Enhancing public access to legal information - fostering transparency

Foreword

The impact of freedom of information legislation on public access to legal information

Public participation and policy-making in Hungary

Public access to legal information in Russia

Implementing the UNILEX database and applying the CISG and UNIDROIT principles

Albania, its judicial system and access to legal information

Croatia: EU accession enhances information transparency in the public sector

Securities markets and corporate governance legislation on the web
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Abstract
A number of countries in Eastern Europe and Central Asia, as part of the process of transition, have undertaken major reforms to ensure improved transparency in government, in business and in the legal environment. In some countries this has appeared to enhance public confidence in the reliability of legal information and provide incentives to investors. In this edition of Law in transition online a number of positive initiatives have been highlighted, some as the result of EU accession and others spurred by developments in the commercial environment.

Chapters
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- Public participation and policy-making in Hungary
- Public access to legal information in Russia
- Implementing the UNILEX database and applying the CISG and UNIDROIT principles
- Albania, its judicial system and access to legal information
- Croatia: EU accession enhances information transparency in the public sector
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The European Bank for Reconstruction and Development (EBRD) is an international institution whose members comprise 61 countries, the European Community and the European Investment Bank. The EBRD aims to foster the transition from centrally planned to market economies in countries from central Europe to central Asia.

The EBRD’s countries of operations are: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, FYR Macedonia, Georgia, Hungary, Kazakhstan, Kyrgyz Republic, Latvia, Lithuania, Moldova, Mongolia, Montenegro, Poland, Romania, Russia, Serbia, Slovak Republic, Slovenia, Tajikistan, Turkey, Turkmenistan, Ukraine and Uzbekistan.

The EBRD works through the Legal Transition Programme, which is administered by the Office of the General Counsel, to improve the legal environment of the countries in which the Bank operates. The purpose of the Legal Transition Programme is to foster interest in, and help to define, legal reform throughout the region. The EBRD supports this goal by providing or mobilising technical assistance for specific legal assistance projects which are requested or supported by governments of the region. Legal reform activities focus on the development of the legal rules, institutions and culture on which a vibrant market-oriented economy depends.

Information about the EBRD’s Legal Transition Programme can be found at www.ebrd.com/law.
Promoting transparency and public access to legal information

Jean-Louis Laurens, Director General, Democracy and Political Affairs, Council of Europe

The growth of the internet has been a vital catalyst in improving access to information, both for individuals and companies. This process has undeniably affected the relationship between individuals and the state. The shift towards greater transparency has enabled governments to disseminate information to their citizens on an unprecedented scale, but it has also led to greater public involvement in the law-making process. Information has become one of the building blocks of democracy. Freedom of information can operate as a key tool in combating corruption and promoting transparency in governance.

A number of questions face those charged with drafting and promoting legislation on the right of access to information. How extensive should an obligation be to publish and disseminate information? How can the law ensure that this obligation grows in line with developments in information and communication technology (ICT) which can demonstrably reduce publication and dissemination costs? How should the regime of exceptions be drafted so as to strike an appropriate balance between open access and the need to protect key public and private interests?

A number of international bodies promoting human rights have clearly recognised the fundamental right to freedom of information, as well as the need for effective legislation to secure that right in practice. Among those organisations, the Council of Europe (CoE) has been instrumental in efforts to improve transparency in its member states. Through its Directorate General for Democracy and Political Affairs, it aims to strengthen democracy, enhance citizen participation in decision-making processes and examine how ICT can facilitate democratic reform in member states.

The CoE has undertaken a number of recent initiatives on access to information in the EBRD region. In June 2009 it opened an Information Point in Belarus, an office which is intended to inform local society about CoE activities, and to promote international values and standards, including the right to freedom of information. In June 2008 the CoE organised a round table in Montenegro on the theme “Free Access to Information and Parliament’s Relations with the Media”. This was a joint initiative of the Parliamentary Assembly of the CoE and the European Agency for Reconstruction, in cooperation with the Montengeigrin parliament. In February 2009 the CoE hosted a conference in Azerbaijan on improving the quality of legislation, enhancing the transparency and efficiency of the legislative process, and measures to insulate the process from corruption. Access to information can play an important role across all of these issues.
The CoE has also been active in the field of e-governance (using ICT to improve the quality of services delivered by governments to citizens and businesses). This project was initiated in 2002. In February 2004 the Committee of Ministers of the CoE adopted terms of reference for the Ad Hoc Inter-Sectoral Group of Specialists on e-Governance (IP1-S-EG) and in December 2004 the Committee adopted Recommendation Rec(2004)15 on electronic governance. The Recommendation on e-Democracy, which was adopted by the Committee of Ministers on 18 February 2009, includes references to e-governance in line with, and building on, the Recommendation on e-governance.

Another CoE project on “Good Governance in the Information Society”, focuses on how new ICT affects the practice of democracy, human rights and the rule of law in CoE member states. The project’s main task is to use ICT to improve democratic practices. Another task is to examine the new developments in e-voting by organising biennial review meetings of the CoE Recommendation on “Legal, operational and technical standards for e-voting” of September 2004.

It is revealing that the EBRD, through the work of its Legal Transition Programme, has identified a strong trend among its countries of operations towards developing ICT policies and frameworks. In particular, access to legal information, such as draft legislation and court decisions, has proved to be an essential tool in strengthening the young democracies of central and eastern Europe. As the lead article by the EBRD argues, the implementation of freedom of information legislation is a vital tool in combating corruption and maintaining confidence in public institutions. Further articles in this issue demonstrate how these concepts have been embraced, and what challenges remain, notably in Croatia and Hungary. A further contribution highlights how the Albanian government is working with international institutions to put in place a freedom of information framework. The article on Russia shows how the size of the commercial market in that country has led to competition among providers of legal information, thereby contributing to increased quality.

This edition of Law in transition is a very welcome initiative to foster the debate about transparency in government institutions and the key role civil society and international institutions play in that context.

1. Recommendation CM/Rec(2009)1 of the Committee of Ministers to member states on electronic democracy (e-democracy) (Adopted by the Committee of Ministers on 18 February 2009 at the 1049th meeting of the Ministers’ Deputies)