

RULE OF LAW PLATFORM, PHASE II CLOSES.



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After 38 months of implementation, the Rule of Law Platform – Phase II came to a close April 1, 2018. Over the past ten years, the EU Member States and the Central Asian countries have been actively engaged in a Rule of Law dialogue with priority areas of co-operation of legal and judicial reforms such as the independence of judicial system, access to law, criminal justice, the Habeas Corpus principle, administrative law as well as commercial jurisdiction and law. The Rule of Law Initiative was launched in November 2008 and remains a key element of the EU Strategy for Central Asia. Implemented in close collaboration with France and Germany as the coordinators of the Initiative, it aims at a concerted approach to support the Central Asian States in core legal and judicial reforms, drawing up effective legislation and enhancing implementation capacities.

The EU and its Member States supported numerous bilateral and regional projects under the initiative. Since December 2011, the Rule of Law Platform project financed by the European Commission has allowed all parties to step up the rule of law regional policy dialogue. In June 2017, the EU Council announced a comprehensive review of the EU Strategy for Central Asia for 2019 and underlined in its conclusions the importance of prioritising even further the rule of law cooperation as part of the EU Strategy. With this final newsletter we bring you up to date with our most recent activities.

The end of this project does not mark the end of the EU initiative on Rule of Law.



The EU is presently preparing a new programme which will again support the initiative and will take into account the lessons learnt from previous programmes.

RECENT EVENTS

FIFTH CONFERENCE ON RULE OF LAW OF THE MINISTERS OF JUSTICE IN CA AND EU

The Fifth Conference on Rule of Law of the Ministers of Justice of Central Asia and the European Union was organised in Brussels on 7 December with the support of the Rule of Law Platform. This year the ministers focused their attention on recent developments with regard to *Access to Justice* in Central Asian countries. They expressed interest in improving access to justice, for example by providing legal aid, ensuring appropriate laws and regulations, developing and disseminating legal commentaries and literature, and raising public awareness about their rights under the judicial system.

The importance of a strong legal system, including ADR mechanisms, when it comes to attracting international investors (including SMEs), and promoting economic stability, was highlighted. ADR is widely accepted in the CA countries. The Ministers took stock of the strengthened cooperation in the areas of administrative law, constitutional law, economic governance and judicial reform, and endorsed the recommendations adopted by the participants of the Regional Seminars and National Workshops organised from 2015-2017.

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.

The Central Asian Ministers underlined the importance of EU assistance designed to promote democracy, human rights and fundamental freedoms, and to advance modernisation of the Central Asian judicial and legal systems, including ways to make better use of digital solutions, in particular the use of electronic proceedings and electronic files that help to optimise the use of resources in the judicial process. They invited the European Commission, EEAS, the EU Member States and the international community to continue their financial support and action in this crucial sphere.

The Ministers also expressed their willingness to meet again in Central Asia in 2019 to discuss the progress made in the implementation of the EU-Central Asia Rule of Law Initiative and review cooperation activities.

The conference was represented at high levels by the five Central Asian partner states. The Ministers of Justice of Bulgaria, Estonia, Kazakhstan, Latvia, Malta, Tajikistan and Uzbekistan attended.



Central Asian and European Ministers of Justice at the Fifth Conference on Rule of Law

EU Member States Austria, Croatia, Finland, France, Germany, Hungary, Lithuania and Romania also sent representatives, as did the European Parliament, UNODC, the Council of Europe, the World Bank, and the International Union of Judicial Officers.

All sides expressed interest in practical solutions to their challenges from EUMS and experts.

The Conference was implemented in the framework of the Rule of Law Initiative under the EU-Central Asia Strategy in close collaboration with France and Germany as the coordinators of the Rule of Law Initiative.

REGIONAL TRAINING PROGRAMME FOR JUDGES HIGHLY APPRECIATED

A report was commissioned by the EU-Central Asia Rule of Law Platform (the "Platform") to evaluate the regional judicial training programme for CA countries implemented by the Platform during the last quarter of 2017. In all, 11 training seminars on court decision drafting methodology were conducted under this component in CA, 162 judges and 22 trainers from CA countries were trained in the Platform method.

The training was designed after Rule of Law Platform identified judicial decisions as a main quality indicator for improving the justice systems and, ultimately, to promote rule of law in Central Asia. It is also a major component of quality of justice.

In its Opinion No. 11(2008) dated 18 December 2008, the Consultative Council of European Judges (CCEJ) noted that:

"Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (...) requires states to establish independent and impartial tribunals and promote the introduction of efficient procedures. The fulfilment of this obligation acquires real meaning when judges are, as a result,

enabled to administer justice justly and correctly, in relation to their findings both in law and in fact, for the ultimate benefit of citizens. A high quality judicial decision is one which achieves a correct result (...) fairly, speedily, clearly and definitively".

All the Member States of the European Union are legally bound by the European Convention for the Protection of Human Rights and Fundamental Freedoms (the "Convention"), which is the most essential legal instrument governing the quality of justice and, as a result, of judicial decisions.

The Convention is not a legally binding document which must be followed by judges in the Central Asia countries when administering justice and drafting court decisions, since none of the target countries participating in the Training Programme is a party to the Convention.

Nonetheless, the challenges it poses for a judicial system were considered during the implementation of the Training Programme. Thus, it was established that the quality of a judicial decision would invariably contain two main components:

1. The quality of the judicial decision itself, including in particular its style, clarity, linguistic characteristics, logic, and
2. The quality of the judicial proceedings in the whole, including the judicial stage, which have preceded in time the drafting of a court decision.

While the first component is of importance, the second one is the most essential for the quality of any court decision. The evaluation report found that the Training Programme has successfully incorporated the above considerations.

General characteristic of the Training Programme

The main target group of the Training Programme were judges and trainers of judges, although in some cases practicing lawyers also participated.

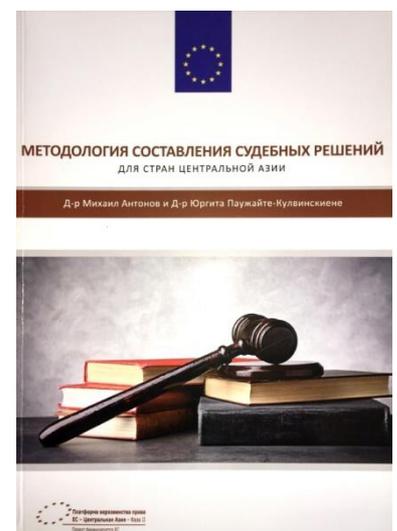
It comprised two main stages:

- A training manual, 'Methodology', (written in Russian) dedicated to the methodology for writing judicial decisions in civil, criminal and administrative cases, in the context of the judicial practices, with explicit reference to court cases on the countries participating in the project ; and
- The training sessions for judges and trainers of judges from Kazakhstan, the Kyrgyz Republic, Tajikistan, Turkmenistan and Uzbekistan, organized in Central Asia.

The training sessions relied mainly on the methodology, which details in accessible and clear terms the main methodological requirements of a court decision based on best international practices as adapted in the target countries.

The training sessions were, on the whole, very positively evaluated.

Overall, it was found that the methodology is a valuable tool which can be used as a handbook by any judge in the Central Asian region.



The 236 p. methodology manual produced by the Platform and distributed to judges of Central Asia

SEMINAR ON IMPROVING THE SYSTEM OF IMPACT ASSESSMENT OF LEGISLATIVE ACTS, IN UZBEKISTAN



70 judges attended three methodology training seminars at the Higher School of Justice under the Supreme Court of the Kyrgyz Republic

In the framework of the Rule of Law Initiative of the European Union for Central Asia, a seminar on “improving the system of impact assessment of legislative and regulatory acts in Uzbekistan” took place in Tashkent, on 7 March 2018, with support from the Ministry of Justice of the Republic of Uzbekistan.

According to a new Cabinet of Ministers Decree (N°328 of 02.12.2014) all draft new laws/bills in Uzbekistan should be evaluated before being enacted. Moreover, since 01.01.2015, all such draft legislation must be published on the Internet (www.regulation.gov.uz). In practice, only the acts having an impact on enterprises are being assessed, in Uzbekistan. The Objective of the Ministry of Justice of Uzbekistan is to enlarge the sphere of impact assessment to all acts in all areas.

The objective of the seminar was to exchange information and present best European practices of legislative impact assessment, to a group of 60 senior civil servants and specialists from the Ministry of Justice of the Republic of Uzbekistan, other Ministries and State agencies, and Parliament. Experts from the French Ministry of Finance and the German Federal Chancellery explained the legal framework of drafting primary and

secondary legislation in their countries, and the need for ex ante impact assessment and explanatory notes as a basis for informed evidence-based decision making, including ex ante assessment of compliance costs, of the financial and budgetary impact of laws and regulations, deliberation and adoption of drafts, implementation and enforcement, ex post evaluation, as part of the normal legislative process.

The purpose of the seminar was to enable local experts develop a sound, systematic and reliable system of legislative impact assessment, and especially, to perform a thorough financial and budgetary impact assessment of all bills.

CONCLUDING MEETING GATHERS STAKEHOLDERS IN BRUSSELS

On 12 March 2018, a Concluding Meeting convened representatives of the EU Coordinators, France and Germany, as well as Finland and Latvia, EC and EEAS, the Office of the EUSR to Central Asia, the Council of Europe which will implement the regional Project which will succeed the Platform, and representatives of the diplomatic missions of Kazakhstan and the Kyrgyz Republic. The activities performed over the last 12 months were presented and the strengths and shortcomings of the regional Platform underlined. All the participants reviewed their own and the experience of the EU-Central Asia Rule of Law Platform (Phases I and II), provided feedback and identified strong points, shortcomings and lessons learnt.



Contact us:

We welcome your feedback and ideas for this newsletter.

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