

PD-ABF-264
10 20 92



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

ACTION MEMORANDUM FOR THE DIRECTOR, REGIONAL MISSION FOR
EUROPE

FROM: EUR/DR, C. Ross Anthony *C. Ross Anthony*
RME/PD, John Morgan *John Morgan*

SUBJECT: Rule of Law Project (180-0020)
Amendment #2 to Project Authorization

Issue: Your approval is requested to amend the Eastern Europe Regional Rule of Law Project (180-0020) Authorization to 1) increase life of project (LOP) funding by \$2,250,000 to a total of \$3,350,000; 2) extend the original project assistance completion date (PACD) of March 28, 1994 by two additional years to March 28, 1996; 3) authorize A.I.D. to obligate directly a portion of the new funding; 4) authorize A.I.D. to transfer funds to the Department of State's Bureau for Human Rights and Humanitarian Affairs and/or the United States Information Agency (USIA); and 5) under an intended grant of \$277,630 to be made directly by A.I.D. to the American Bar Association's Fund for Justice and Education, allow for the reimbursement of pre-grant expenses incurred by that Grantee as of March 1, 1992.

Background: The three-year Rule of Law Project was originally authorized for \$750,000 in grant funds (Tab 1), all of which were transferred to USIA by an Inter-Agency Agreement in FY 1991. The Rule of Law Project was implemented by USIA with the concurrence of the Bureau for Human Rights and Humanitarian Affairs of the U.S. Department of State (BHRHA). This project was approved by an Inter-Agency Coordinating Subcommittee on January 4, 1991. On September 27, 1991 you authorized for Rule of Law programming in the Baltic states, an increase in the life-of-project funding by \$350,000 to a total LOP of \$1.1 million, and the transfer of those funds to USIA (Tab 2).

Discussion: The Rule of Law Project assists Central and East European countries in developing and strengthening laws, regulations, judicial and non-judicial procedures, policies, and legal institutions (particularly an independent judiciary). These activities further the establishment and enforcement of civil, political, economic, social, cultural, and other human rights and freedoms. Guidance in writing or revising constitutional, criminal, and civil laws protecting human rights and freedoms in Central and Eastern Europe will continue to be provided.

Activities have taken and will continue to take a number of forms, such as technical assistance in drafting legislation; training (in the U.S. or abroad) for key Central and East European legal reformers and members of the judiciary; legal exchanges; and assistance in the development of judicial administration procedures. The project will chiefly involve work with the governments and non-governmental organizations (NGOs) of Central and Eastern Europe and is intended to respond to the needs and priorities of the countries in that region.

Some portion of the authorized funds may be transferred to USIA and/or to the Department of State's Bureau for Human Rights and Humanitarian Affairs through an inter-agency agreement pursuant to section 532 of the Foreign Assistance Act for activities similar to those funded in FY 1991. Additionally, a portion of the new funding may be obligated directly by A.I.D. An example of a project activity which A.I.D. intends to obligate directly under this Authorization Amendment is the American Bar Association's Fund for Justice and Education support for the ABA's Central and East European Law Initiative (CEELI). The CEELI project makes available U.S. legal expertise and assistance to Central and Eastern European nations in the process of modifying or restructuring their laws and legal systems. The policy direction of the Rule of Law Project will be determined with the concurrence of the Bureau of Human Rights and Humanitarian Affairs of the U.S. Department of State (BHRHA).

Implementing Details

a) Congressional Notification: A CN for this activity was submitted to the Hill on January 21, 1992 (Tab 3) and was subsequently put on hold by the Congress. The Congress then lifted the hold only for the ABA component of the project. A.I.D. will only obligate the funds for the ABA component until the Congress lifts the hold on the other components of the project.

b) Environmental Determination: This project qualifies for a categorical exclusion because it supports the development of a rule of law in Central and Eastern Europe through education, technical assistance, and training, activities which are generally categorically excluded from environmental examination under 22 CFR 216 Environmental Procedures in Sections 216.2 (c) (1) (i) and 216.2 (c) (2) (i). An initial Environmental Examination or Categorical Exclusion is at Tab 4.

c) Grant Solicitation Procedures: Funds granted directly by A.I.D. will be in accordance with the procedures in Handbook 13, Grants. Funds may be transferred to USIA or

to the Department of State's Bureau for Human Rights and Humanitarian Affairs via an inter-agency agreement pursuant to Section 632 of the Foreign Assistance Act. The inter-agency agreements will explicitly state that USIA or the Department of State cannot use these funds allocated for Central and Eastern Europe for activities in the former republics of the Soviet Union.

d) Source/Origin/Nationality: USIA and the Department of State shall procure or obtain goods and services whose source, origin, or nationality is the United States, except as A.I.D. agrees otherwise. Funds used by private grantees to procure goods and services under individual grants shall be in accordance with Handbook 13.

e) Evaluation: This project will be evaluated directly by the transferee agency (USIA or the Department of State) in accordance with the terms of the inter-agency transfer, by the Office of the Special Advisor for Eastern European Assistance to the Deputy Secretary of State, by A.I.D. or by independent evaluators selected by A.I.D. The entire project will be formally reviewed by an inter-agency group no less than once each fiscal year.

f) The following categories from the original project authorization remain unchanged: Audit, Reports and Monitoring

Authority: Chapter 1, Part I of the Foreign Assistance Act of 1961, as amended, and Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, and H.J. Res. 360 ("The Continuing Resolution"). Additionally, under Delegations provided by the Assistant Administrator, Bureau for Europe, the Director of the Regional Mission for Europe has the authority to approve authorizations and authorization amendments for projects with life-of-project funding of less than \$100 million.

Recommendation: That you authorize this amendment to the Rule of Law Project Authorization, thereby:

- 1) increasing life-of-project funding for the project by \$2,250,000 to a total of \$3,350,000;
- 2) extending the PACD by two years to March 28, 1996;
- 3) allowing A.I.D. to obligate directly a portion of the new funding for this project;
- 4) authorizing A.I.D. to transfer funds to the Department of State's Bureau for Human Rights and Humanitarian Affairs and/or the United States Information Agency; and

5) authorizing the reimbursement of certain pre-grant expenses which may be incurred as of March 1, 1992. All affected grantees will be informed that any such expenditures are subject to subsequent execution of the grant agreement and also to compliance with requirements of the provisions of grant agreements.

Approved: Fla
Disapproved: _____
Date: 3/6/92

Attachments:

- ~~Tab 1 - Original Authorization~~
- ~~Tab 2 - Authorizations for the Baltics~~
- ~~Tab 3 - Congressional Notification~~
- Tab 4 - Environmental Examination Determination

Clearances:

EUR/DR/DPI, GHyman <i>GHyman</i>	Date: <i>2/28/92</i>
RME/PD, BFujimoto (draft)	Date: <i>1/30/92</i>
EUR/DR/ENV, RGreenberg (draft)	Date: <i>1/30/92</i>
FA/OP/OS/EE, DMiller (draft)	Date: <i>2/26/92</i>
GC/EUR, HMorris (draft)	Date: <i>2/27/92</i>
RME/ECA, POrr (draft)	Date: <i>2/2/92</i>
RME/Controller, DLarson <i>DLarson</i>	Date: <i>3/6/92</i>
RME/DD, RNachtrieb <i>RNachtrieb</i>	Date: <i>3/6/92</i>

Drafted By: EUR/DR/DPI:JBeed:1/8/92:7-7433:WANG4961F
revised:skosinski:2/28/92:7-7337

Jusan Kosinski

INITIAL ENVIRONMENTAL EXAMINATION
OR
CATEGORICAL EXCLUSION

1. Country/Region Central and Eastern Europe Region
2. Project Title & Number Rule of Law
180-0020
3. Proposed LOP Funding LOP Funding of \$3.35 million
4. Proposed Life of Project Five Years
5. Recommended Environmental Action:

Categorical exclusion as provided in CFR 216.2(c)(1)(i) and 216.2(c)(2)(i).

6. Statement Prepared By: Susan Kosinski
Susan Kosinski, EUR/DR/DPI
7. Mission Director's Concurrence
Signature Frank Almaguer
Frank Almaguer
Mission Director
Regional Mission for Europe
Date 3/6/92

8. Decision of Environmental Coordinator, Bureau for Europe
Approved Ronald Greenberg
Disapproved _____
Date 3/6/92

EXAMINATION OF THE NATURE, SCOPE AND MAGNITUDE OF THE ENVIRONMENTAL IMPACT

A. DESCRIPTION OF THE PROGRAM

The Rule of Law Project assists Central and East European countries in developing and strengthening laws, regulations, judicial and non-judicial legal procedures, policies, and legal institutions (particularly an independent judiciary). These activities further the establishment and enforcement of civil, political, economic, social, cultural, and other human rights and freedoms. Guidance in writing or revising constitutional, criminal, and civil laws protecting human rights and freedoms in Central and Eastern Europe will continue to be provided.

Activities have taken and will continue to take a number of forms, such as technical assistance in drafting legislation; training (in the U.S. or abroad) for key Central and East European legal reformers and members of the judiciary; legal exchanges; and assistance in the development of judicial administration procedures. The project will chiefly involve work with the governments and non-governmental organizations (NGOs) of Central and East Europe and is intended to respond to the needs and priorities of the countries in that region.

B. RECOMMENDED ENVIRONMENTAL ACTION

Considering the above-outlined project, a categorical exclusion from A.I.D.'s Initial Environmental Examination Requirements, is proposed. This proposal is in accordance with A.I.D. Environmental Procedures 22CFR Part 216, Sections 216.2(c)(1)(i) which generally provides for a categorical exclusion in situations where the action does not have an effect on the natural or physical environment. Specifically, this activity is categorically excluded under Sections 216.2 (c)(2)(i) for education, technical assistance, or training programs except to the extent such programs include activities directly affecting the environment (such as the construction of facilities, etc.)