



1^{er} Forum mondial sur l'exécution – 1st Global Forum on Enforcement - Strasbourg – 10 Dec. 2014

Toolkits on Enforcement

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About Innovative Rule of Law Initiative

The principles of the Rule of Law are of importance for both developed nations as well as developing countries. In high-income countries it is often said to be too expensive, ineffective or too slow. Nevertheless also in the so-called high-income countries we have noted, especially now with the financial crisis, the importance of those principles. In developing societies, where the rule of law is still under construction, it has a significant impact on economic growth and human development.

Launched in July 2009, Innovating Justice is a collaborative effort from five legal organizations: the Hague Institute for the Internationalization of Law ([Hiil](#)), the Micro justice Initiative ([MJI](#)), the European Academy for Law and Legislation ([EALL](#)), the Center for International Legal Cooperation ([CILC](#)) and the Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems ([TISCO](#)).

Innovating Justice is subsidized by NL Agency, a division of the Dutch Ministry of Economic Affairs, Agriculture and Innovation and the city of The Hague.

The need for change

The Rule of Law and justice sector is crucial for sustainable communities, relations between communities, and for individuals to realize their full capabilities. It is also an industry in itself, in which billions of dollars are spent each year. Improving the Rule of Law has been a priority for the international community for quite a while now, and it continues to be so, in both developing and developed countries. Success in providing, improving and strengthening Rule of Law remains mixed, modest, and hard to measure. Achieving real change in this sector has proven to be difficult. With Innovating Justice, we aim to create [the world's first] platform, in which Rule of Law entrepreneurs can share experiences, showcase their innovations and learn from each other's efforts.

The general approach

The Rule of Law and justice sector is crucial for sustainable communities, relations between communities, and for individuals to realize their full capabilities. People must be able to count on norms and procedures to make relationships stable, workable, repairable, predictable, and equitable.



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As such, the Rule of Law is both an anchor, ensuring predictability, and an engine, advancing conflicts towards resolutions.

Innovating Justice brings together the successes and mistakes of those who work to strengthen the Rule of Law, in all its complexity and connects that with what can be learned from innovation and social entrepreneurship. We strongly believe that legal systems and social entrepreneurs can profit from innovative technologies, solutions and processes. Adaptations and improvements are needed so that the law can serve people and their organizations - This is especially the case in the rapidly changing and interconnected world of today.

The role of CILC and UIHJ

CILC, the Center for International Legal Cooperation, is one of the partners in the project the Innovative Rule of Law Initiative funded by the Dutch Ministry of Economic Affairs aiming to address the static nature of the rule of law and to stimulate and help implement lasting innovation in the Rule of Law domain around the world. The Enforcement Law Toolkit is a result of this Innovative Rule of Law Initiative and has been achieved in close cooperation with UIHJ, another partner in the project.

Also on a broader scale all kind of initiatives have been developed aiming to identify problem areas and deliver more justice. Those areas relate to issues such as fundamental rights, government power, absence of corruption, order and security, access to civil justice, effective criminal justice and informal justice and, of course, effective regulatory enforcement.

Looking for improvements means developing new systems and new tools. However at the same time this means learning by experience: are we able to define certain standards, what are best practices, but also what is the legal background, the culture of a country. It means that developing a new, innovative model of legal reform can only be done if we are able to identify certain key issues: what should be the main characteristics of a legal reform, what will make a reform successful, what are experiences from beneficiary countries, what are experiences of experts et cetera.

The project focused on four main issues: administrative law, training of legal professionals, court management and civil enforcement law.

How? The intention is to develop a toolkit, a set of tools that can be used as an orientation and as guidance in the reform of the enforcement process. Based on certain ideas on the development of such a toolkit we received during expert meetings feedback from experts in the field and from universities and from various continents. The aim of those expert meetings was to share ideas and to share and collect ideas and input that we can use in the further development of the toolkit. The intention was to develop a toolkit as an online instrument, a roadmap, for those countries intending to reform their enforcement system.

The toolkit on enforcement

The toolkit on enforcement has been developed to contribute to reform regulatory enforcement and thus contribute to the development of a legal system based on the Rule of Law. The intention is to



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offer a set of tools that can be used as an orientation and as guidance in the reform of the enforcement process.

Several projects from UIHJ, in Eastern Europe, Russia and Central Asia, are aimed at modernizing enforcement law processes. The lessons learned and best practices are now being turned into a toolkit or road map that can be used to institute an enforcement law system. Taking into account the particular cultural contexts, the toolkit will provide several possibilities for building administrative law systems.

The objective is to create a set of instruments describing the process of change, all its implications, pitfalls, recommendations for such a process, etc. It aims to:

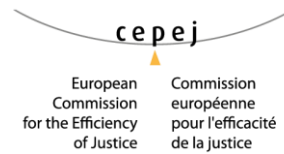
- Facilitate the process of enforcement improvement;
- Prepare better informed decision-makers;
- Serve as guidance in countries when re-designing national judgment enforcement systems;
- Ensure a well-structured and timely reform agenda;
- Map out the logical steps in the reform process;
- Serve as reference tool for designing national action plans;
- Reflect lessons learned from reformed countries' systems;
- List universal best practices in the field of judgment enforcement.

The toolkit is constructed as a useful tool for planning enforcement reform initiatives. The intention is to provide a realistic framework for reform efforts, guiding the process, enumerating minimal fundamental steps and requirements and at the same time allowing for big picture orientation of key decision-makers. Counterchecking against the presented topics, they will be in a position to make informed decisions and being aware of the possible dangers and difficulties and respectively adequately plan efforts and resources.

Each topic is discussed against the background of international standards and best practices, experience in legal reform processes as well as within the framework of the discussions held with an international group of experts from three different continents (Africa, America and Europe) posed during workshops in Cape Town, South Africa (May 2012) and Madrid (Spain) in November 2012. In addition to these workshops the developers of this toolkit have used a smaller group of international experts as a sparring partner. The workshops and the input from the feedback group proved to be very useful forums for exchange of experiences and ideas and had immediate effect of reconsidering certain aspects in the development of this toolkit.

The toolkit reflects best practices in judgment enforcement reform initiatives, but interpreted through the prism of the authors and enriched with the contribution of participating international experts.

Governments have identified the enforcement of judgments as a priority area. At the same time we need to acknowledge the particularities of each individual country; different levels of development, different political and economic situations, and different enforcement systems, each with its unique characteristics and authenticity. Developing a toolkit we need to acknowledge these differences and to the extent possible consider available options for the various systems. At the same time and irrespective of which judgment enforcement system is in place in a particular country, there are core



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characteristics of the enforcement process, which are common. It is important to stress that all core characteristics and components of the system have universal meaning that goes as well for the competitive market, as for the state-driven Enforcement Activity and are equally desirable for all systems.

The toolkit concentrates on the conceptual level and leaves out details but at the same time guarantees a systematic and consistent approach, introducing best (European and) global practices. The objective of the toolkit is to provide a step-by-step reference list, making sure the core pillars and principles of reformed systems exist and the right implementation efforts are taking place at the right time. The toolkit will have to be further developed by national reform leaders and incorporated in the specific country Action Plans for reform implementation. In this Action Plan the expected outcome will be tied with a timeframe, allocated resources and responsible persons for its successful execution.

Modern society is changing continuously, and so are legal systems. Regulatory enforcement, balancing between legal and economic interests, is not an exception. On the contrary. The development of a toolkit on enforcement law therefor cannot be considered a static instrument, but is subject to those changes. For this reason the developers of this toolkit would like to invite its users to keep them informed on developments or propose and discuss necessary changes to the tools used.

Background of Toolkit

The toolkit is constructed as a useful tool for planning enforcement reform initiatives. The intention is to provide a realistic framework for reform efforts, guiding the process, enumerating minimal fundamental steps and requirements and at the same time allowing for big picture orientation of key decision-makers. Counterchecking against the presented topics, they will be in a position to make informed decisions and being aware of the possible dangers and difficulties and respectively adequately plan efforts and resources.

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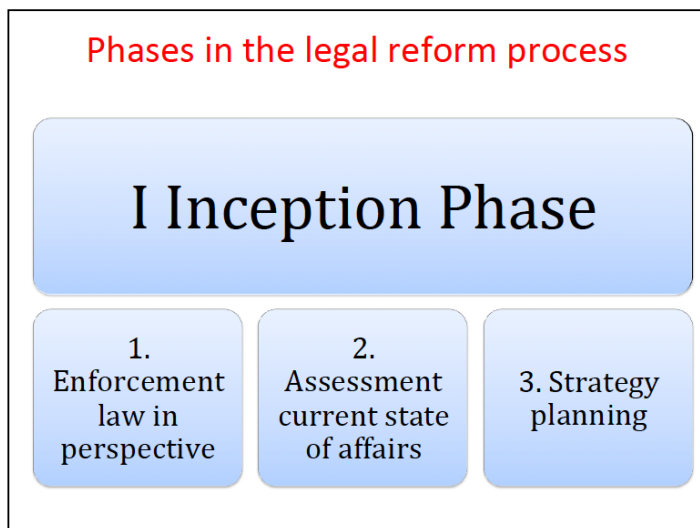
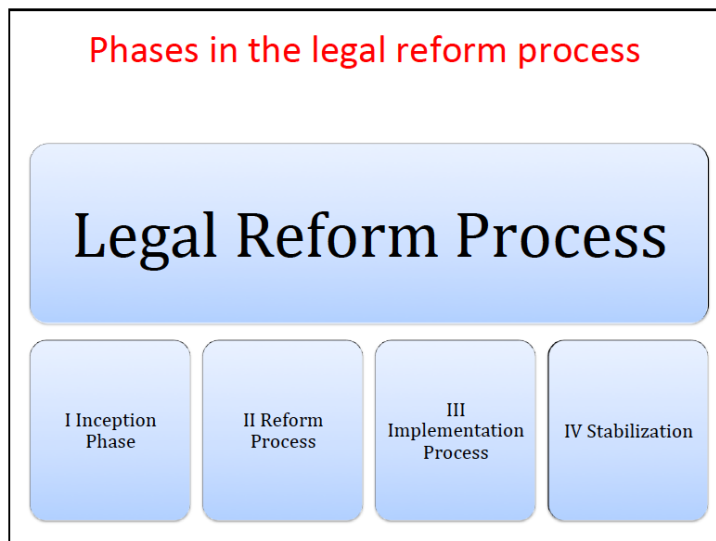
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Setting standards



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Completed, the toolkit will present a unique and interlinked framework consisting of general and international principles, which together will provide minimum standards for enforcement law, as well as an overview of best practices. Applying the toolkit will provide insight into the relationship between enforcement law and the rule of law in the country concerned. In addition, it will provide a working method for introducing and implementing legal reforms, for the benefit of both the countries and organizations involved.





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