REPORT

Identification of the participant

Nationality: Spanish

Functions: Justice of the Spanish Supreme Court

Length of service: Ten days

Identification of the exchange

Hosting jurisdiction/institution: The Slovenian Supreme Court

City: Ljubljana

Country: Slovenia

Dates of the exchange: From 3rd to 12th October

SUMMARY

(see guidelines for drafting the report)
I- Programme of the exchange

I left Madrid on October 3rd at 08:45 a.m. and arrived at Venice at 11:45 a.m. After waiting for approximately two hours, a bus from GoOpti picked me up and took me and other occupants to Ljubljana, where we arrived after a journey of about three hours, that is, at 17:00 p.m.

Once in Ljubljana, the first thing I did was verify the time that would take me to get to the Slovenian Supreme Court. It was no more than five minutes walking from the hotel.

On October 4th I was welcomed at 9:00 a.m. by the senior judicial advisor at the administrative department. He had been appointed «temporary office» during my visit. I would like to take this opportunity to thank him, right now, for the way he treated me during my visit, far beyond the protocol duties that his appointment required. I was introduced to the Justice P.G. that was to become my host during my stay.

After this first meeting, the general structure of the Slovenian Supreme Court, its buildings and facilities, as well as the program we were about to execute were explained to me. Particular attention was paid to the visit to the library, where they showed me certain books that may be considered as *incunabulum*.

The following days I visited the Constitutional Court of the Republic of Slovenia, the Administrative Court of the Republic of Slovenia in Ljubljana (court of first instance in administrative matters) and the National Review Commission.

I also met with the person in charge of the Office for Court Management Development, who explained to me in a detailed and digital manner the Slovenian judicial system.

On October 12th, I visited the Spanish Embassy in Slovenia with one of the Justices of the Slovenian Supreme Court. We attended a reception offered by the Spanish Embassy on the Spanish national holiday.
II- The hosting institution

The purpose of my visit to Slovenia was to gain a better understanding of the Slovenian Supreme Court when dealing with tax matters.

I attended three deliberations. The first one concerned a VAT refund issue and the problems that arise because of delays in the issuance of the corresponding invoice. The second one dealt with the refusal by a lower court to take account of evidence which was found important by the Supreme Court. And in the third one, the Justices discussed about the amount of tax at issue.

The problems dealt with by the Slovenian Supreme Court are basically the same ones that we continually deal with in Spain, although they differ widely as a result of the special characteristics of each judicial system. For instance, problems related to the amount of tax at issue are approached on terms that appear not to be as radical as in Spain, at least prior to the amendment of the law.

From day one, I had at my disposal, as in other exchanges, a room with everything I could need to carry out the work I might consider necessary.

III- The law of the host country

The German influence over the Slovenian legal system is highly relevant because of different reasons, not being the historical ones the less important.

I have also managed to understand their willingness to accept the EU case-law concerning human rights, wherever it might result applicable, specially in sensible matters such as refugee issues.

It is equally important their full respect for the European Court of Justice. This clearly came out in the deliberation in which I took part and which concerned tax matters.

With regard to the impact of the Supreme Court’s case-law, it can be said that is is the one that corresponds to last instance courts, regardless of whether cassation appeals fulfil the same functions as in the Spanish legal system.

IV- The comparative law aspect in your exchange

The Spanish and the Slovenian judicial systems are essentially the same. Nevertheless, it is absolutely clear that each one of them has chosen different ways of achieving their goals.

Ends and means are really important. We must not forget, on the one hand, the common thread running through every single legal system. But it also has to be borne in mind that the resources employed are so different that sometimes that common thread seems not to exist, making it difficult to bring back all legal systems to unity and allowing an adequate evaluation of the efforts made by those institutions that try to strengthen the common values of the European legal systems.
V- The European aspect of your exchange

I was surprised by the frequent use they made of EU law, maybe due to Slovenia’s geographical position. This surely intensifies their relationship with other EU countries.

I would also like to underline that, even though I found out that Slovenia applies and respects EU law, I certainly sensed a sort of indifference or disinterest in Europe’s destiny. This seems really striking in this time of uncertainty, yet so important and decisive for our European common future.

VI- Good Practice within the host jurisdiction.

While deliberating VAT matters, the discussions I attended made constant references to the European Court of Human Rights and to the Court of Justice of the European Union.

There is a common denominator to all German administrative procedures. There seems to be no radical nor complete confrontation with the public authorities as it occurs in Spain. The cooperation between the parties is not excluded. This gives greater effectiveness to the administrative decisions and appears to diminish the point of contention that the procedures always has in Spain.

VII- The benefits of the exchange and Suggestions

From my point of view, the benefits of the exchange are clear. The enrichment these exchanges provide me with is something for which I have a deep appreciation.

This enrichment could also be strengthened by contacting the civil society. In this way, it would be interesting to know how the society feels about the role played by the institutions.

The personal relationships set up outside the professional channels, due to the visits I payed to the different official institutions, help portray realities that otherwise would remain invisible.

Discussions with the members of the institutions I visited clearly contribute towards this end.

In this sense, the reception offered by the Spanish Embassy in Slovenia on October 12th, on the Spanish national holiday, reception which I attended the Justice P. G. of the Slovenian Supreme Court, is an example of what I am saying. And the same can be said of the private dinners held with the Justices of the Slovenian Supreme Court and with the judges of the Administrative Court of First Instance.