

U.S. Judicial System

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I would like to start by thanking the U.S. Department of State, Institute of International Education and American Embassy in Romania for giving me such a great opportunity to be included in this International Visitors Leadership Program. It was a wonderful and very fruitful experience, professionally and personally as well. I had the chance to learn a lot more about the American judicial system, to compare the civil law system to the common law system, to understand which are the benefits and weaknesses of each of them and therefore to realize what can be improved in the Romanian judicial system. In my point of view, the Romanian judicial system could adapt some elements of the common law system and implement them, in order to shorten the duration of trials, to protect in a better way the victims in the course of criminal procedures, to assure a real check and balance between the three powers of the state and to make some progress in the mediation procedures.

Regarding personal contacts, this program gave me the opportunity to meet a lot of colleagues from the judicial branch from all over the world, to establish professional contacts in the United States, to understand that the aim is the same for each of us, no matter the nationality or culture, as long we are serving the people and try to deliver justice to them in the best way we can.

Our program started in **Washington DC** where we had several interesting meetings in **August 7-14**. The meeting with doctor Jon Gould, Assistant Professor and Directory at George Mason University was very instructive because it offered us from the very beginning an overview of the U.S. judicial system and law enforcement in the U.S., a better understanding of the difference between federal courts and civil courts and the ways the political area can influence the nomination of judges or may affect the composition of the Supreme Court. Also, Dr. Alan Levine's presentation (from the American

University), generated very interesting discussions about the separation of powers and what this concept really means.

From the professional point of view, the discussions with Mr. Stewart Robinson (principal deputy director) regarding the extradition process and mutual legal assistance with the U.S. were very useful, because as a criminal judge I am dealing a lot with extradition cases and I was pleased to find out that some excessive procedures can be avoided between our countries, in order to speed the extradition of a defendant.

We also visited the United States Sentencing Commission and explored the sentencing policies and practices for the federal courts, discussed the impact and objectives of anti-crime and sentencing guidelines legislation.

At the District of Columbia Superior Court, we learned more about the organization of the courthouse, nomination of judges, caseload management and the impact of technology on caseload and enhancing the capabilities of judges and attorneys during court proceedings.

The strategic plan 2008-2012 of the District Court of Columbia Courts, called "Delivering Justice" seemed to me a very good one and a good example for other courts. As a member of my court's board I am seriously considering this example, especially to enforce the public trust and confidence in the justice system which in Romania is at a very low level. In the same time, the program Multidoor Dispute Resolution which started in 1976 seems to be a very successful one, as long as the mediation became compulsory in civil cases and therefore the number of cases has reduced substantially. I really believe that with some efforts and a real political will this procedure can be successfully implemented in the Romanian judiciary system, where the number of civil trials is huge and has the tendency to increase year after year.

Talking about the Code of Conduct for United States Judges and Essentials Ethics, it was

pleasing for me to see that the Code of Conduct of Romanian Judges is very similar, fact that confirmed once again that all the nations have basically the same attitude and view about how a magistrate should act in order to maintain the dignity and nobility of this profession.

The role of U.S. NGOs in the American Judicial System became more clearly after the visit to Judicial Watch, NGO that has over 20 years experience in conservative public policy, trying to expose government corruption and make bureaucrats accountable to tax-paying citizens. Even though some members of our group didn't share the views or methods of this NGO, I found it very useful - as long as they strongly believe in their mission and try to work for the benefit of the people, without any political influences. Some recent political events in Romania proved that a strong and real independent NGO is needed here, to use legal tools to aid the cause of transparency in Government or Parliament.

Last but not least, the visit to the United States' Supreme Court was purely impressive, as well as the biographies of the its honorable members.

In the weekend we spent in Washington DC we had the opportunity to visit some of the most important places. During the course of tour of Washington the most impressive objectives seemed to me the Lincoln Memorial, the Churchill Memorial, the National Museum of Crime and Punishment and Arlington National Cemetery. These places are so full of history that the visitors are feeling overwhelmed.

Team-City Programs has brought me in **Louisville Kentucky, in August 14 - 19, 2008**, a very peaceful and quite town, with gentle people, clean and safe streets and wonderful neighborhoods and sights. Even though the agenda was quite busy, we had fruitful meetings and in the same time a very relaxing weekend, which included a visit and a tour of Mammoth Cave National Park and home hospitality.

Regarding the meetings, in Louisville we had the opportunity to observe a criminal trial (at County Circuit Court) and discuss the proceedings with judges from the Jefferson County District and Circuit Court and also with a judge from Franklin County Courthouse Annex. Personally, I was amazed by the speed of a criminal trial when the defendant pleads guilty. It took only 15 minutes for a judge to decide that a man will go in prison for life, no witnesses, no medical or psychiatric examination for the defendant (who murdered in cold blood two

people for committing a robbery), no right to appeal the sentence. In Europe, under the provisions of European Convention for Human Rights, a trial like this would never take place. Even though I admit it can be efficient, in the meantime such procedure can seriously threaten the legal rights of the defendant.

Representatives from the Jefferson County Jury Administrator provided us an overview of the role of petit juries, as well as the process a jury member goes through from registration to dismissal from duty. I have to mention here Mrs. Dana Todd, Commonwealth Attorney Larry Cleveland Office, which had a very interactive and clear speech regarding these issues.

In Frankfort, at the Department of Public Advocacy (DPA) we discussed the role of the public defender in the U.S. Judicial System, as well as provide an overview of Miranda Rights. Personally, I did appreciate the work and the professional devotion of public advocates, which could be easily observed in their speeches, as well in the journal they published, "Innocent Kentuckians Wrongfully Convicted".

The third location was **Salt Lake City, Utah, August 19 - 23, 2008** where the three teams reunited (the other teams were in Charlotte - North Carolina and Saint Louis - Missouri).

The professional appointments included visits to the Utah State Court and the Utah Court of Appeals, meetings with judges and lawyers, as well as observing trials - civil and criminal cases.

Also, we have met some representatives from the Utah Sentencing Commission and Board of Pardons and Parole to learn about Utah's indeterminate sentencing system. The meeting was very interesting, but the members of our group who deal, most of them, with the civil law system found it difficult to understand why the role of the judge in Utah seems to be so insignificant. The Utah Sentencing Commission establishes the range of time an offender will spend in prison, when the judge chooses this penalty. In the civil law system this the judge is sovereign to establish the punishment. Also, as long as this commission is a legislatively created body which develops policy recommendations regarding the sentencing guidelines we can easily talk about some interferences of the legislative branch in the field of judicial power.

The most interesting meetings in Utah took place outside the courts, with representatives from the ACLU, Utah Office of Crime Victim Reparations and Utah Domestic Violence Council. The programs they are developing and

their role in the judiciary area is very important and it is really impressive that the state pays such a close attention to the victims of crime and domestic violence. Utah Statewide VINE Service is an excellent idea that contributes to security and safety of the victims and their families.

Also, we had some fruitful discussions with the representatives of one of Utah's largest law firms, Kirton and McConkie, learning about the structure and staffing of the firm, as well as its domestic and international operations. I have to mention in the same time the great speech of Mrs. Lohra L. Miller at Utah District Attorney's Office, the materials she provided to us include some very precise information about the activity and performances of the office she leads.

And finally, the last destination was **San Diego, California, August 23 – 28**, a great city where in the free hours we had the chance to see the beach of Pacific Ocean and had a wonderful cruise on Sunday evening.

The first meeting was with a local United States Attorney and one representative of the Federal Bureau of Investigation's San Diego Division's Cyber Squad and we discussed the legal tactics available to prosecute and prevent white collar crimes, including corruption, cyber crime and embezzlement, one of the most challenging and dynamic problems not only in U.S., but all over the world, including Romania. Representatives from the National Conflict Resolution Center (NCRC) provided an overview of the role of mediation and alternative dispute resolution in the American justice system.

Also, the San Diego program included a visit to California Western School of Law for an overview of the curriculum of the law school and discuss the School's Center for Creative Problem Solving. The representatives from the California Innocence Project gave us a great presentation about their work to free wrongly convicted prisoners in California.

We also toured the George F. Bailey Detention Facility to gain insight on prison conditions and to discuss the prison system and rehabilitation programs for inmates in the U.S. and visited Kearny Mesa Juvenile Detention facility (KMJDF).

The San Diego program concluded with an oral evaluation session on Thursday, August 28, 2008, allowing the participants to discuss the project's content and unfoldment with the DOS and IIE staff.

In my opinion, the project's goals were achieved almost completely. We have examined the U.S. judicial system within the framework of the federalist model and the separation of powers, have observed the U.S. trial process, alternate dispute resolution and mediation and judicial training opportunities. Also, I think that the program was very successful in promoting an international appreciation for the rule of law and the advancement of fair, transparent, accessible and independent judiciaries around the world. I had the chance to meet in this program wonderful people, colleagues from all over the world that share the same ideas about judiciary systems and I do hope that the professional and personal contacts we had made there would be maintained in the future and would give us all the opportunity to gather together (or at least some of us) at other international meetings and work together in the future in the field of justice. As a start, I intend to share this experience by publishing a short comparative material in the quarterly brochure of our Superior Council of Magistracy and disseminate all the information as a member of the board of National Union of Romanian Judges, a young professional association that was very active in the last two years, trying to improve and contribute to the judicial reform in Romania.

Last but not least, I would like to give special thanks to the American people that I met there, Ms. Azza Mounib Zaki and Mr. Anthony Nolen (from the U.S. Department of State), Ms. Rebecca Heller and Ms. Jennie Dunham Smith (from The Institute of International Education) and to our English officers, Emily Kalogeropoulos and Mr. Ronn Francis, they all did succeed to make our stay there a very useful and pleasant one, despite of the agenda which sometimes was too concentrated.

Special thanks as well to Ms. Caroline Krebs and Mr. Darrel Joughlin who accompanied and took very good care of the Kentucky team, during our staying there.