

REPORT

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Central and East European Law Initiative

The Central and East European Law Initiative (CEELI), a project of the American Bar Association (ABA), is a cooperative effort to facilitate the process of law reform now underway in Central and Eastern Europe. CEELI is an idea conceived by the President-Elect of the ABA, Talbot "Sandy" D'Alemberte. Under the leadership of Homer E. Moyer, Jr., Chairman of the ABA International Law Section, CEELI has evolved as a principal project of the ABA. Designed to be responsive to the priorities of the participating countries, CEELI is, through a variety of means, making available U.S. legal expertise and assistance to countries that are in the process of modifying or restructuring their laws or legal systems.

The elements and structure of this project have been shaped by consultations with senior government officials, legal scholars, and practitioners throughout Central and Eastern Europe. Because circumstances vary from country to country, separate discussions have been held in Poland, Hungary, the Czech and Slovak Federative Republic, Romania, Bulgaria, and Yugoslavia. The mix of project components described below is, in large part, a product of these consultations.

A premise of the project, clearly understood in the region, is that the existence of a legal infrastructure is an essential predicate to lasting economic and political reform. The rule of law, so basic a part of our cultural fabric, is an urgent objective of new governments in countries now moving away from Communist and Socialist systems. An independent judiciary, constitutional reforms, criminal code revisions, environmental standards, guarantees of basic human rights, and

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protection from arbitrary government action are among the highest priorities for law reform. Also critically important is the need to establish economic rules of the game. Successful transitions to market economies will depend on new legal systems that will create predictability, legal protection, and the compatibility with international legal norms upon which foreign direct investment, joint ventures, and other commercial transactions depend. As European officials have stated, the ability of many Central and Eastern European countries to sustain political reforms may in fact be dependent upon the viability of their nascent economies.

CEELI consists of multiple program components. Many are solely ABA initiatives; others are in collaboration with other organizations and with ongoing projects. CEELI is also working to maintain an overview of legal assistance projects in Central and Eastern Europe and, to a significant extent, serve as a clearinghouse for such initiatives.

I. Governing Board

The President of the ABA has announced the appointment of the following individuals to CEELI's Governing Board:

- Justice Sandra Day O'Connor
- L. Stanley Chauvin, Jr., Past President of the American Bar Association
- Lloyd N. Cutler, Wilmer, Cutler and Pickering
- Max M. Kampelman, Fried, Frank, Harris, Shriver and Jacobson
- Homer E. Moyer, Jr., Miller and Chevalier, and Chairman of the ABA Section of International Law and Practice

Mr. Moyer will chair the Governing Board. The Governing Board will name an Advisory Board consisting of academicians, lawyers, and judges having expertise and experience in Central and Eastern Europe. Liaisons have been designated from each participating Section of the ABA.

II. Funding

The National Endowment for Democracy has approved a grant for CEELI in the amount of approximately \$400,000. This initial funding is being devoted to technical legal assistance. CEELI has also been awarded a \$50,000 grant from the International Academy of Trial Lawyers Foundation to be used for designated technical assistance projects. The Section of International Law and Practice has expended over \$60,000 in core staff support and direct administrative costs and the ABA has provided general revenue support of \$50,000.

III. Technical Legal Assistance

In a variety of program formats, U.S. legal expertise and experience is being made available to assist in law reform and development projects. Typically in the

form of workshops, and follow-on consultations, expert assistance and a dialogue among the participating countries are being focused on a large variety of substantive legal areas. The formats include workshops to explore particular substantive or structural topics in detail, to draft or revise particular statutes, to conduct case studies of experiences in other countries, to implement general statutes, and to anticipate and address typical problems of administration. Based on the priorities of the participating countries, the workshops address legal issues of common concern and issues of special interest to individual countries. Such technical assistance is a central focus of CEELI.

The first such workshop was held in Prague in mid-November 1990 and addressed criminal law revision. Nine American academics and practitioners participated in discussions with Czech and Slovak officials and legal experts. The workshop also included representatives from several West European countries and from each of the Central and East European countries. The topics discussed included: the role of the State's attorney in a democratic society; a comparison of the nature and conduct of preliminary proceedings in continental and American law; the role of lay judges and juries; and the types of speech that should be forbidden by the penal laws. A similar workshop dealing with the independence of the judiciary is planned to take place in Yugoslavia in January 1991, and a third one on constitutional law reform is scheduled to take place in Bulgaria in February 1991.

IV. Conferences and Training

Educational programs are being structured to address a range of legal issues and concepts. From such general legal concepts as "private property" and separation of powers to criminal law and administrative due process, these educational programs will focus on legal subjects that have generally been alien to Communist and Socialist regimes.

V. The Institute

An eventual component of CEELI, and of great interest to the participating countries, is an institute physically located in an East European capital. Such an institute could be the European home of CEELI, the location of conferences and workshops and of a comparative law library, and the coordination point for the participating countries. The Institute would be supported not only by a permanent staff, but also by Country Coordinators and Advisory Committees in each participating country.

VI. Publications

A. NEWSLETTER

CEELI plans to publish a monthly newsletter, *Central European Law News*, that will include a master calendar of events relating to legal developments or

training in Central and Eastern Europe, an inventory of new laws adopted in any of the participating countries, a catalogue of publications available in CEELI's comparative law library, a listing of new articles or publications, and reports on developments in the sister law school program.

B. A LEGAL GUIDE TO DOING BUSINESS IN _____

This pocket guide series, an ongoing project in the International Section of the ABA, consists of succinct compilations of key information relevant to doing business in particular countries. Different from most country guides by virtue of the amount of legal information contained, these guides will facilitate the efforts of U.S. companies and lawyers to understand the legal framework in Central and Eastern Europe countries.

VII. Legal Exchanges

CEELI is supporting the temporary placement of Central and Eastern European lawyers in law firms and corporations in the United States. A program for English-speaking Central and Eastern European lawyers, these placements are designed to expose lawyers from countries that have had nonmarket economies to the commercial, legal milieu of U.S. law offices. The first of these exchanges is being administered by the ABA's Section of Individual Rights and Responsibilities. As a counterpart, one-week ILEX briefing trips for U.S. lawyers to particular Central and Eastern European countries could be organized under the existing ILEX program.

VIII. Sister Law Schools

CEELI will assist each law school in Central and Eastern Europe in establishing a sister law school relationship with an American law school. CEELI will arrange exchange visits of the two deans, who will then further develop the relationship as the circumstances of the particular schools warrant.

IX. Coordination

CEELI will continue to maintain an overview of legal assistance projects and activities underway in Central and Eastern Europe. CEELI is well positioned to coordinate otherwise ad hoc efforts, collaborate with other initiatives, and identify both apparent overlap and opportunities for extending ongoing programs—in short, to serve as a clearinghouse.

CEELI is a Goal VII Project of the ABA Section of International Law and Practice, a project designed "to advance the rule of law in the world." CEELI will draw, however, upon the full resources of the ABA, including its Sections, which are organized along the lines of legal specialties, and its 365,000 members in the United States and abroad.

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