



Council of Europe
Conseil de l'Europe



European Union
Union européenne

Strasbourg, 3 May 2010

CDL-UDT(2010)010syn
Engl. Only

T-04-2010

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**UNIDEM
CAMPUS TRIESTE SEMINAR**

“ADMINISTRATIVE DISCRETION AND THE RULE OF LAW”

Trieste, Italy

**Palazzo del Ferdinando,
MIB School of Management
Largo Caduti di Nasirya n° 1
tel: +39 040 918 8111**

12 – 15 APRIL 2010

SYNOPSIS

1. The UNIDEM Campus Trieste project is the Venice Commission's programme of legal training for civil servants.
2. The second seminar of 2010 took place in Trieste from 12 to 15 April 2010 on the topic:
"Administrative discretion and the rule of law"
3. The participants were 23 civil servants from governments, parliaments and courts from 16 European countries¹ (financed by the Region Friuli-Venezia Giulia) and from 4 Central Asia countries² (financed by the Joint Programme "Rule of Law Initiative in Central Asia" between the Venice Commission and the European Commission).
4. The seminar aimed at raising the participants' awareness regarding administrative discretion and the rule of law, and promoting exchange of good practices on the matter.
5. During this training, the participants heard lectures given by leading European experts in this field and explored various aspects of the rule of law and administrative discretion through specific workshops.
6. The seminar began with an introductory lecture on the concept, guiding principles and framework of the rule of law. It was pointed out that the independence and impartiality of the judiciary, legal certainty and non-discrimination make part of the basic requirements of the rule of law. The lecture was followed by a workshop on the promotion of the conditions of the rule of law.
7. It continued with a lecture on the role of the judiciary in implementing the rule of law in practice. This topic was analysed in the light of a number of Council of Europe documents, namely Recommendation of the Committee of Ministers (1994)12 on the independence, efficiency and the role of judges, the European Charter on the Statute for judges, a Vademecum of the opinions of the Venice Commission on the judiciary³ and its Report on the independence of the judicial system⁴. The question of use and abuse of administrative discretion was discussed during the workshop.
8. On the second day, the seminar addressed topics such as good administration in a state governed by the rule of law, and the right to good administration. Also, a number of participants had the opportunity to present the specific experience of their respective countries, i.e. Belarus, Bulgaria, Georgia and Tajikistan.
9. The third day included a discussion session on administrative discretion. Further, topics such as judicial control of administrative decisions, its extent and limits were covered, based on the example of the Slovenian Constitutional Court and its case-law.

¹ Armenia, Azerbaijan, Albania, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, "the former Yugoslav Republic of Macedonia", Georgia, Moldova, Montenegro, Slovenia, Romania, Russian Federation, Serbia and Ukraine.

² Kazakhstan, Kyrgyzstan, Tadjikistan and Uzbekistan

³ CDL-DEM(2008)001

⁴ CDL-AD(2010)004

10. The seminar also addressed the important question of the margin of discretion under the European Convention on Human Rights. It was noted that the margin of appreciation was used both as an instrument to determine progressive evolution of the Convention and as a tool to diminish the tension between the national legal system and the European rules. The lecture was followed by a workshop on balancing the public interest and the exercise of human rights in the implementation of the standards of the ECHR taking into account the specific national circumstances.
11. On the last day, the participants attended the workshop “Training the Trainers” dedicated to the organisation of follow-up events. The workshop focused on various ways and methods for organising follow-up events and discussed practical aspects linked to presentation and facilitation.
12. The written reports related to the lectures will be available shortly on the Venice Commission’s web site.