowledge.³⁷ Her task is to speak on behalf of the judiciary, usually in the most complicated or media-attention-grabbing disputes.³⁸ The 'press judges' can be trained by journalists, also in the media outlets, or by communication advisors, who may be press officers tasked with advising, informing, and training judges or other spokespersons speaking publicly in the courts' name. They should be appointed by the court's president and be responsible to the authority appointed them.³⁹

The recommendations present numerous possibilities for courts to communicate with the public. However, the practices may not be uniform. In some countries, press judges and spokespersons explain particular judgments and disputes. In other countries, it is expressly forbidden, and the press is not allowed to communicate to the public about the law, its effects, or the consequences for individuals or the public.⁴⁰ It is recommended that national legal orders prepare press guidelines to clarify what the press may expect from courts and how courts should brief the press before, during, and after court proceedings.⁴¹ These guidelines would not only lead to uniformity in the court's institutional communication but also to the creation of a communication strategy that defines the messages the judiciary wants to convey to the public.

Although the only clear basis for the obligations and structure of court press offices is located in soft law, how courts communicate is not irrelevant from the perspective of the European Convention and the EU Charter. The soft law should be viewed as a response to the need for clear, professional court communication, as articulated in the jurisprudence of the ECHR and the CJEU. It has a form of recommendations and presents the need for proactive institutional judicial communication, along with various tools for its implementation. Press offices and their spokespersons are the primary institutions through which courts communicate with the public. The next part of the analysis will illustrate the existence of press offices in three particular legal orders. It will present how the recommendations are adopted in practice.

COURTS' PRESS OFFICES FROM A NATIONAL PERSPECTIVE

The legal orders of Germany, the Netherlands, and Poland are selected for analysis. In all of these jurisdictions, press offices – including spokespersons – exist. The judiciaries

35 Point 44 CEPEJ (2018)15, 2.1. ENCJ Report.

36 Point 46 CEPEJ (2018)15, 2.1. ENCJ Report.

37 The best practice is that these judges are volunteers with the correct profile and ability to interact with the public. See 2.1. ENCJ Report.

38 It is advisable, these judges are accessible to journalists who can refer to them for any additional information. See Point 76 CEPEJ (2018)15.

39 2.2. ENCJ Report.

40 2.2. ENCJ Report.

41 5.1. ENCJ Report.

adhere to the same legal standards of judicial independence, as derived from the EU and Council of Europe law.⁴² However, there are differences between them. The German judiciary is characterized by a high level of hierarchy (at both federal and state levels) and an emphasis on law and legislation, which is combined with a search for the courts' democratic legitimization.⁴³ In the Netherlands, more emphasis is placed on the pragmatic approach to court operations, characterized by a search for consensus and conflict avoidance.⁴⁴ For the Polish judiciary, a formal approach to law, characterized by a mixture of abstract norms specified in more technical legislation of lower rank, remains prevalent.⁴⁵ Additionally, a low level of public trust in the Polish judiciary, at least compared with Germany and the Netherlands, is notable.⁴⁶ The following analysis will focus on the legal basis for institutional courts' communication, with particular attention to their individual press offices.

GERMANY

In the German Basic Law (GG),⁴⁷ no special provisions regarding institutional court communication are provided. From Article 5 § 1 GG, it follows that courts must operate transparently and clearly. They are obliged to guarantee freedom of the press, which entails a duty to respond to questions from the media. The commitment to conduct activities transparently also derives from the separation of powers stipulated in Article 20 § 3 GG. At the statutory level, Article 169 of the Courts Constitution Act⁴⁸ sets out the principle of publicity of hearings.⁴⁹ Courts' obligations to answer the media's questions are outlined in the press statutes of the German states (*die Länder*).⁵⁰

42 The analysis will not embrace the common law jurisdictions. Although the basic tasks of court press service are the same in civil and common law, there are specificities that make the courts' communication in common law slightly different. Mitchel Lasser, *Judicial Deliberations: A Comparative Analysis of Transparency and Legitimacy* (Oxford University Press, 2009), 3–4.

43 Uwe Kischel, *Rechtsvergleichung* (C. H. Beck, 2015), 520–22; Sören Koch, "An Introduction to German Legal Culture," in *Handbook on Legal Cultures*, ed. Sören Koch and Marius Mikkel Kjølstad (Springer, 2023), 632–33.

44 Niels Graaf, "An Introduction to Dutch Legal Culture," in *Handbook on Legal Cultures*, ed. Sören Koch and Marius Mikkel Kjølstad (Springer, 2023), 290–92.

45 More about the Eastern European legal culture characterised by formalities, see: Kischel, *Rechtsvergleichung*, 578–580; Agnieszka Klimaszewska, Anna Machnikowska, and Sören Koch, "An Introduction to Polish Legal Culture," in *Handbook on Legal Cultures*, ed. Sören Koch and Marius Mikkel Kjølstad (Springer, 2023), 870–73.

46 In Germany and the Netherlands, more than 70% of the general public evaluates the independence of courts and judges as very good or fairly good. In contrast, in Poland, the figure is less than 30%. The 2024 EU Justice Scoreboard, 45.

47 Grundgesetz für die Bundesrepublik Deutschland (BGBl. 2025 I Nr. 94), henceforth as GG.

48 Gerichtsverfassungsgesetz (BGBl. 1975 I S. 1077).

49 According to this provision, before the adjudicating court, including the pronouncement of judgments and rulings, are public. Audio and television or radio recordings as well as audio and film recordings intended for public presentation or for publication of their content are inadmissible. Audio transmissions to a workspace for persons reporting for the press, radio, television or other media may be authorized by the court. Audio transmissions may, in part, be prohibited in order to protect the legitimate interests of the participants or of third parties or to ensure the proper course of proceedings. In all other cases, sentence 2 applies to audio transmission to a workspace accordingly.

50 For example, according to Article 4 § 1 Berliner Pressegesetz from 15 June 1965, the authorities are obliged to provide information to representatives of the press who identify themselves as such to fulfil their public duties.

Statutes governing the organization of the judiciary at the state level do not address the creation of court press services or spokespersons. The court president's competence to appoint spokespersons derives from her general obligation to court management.⁵¹ In practice, a president appoints a spokesperson who is a judge and determines which specific obligations from the president's scope of responsibilities are assigned to the spokesperson.

More detailed obligations for the court press service are stipulated in the guidelines for courts on contacts with the press issued by the state Ministries of Justice. According to the document's rules for courts in Berlin, it has been confirmed that spokespersons are appointed and subordinate to the court presidents.⁵² However, they stay in touch with the Ministry of Justice regarding their social media accounts.⁵³ The press service of the Ministry of Justice can assume responsibility for certain press releases and coordinate releases from various courts, particularly in proceedings of cross-divisional importance.⁵⁴ The spokespersons are obliged to inform the Ministry of Justice's press service of matters of particular importance.⁵⁵ The obligations of the spokespersons are only generally specified. They are responsible for responding to press inquiries, drafting press releases, supporting media representatives at trials, coordinating film and sound recordings and participating in the external presentation of the court.⁵⁶

The same general legal basis applies to establishing courts' websites. No special provision concerning their content is stipulated by law.⁵⁷ Although the literature strongly recommends publishing the entire jurisprudence,⁵⁸ it has been limited to the selected decisions published on the websites of the highest courts, including the Federal Constitutional Court.⁵⁹

NETHERLANDS

The Dutch Constitution,⁶⁰ in Article 121, specifies that trials shall be held in public, judgments shall be pronounced in public, and outlines the grounds on which these proceedings are based. As for the legal basis for organizing the court's press service,

51 According to Article 14 § 1 of the statute about the judiciary in Berlin (GVBl. 2021, 75), a president heads each court. According to Article 15 § 3 of that statute, the President may delegate the independent management of one or more sections of the court to the Vice-President and other judges.

52 § 1 Point 2 of the Press Guidelines for the Berlin Judiciary from 17 January 2020, issued by the Senatsverwaltung für Justiz, Verbraucherschutz und Antidiskriminierung.

53 § 1 Point 3a of the Press Guidelines.

54 § 3 Point 7 of the Press Guidelines.

55 § 4 Point 9 of the Press Guidelines.

56 See the subsequent paragraphs of § 4 in the Press Guidelines.

57 According to Article 17 § 3 of the statute about the judiciary in Berlin, the competent department in the Ministry of Justice provides all critical information and documents related to the justice system through the internet portal.

58 Michael Heese, "Die praktisch uneingeschränkte Pflicht des Staates zur Veröffentlichung der Entscheidungen seiner (obersten) Gerichte," *Juristen Zeitung*, no. 13 (2021): 665–66.

59 The Tribunal publishes all significant judgments (alle wesentlichen Entscheidungen) from 1998 onwards, as well as selected older judgments. https://www.bundesverfassungsgericht.de/DE/Home/home_node.html (accessed June 24, 2026).

60 The Constitution of the Kingdom of the Netherlands. <https://www.rechtspraak.nl/SiteCollectionDocuments/Constitution-NL.pdf> (accessed on 23.06.2025).

the Dutch judiciary took matters into its own hands. The legislative powers do not provide a formal legal basis. The judiciary organized it independently and ‘formalised’ it in guidelines.⁶¹ The use of Guidelines is common practice in the Netherlands, and if they contain relevant judicial content for parties, they are considered ‘law’ by the Supreme Court.⁶²

According to the Press Guidelines 2025, at all courts, the first point of contact with the press is through the communication department. The media can consult these departments for questions about ongoing and closed cases, court cases and rulings, and matters concerning the court (excluding any specific case).⁶³ The structure of these departments varies based on the specific responsibilities of a given court and its position relative to other courts and state powers. In the Council of State, three spokespersons are employed.⁶⁴ Two of them have legal training, and one has training in communication sciences. Unlike in Germany, they are not judges.

Within the communication department, communication advisors are also employed.⁶⁵ They are the first point of contact with journalists. They respond to media inquiries and provide press releases for high profile disputes, in consultation with the judges handling the case. They maintain contacts with other actors, such as prosecutors, police and local public administration.

It is not customary for judges in the Netherlands to explain their judgments. In practice, this role is delegated to the press judges.⁶⁶ They are judges who receive professional media training in communication, including how to interact with the media. In consultation with the communication department, one press judge should always be available to speak to the press, if necessary, even outside office hours.

The press guidelines also refer to the national website of the Dutch judiciary,⁶⁷ which contains information about the progress of court cases and the organization of the judiciary. On the website, parts of the judgments are published.⁶⁸

POLAND

Just as in Germany and the Netherlands, the Polish Constitution⁶⁹ does not expressly stipulate the principles governing the institutional courts’ communication. Article 45

61 See the Press Guidelines 2025. <https://www.rechtspraak.nl/English/NCC/Pages/media.aspx> (accessed June 23, 2026)

62 Supreme Court of the Netherlands, 3 June 2022, 21/02242.

63 Point 2.3 of the Press Guidelines 2025.

64 For the legal basis of their appointment, see sections 13a and 14 of the Council of State Act, <https://www.raadvanstate.nl/talen/en/english-version/> (accessed June 24, 2026).

65 Point 2.3 of the Press Guidelines 2025.

66 Besluit – Persbeleid en rechterlijke autonomie en onpartijdigheid Document 1, 9, <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Raad-voor-de-rechtspraak/Documents/2023-03-10/20230310%20-%20documenten%201%20tm%203.pdf> (accessed June 24, 2026).

67 It is accessible at www.rechtspraak.nl. (accessed June 24, 2026).

68 Which rulings are published is arranged in the selection criteria for publication, which are available through the link www.rechtspraak.nl/uitspraken (accessed June 24, 2026).

69 Constitution of the Republic of Poland (Journal of Laws 1997, No. 78, Pos. 483 as amended, henceforth as PC).

§ 1 PC includes openness as an element of the right to a court. It encompasses public hearings and other forms of publicity, such as access to the court's jurisprudence and information about the functioning of the justice system as an institution.⁷⁰ In a separate provision, the right of individuals to access public information is regulated. Article 61 § 1 of the PC states that public authorities and public officeholders are responsible for providing this information to any citizen.

Statutes regarding the structure of the ordinary judiciary (civil and criminal) and the administrative judiciary do not specify a legal basis for the existence of press offices or any other forms of institutional court communication. At the level of under-statutory law, there are specific rules governing the competencies of press offices and the forms in which courts should communicate their operations to the public. Practical recommendations can be found in the National Council of the Judiciary's guidelines for the ordinary judiciary (civil and criminal courts),⁷¹ which refer to the ENCJ Report – Justice, Society and the Media (2011–2012).⁷²

Within the ordinary judiciary, the court's president is responsible for media relations.⁷³ A spokesperson is often subordinate to the court's president in regional or appellate courts.⁷⁴ The law does not specify the education and competencies that employees in the press office, including the spokesperson, should possess.⁷⁵ Every court's president is also responsible for providing any person who requests it with public information. In the administrative judiciary, the press office of the regional administrative court,⁷⁶ or the Supreme Administrative Court (SAC)⁷⁷ is responsible for this task. The press offices are also responsible for contacting the media and supporting the president of the courts in this regard.⁷⁸ While the press office in the SAC is responsible for maintaining the court's website,⁷⁹ this task is not assigned to the press office at the regional administrative court level. It is also unclear to which authority this press office is subordinated. In the SAC, the court's president oversees the press office's tasks.⁸⁰ The

70 Bogusław Banaszak, *Konstytucja RP: Komentarz* (C. H. Beck, 2009), 242; Paweł Sarnecki, "Komentarz do art. 45," in *Konstytucja RP: Komentarz*, vol. 2, ed. Leszek Garlicki and Marek Zubik (Wydawnictwo Sejmowe, 2016), 241.

71 The recommendations are not binding for the administrative judiciary, which is a separate branch of the Polish courts. There are no such guidelines for the administrative judiciary.

72 Resolution of the National Council of the Judiciary of 19.06.2015. Communication and image of the courts. Collection of good practices for ordinary courts.

73 § 143 no. 1 of the Minister of Justice order from 18 June 2019 about the rules of functioning of the ordinary judiciary (Journal of Laws 2024, no. 867 as am.).

74 § 143 no. 2–3 of the order.

75 The tasks of the spokesperson, the need for her cooperation with other court authorities, including the court's president and judges, as well as the need for communication training, are expressed in the recommendations of the National Council of the Judiciary.

76 § 5 no. 1 point 2 of the State President's order from 5 August 2015 about the rules of functioning of the regional administrative courts (Journal of Laws 2024, no. 779 as am.).

77 § 9 no. 1 point 2 of the State President's order from 4 July 2020 about the rules of functioning of the Supreme Administrative Court (Journal of Laws 2024, no. 805 as amended).

78 § 5 no. 1 point 7 of the rules of functioning of the regional administrative courts and § 9 no. 1 point 4 of the rules of functioning of the SAC.

79 § 9 no. 1 point 6 of the rules of functioning of the SAC.

80 § 9 no. 4 of the rules of functioning of the SAC.

SAC press office supervises the tasks carried out by press offices at the level of regional administrative courts.⁸¹

The SAC President appoints the head of the SAC's press office. She can serve as a judge or as a member of the SAC Jurisprudence Office, a section within the SAC structure responsible for uniform adjudication.⁸² It is an open question whether she should be a judge. Undoubtedly, she should have a legal education required for a member of the Jurisprudence Office. There is no such regulation at the level of regional administrative courts, except for the rule that the head of the press office is the court's spokesperson.⁸³ In theory, the head is not required to have a legal education. In practice, however, that position is occupied by a judge who is obliged to have a legal education.

Within the administrative judiciary, a freely available database has been created. It contains all judgments of administrative courts.⁸⁴ The details of publishing them are stipulated in the SAC President's order.⁸⁵ Differently, for the ordinary judiciary, only selected judgments are accessible through a freely available database⁸⁶ overseen by the Ministry of Justice.⁸⁷

DISCUSSION

The legal basis for institutional courts' communication in Europe is limited to recommendations (at the international level) or statutory provisions regarding the basic tasks of press offices and spokespersons (at the national level). Many initiatives on what and how to communicate depend on the press office members or the court presidents. It is an open question whether the legal basis for institutional court communication should be more detailed and set at the statutory level or remain soft law. Do courts need legal rules for institutional communication?

The current minimal legal regulation in Germany, the Netherlands, and Poland offers judges and court presidents considerable flexibility in shaping communication according to their perception and adjusting messages to specific recipients and defined situations. Besides the free access to public information, courts are not forced to propose any special forms of contact with the public. They are not legally obliged to publish all judgments in a freely accessible database informing about the public hearings, to organize the press conferences with a presentation of the current adjudication, to react to fake news about the judiciary, to design websites more friendly to individuals or to reach out to the young generation mainly on/through social media. Pushing courts to undertake the mentioned actions could harm judicial independence, as courts and judges may be subject to pressure from the legislature and the public, particularly in specific disputes. Additionally, courts'

81 § 9 no. 5 of the rules of functioning of the SAC.

82 § 9 no. 3 of the rules of functioning of the SAC.

83 § 5 no. 3 of the rules of functioning of the regional administrative courts.

84 It is available at the website <https://orzeczenia.nsa.gov.pl> (accessed June 24, 2026).

85 Order no. 30 of the SAC President from 26 May 2022 on the anonymization and publication of administrative court decisions through information systems. <https://nsa.gov.pl/zarzadzenia-prezesa-nsa/udostepnienie-orzeczen-sadow-administracyjnych-za-posrednictwem-systemow-informatycznych,news,39,150.php> (accessed May 28, 2026).

86 It is available at the website <https://orzeczenia.ms.gov.pl> (accessed June 24, 2026).

87 § 144 of the rules of functioning of the ordinary judiciary.

press offices typically employ judges and other staff with legal education. Professional communication specialists should be employed in press offices. The Dutch judiciary has identified this need, unlike the German and Polish courts.

Institutional court communication has distinctive characteristics. This is because the courts' primary task is to resolve conflicts between individuals and the state, they cannot communicate in the same way as private enterprises or politicians.⁸⁸ Moreover, court press officers cannot behave like journalists, because they are part of the court's structure, even though their task is to impart information and ideas on matters of public interest.⁸⁹ They do not take a position on their own behalf, but on behalf of the court. However, the courts' special mission does not mean they should communicate with the public only through announcements, as they prefer, or in a manner they find most comfortable. There are reasons for more standardized, yet simultaneously diversified, institutional court communication. These reasons should be outlined in more detailed regulations that govern the basic tasks of press offices or spokespersons. In the Dutch judiciary, this role is carried out by press guidelines, which the Supreme Court treats as law. In Germany, the guidelines are published by the state Ministers of Justice. They are less detailed and more focused on the internal organization of press services than on media contacts. In Poland, they refer to the ENCJ report without any specific details about the structure or the challenges the Polish judiciary faces. Instead, specific rules governing the press service's tasks are set out in subordinate legislation.

This paper argues that, it is not a matter of statutory (legal) or non-statutory (soft law) regulation, but the existence and content of rules that can help courts be more active and professional in their communication. There are many reasons for their presence. The first reason is based on the high-speed flow of information worldwide and the growing importance of openness in public institutions. Courts cannot be excluded from this process because they decide conflicts for a broad audience, including private and public entities. They should communicate their judgments to the public and be prepared to respond to other information needs, such as in high-profile disputes, typically within a short timeframe. The public will be interested in the adjudication process and its outcome, irrespective of the courts' wishes or readiness to communicate. In other words, it is not a question of whether courts should be open to the public, but of how to do so without endangering judicial independence, diminishing respect for the judiciary, or reducing public understanding of court proceedings.

The challenge of meeting this need is the second reason for more detailed regulation about obligations and the structure of press offices. Contact with the public should not be left entirely to the courts' presidents or other state authorities, such as ministers of justice. As contact with the public is increasingly essential and varied, courts need a basis for contacting the public without any doubts or concerns about the proper (legal) way to do so. Legal certainty is more than welcome.⁹⁰ Otherwise, there is a risk of non-uniform institutional court communication, characterized by diverse styles, models, and communication methods. Some courts can offer professional, diversified means of communication, while others can be closed and reduced to passive

88 Points 234–235 CEPEJ (2018)15.

89 ECHR 23 April 2015, *Morice v. France*, no. 29369/10, § 148.

90 Courts cannot unofficially communicate with the public. That could be a reason for restraint in this process.

reactions to questions from individuals or the media. There can be various (economic or organizational) reasons for that. Irrespective of their significance, differences in communication between two or more courts can be difficult for the public to identify and assess. Clear rules will provide a legal basis for institutional communication and promote greater uniformity.

The third reason for introducing clear rules in proactive communication is the courts' role in democratic societies. The courts' mission is to inform the public about these disputes, that are crucial to people's rights and freedoms. Indeed, the media are often not interested in reporting on these truly important disputes to the public.⁹¹ They are more inclined to write about sensational or shocking processes that initially appear attractive.⁹² This is not a reason for spokespersons to relinquish their active role, as it creates an opportunity for the media and individuals to access information that affects their daily lives. Additionally, communicating with the public about judgments serves an educational purpose, increasing legal awareness in society. It can lead to an increase in society's perception of the courts' role. It can be combined with an understanding of the need to protect judicial independence.

Court communication continues to develop. Hence, it would not be reasonable to fix all forms of communication in legal norms.⁹³ Otherwise, they have to be regularly updated. It does not mean that more diversified legal regulation would not be desirable. In Poland, the formalistic approach to law means that courts are reluctant to act without a clear legal basis. In that case, the legal basis should fulfil three conditions. Firstly, it should exist at the statutory level, at the very least, in a form that sets out the press office's or spokesperson's obligations. Determining who appoints the press office members and to whom they are responsible would be beneficial. Secondly, the subordinate under statutory regulation should guarantee uniformity in institutional communication across all courts in a particular country, or at least across a court branch.⁹⁴ Thirdly, it should protect judicial independence from attacks or inconveniences arising from the use of these communication methods, which are incompatible with the court's mission. The same functions within the Dutch judiciary can be fulfilled by the press guidelines, which are effectively treated as law.

A remarkable question concerns the leadership of the press office. It should be a task of the judicial power, primarily the court's president, to appoint press service members and to verify their work. Another state power or external agency should not be integrated into the communication process, as it is closely tied to adjudication and can compromise judicial independence. Nonetheless, in that situation, there is a risk that the judiciary will inform the public only about matters it chooses or it remains

91 This remark has often been present in the opinions expressed by the press office members to the author of this paper.

92 Sharon Rodrick, "Achieving the Aims of Open Justice? The Relationship between the Courts, the Media and the Public," *Deakin Law Review*, no. 1 (2014): 137.

93 Communication as a social phenomenon depends on different human and subjective factors. See Wolfgang Donsbach and Anne-Marie Brade, "Nothing Is as Practical as a Good Theory: What Communication Research Can Offer to the Practice of Political Communication," *International Journal of Press/Politics* 16 (2011): 516–19; Leslie J. Moran, "Mass-Mediated 'Open Justice': Court and Judicial Reports in the Press in England and Wales," *Legal Studies*, no. 1 (2014): 165–66; Jane Johnston, "Three Phases of Court's Publicity: Reconfiguring Bentham's Open Justice in the Twenty-First Century," *International Journal of Law in Context* 14 (2018): 531–33.

94 For the same reason, the creation of practical guidelines is encouraged. See Claus et al., "Communication," 77.

passive in its communication. However, precise regulations with specific rules on what press offices are obliged to do would diminish this danger. This is an additional reason to address the obligations of press services and the basis of their structure, including the entity to which they are accountable.

Special attention should be paid to the competencies that the press service or a spokesperson can exercise alone or in cooperation with a court president or another person, e.g. a judge-rapporteur in a particular dispute. On the one hand, it is conceivable that a spokesperson would provide the media only with general knowledge about the legal system and the court's jurisprudence. On the other hand, a spokesperson could clarify to the press the details of the court decision, explaining its content, the court's reasoning and the consequences for the public. The second option seems preferable. Simultaneously, it may also entail the risk of misunderstandings or even misinterpretation of the judgment. This is also connected with the education of a spokesperson and her ability to present legal statements.

Undoubtedly, it would enhance the professionalism of the court's communication to have employees with diverse competencies on board. Judges or other court staff with legal education may not possess practical communication skills.⁹⁵ Their engagement with publicity, including the media, could be harmful to the third branch of state power. Therefore, judges who wish to engage with the public and possess the necessary communication skills, knowledge, and experience in applying the law should be elected as spokespersons for the courts or as press judges.⁹⁶ Additionally, there is a distinction between judges and non-judge employees regarding what they can communicate to the public and how. The principle of judicial independence does not bind spokespersons who are not judges. They still represent a court in their profession, but their announcements are not seen from the perspective of a judge who could, at some point, adjudicate a similar dispute, he commented. Nevertheless, the employment of additional staff, such as spokespersons who are not judges, is funded by the budget of the third state power. For this reason, a compromise solution in the form of a press judge has been proposed in the realm of soft law. It is an option worth considering because it enables one person (one judge) to utilize both legal and non-legal (communication) knowledge. This option would be particularly useful for smaller courts that do not employ a spokesperson. It is conceivable that one press judge serves for two or more small courts.

Among the forms of proactive institutional court communication, access to the court's jurisprudence is the least controversial. The public should have the opportunity to read, analyze, and compare courts' decisions. Beyond the core value of openness, it can lead to improvements in jurisprudence or even legislative amendments. In many countries, this obligation is derived from the constitutional principles of access to public information⁹⁷ or the rule of law.⁹⁸ I believe it should have its own separate legal

95 Some judges do not have them at all. Gigi Deppe, "Richter sollen nicht nur durch Urteile sprechen," *Zeitschrift für die Rechtspolitik* (2021): 101.

96 Martin W. Huff, "Notwendige Öffentlichkeitsarbeit der Justiz," *Neue Zeitschrift für Verwaltungsrecht* (2004): 404.

97 Another question concerns the personal information of the parties to the proceedings, which should be anonymised. However, there is no one practice of anonymisation. In the USA, the parties' names are not anonymised. Heese, "Die praktisch uneingeschränkte," 666.

98 Armin Teschner, "Die Veröffentlichung von Gerichtsentscheidungen," *Justizministerialblatt für Schleswig-Holstein* (2008): 192.

basis, obliging courts to make their jurisprudence accessible to the public. That would be a clear obligation for all courts to establish databases, not limited to selected judgments.⁹⁹ This obligation must be combined with financing that guarantees the databases and their maintenance. Besides, it is worth mentioning that this form of communication would offer more advanced options, such as publishing brief descriptions of judgments, which can be particularly useful for laypeople, selecting the most critical judgments in separate publications,¹⁰⁰ translating selected judgments or their descriptions into English,¹⁰¹ or focusing media attention on these disputes or judgments that may be especially important to the public or specific groups.

There are numerous other ways in which courts can (or should) actively communicate with the public, such as their presence on (social) media, participation in conferences and public debates on specific matters related to justice, and other events on court premises, such as open days, concerts, or exhibitions.¹⁰² Soft law is the right place where the courts' attention should be focused. It is presumed that some of these forms will be deemed legally obligatory in the future. It is possible that social media accounts are a significantly more popular option among courts, at least in the Highest Courts. Apart from the sense of creating such accounts, their content warrants deeper consideration, which is a matter of vision in communication as well as legal and communication skills. An exchange of experience between courts within a single legal system and across different systems would also be desirable in this field. It could make the courts' communication more coherent.

CONCLUSIONS

Nowadays, passive court communication is no longer an option. Courts, as the least visible branch of state power in terms of self-presentation, public visibility, and public perception of attractiveness, are compelled to be as open and transparent as possible. Otherwise, the media will create their own picture of what is happening in courts. A lack of court cooperation with all those who would know about the court's jurisprudence or other responsibilities fulfilled by courts could lead to misleading or unobjective communication. As a consequence, it can endanger not only the respect for adjudication but also the authority of their existence, which is to solve conflicts or conciliate people.

There is no precise regulation governing institutional courts' communication at the European and national levels. The establishment of a press service, its composition, and its tasks depend on various factors, including the judiciary's transparency, the legal culture that may prohibit certain tasks, such as presenting opinions on disputes even after they are resolved, the budget, and the court system. For these reasons, it is not possible to establish a comprehensive legal framework (at both the legislative and

99 This is the case of the Polish administrative judiciary. The same aim should be achieved by the Polish ordinary judiciary and judiciaries in Germany and the Netherlands.

100 It is a case of the Polish administrative judiciary in which selected judgments are published every two months in a bulletin titled "Jurisprudence of voivodeship administrative courts and the Supreme Administrative Court".

101 There are indeed significantly more similarities between particular national legal systems, and judgments pronounced in one country can be a reference point for courts in another country. Deppe, "Richter sollen nicht nur durch Urteile sprechen," 102.

102 More of them is specified in the literature. Huff, "Notwendige Öffentlichkeitsarbeit der Justiz," 405.

sub-legislative levels) for the structure and tasks of press offices or spokespersons. It does not mean that any legal regulation in this field would not be beneficial to align more closely with the public. Soft law appears to be a more effective means of changing attitudes towards the court's communication. In other words, a mixture of hard law and soft law would be recommendable in this regard.

Focusing on specific conclusions, first, the court should be expressly legally obligated to provide broad access to its jurisprudence. The most convenient form is a freely accessible online database of jurisprudence. Other forms of disseminating the jurisprudence would be recommended. These forms could be addressed to different recipients, such as young people, representatives of social groups if a particular judgment concerns their rights.

Secondly, information about the court structure and daily operations (opening hours, public hearings, bank accounts) should be easily accessible. It is conceivable that, in addition to the mentioned information, more details on the case flow would be electronically accessible. Then, courts will be exempt from answering questions and will refer to electronically available data.

Thirdly, press offices should be composed of individuals with diverse educational backgrounds and experiences. Legal education alone is insufficient, as it does not provide professional knowledge of the media or of how to communicate effectively with the public. As the press office's structure is a matter of financing, a combination of different skills is an option. For this reason, the idea of a press judge is worth considering. Then, a press judge would be equipped with additional valuable knowledge in communication with the public.

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The author has no competing interests to declare.

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