



Workshop on “Law Application: From Policy Making to Law Implementation”

Danilovgrad (Montenegro),
24-27 JANUARY 2012

PROVISIONAL PROGRAMME

Background

Often law-making faces the same fate as other policy regulations, namely that they were written with good intentions but produced doubtful outcomes. Dissatisfying results of legal regulations can be due to negative attitudes and lack of legal compliance in society. But they can be caused as much by false understandings of laws makers and civil servants about how to apply legal regulations.

If we see laws in framework of the “policy cycle” they can be understood as part of strategic public policy. They are regulative structures which aim for specific goals to solve problems and demand active management by state administration and civil servants. The classical juridical distinction between “legal statement of fact” and respective “legal consequences” will not be given up. But the question will be raised how these legal consequences will arrive.

Successful law application has turned into “implementation management” which has to be carried out by public managers with sound legal knowledge but with good coordination capabilities as well. This requirement is even enforced by the proceeding access to the European Union which introduces a new regulative order which has not only to be adopted but also to be applied.

Objectives

Participants shall

- understand “policy cycle” as an analytical framework for regulatory planning and assessment;
- understand the meaning of “regulative structures” and the basics of strategic assessment methodology (input, output, outcome, impact, indicator);
- be able to apply assessment methods on concrete examples (parts of legal regulations) and to identify implementation problems;
- understand the “normative pyramid of law” which is characteristic for national and EU legal orders;
- be aware of the interrelation between EU legal order and national legal order;
- understand the procedure of legal subsumption and are able to apply it on exemplary cases;
- be capable to make a critical assessment of the given situation of law application in their regions and make proposals for improvement.

Content

Law application as policy issue: policy cycle as basic framework for policy analysis; five steps of policy making; law making and application within the policy cycle; law application as implementation problem of regulative structures; assessment of laws as strategic programs

Law application as juridical issue: laws and administrative acts in the hierarchy of normative order; national constitution, laws and administrative acts and their interrelation; national legal order and EU legal order and their interrelation; juridical methods of law interpretation; assessment of administrative decisions

Target Group

Law makers: persons who are in charge of elaboration of laws in ministries and parliaments;

Law appliers: legal practitioners, members of the judiciary, administrative managers

Workshop Trainers

- Prof. Dr. Klaus Erdmann, lecturing in the areas of Constitutional Law and Politics with focus on European integration, public governance, analysis of civil service

systems, organizational development and training since more than 20 years

- Prof. Dr. Yvonne Dorf, lecturing in the areas of Constitutional Law and Politics, Administrative Law, European Law and International Law; professional background as lawyer with field of expertise on intellectual property and information technology law
- Aleksandar Corsovic, consultant and project manager with hands-on experiences in business, public administration and legal issues with focus on privatization, restructuring and policy coordination.

Methodology

- Motivational speeches
- Interactive instructions
- Case studies in working groups
- Group presentations
- Plenary discussion
- Moderation technique

TRAINING AGENDA

Tuesday, 24.01.12

- 09 :00-09:20 Introduction of ReSPA (Aqim Emurli)
- 09:20-09:45 Warming up exercise (Klaus Erdmann, Aleksandar Corsovic)
- 09:45-10:15 Introduction into the seminar (K. Erdmann, A. Corsovic)
- 10:15-11 :00 Law making as part of the policy cycle (Klaus Erdmann)
- 11:00-11:30 Coffee break
- 11:30-12:30 Ex-ante evaluation as assessment tool for legal regulations (K. Erdmann, A. Corsovic)
- 12:30-13 :30 Lunch break
- 13:30-15:00 Group work: assessment of laws (K. Erdmann, A. Corsovic)
- 15:00-15:30 Coffee break
- 15 30-16:30 Presentation of results (K. Erdmann, A. Corsovic)
- 16:30-17:00 Summary of the day
- 20:00 Social event: actual documentary movie

Wednesday, 25.01.12

- 09:30-10:00 Warming up exercise? (K. Erdmann, A. Corsovic)
- 09:30-10:30 The hierarchical order of norms – constitutional system (K. Erdmann)
- 10:30-11:00 Coffee break
- 11:00-11:30 Exercises: analysis of a constitutional article according its relevance for legislation and administrative acting (K. Erdmann, A. Corsovic)
- 11:30-12:30 Presentation of results and discussion (K. Erdmann, A. Corsovic)
- 12:30-13:30 Lunch break
- 13:30-14:30 Legal system of the EU and its relation to national legal systems (Yvonne

Dorf)

14:30-15:00 Group exercises: analyse of conflicts between national and European law (Y. Dorf)

15:00-15:30 Coffee break

15:30-16:00 Discussion of the examples (Y. Dorf)

16:00-16:30 Excursus: principles of jurisdiction of the European Court of Justice (Y. Dorf)

16:30-17:00 Summary of the day

Thursday, 26.01.12

09:30-10:00 Warming up exercise (K. Erdmann, A. Corsovic)

10:00-11:00 Juridical methods of law interpretation (Y. Dorf)

11:00-11:30 Coffee break

11:30-12:00 Exercise: analysis of the conditional structure of laws (Y. Dorf)

12:00-12:30 Discussion and deepening of the topic

12:30-13:30 Lunch break

13:30-15:00 Steps of juridical subsumption (Y. Dorf)

15:00-15:30 Coffee break

15:30-16:30 Exercise: juridical subsumption (Y. Dorf)

16:30-17:00 Summary of the day

Friday, 27.01.12

09 :30-10:00 Introduction into the method of «Future Workshop» (K. Erdmann)

10 :00-11:00 Workshop phase 1: critique (K.Erdmann, A. Corsovic, Y. Dorf)

11:00-11:30 Coffee break

11:30-12:30 Workshop phase 2: brainstorming about best practice (K.Erdmann, A.

Corsovic, Y. Dorf)

12:30-13:30 Lunch break

13:30-15:00 Workshop phase 3 : requirements for realization (K.Erdmann, A. Corsovic, Y. Dorf)

15:00-15:30 Coffee break

15:30-16:00 Evaluation of the seminar