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Disclosure of information in criminal proceedings

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Statements accompanying the dissertation

“Disclosure of information in criminal proceedings: A comparative analysis of national and international criminal procedural systems and human rights law”

1. The prosecutor’s individual decision to withhold information, weighing it against the defence’s right to disclosure, violates the defence’s due process rights (ECtHR, *Rowe and Davis v. The United Kingdom*, Chapter 5).
2. The trial judge should not be put in the uncomfortable and dangerous position of seeing material, whose non-disclosure is sought by one party, when such material can have an impact on an issue of fact that the same judge is called to decide (ECtHR, *Edwards and Lewis v. The United Kingdom*, chapters 1, 5 and 6).
3. The adoption of technical and complex procedural rules to regulate disclosure in international criminal trials leaves a significant amount of room for litigation and the parties do not hesitate to exploit it (chapter VIII).
4. “It is plain that the conduct of war crimes trials in classical adversarial form results, and inevitably will result, in the proceedings in some cases lasting for several years” (quotation from Judge Iain Bonomy, chapter 6).
5. The unrealistic expectation that the Prosecutor may effectively manage disclosure while reconciling adversarial and inquisitorial souls should be abandoned in favour of a more realistic configuration of its role (chapter VIII).
6. It would be desirable to envisage specific training for international criminal law experts before being admitted to practice as Prosecutors, judges or Defence counsel in international criminal proceedings (chapter VIII).
7. A unique criminal procedure applicable to international criminal trials would be a welcome step that could contribute legitimacy and coherence to a relatively young field of law avoiding the counterproductive proliferation of different types of criminal procedures at the international level (chapter VIII).
8. “It’s better to go down with your own vision than with someone else’s” / “Je kunt beter ten onder gaan met je eigen visie dan met de visie van een ander” (Johan Cruyff).