



ASIA-EUROPE DEMOCRATISATION AND JUSTICE SERIES

“Asian Lecture Tour”



Pavol Zilincik, VIA IURIS (Slovak Republic)
Access to Justice and Public Empowerment
Abstract

The end of the Cold War brought with it a wave of democratisation in Central Europe. As conditions for the active participation of citizens in public issues improve—most essential of which is an independent judiciary—more space opens for public feedback to promote public accountability. In Europe, this approach has already brought a clearly positive contribution to public life. However, what risks continue the need for struggle? Once space has been won for an active citizenry, public debate and holding officials accountable, is the victory irreversible?

The presentation will focus on citizens' access to justice as an important prerequisite for the proper functioning of democratic society. It will describe the European, and in greater detail, the Central European experience of the dynamic relations between access to justice, rule of law, democracy, and basic human rights. The presentation will assess factors both supporting and impeding access to justice and outline future challenges, which can be observed in the present. The lecture will cover three critical issues surrounding justice and people's empowerment.

Firstly, regarding “Access to Justice and Law“, the presentation will focus on the legal environment that enables or limits the citizens' right to access the court. A special focus will be given to situations when the law restricts the ability of citizens to approach the court with a request for judicial review of possible misconduct of the government authorities. Access to Justice shall also be depicted as a right to have access to an independent forum, where one's dispute can be resolved impartially and lawfully. Both parties should have equal opportunity to present arguments; moreover, judgement should be in accordance with the law and properly reasoned. Civil society groups have encountered serious barriers concerning the personality of the judge as well as the legacies of authoritarian rule that remain in the system. The role of the constitutional courts, which are progressing and developing in Central Europe, will be clarified in a discussion of cases, particularly in instances where the higher courts rule that the decisions of general courts lack adequate reasoning and justification.

Secondly, the discussion will be focus on “Access to Justice and the Attorney“. Lawyers have an enormously important role in securing access to justice. While it is crucial that citizens have access to legal advice and representation, another important aspect of the role of the attorney is an illustration of the need for high ethical standards for lawyers—including mechanisms for independent, fair and transparent proceedings against any attorney's wrongdoing.

Thirdly, a discussion of “Access to Justice and the Citizen“ will focus on conditions that must normally be fulfilled by citizens in order to even consider approaching the court. Besides the relevant rights that citizens should be aware of, the speaker will emphasize the need for courage to protect these rights. In this respect, the debate on freedom of expression and access to information is vital, especially where criticism is directed toward individuals in positions of great power and entrusted with the responsibility of public office. Experiences from Central Europe affirm that the right to open discussion must be ensured.

The speaker will also raise questions to spur discussion on comparisons and contrasts with Asia. What can Asia and Europe learn from one another in promoting access to justice and empowerment?

Profile of Speaker

Pavol Zilincik graduated from the Law Faculty of Comenius University in Bratislava, Slovakia, in 1991. In 1992, he co-founded the Center for Environmental Public Advocacy (CEPA), now known as Via Iuris – Center for Public Advocacy. Pavol worked at the Center as a lawyer and trainer on educational activities for grass roots activists. He was active in several civic campaigns, such as protection of the non-governmental organisations against their liquidation by governmental legislative activities; and citizen's campaign "For a Good Law on Free Access to Information".

Presently, he works as the Executive Director of Via Iuris. He coordinates designing and development of key program components: strategic litigation, public legal education, and law reform. Within litigation, Pavol has represented several environmental and human rights cases related to forcible relocation of small municipalities, industrial pollution cases, and cases of legal standing to sue. He also leads a comprehensive educational program for judges and judge-candidates focused on implementation of constitutional principles in the decision-making of the judge. He has started cooperation with the Judicial Academy in Slovakia on implementation of first training series focused on Anti-Discrimination and Human rights for Slovak judges, in cooperation with partner organizations from Hungary, Slovenia, Austria and Ireland.

Since 1999, he has been coordinating preparation and implementation of an annual nation-wide conference for judges, constitutional justices, attorneys and legal professionals called "Access to Justice – Barriers and Solutions". This event is aimed at identifying legal barriers preventing citizens from effective access to effective remedies and at finding creative solutions.

Pavol is a Board member of the Society for Open Judiciary, conducting a pilot project of Civil Monitoring of Courts in Slovakia.

He is an author of several publications, such as:

- "Slovak Republic" section in "Access to Environmental Information in Europe" (Kluwer Law, London, 1996)
- "Criminal Law" section in "Street Law – Law for Everyone" (co-author, Open Society Foundation, 1998)
- Series of Publications "Access to Justice – Barriers and Solutions", CEPA, 1999, 2000, 2002 (co-author)
- "Petitions - How to File a Petition in Case of Public Interest", CEPA 2000, (co-author)
- "The Birth of a Law: Legislative Process and the Citizens' Role", CEPA 1999 (co-author)

ABOUT THE ASIA-EUROPE FOUNDATION

The **Asia-Europe Foundation (ASEF)** seeks to promote better mutual understanding and closer cooperation between the people of Asia and Europe through greater intellectual, cultural, and people-to-people exchanges. These exchanges include conferences, lecture tours, workshops, seminars and the use of web-based platforms. The major achievement of ASEF is the establishment of permanent bi-regional networks focussed on areas and issues that help to strengthen Asia-Europe relations.

Established in February 1997 by the partners of the Asia-Europe Meeting (ASEM)¹, ASEF reports to a board of governors representing the ASEM partners. ASEF is the only permanent physical institution of the ASEM process. Having completed over 310 projects, involving over 13,500 individuals ('ASEF Alumni'), ASEF works in partnership with other public institutions and civil society actors to ensure its work is broad-based and balanced among the partner countries. For more information, please visit: <http://www.asef.org>

¹ **ASEM** (the Asia-Europe Meeting) is an informal process of dialogue and cooperation. It brings together Austria, Belgium, Brunei, Bulgaria, Cambodia, China, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, India, Indonesia, Ireland, Italy, Japan, Laos, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mongolia, Myanmar, The Netherlands, Pakistan, The Philippines, Poland, Portugal, Romania, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Thailand, United Kingdom, Vietnam, the ASEAN Secretariat and the European Commission.
<http://www.aseminfoboard.org>