

S P E E C H

Konrad-Adenauer-Stiftung e.V.

RULE OF LAW PROGRAM
SOUTH EAST EUROPE
THORSTEN GEISSLER

October 2011

www.kas.de/rspsoe
www.kas.de

“European Convention on Human Rights and Fundamental Freedoms and the Montenegrin Code of Criminal Procedure”

SPEECH HELD AT THE OPENING OF SEMINAR IN BECICI, MONTENEGRO
(31 OCTOBER 2011)

It is a great pleasure for me to welcome you to today's conference on behalf of the Rule of Law Program South East Europe of the Konrad Adenauer Foundation.

Let me say a few words about the Konrad Adenauer Foundation in general and the RLP SEE in particular.

I am very glad that you who hold responsible positions in the judiciary of your country are determined both to accelerate the adoption of European human rights standards in law and practice and to address key weaknesses identified in the European Commission Montenegro Progress Reports and the European Partnership.

We have noticed with respect and sympathy that Montenegro has undergone profound political, social and economic transformations during the last two decades. Over the past four years following proclamation of independence it has moved closer to the EU as a result of the broad support in this country for a European future and has also invested substantial efforts of nation building.

Important steps have also been taken in the protection and promotion of human rights in line with the European partnership, which calls for the provision of effective mechanisms for implementation of the human rights obligations deriving from international instruments as one of the priorities for the country.

However, your country, is still confronting a number of challenges in this context which could have far-reaching implications on stability, well-being and sustainable development.

We as Konrad Adenauer Foundation promote the rule of law and respect for human and civil rights because we believe in inviolable human dignity. Both according to Article 1 of the German Basic Law and to Article 1 of the European Charter of Fundamental Rights, human dignity is inviolable.

But we also know that a consistent implementation of the rule of law is a condition for economic progress, a key to attracting foreign investment, a key to increasing the public's confidence in the administration and a condition for ena-

Konrad-Adenauer-Stiftung e. V.

**RECHTSSTAATSPROGRAMM
SÜDOSTEUROPA**

THORSTEN GEISSLER

October 2011

www.kas.de/rspsoe

www.kas.de

bling effective cooperation with the European Union.

The judiciary is one of the key parameters for assessing the effectiveness of the rule of law in a country. A transparent, impartial and independent judiciary is a pre-condition for European accession and therefore is a key European Partnership priority.

Montenegro became a member of the Council of Europe in 2003, and therefore has full capacity commitment concerning implementation of European standards in the area of human rights.

In the history of human rights the Convention for the Protection of Human Rights and Fundamental Freedoms which came into force on 3rd September 1953 is a key document.

It sets forth a number of fundamental rights and freedoms such as right to life, prohibition of torture, prohibition of slavery and forced labour, right to liberty and security, right to a fair trial, no punishment without law, right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, right to marry, right to an effective remedy, prohibition of discrimination. More rights are granted by additional protocols to the convention.

Parties undertake to secure these rights and freedoms to everyone within their jurisdiction. The Convention also establishes an international enforcement machinery. To ensure the observance of the engagements undertaken by the Parties, the European Court of Human Rights in Strasbourg has been set up. It deals with individual and inter-State petitions. At the request of the Committee of Ministers of the Council of Europe, the Court may also give advisory opinions concerning

the interpretation of the Conventions and the protocols thereto.

The control machinery established by the Convention has been restructured in 1998. All alleged violations of human rights are referred directly to the Court. In the majority of cases the Court sits in Chambers of seven judges. It decides on the admissibility and merits of applications and if necessary undertakes an investigation. The Court will also place itself at the disposal of the parties with a view to securing a friendly settlement of the matter on the basis of respect for human rights as defined in the Convention and the protocols thereto. Hearing a *re public* unless the Court in exceptional circumstances decides otherwise.

Within a period of three months from the date of the judgment of the Chamber, any party to the case may, in exceptional cases request that the case be referred to the Grand Chamber. If the request is accepted, the final judgment of the Grand Chamber will be final.

The parties to a case must abide by the judgments of the Court and take all necessary measures to comply with them. The Committee of Ministers supervises the execution of judgments. The Secretary General may request Parties to provide explanations on the manner in which their domestic law ensures the effective implementation of the Convention.

It is the objective of the Government of Montenegro and the representatives of judicial authorities not only to fully ensure the observance of the obligations that are a result of the country's membership of the Council of Europe but also to bring Montenegro closer to EU standards.

In this context justice reform and a strong rule of law are of utmost impor-

Konrad-Adenauer-Stiftung e. V.

**RECHTSSTAATSPROGRAMM
SÜDOSTEUROPA**

THORSTEN GEISLER

October 2011

www.kas.de/rspsoe

www.kas.de

tance. Montenegro has moved forward on its path toward the EU by the adoption of a new Criminal Procedure Code in July 2009. After its coming into force the investigation of criminal cases was shifted from investigative judges to state prosecutors, ending a system which has lasted decades. The new code was written with the support of a panel of international experts because it was the objective of the Government and the judicial authorities of this country to apply modern international experiences. It is not exaggerated to say that with the adoption of this Criminal Procedure Code Montenegro is another step closer to the best international practices and EU standards.

Now intensive training at all levels is important to ensure a smooth implementation of the Code. This is what we are here for today and in this context I would like to express my gratitude to three traditional partners of the RLP SEE of the Konrad Adenauer Foundation, to the Judicial Training Centre of the Supreme Court of Montenegro, The Centre for Democracy and Human Rights, and the AIRE Centre.

But I would also like to extend these thanks to you, the judges, prosecutors, civil servants, lawyers and representatives of the civil sector who take part in this seminar underlining your determination to contribute to the strengthening and modernization of the judiciary of your country and the rule of law.

The RLP SEE of the Konrad Adenauer Foundation remains committed to supporting Montenegro's judicial reform and we are willing to continue to assist Montenegro to develop a sustainable judiciary in the future.