

izes the French [insurance] market, which is consequently deprived of any access to the reinsurance activities located [abroad]”), and the French tax authorities may thus adopt a different position regarding other kinds of payments that fall within the broad scope of application of article 182-B-I-c (such as royalties, for example).

♦ *Rémi Dhonneur and Nicolas Not are tax attorneys at Baker & McKenzie in Paris.*

At the Front — New Institute Propels Reform Efforts

by Milton Cerny

“The rise of the global economy has spurred many countries to upgrade their legal systems in attempts to meet the demands of the world marketplace.”¹

A decade ago we watched triumphant young people atop the graffiti covered Berlin Wall calling for a shift in the world order — rule by party would be replaced by the rule of law. After 10 years the reforms in Central and Eastern Europe are far from complete and will be a generational effort. Training the next generation of leaders and supporting institutions vital to lasting reform will require long-term commitment to the region.

* * * *

On April 18, 1999, the Board of Governors of the American Bar Association responded to this challenge and approved the creation of the Central and East European Law Institute, to serve as a catalyst for reform in legal, judicial, and parliamentary education throughout Central and Eastern Europe and the former Soviet Union. Utilizing innovative educational techniques and a skills-based curriculum developed by experts with extensive experience throughout the region, the CEELI Institute will initiate its operations in Prague, Czech Republic. It will be a critical focal point for the network of reformers, lawyers, judges, and government officials who must compete in the new market economies.

CEELI

The institute is a project of the ABA and the Central and East European Law Initiative (CEELI). CEELI was established in 1990 to assist countries in

the region committed to legal reform. Guided by a distinguished Executive Board, CEELI has relied on the *pro bono*, volunteer efforts of literally thousands of American and West European lawyers, judges, and law professors.

In the past decade, CEELI has conducted hundreds of training programs and helped to establish or strengthen over 75 indigenous institutions dedicated to legal reform across the region, from Bratislava to Irkutsk. CEELI currently has offices in 21 countries in the region, working with a broad spectrum of local NGOs and other institutions to address concerns critical to those systems. Both directly and through its sponsorship of the Coalition for International Justice, CEELI is supporting the work of the United Nations War Crimes Tribunal at The Hague and on the ground in the Balkans. In the words of a recent final report issued in January of 1999 by an USAID evaluation team:

Partners and clients consistently praised CEELI's contribution for being responsive, entrepreneurial, effective and appropriate. Common themes heard among interviewees included quality and commitment demonstrated by liaisons, the highly relevant expertise of CEELI short-term legal specialists and consultants, and the importance among host country clients of the association with the ABA.

Much of CEELI's work has focused on education and training for lawyers, judges, prosecutors, and law professors from throughout the region. The regimen of legal training in Eastern Europe and the former Soviet Union is inadequate to prepare leaders to continue the transition from communism to the rule of law and a free market economy. Few law faculties teach courses in individual and human rights, ethics, law of nonprofit organizations, European Union law, alternative dispute resolution, or advocacy skills. Even in school catalogues that contain descriptions of such courses, the actual methodology and content follow old themes. Practical skills training is virtually unknown.

Working through a variety of indigenous institutions and groups, CEELI has focused on country-specific programs to address these problems. CEELI's programs will continue because its experience over the past decade has demonstrated that reform-minded institutions and individuals need long-term support to sustain the progress achieved to date.

The Institute

A continuation and expansion of CEELI's historical emphasis on training and education, the institute will meet these needs. Based in Prague, the institute will be a permanent facility, which will allow CEELI

¹“At the Front,” *ABA Journal*, Aug. 1999, p. 72.

to intensify and increase the cost-effectiveness of its training efforts in the region. The primary focus of the institute is on providing post-graduate training for lawyers, judges, government officials, and legal instructors from the region. Toward this end, separate judicial and legal training programs have been developed.

The institute's judicial training program addresses one of the region's highest priorities. CEELI has become one of the primary providers of judicial training throughout the post-communist world, often working with indigenous, nonprofit judicial training centers to foster reform. Programs at the institute are directed at strengthening and supporting these fledgling (often struggling) national training centers, with a curriculum and facility specifically designed to meet the needs of judges in the region. With its facility in Prague, the institute can train judges from the entire region at a single convenient location.

The legal training program is a continuation and enhancement of CEELI's programs to help develop an independent, private bar capable of protecting citizen's rights. For more than a decade, CEELI has conducted short-term training programs for lawyers throughout the region. The institute's central location and permanent facility will allow CEELI to develop extended, intensive training programs for significant numbers of participants from the region. These programs focus on four core areas:

- Advancing the rule of law;
- Integrating into the world economy;
- Resolving conflicts; and
- Developing a civil society.

Institute programs will not duplicate those at existing regional institutions. The curriculum at the institute is designed to be short and intense, since many lawyers, law school faculty, and government lawyers are not able to afford the time required for an advanced degree. Accordingly, though the institute will offer certificates to those completing the legal training program, it will not offer advanced degrees. Instead, it will focus on providing training in substantive skills and administrative topics. These programs will be specifically designed for reformers whose goal is to return to their homelands and work for change.

In addition to these two permanent programs, the facilities and location of the institute provide a unique venue for a variety of programs vital to establishing and maintaining the rule of law. Without attempting to be exhaustive, these may include a variety of regional or international conferences focused on particular issues. The institute may periodically host workshops from professors and law school administrators on curricula, substantive topics, or

other issues vital to reforming those institutions. The facilities at the institute will provide a central repository for teaching and research materials developed by CEELI and its partners over the past decade. The development of distance learning technology will allow the institute, working with local participants and CEELI personnel in the region, to provide continuing training and technical assistance on a cost-effective basis to judges, lawyers, parliamentarians, and law students.

Institute programs serve as vehicles for educating legal educators and leaders and as a focal point for contacts by and between reform-minded jurists throughout the region. Program participants will be drawn from all of the countries in Central and Eastern Europe and the former Soviet Union. Initially, all courses and conferences will be conducted in English, though translation into Russian or other languages may be provided as appropriate. Graduates of these programs, over time, will form a network of reformers throughout the region sharing the distinctive experience of having trained at the institute.

The institute will be a critical focal point for the network of reformers, lawyers, judges, and government officials who must compete in the new market economies.

These judicial and legal training programs target two groups. First, the institute provides direct training for practicing lawyers and judges. This training focuses on increasing the participants' professional knowledge and skills, so that they may serve as role models and leaders for reform in their home countries. Programs use innovative topical programs and teaching methods developed at Western law schools and training institutions.

Second, the institute will "train the trainers." In part, these programs are directed at law professors, to assist them in developing new courses and curricula and to teach them advanced teaching methods absent from most law faculty curricula in the region. In addition, institute programs provide analogous training for those engaged in other postgraduate legal education programs, such as instructors at nonprofit judicial training institutes, in "apprenticeship" programs for prospective *advokats*, or in continuing education programs for judges and lawyers. These instructors, whether working at the undergraduate or postgraduate level, will be key to developing a new generation of effective jurists at all levels of the legal system.

A significant part of these activities will be devoted to supporting NGOs and state institutions in-

volved in national and regional programs working to improve legal training in the post-communist world. The institute will provide a permanent source of programmatic support, curricula development, and faculty training for CEELI's partners among the various judicial training institutes, lawyer training initiatives, and law faculties in the region. Active discussions also are underway between the institute and other regional programs on cooperative initiatives. For example, the institute is working with the Jan Hus Educational Foundation to develop mechanisms for supporting the Foundation's Cursus Innovati and Novicius programs.

Faculty and Participants

Courses will be taught by faculty members selected for their expertise in specific topics critical to the region. Some faculty will be drawn from the many American law schools that already have participated in the CEELI program. Other faculty members will be distinguished judges, legal scholars, practitioners, and former government officials from Europe, Canada, and the United States who will provide their services to CEELI on a *pro bono* basis.

In addition, programs at the institute will both utilize and develop faculty from around the region. Law professors and others who have succeeded in developing innovative, indigenous programs will be brought to Prague to both provide direct instruction to practitioners and to demonstrate their programs for others in the region interested in developing analogous programs. Instructors from the region will be paired with experienced Western experts in cooperative, "hands-on" instruction using the Western themes and methodologies.

Participants will be drawn from throughout the former Soviet bloc; the goal is to have participants from all of the countries in the region attend on a regular basis. With its extensive contacts in the region, CEELI is in a unique position to identify and recruit participants for the institute. Recruiting will be handled primarily by CEELI liaisons, working in tandem with local partners in the individual countries. The selection process will be open and transparent and will seek to identify those committed to the reform process, regardless of their station or connections. English proficiency, at least at the outset, will be required.

In large part, the institute will cover participant costs. Applicants, their governments, or sponsoring institutions accepted to certain programs may be asked to contribute to the cost of tuition and expenses to the extent they are able. Other outside funding may be available to support specific programs or students. However, the institute will cover most participant costs.

Facilities

The institute will be a permanent facility in Prague. Plans call for a series of flexible class/meeting rooms, one or more large meeting halls, and a variety of support and administrative facilities. A library will hold an extensive collection of materials on the legal issues facing the region, including materials generated by a decade of CEELI's work. Computerized research facilities will provide students, faculty, and scholars with access to legal databases throughout the world. To reduce costs, staff, faculty, and visiting lecturers will be housed in a series of apartments within the institute.

Administration and Governance

The institute is a part of the array of ABA/CEELI programs, but is legally separate from either the ABA or CEELI. The institute will be operated by two separate legal entities, guided by a joint advisory board:

- "The Central and East European Law Institute, o.p.s.," a nonprofit entity (a "public benefit" company) presently being formed in the Czech Republic to operate the educational institution; and
- "Friends of the CEELI Institute (Friends)," a nonprofit corporation incorporated in the District of Columbia to handle fundraising and investment management activities, has tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The CEELI executive board will make recommendations for the appointments to the boards of both entities, as well as to the advisory board. Although the latter board will have no legal power to control either entity, it will serve as the primary source of advice and assistance in meeting the needs of the institute. In this regard, members of the advisory board are being chosen for skills such as legal education and training, law reform, and administration.

A paid staff of the Czech public benefit company will operate the institute. The director of the institute will have overall responsibility for running its day-to-day operations, and will have primary responsibility for planning and implementing the institute's programs, recruiting faculty and students, and handling international issues. Other staff will handle financial, faculty and participant coordination, and other aspects of the institute's activities.

Present Status

Preparations are underway for the institute to welcome participants to its first program in 2000. CEELI volunteers and staff are actively engaged in turning the institute into a reality. The Friends en-

tity is incorporated and operating as a qualified 501(c)(3) organization, while proceedings are underway in the Czech Republic to register the institute under Czech law.

Pending final registration of the institute in the Czech Republic, the Friends is taking the lead in many initial activities. William Meyer, a CEELI Liaison and representative of the Friends, has relocated to Prague for one year, to coordinate the various arrangements on site for the opening of the institute. Site selection for the institute's facilities in Prague is moving toward completion. In January 2000, recruiting of faculty and participants for the first institute programs will begin.

Funding

Initial funding for the institute was provided through a small grant of seed money by USAID in early 1999 to support program planning and Meyer's activities in Prague. This funding will be sufficient to carry on initial activities through the summer of 1999.

Fundraising is underway for a permanent home for the institute in Prague. Creation of such a facility is a significant component of the overall institute plan, since it will greatly reduce the ongoing burden of space rental and lodging expenses for visiting, volunteer faculty.

Funding is also being sought to cover participant and faculty expenses, and for the general operation of the institute. Regardless whether a permanent facility is ready, the institute plans to begin program operations in 2000. Support for these programs is needed to complete the arrangements for these initial programs and to obtain the necessary equipment and materials for the operations of the institute. It is an-

anticipated that funding for materials and equipment for the institute will be available from members of the ABA, corporate sponsors, and other private donors. However, general funding is needed for staff and expenses to complete the preparatory arrangements for opening the institute.

Since the institute will continue CEELI's tradition of *pro bono* activity, it will not bear the major expense of faculty salaries. On other hand, when operations begin, ongoing funding will be needed to pay staff and general operating expenses, and defray the transportation, housing, and living expenses for faculty and students in Prague. The institute's long-term goal is to develop an endowment to sustain the program. Fundraising for this endowment is underway, focusing primarily on individual donors within the legal community. Experience suggests that donations of this type in many instances will arise through deferred giving, or to honor distinguished leaders in the legal community.

Conclusion

The collapse of the Soviet Union left its former republics and its former satellite states without a constitutionally based legal system, with antiquated educational systems, and no rule of law to implement the new democratization efforts that were taking root in the creation of the civil societies in these countries. The CEELI Institute is committed through education to energize the development of the rule of law, free market economies, and civil societies.

♦ *Milton Cerny is a member of the law firm of Caplin & Drysdale, Chartered, in Washington, D.C. He has written extensively on the developing philanthropic sector and its role in the civil society.*



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