EXTERNAL PRESSURES

PRESS AND SOCIAL MEDIA PRESSURES – THE BALANCE BETWEEN THE RIGHT TO BE INFORMED AND THE SECRECY OF THE JUDICIAL PROCEEDINGS

It is clear that the main reason of the democratic political system existence is the establishment of justice.

Democracy has been given to societies as the only feasible solution to the problem of inequality and injustice among people.

And here is no Justice if Judges and Public Prosecutors are not independent.

As it concerns the penal procedure, it is clear that we cannot consider Independent Justice without the personal and functional independence of the public prosecutor, who initiates the prosecution.

The initiation of the prosecution is often much more important than the trial itself. Especially in cases with political or economic impact, the prosecution, which takes place in a premature stage of the procedure, can regulate the formation of public opinion determining the outcome of the elections or the economy of an enterprise either State itself.

The role of the media is very important on news spread, which is often not true or honestly commented. Sometimes a malicious comment can distort the truth and disgrace the whole judicial system.

And justice must not only be fair but also look fair.

And if there is defamation, the restoration of the truth is either impossible or occurs with such delay that the damage is not restored.

The prosecutors are more exposed to such attacks.

The preliminary investigations in cases where politically exposed persons are involved are of great interest to the media. Information, even of minor importance, can cause storms of publications, in a very premature procedural stage. Especially in cases with political impact, this practice becomes a real danger for democracy, as it could manipulate the electorate.

The public defamation is irreparable not only for the person under investigation but also for the judicial system itself. In times of electronic speed and anonymity the defamation runs with speed but the restoration of truth comes slowly and in silence, usually years after, when the public trial takes place.

This practice is a big danger for the independence of the Justice and for the Democracy itself. The prosecutors can not feel free and safe, when investigating under those circumstances.

If we work under the threat of defaming our work, we are no longer independent.

Therefore we have to protect two rights while in conflict.

The independence of justice and the freedom of access to information.

It is our work to balance them.

Usually, important public information concerns penal cases of great public interest.

The law protects the pre-trial penal procedure forbidding its publicity. Unfortunately, journalists find the way to break the prohibition and I know no country that solved this problem.

The only way to ensure the right balance of the two goods is to create formal judicial information channels by banning any other public reference to judicial proceedings.

To ensure the correct function of the controlled judicial information we need really independent prosecutors, who will manage the controlled break of the pre-trial secrecy, only if needed for security or public interest reasons, with strictly controlled official public announcements for only the absolutely necessary information.