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Training of Trainers: The Technique of Drafting Judge- ments

Part I: Civil Law Judgments

Dear Mr. Selegan and colleagues
from the Romanian National Institute of
Magistracy,

Dear Dr. Proetel and Judge
Voigean,

Esteemed colleagues from the
countries of South East Europe,

It is an honor and a great pleasure
to welcome you all to our first regional
"Training of Trainers" session for trainers
from the national judicial training institu-
tions in South East Europe. My name is Ste-
fanie Ricarda Roos. I am the director of the
Konrad-Adenauer-Stiftung's Rule of Law
Program South East Europe. Before I pre-
sent the aim of this training and the reasons
for which we are supporting it, allow me to
say a few words about the Konrad-
Adenauer-Stiftung and its Rule of Law Pro-
gram for South East Europe.

The Konrad-Adenauer-Stiftung is
an independent, non-profit German political
foundation, related to the Christian Democ-
ratic movement. Its work is guided by the
same principles that inspired Konrad Ade-
nauer's work, in particular the promotion of

processes of political democratization, and
the promotion of European integration. The
Foundation's work in promoting democracy
is based on the belief that a functioning
"state of the rule of the law" or
"Rechtsstaat" as we say in German, is the
key to guaranteeing a sustainable democ-
racy. The promotion of rule of law reforms,
in particular the support for the establish-
ment and strengthening of fundamental
principles of the rule of law is, therefore,
one of the core areas of the Foundation's
work world-wide.

The Rule of Law Program South
East Europe of the Konrad-Adenauer-
Stiftung was established last year as a re-
gional program which is based here in Bu-
charest. It is designed to promote dialogue
on rule of law issues within and among the
countries in South East Europe. Program
participant countries are Bosnia-
Herzegovina, Bulgaria, Croatia, Macedonia,
Montenegro, Romania, and Serbia. We also
try to include in our work, where possible,
institutions and experts from Albania, the
Republic of Moldova, and Slovenia.

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The Rule of Law Program focuses on five areas:

- Constitutional Law and Constitutional Jurisprudence;
- Procedural Law, in particular Administrative and Criminal Procedural Law;
- Protection of Human and Minority Rights;
- Independence and Integrity of the Justice System, and
- Reconciliation with the Past by Legal Means.

I would like to draw your attention to one of the five areas - the independence and integrity of the judiciary – on which we, at the Konrad-Adenauer-Stiftung's Rule of Law Program, put great emphasis. One of our main goals is the promotion of a strong and credible justice system in the countries on which we focus.

The question now is how this relates to today's and tomorrow's training.

I am not telling you anything new, I am sure, if I recall that the judiciary finds itself in a delicate position within South Eastern European societies. Apart from various legal or resource and infrastructure-related problems, the reputation of the judiciary in the eyes of the media and the entire society is indeed poor. To give just a few examples of the low level of credibility of the judiciary in Romania: only 3.4% of Romanians thought, according to a Center for Urban and Regional Sociology (CURS) poll in 2002, the Romanian Justice System serves the public interest to a large extent, while 69% responded hardly or not at all. The Romanian media, which plays a very important role in shaping public perception of the

state institutions, also portrays the functioning of the judiciary in a very negative manner. 72.7% of newspaper articles monitored in 2006 revealed negative aspects of the Romanian Justice System and only 14.9% revealed positive ones (CSM Report 2006).

There is a general perception that the justice system is corrupt in almost all countries of South East Europe. Apart from that, however, we have identified that some of the reasons for the low level of esteem of the judiciary in the countries of South Eastern Europe are found at the level of jurisprudence. Both at the level of individual courts and at the level of the entire court system, the jurisprudence lacks coherence and clarity. It is difficult for jurists to find coherent jurisprudence in dealing with specific cases, and for the parties to understand the terminology or legal motivation of judgments. Part of the problem rests with the specific drafting of the judgments by the judges. That is why we decided to dedicate this first session of the regional "Training of Trainers" project to the technique of writing civil judgments, which is a very important aspect of delivering justice.

I am glad that we managed to engage two experienced trainers on this topic: Dr. Horst Proetel from Germany, who is a former Presiding Judge at the Court of Appeals in Thuringia, and who currently serves as international senior legal expert for the INM; and judge Viorel Voineag from Romania who also has an expertise in the drafting of civil judgments.

Through this seminar, we hope to support the national judicial training institu-

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tions dealing with the training of magistrates in this area so that the trainers taking part in this program will be able to disseminate the materials and knowledge to their colleagues in their respective countries. Moreover, we hope to support through this training the creation of a network of trainers in the region and to enable them to exchange experiences and learn from each other.

What we hope in the end to accomplish is, not only a regional judicial cooperation, but, most of all, a consistent system and a unitary practice of drafting civil judgments which will benefit first and foremost the citizens and their rights.

The drafting of civil judgments is only one practical aspect of the rule of law principles application and we will carry on our projects on other subject matters in the countries of the region.

Having said all this, I want to thank our co-operation partner in this project, the Romanian National Institute for Magistracy, for their support and, would also like to express a special thank you to Dr. Proetel and Mr. Voineag for having agreed to act as trainers today and tomorrow, and to all of you for having accepted our invitation. Last but not least, I would like to thank my staff, Mrs. Cora Motoc and Mrs. Maria Hariton, for having put this project together with much effort. Without them, we could not have realized this training.

I hope you have an enriching training session that will provide for the strengthening of the rule of law in your re-

spective countries and for a better transnational cooperation in the field.

Thank you!

*Welcoming Note by
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