

# NEWSLETTER of the EU-Central Asia Rule of Law Platform

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In 2014, the Fourth Ministerial Conference on the Rule of Law took place in Astana. In this, the ministers of justice of the EU and the Central Asian States expressed their interest in encouraging alternative methods of dispute resolution, and creating a regulatory environment that would level the playing field for international and domestic businesses alike.

Since then, establishing an attractive investment environment is the challenge addressed by a number of Rule of Law project activities, as is reflected in this newsletter.

## YOUR VIEWS

### MR RUSTAM SHOHMUROD, MINISTER OF JUSTICE OF THE REPUBLIC OF TAJIKISTAN, SHARES HIS PERSPECTIVE ON COOPERATION ON RULE OF LAW ISSUES WITH THE EU



Born in 1965 in the Sodgi region of Tajikistan, H.E. Minister Rustam Shohmurod graduated from the Tajik State University in 1989 with a PhD in law. He worked as a prosecutor before moving to the Ministry of Justice where he occupied many positions before becoming Minister in 2012.

In this [extensive interview](#) he reflects on his country's priorities and proudest achievements. The EU has committed EUR 251 million to Tajikistan bilateral assistance programmes for 2014-2020, largely because the European Union considers its relationship with Tajikistan

as key to the Strategy for a New Partnership, and the Minister characterized EU support as sustainable, positive, substantive and practical. He added that the President of the Republic of Tajikistan, His Excellency Mr Emomali Rahmon, has repeatedly stated that he considers sustainable friendly relations with the EU to be one of the main directions of Tajik foreign policy.

Minister Shohmurod says he is proud that the Second Conference of Ministers of Justice of the European Union and Central Asian Countries took place in June 2010 in Dushanbe. At this the proposal was endorsed to set up the EU-Central Asia "Rule of Law Platform" project. The rule of law and the respect for human rights has always been, is and will remain, a priority for the Ministry of Justice, he said, and he believes the realization of the concept of free legal aid in the Republic of Tajikistan approved in July 2015 is one of the most important undertakings of the Ministry. Another important achievement he speaks of is the new advocacy law. In contrast with the previous Law, he points out, under this issues pertaining to obtaining and terminating the status of advocate and certification of advocates, are resolved by the Qualification Commission created under the Ministry of Justice. It is not influenced by the Ministry itself.

With international arbitration a particular focus since the Fourth Conference of Ministers of Justice of the European Union and Central Asian Countries he pointed out that the regional seminar on international arbitration that took place in Dushanbe was 'very successful, (...) and the Ministry fully supports the Communiqué that was endorsed at the end of the seminar'. The results achieved at the seminar will be used for the development of legislation of the Republic of Tajikistan on international arbitration.

The Minister believes it is encouraging that the EU Rule of Law Initiative for Central Asia is one of the key elements

## The Rule of Law Platform:

The Rule of Law Platform acts as a coordination mechanism to facilitate policy dialogue and promote the measures needed to encourage and support legal and governance reforms in each of the Central Asian countries.

of the EU – Central Asia Strategy for a New Partnership. He reflects that the Rule of Law Platform's trans-border objectives could provide stability not only in his Republic, but could also resolve some regional problems. "We envisage that the relevance of the Platform in the formation and development of the States in the region will become a subject for detailed research," he adds.

He concludes that all the efforts undertaken evidence the commitment of the Republic of Tajikistan to form a state where the Rule of its highest legal instances are indisputable and the rights and freedoms of everyone are staunchly defended.

## RECENT EVENTS

### Platform issues expert opinion on Draft Law Amending the Kyrgyz constitution

At the request of the European External Action Service, the EU-Central Asia Rule of Law Platform has prepared an expert opinion on the draft law "On introduction of amendments and changes to the Constitution of the Kyrgyz Republic".

A Preliminary Joint Opinion on the draft law was issued by the OSCE/ODHIR

## Contact us:

We welcome your feedback and ideas for this newsletter. Please contact  
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and the Venice Commission of the Council of Europe in August 2016. During his official visit to Kyrgyzstan in September, EUSR Ambassador Peter Burian agreed to a request from the Kyrgyz president to provide an expert analysis evaluating whether the new draft law had taken into account the recommendations presented by the Venice Council. The Draft Amendments would impact the balance of powers by strengthening the powers of the executive, affect the institutional status and role of the Constitutional Chamber, as well as certain democratic principles, human rights and fundamental freedoms. The Rule of Law Platform invited Professor Pohrebniak, Chair of Theory of State and Law at the National Law University Yaroslav the Wise, in Kiev (Ukraine), to complete the above.

#### **Platform will analyse work of Pilot Kazakh court**

In cooperation with the Supreme Court of the Republic of Kazakhstan, the Rule of Law Platform will conduct an expert analysis of the work of a pilot court of justice in Kazakhstan. The analysis will follow best European experience and methodology, starting from an audit of the existing situation, building on exchanges and interviews of court staff, reviewing the analysis of applicable legislation and regulations, and conducting site visits.

The mission will identify existing good practices and possible shortcomings, highlighting their impact on the results and the image of the court.

The audit mission and analysis is being

conducted by a team of French and Kazakh experts started on 26 September 2016. It is expected that the conclusions will be presented to the Supreme Court of Kazakhstan before the end of 2016.

#### **EU and Kyrgyz Republic seminar on International investment.**

The Kyrgyz Republic is keen to ensure that its legislation is attractive to foreign investors. In this context the Ministry of Justice of the Kyrgyz Republic and the Rule of Law Platform co-organised a national seminar on International Investment, on 30 September 2016, in Bishkek.

70 high-level legal specialists attended the event from a large number of Kyrgyz Ministries and State Agencies, the President's Office, the Government's Office, Parliament, the Central Bank of the Kyrgyz Republic, Chambers of Commerce and Entrepreneurs Associations, the Supreme Court of the Kyrgyz Republic, the General Prosecutor's Office, the Kyrgyz Bar, civil society and academics, and investment specialists from the other Central Asian States.

The focus of discussions was best practices relating to bilateral investment treaties (BITs).

BITs provide an effective framework for arbitration, and the national regulatory framework should be compliant with its principles in order to avoid legal loopholes that could frustrate dispute settlement.

High level experts from the ministries of Economy and international trade of Austria, France and Germany explained how they present government objectives when negotiating such treaties, the means of dispute resolution available, the types of guarantees and protection they would expect to offer.

#### **Dushanbe hosts regional seminar on Arbitration**

On 6-7 October, over 90 arbitrators and heads of legal departments of line Central Asian ministries exchanged experience with their European peers at a regional seminar on International Arbitration in Dushanbe. The key challenge for states is the need to protect and encourage investment while continuing to pursue public policy objectives. The key is to make sure that any system for dispute settlement is fair and independent. The regional seminar discussed modern frameworks for domestic and international arbitration, models and process of arbitration, bilateral investment treaties, the arbitration clause and arbitrators. A number of other provisions can also be included in international arbitration clauses, including the language for the conduct of arbitration, choice of applicable law, arbitrator qualifications, costs, and procedural matters.

Developing an economic regulatory environment for business is critical to attracting international investment, which is important to the economies of the region.



*Over 90 European and Central Asian arbitrators, lawyers, judges and civil servants exchanged experience at the regional seminar in Dushanbe*

#### **Next on the Rule of Law Platform agenda**

##### **December 2016**

- ✓ Seminar on public-private partnerships (Turkmenistan)

##### **December 2016**

- ✓ Round-table on intellectual property (Kazakhstan)
- ✓ Completion of analysis of pilot court (Kazakhstan)