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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**UNIDEM  
CAMPUS TRIESTE SEMINAR**

**“THE INDEPENDENCE OF JUDGES AND PROSECUTORS:  
PERSPECTIVES AND CHALLENGES”**

**Trieste, Italy**

**Palazzo del Ferdinando,  
MIB School of Management  
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**28 February – 3 March 2011**

**SYNOPSIS**

The UNIDEM Campus Trieste is the Venice Commission's programme of legal training for civil servants. The first seminar in 2011 took place in Trieste from 28 February to 3 March 2011 on the topic "The Independence of Judges and Prosecutors: Perspectives and Challenges".

The seminar brought together 28 civil servants (including judges and prosecutors) from 11 European countries<sup>1</sup> (financed by the Region Friuli-Venezia Giulia) and from 4 Central Asia countries<sup>2</sup> (financed by the Joint Programme "Rule of Law Initiative in Central Asia" between the Venice Commission and the European Commission). The event aimed at highlighting the existing European standards and case-law on the independence of judges and prosecutors, and at an exchange of information on the situation and experiences in the countries of the participants with respect to various aspects of the independence of judges and prosecutors.

During the training, the participants heard lectures given by leading European experts in this field and explored various aspects of the independence of judges and prosecutors through specific workshops.

The seminar began with an introductory lecture giving an overview of the existing European standards on the independence of judges and prosecutors. Special attention was paid to the reports on the independence of the judicial system adopted in 2010 by the Venice Commission: Report on European Standards as regards the Independence of the Judicial System: Part I : The Independence of Judges (CDL-AD (2010) 004) and Report on the European Standards as regards the Independence of the Judicial System: Part II: Prosecution Service (CDL-AD (2010)040). The lecture was followed by a workshop on the status, appointment procedures and funding of the judiciary and prosecution services.

The seminar continued with a lecture on the Executive and the Judiciary: dialogue in relation to human rights, where the nature of the dialogue was discussed as well as the importance of protecting the independence of judges in such dialogue. The composition of a judicial council and its role with regard to a dialogue between the executive and the judiciary was among the issues discussed. A workshop on the implementation of judgments followed, where the implementation of some judgments delivered by the European Court of Human Rights was analysed and discussed. The need for the ECHR to be referred to by the national judges even in cases where there is no conflict with the national law was pointed out.

On the second day, the seminar started with a lecture on the challenge of efficiency and quality of the work of judges and prosecutors. The lecture addressed the issues of, *inter alia*, the person and the system of justice, the parameters of quality with respect to the work of judges and prosecutors, and the efficiency of the system as a value: internal and external assessment of efficiency. The seminar continued with a lecture on whether impartiality and independence could prevent corruption in the judiciary, during which key issues such as judicial impartiality, including the appearance of impartiality, judicial independence, judicial immunity and economic independence of judges as well as legislation relating to integrity and prevention of corruption were presented with Slovenia as an example and discussed by the participants with respect to the specific experience of their own countries. The afternoon of the second day was dedicated to workshops. The first workshop dealt with the accountability of judges and prosecutors, with particular reference to ensuring the independence of the courts (that is to say, the independence of judges and autonomy of public prosecutors) through self-government of judges and prosecutors by way of high councils, the need for these councils to act with external and internal transparency, and the role of these councils in the exercise of accountability (to the community) balanced against the independence of the courts and autonomy of the public prosecution

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<sup>1</sup> Armenia, Azerbaijan, Albania, Belarus, Bulgaria, Croatia, Moldova, Montenegro, Romania, Russian Federation and Serbia.

<sup>2</sup> Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan.

service. The question of the accountability was analysed from a double perspective: first, the accountability of judges for what they do, and second, for the way in which they apply the law or protect the general interest of society. The second workshop examined the judiciary and corruption (dealing, in particular with, with what constitutes corruption, its symptoms and causes, and the best practices and policies for implementation of anti-corruption measures).

The last working session on the second day was dedicated to the workshop on how to train others ("Training the trainers") whereby the participants discussed various forms of possible follow-up initiatives to be organised upon their return in order for them to pass on the knowledge they acquired during this seminar to their colleagues.

On the third day, part of the morning session was devoted to national presentations during which a number of participants had the opportunity to present the specific experience of their respective countries, i.e. Armenia, Azerbaijan, Croatia and Romania. A general discussion of the national situation in these and other countries took place. The seminar went on to address the question of the judiciary and the media. Special attention was paid to the case-law of the European Court of Human Rights and European standards, in particular, Council of Europe Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities and the work of the Council of Europe's Consultative Council of European Judges (CCJE). The seminar also addressed the topic of judicial reform and independence, where specific reference was made to the European Convention on Human Rights, the work of the Venice Commission, and the work of the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ).

On the last day, a lecture and workshop were held on prosecutorial independence and accountability. The purpose of prosecutorial independence was discussed as well as the different kinds of independence. With respect to the responsibilities of prosecutors, international and European standards were considered. Other topics covered include the relationship between public prosecutors and the executive powers, the relationship between the prosecution and the legislature, the prosecutor and the judiciary and the prosecutor and the police. Lastly, prosecutorial accountability was also discussed.

The written reports related to the lectures will be available shortly on the Venice Commission's web site.