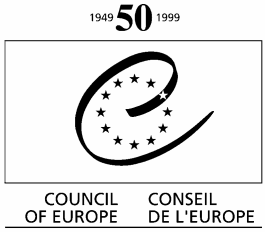


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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

(VENICE COMMISSION)

# OPINION ON A PROPOSED LAW ON THE JUDICIARY OF UKRAINE

**C o m m e n t s**
**by Mr Hjörtur Torfason (Member, Iceland)**

*Introduction*

This opinion is forwarded to the Secretariat of the European Commission for Democracy through Law (the Venice Commission) in accordance with the decision of its 40th Plenary Meeting on October 15, 1999 to request the comments of three Commission members as rapporteurs on a proposed law on the organisation of the judiciary in Ukraine.

This proposed law (herein referred to for convenience as the Law, and the several parts thereof as Sections, Chapters and Articles) was presented to the Commission at the above meeting in an English translation of a text prepared by the Legal Reform Committee of the *Verkhovna Rada* (parliament of Ukraine) following a first parliamentary reading of the law bill (where more than one draft version was submitted), as a draft wording to be proposed for the second reading. The opinion accordingly refers to this translated text (subsequently marked as CDL (99) 64), and I am not familiar with the further processing of the draft in the Verkhovna Rada.

In the English translation, the draft Law is entitled "Law of Ukraine on the Judicial System", but it also has been referred to as the Law on "the Judiciary". In considering the draft, I have had reference to an English translation of 27 July 1996 of the Constitution of Ukraine, adopted on 26 June 1996 by the Verkhovna Rada (CDL (96) 59), and to the Opinion of the Venice Commission of 11 March 1997 on the Constitution of Ukraine (CDL-INF (97) 2). For comparative purposes, I have also had reference to information on the Supreme Court of Ukraine in the Themis 3 document entitled "the competences of Supreme Courts" (DAJ/Doc (97) 24), and on the legal materials relating to the Constitutional Court of Ukraine on pp. 104-123 of the Bulletin on Constitutional Case Law, Special Edition (Basic Texts 4). On the other hand, I have not had access to any official background material on the purpose and scope of the Law or the current organization and functions of the Ukrainian court system. It follows that some of the assumptions and statements set forth below may require certain correction or adjustment.

Due mostly to reasons of time, the opinion is mainly limited to a brief survey of the Law and to comments on certain aspects thereof of a more general nature. By the same token, these comments should not be taken to represent a negative overall view of the Law, even though they largely relate to matters which are though to give rise to question or clarification.

*1. General Comments*

The stated purpose of the Law is to set "the procedure for the organisation and activities of judicial power in Ukraine with the aim of ensuring protection of human and citizen rights and the rights and lawful interests of legal entities and the state by an open, fair, independent and impartial court", and is thus to be applauded. As a translation is involved, it is not clear to me whether the words "sets the procedure" mainly are intended to reflect the fact that the Law is dealing with the organisational structure of the judicial power, or whether they also relate to the fact that several important aspects of the organisation of the courts are not settled directly by the provisions of the Law, but are to some extent dependent on other legislation and to further decision in the course of implementation of the Law.

As I understand, the organisation of the court system in Ukraine recently has been primarily governed by the Law of 5 June 1981 on the Judicial System, which stands on old ground, but was amended to a limited extent in 1992 and 1994. In addition, there is the Law of 4 June 1991 on the Arbitration Court, as amended in 1992, 1993 and 1997, which relates to a long-standing system of state arbitration courts for dealing with legal disputes on civil and commercial matters

between legal persons. Both of these enactments are intended to be replaced by the Law (Concluding Provision No.9)

The other laws concerning the judicial power to which the Law relates or refers are primarily (1) a Law of 15 December 1992 on the Status of Judges, (2) a Law of 2 February 1994 on the Bodies of Judicial Self-Management, (3) a Law of 2 February 1994 on Qualification Committees, Qualification Attestation and the Disciplinary Liability of Judges in the Courts of Ukraine and (4) a Law of 17 February 1998 on the High Council of Justice. As I have not had access to these enactments at this point, it is not clear to me to what extent their adoption involved substantial judicial reform. According to Concluding Provision 2 of the Law, the first two enactments are due to be promptly revised, as the Legal Reform Committee is there instructed to prepare within six months for consideration by the Verkhovna Rada a draft Law on the Status of Judges (a new edition) and a draft Law on Judicial Self-Government. I assume that the judicial Congresses, Councils and Conferences referred to in Article 7 (3) of the Law (and perhaps also the Assemblies) are among the subject matters dealt with and defined in the latter enactments.

In addition, there are the respective laws of legal procedure, which presumably affect not only the court procedures to be followed and the rights of access to court and the recourses of appeal to be maintained, but also to a certain extent the organizational requirements applicable to the various courts in handling individual cases (such as their division into panels etc.). Primary among these procedural laws are the Code of Civil Procedure and the Code of Criminal Procedure. These are now intended to be revised, as by Concluding Provision 3 of the Law, the Cabinet of Ministers of Ukraine is invited to submit to the Verkhovna Rada drafts of the two Codes with the aim of "setting the new procedure for court proceedings which arises from the present Law." – The Provision similarly requires the Cabinet to submit drafts of two further laws, i. e. a Code of Economic Procedure and a Code of Administrative Procedure. I understand that the former of these is intended to replace the law governing the procedure in the existing courts of arbitration. The latter code, which refers to procedures before the administrative courts to be established under the Law, will constitute novel legislation.

The Law is intended to meet the requirements of Articles 124 and 125 and other provisions of Chapter VIII of the Ukrainian Constitution, which lay down fundamental rules regarding the role and status of the judiciary and the organisation and activities of the judicial system. I presume that its adoption is being considered at this time in view of the time limit set out in Transitional Provision 12 of the Constitution, which states that the Supreme Court and the High Court of Arbitration of Ukraine shall exercise their authority on the basis of the legislation currently in force, until the formation in Ukraine of a system of courts of general jurisdiction in accordance with Article 125, but for no more than five years. I further expect that the declared intention of renewing the above two laws and introducing the above four codes is also motivated by this time limit (and, in the case of the Criminal Procedure Code, the similar deadline set out in Transitional Provision 13). – In the above Opinion of the Venice Commission on the Constitution, it was noted that the postponement of the full entry into force of its new provisions on the judiciary as envisaged by the said Provisions might lead to discrepancies within the system during the transitional period, and that the limit under Provision 13 seemed extremely long.

*2. Relation of the Law to the Constitution*

The Constitution of 1996 was adopted and welcomed as the legal foundation upon which the people of Ukraine would be building a democratic state and culture based on the rule of law. In the above Opinion of the Venice Commission, the Constitution was generally felt to merit

positive assessment, it being particularly noted that the catalogue of human rights protected was very complete and showing a willingness to protect the full scope of rights guaranteed by the European Convention on Human Rights and to ensure that these rights are implemented in practice. In relation to Chapter VIII on Justice, it was noted with favour that it did contain important principles of the rule of law, reflected in its declaration that justice is to be administered exclusively by the rule of law (Article 124), its provision for the independence and immunity of judges (Article 126, cf. 129), and its statement of the main principles by which judicial proceedings would be governed (Article 129). The proposed Law presumably may be taken to represent an effort to meet these standards, as also indicated by its stated purpose.

As I understand, the Constitution was thought to embody a new concept for the judiciary of Ukraine and new fundamental principles of judicial procedure and access to court. The general provisions of the Law appear to be based on this understanding and to be intended to reflect the above standards. They deal with the position and function of the judicial power in a rather comprehensive manner and refer inter alia to the autonomy of the courts, the independence of judges and judicial self-government, as well as the right to judicial protection under observance of the principles of fair hearing. On the other hand, the provisions of this first Section appear to go in considerable extent beyond the scope of the remaining four sections, since that main body of the law primarily deals only with the organisation of the court system as such and the establishment and powers of the State Court Administration of Ukraine. The fact that the scope of the Law is thus limited may possibly be said to represent a weakness, at least for the time being. However, the wider connotation of the general principles perhaps is designed to set the tone for the framing of the separate laws which it is proposed to draw up promptly after the adoption of the Law. In any case, the fact that the remaining Sections are not more comprehensive and that the said new laws are not at hand for comparison makes it more difficult than otherwise to evaluate the Law.

*3. Contents of the Law*

The Law now consists of five Sections and 9 Concluding Provisions together with 32 Transitional Provisions, the contents of the Sections being briefly the following:

*Section I, General Provisions* (Articles 1-16) contains provisions on the position and expression of the judicial power and task of the courts (Arts. 1-2), on the extent of legislation on the judicial system (Art. 3), on the autonomy of courts and independence of judges (Art. 4), the immunity of judges and their irremovability (Arts. 5-6), judicial self-government (Art. 7), the binding nature of court judgements (Art. 8), the right to judicial protection (Art. 9), the right to legal assistance (Art. 10), the right to challenge judgements by appeal (Art. 11), on equality before the law and the courts (Art. 12), on court composition in individual cases (Art. 14), on an open trial and the recording thereof (Art. 15), and the language of court proceedings and use of an interpreter (Art. 16).

*Section II, Courts in Ukraine* (Articles 17-67) is subdivided into six Chapters, so that Chapter 1 contains general provisions, including a declaration of unity of the system of courts of general jurisdiction (Arts. 17-19). Chapter 2 deals with the organisation of the local courts of first instance (Arts. 20-23). Chapter 3 concerns the general courts of appeal, which have regional jurisdiction (Arts. 24-31). Chapter 4 deals with specialized courts, i.e. on one hand the economic (arbitration) courts and on the other the new administrative courts, each of which have a local first instance and a regional appeal instance (Arts. 32-41). Chapter 5 concerns the supreme specialised courts (economic and administrative), which are to constitute the supreme judicial

authority within the special part of the system (Arts. 42-50). Finally, Chapter 6 deals with the organisation of the Supreme Court of Ukraine (Arts. 51-67).

*Section III, Professional Judges, People's Assessors and Juries* (Articles 68-78) is subdivided into two chapters, one concerning professional judges (Arts. 68-72) and the other with people's assessors and juries (Arts. 73-78).

*Section IV, The State Court Administration of Ukraine* (Articles 79-84) deals with the powers and organisation of that institution, to be established for providing organisational support for courts other than the Supreme Court, and in Art. 84 also with the Academy of Judges to be established within the State Court Administration.

*Section V, Other Matters of the Organisation and Activities of Courts* (Articles 84-95) is subdivided into two chapters, of which the first deals with the financial and material technical support for the activities of the courts, including library facilities (Arts. 85-89). The second contains provisions on the symbols of judicial authority, the states of courts as legal entities, court staff, the judges´ clerks, the court ushers, and security and keeping of civil order in court (Arts. 90-95).

*The Concluding Provisions* of the Law (1-95) deal with various measures relating to the implementation of the Law and imposes short time limits for their execution. Beside the drafting of certain new laws and codes as above mentioned, it is proclaimed that appropriate amendments in other existing legislation should be made and governmental regulatory acts should be brought into line with the Law. The formation of the State Court Administration is also deal with and foreseen to be completed within six months. Provisions 6-8 deal with certain important matters which are considered to be dependent on the passage and/or contents of the procedural laws due to be adopted following the Law. This includes the determination of the number of judges in the (lower) courts, the ratification of the staffing of the courts of first and second instance, the liquidation of the existing Inter-Oblast Court and the formation of jury courts and lists of people's assessors. According to Provision 1, the Law will enter into force three months after its publication.

*The Transitional Provisions* (1-32) are extensive and of great importance, as they deal with the passage from the existing court system to the system envisaged by the Law. Provisions 1-4 apply to the general local courts, and No. 5-10 apply to the general courts of appeal. No. 11-14 (and 22) concern the existing arbitration courts of first instance to be converted to specialised local courts, No. 15 deals with the Economic Court of Appeal of Ukraine, which is to be created as a middle instance with judges from the existing High Court of Arbitration, and no. 16-22 apply to the High Court itself, which will be converted to a Supreme Economic Court of Ukraine. Provisions 23-30 then deal with the Supreme Court of Ukraine, the Benches of which will be converted to Divisions.

Finally, Provisions 31-32 deal with the system to be used for administrative law cases until the formation of administrative law courts after the entry into force of the appropriate law of procedure for these cases. In this interim, the cases are to be handled by the general local courts and by administrative divisions established within the courts of appeal and the Supreme Court.

The text of the Law is set forth in logical sequence and appears to be carefully drafted. There is a certain amount of repetition that might have been avoided, e.g. in that the selection of Chief Judges and Presidia and their tasks and those of the judges are listed separately for the courts of each instance, but this is mainly a matter of presentation and effective when carefully done, the

only question being whether it might contribute to rigidity in actual practice. There seem to be a few inconsistencies within the text and in relation to the text of the Constitution, but it may be that these can be explained.

On a general view, it appears that while the Law sets out to cover the field of its subject matter in a comprehensive manner, it may be said that only a limited part of the text represents new and firm substance. In the first place, several provisions of the Law involve a restatement of provisions of the Constitution, which of course is in good order as far as it goes, and partly also of other legislation. Secondly, a large number of its provisions are dependent on other legislation for their substantive content, so that they stand more as references to that legislation than as independent rules. This applies especially to those parts which relate to the Law on the Status of Judges and on Judicial Self-Government (in Section III (1) and Article 7 et al.), but also to those matters within Section II and other parts which are stated to be dependent on the procedural codes which are due to be renewed. Where the text is thus based on reference to future law, it follows that the treatment of the substance is not yet exhaustive. Thirdly, some provisions do not deal with their subject matter in depth, so that they represent a descriptive statement of policy or principle to be implemented rather than as hard law. This applies e.g. to parts of Section V on the various kinds of support for the courts, such as the Academy of Judges (Art. 84), but the actual grounds for the limitation of the text may well be reasonable.

The fact that the Law has to refer to other legislation for such crucial matters as the status of judges and their selection and qualification (i.e. laws that exist but are due to be revised or reissued) raises the question whether it might be preferable to join these other laws with the present Law in order to make for a more comprehensive whole within a single statute covering the composition, organisation, activities and standing of the judiciary. The question is primarily one of legislative policy, and I believe that the answer is not necessarily in the negative.

This question is not pertinent with respect to the procedural codes, which preferably should be separate in any event, and the problem there is mainly the one of drawing the optimum line between matters of procedure and of the system. However, the fact that the above laws are still under development and the procedural codes have not been renewed does also raise the question (as intimated in 2 above) whether it is desirable or realistic to adopt the present Law with the limitations inherent in the situation, or whether the Law should be remodelled and presented simultaneously with the other legislation or in any case on the basis of a more firm or clear alignment therewith. This latter question is more problematic, and the answer partly depends on the state of the preparatory work being done on the other legislation, with which I am not familiar. However, I believe that the desire to go ahead with the adoption of the Law is to be viewed positively, provided that the underlying concept for the court structure proclaimed is sufficiently sound and in line with the aims of the Ukrainian Constitution.

*4. Fundamentals of the Court Structure*

Article 124 of the Constitution properly states that justice in Ukraine is to be exclusively administered by the courts, whose jurisdiction shall extend to all legal relations that arise in the State. Judicial proceedings are to be performed by the Constitutional Court of Ukraine (which stands apart from the general judicial system) and by courts of general jurisdiction, these latter being the subject matter of the present Law.

In Article 125 of the Constitution, it is laid down that the system of courts of general jurisdiction is to be formed in accordance with the territorial principle and the principle of specialisation, and also that the creation of extraordinary and special courts shall not be permitted. As to the

structure of the system, the Article further states that the Supreme Court of Ukraine shall be the highest judicial body in the system of courts of general jurisdiction, while the respective high (or supreme) courts are to be the highest judicial bodies of specialised courts.

Both Articles are of course framed in alignment with other provisions of the Constitution concerning the judiciary, such as Article 55, which refers to the protection of human rights and freedoms by the courts and the rights of the people to challenge in court the decisions or actions of bodies of State power, and Article 92 (14), which states that the judicial system, judicial proceedings, the status of judges and the principles of judicial expertise shall be determined exclusively by the laws of Ukraine.

Proceeding from the tenets of Article 125, the Law proclaims in Article 17 of Section II that courts of general jurisdiction operate in Ukraine and shall form a single system based on principles of territoriality and specialization. After listing within Article 17 the basic components of the system, as (1) local courts, (2) appeal courts, (3) specialised courts, (4) supreme specialized courts, and (5) the Supreme Court of Ukraine, the Law states in Article 18 that the unity of the system shall be ensured by the establishment of the court system by the Constitution and the present law, a single status of judges, a single procedure for appointing an selecting judges, and a unity of the principles of the organisation and activities of the courts, as well as by principles further listed.

In Chapters 2-6 of Section II, the Law goes on to describe and define the various courts within the system and the relationship between them. In brief terms, the Chapters provide for a three-level order of general courts, presumably with residual jurisdiction, and two parallel orders of specialized courts, i.e. economic (arbitration) courts and administrative courts, each ultimately also of three levels. They further provide for courts martial, which are placed by the Law among and beside the general courts.

The first level of general courts consists of local courts with territorial jurisdiction in rural districts, towns, districts within towns or cities, and the courts martial of garrisons. The courts as such are not specialized, but the judges thereof may specialise in particular categories of cases (Art. 20).

The second level consists of regional courts of appeal with jurisdiction in the Republic of Crimea, in Oblasts and in the cities of Kiev and Sevastopol (Art. 24). There also are military courts of appeal divided by regions and for the Navy. The Article further names a Court of Appeal of Ukraine, the status of which is not clear to me, but I take it to be a future replacement for the existing Inter-Oblast Court, cf. Concluding Provision 8, which I understand has jurisdiction in specially restricted or designated zones. – These appeal courts (sometimes with first-instance jurisdiction) will operate in divisions, presumably partly on the basis of special case categories, although this is not directly stated.

The third level is occupied by the Supreme Court of Ukraine as a national court of ultimate appeal. As I understand, the court will handle cases both by way of appeal and cassation procedure, and it also is charged with supervision of the application of the law by the lower courts and their procedures, beside other duties (Art. 51).

The economic courts are to be similarly ordered, except that the local courts at first level appear to have large jurisdiction divided by regions parallel to the general appeal courts. The second level is intended to have a single Economic (Arbitration) Court of Appeal, and the Supreme Economic (Arbitration) Court occupies the third level (Art. 32 (2)). The specialized jurisdiction

of these courts covers cases of economic disputes, cases of bankruptcy and other cases as determined by procedural law (Art. 33).

The order of administrative courts seems intended to be much the same as of the general courts, with local courts, regional appeal courts and a Supreme Administrative Court of Ukraine (Art. 32 (3)). However, the territories of the local courts may be intended to be larger than those of the general local courts. The material jurisdiction of the administrative courts is described in Art 33 (2) as extending to administrative cases placed within it by procedural law.

*5. Implications of the Structure*

From a general viewpoint, the above concept of three orders of courts of three instances should be favourably regarded. The comments I have at this point with respect to the structure of the system as set out in the Law mainly relate to the application of the territorial principle, the principle of specialization, the nature of the economic courts, and the development of the administrative courts, as well as the passage from the existing court system to the system envisaged.

A. As I understand, the territorial division of the local general courts and the general courts of appeal is intended to be approximately the same as the division between the existing courts of the same instance, which again has been determined so as to coincide with the administrative division of the country into districts (rural and urban) and regions. This raises the first question whether it might be more appropriate and more supportive of the standing of the judicial power to have an independent division of the country into judicial areas, totally or as limited by the degree of federalization within the country.

As I am now not familiar enough with the administrative and political structures in Ukraine, I will not pursue the question, except to note that optimum territorial division depends on many elements, including the evaluation of the people of the distance to their court and the communication facilities affecting that distance.

However, I also wish to note that from the point of view of security and consistency of performance of the judiciary at the local level, it is generally desirable to organise the courts as relatively large rather than small units, with a collegium of judges with adequate support facilities serving the community or communities within their jurisdiction. On such grounds, there may the reason to aim at a restructuring of the territorial placement of the general local courts of Ukraine. Lacking background, I do not know whether it is intended to pursue such aim following the adoption of the Law.

B. As regards the principle of specialization of the courts, it may be asked whether the degree or manner of specialization is in line with the concept expressed in Article 125 of the Constitution, which for me is an open question at this point.

As I understand the Law, the direct provision for specialization mainly lies in the intention to maintain an order of economic courts developed from the existing order of arbitration courts, and to create a new order of administrative courts. In addition, it is provided that the Supreme Court will continue to operate in specialized divisions, and that the general courts of appeal will be able to do so. It is also stated that the judges of the lower courts may arrange their work so as to specialize in certain fields of the law. Since I personally favour the view that judges should be generalists as far as possible (being more democratic and giving them a larger overview) rather

than specialists (which makes them more effective but perhaps more authoritarian), I have no strong reason for negative comment on this concept of the Law, except to note that in as large a country as Ukraine, it might be desirable to address the matter more firmly at the outset of a court reorganization, rather than to leave it to develop with time.

C. I understand that the intention to have an order of economic courts is largely grounded in the long-standing tradition in the country of having institutional arbitration courts to deal with commercial and related disputes between legal entities. While I am not closely familiar with the procedure of those courts, I have understood that they combine elements of both arbitration and court trial, e.g. that the procedure is less open and formal than in a law court, but on the other hand not merely instigated on a voluntary basis, i.e. by way of advance contract or association undertaking or by agreement ad hoc. According to the Law, they are now to be placed within a system of courts of general jurisdiction in the form of economic courts, and accordingly should have to meet the test of procedure by fair trial and hearing. The question therefore arises whether their procedure is in fact or will be so arranged. If not, their placement within the system would appear problematic.

D. As regards the proposed administrative courts, it is of course always a question whether the task of such courts ought not to be left to the same courts who resolve the disputes between the citizens. However, they clearly possess advantages which it may be fitting to utilize and develop within the Ukrainian system, and this perhaps was anticipated when the Constitution was adopted with the principles above cited. The main question, therefore, is whether the plans for establishing this order of courts are sufficiently mature to be realized soon enough to meet the requirements of the actual situation.

E. As finally regards the passage from the prior court system to the system to be developed under the Law and its Transitional Provisions, it appears on a general view that the passage is to be effected mainly by having the basic structure correspond very closely to the prior structure, so that the existing courts can continue to operate with limited interruption on the terms of the new regime. The Law does not make it clear whether a further reform of the system itself will follow after its adoption, in connection with the new procedural codes or otherwise. The question may be raised, therefore, whether this is likely to be felicitous in all respects, and also whether the transition as described is to be regarded merely as a first step to a further structural reorganization (e.g. in the territorial division of the lower courts), or whether the structure is expected to remain.

*6. Fundamentals of the Court Organization*

The provisions of Section II on the organization of the various courts are among the most complete in the Law, and deal inter alia in thorough terms with the operational side of the inner structure of the courts and the allotments of tasks and powers between the leading representatives or officers of the higher courts and their judges as a group. It is generally provided that each court will have a Chief Judge with one or more Deputy Chief Judges, and that Presidia will be formed by these and certain other judges elected for the purpose to carry the main load of the court management, with plenary meetings being held at relatively long intervals.

Except for the Chief Judge or Chairman/President of the Supreme Court, whose election by the Plenary Assembly of the Court itself is provided for in Article 128 (2) of the Constitution, it is generally provided that the Chief Judges of the higher courts will be elected by the Verkhovna Rada, on the representation of the Chief Judge of the Supreme Court (or of the Supreme

Economic or Administrative Court) and the Council of Judges of Ukraine. It is not quite clear to me what this implies, i.e. whether this procedure is seen as a process of parliamentary approval or as involving initiative on the part of the legislative assembly. I understand that the procedure will not involve the President of the Republic, who is vested with the power of establishing courts under Article 106 (23) of the Constitution.

Otherwise, it might be appropriate to raise the question whether the method of having the Chief Judges elected by their colleagues in plenum might be more extensively applied.

As regards secondly the provisions in Section II on the powers and tasks of the respective Chief Judges, and the relations between the higher courts and the lower, it is particularly notable that the higher courts, especially the Supreme Court of Ukraine and also the supreme specialized courts, are charged with substantial tasks of supervision and methodological assistance and recommendation towards the lower courts, both as to matters of procedure and the application of the law. I understand that this relates to the purpose of promoting consistency in court practice, and the lower courts may well be in a position to benefit by such assistance from time. However, the provisions in this regard seem to be very far-reaching and to make the three-level system extremely hierarchical, with the consequence that the independence of the lower court judges and their equality among judges may be subject to a risk of undue restriction.

Accordingly, it seems to me that this aspect of the Law needs to be further studied and further compared with the natural point of departure in the organization of court relations in a judicial system, which is in my opinion that the higher courts express their views on the performance of the lower courts through their own decisions, both as regards substantial law and procedure, the law through the disposition of the case at hand and the procedure in the same way or by critical or instructive remarks in relation to matters arising in connection with the handling of the case.

*7. Judges and Juries*

As to Section III of the Law, I have already mentioned that the provisions relating to professional judges, although positive as far as they go, are much dependent on the provisions of other laws relating to the judiciary.

The provisions of Chapter 2 on people's assessors and juries are of great interest and merit a closer view. As of now, however, it appears to me that the distinction between the two groups as presented in the text is rather less than I would expect, as I am used to people's assessors or other lay experts appointed to sit on a court being regarded as the co-judges of the professional judge or judges who lead the proceedings, while juries on the other hand function as an integral complement of the court for the purpose of answering and deciding specific crucial questions, mainly as to fact in in relation to the law as explained by the judges. This may well be the basic concept of these provisions, and I would appreciate further clarification.

*8. Other Matters*

As regards Sections IV and V of the Law, I would limit my comments at this point to stating that the planned establishment of the State Court Administration is to be welcomed.

The concluding Provisions and Transitional Provisions merit further study. Although they are quite explicit, a further clarification of the plans for implementation of the Law would be desirable.