



Guidelines for Contributors to the *Review of Central and East European Law and the Law in Eastern Europe series*

(A) *To be accepted for publication, a manuscript does not need to reflect a specific intellectual school; only to be written with clarity, precision and also to contain sufficient evidence in support of the author's views:*

The benchmarks for contributors to our quarterly law review and the occasional monograph series (the *Review of Central and East European Law (RCEEL)* and *Law in Eastern Europe (LEE)*) are: (1) clarity and precision of thinking; and (2) sufficiency of evidence. *I.e.*, the author must clearly and precisely formulate her thoughts and conclusions. In doing so, she needs to offer her reader sufficient evidence to support those ideas. In large part, will this be from the results her investigation of how legal norms are applied – not only by focusing on what the norms are and the process through which they have been formed. Furthermore, her conclusions need to be illuminated with reference to the works of other thinkers – both in her home jurisdiction and abroad.

1) This evidence, first of all, must come from an examination of more than “law in books” alone. Written law and norms in other forms, of course, remain the starting point for works about the law. In the past, authors writing about law in the region, covered by our publications, had focused largely on law-in-books. This understandably was the primary source for their investigations – although they also would refer to works in other areas such as philosophy, economics and of course politics; and there were cases to which they could refer from courts in the region. But these court cases were published selectively and, usually, not published in full-text-form.

It is superfluous to remark that “things have changed” since the beginning of the 1990s. Yet, in considering now the methodology for articles which will be accepted in our publications in the future, there does need to be a reference to this radical transformation process in general and, especially, to the particular changes in dealing with legal materials in the region. This is because authors now need to pay close attention to tools which were not part of the pre-1991 landscape (or were limited to special circles), *e.g.*, legislative histories, impact assessments, and public discussions of legislation. For example, the impact-assessment-process only has appeared within the last few years in the Russian Federation. A meaningful measurement of the degree of impact (if any) which this tool may have had upon the quality of RF legislation remains work-in-progress. A careful examination of how Russian judges, for example, may (fail to) make use of impact-assessment-findings in particular and legislative-history-analyses in general is even farther in the future. For the present, the typical Russian judge does not view such tools as relevant in any way to considering black-letter-law and, therefore, likely will deem them out of-place (and out-of-order) in resolving disputes in her courtroom. Nonetheless, an author whose work will be accepted for *RCEEL/LEE* needs to pay attention to them – in addition to case law – in preparing her manuscript.

(a) First complete: The boundaries of this multi-track investigation should be clearly delineated by the author for the benefit of her “interested and intelligent but uninformed” reader, *i.e.*, uninformed in the author's area of specialization. In other words, the first source of evidence to support the conclusions in an author's work will be the results of her investigation of all the case-law which is relevant to her research question – followed by legislative histories, etc.

In the past, authors of works on law in this region could not access all case-law (and placed little reliance on legislative histories) since as we already have remarked above, publication of cases was selective and usually not in full-text form. Legislative histories normally were limited to “all-

people's" discussions of the basic law (carefully stage managed). Now, most – if not all –judicial decisions in the CEE/CIS are published in full-text form (usually, electronically). This allows an author to apply the "precision of a physicist" in her methodology by clearly informing her readers about: (a) the time-frame of her case-law examination; and (b) the jurisdictional levels (local courts, appellate courts, Supreme Court, Constitutional Court) which she has examined (and, also, to note those years and those jurisdictions which she has chooses not to consider and the reasons for her decisions not to do so).

Furthermore, this case-law research: (c) must be complete for the entire period which the author deems relevant to her research question. It may not merely be an overview of selected case law when the selection has been made by another. Otherwise, the reader logically will suspect that the author's review of case law has been haphazard rather than well-reasoned. There can be no deviations from the approach of researching all cases within the relevant time-frame and jurisdictional levels which are linked to the author's topic. The only exception would be where a particular jurisdiction does not yet publish all of its cases in full-text form. But even here, an author must engage in a complete examination of those cases which have been published and clearly explain to her readers the limitations upon the author's work which result from a partial-publication regime.

Legislative histories, impact assessments, etc. now are more meaningful and, thus, also need to be part of this precisely defined methodology.

(b) Then selected: Once an author has engaged in a complete case-law investigation, she likely will refer her reader only to some cases; *i.e.*, those which she believes represent the best evidence in support of her conclusions. Mention is made of this here since some authors have the wrong impression about the approach outlined herein above: *e.g.*, since the principle of sound research requires her to examine all the case law relevant to her research question, she also will have to refer to all of those cases at some point in her work (the footnotes or an appendix with a complete list of cases). This is not necessary having the following in mind: although we realize that law is not a hard science, there at least is the following important similarity between good research in physics (and other realms of hard sciences) on the one hand and law on the other:

(i) when the author herself has considered a complete data set (*i.e.*, all the relevant cases as outlined herein above); and (ii) when the author fully describes this approach in her methodology for the benefit of her reader; (iii) the reader will be in a position to reproduce the author's data-search and should be able to reach the same, initial results. This obviously allows an interested reader independently to verify the conclusions which the author sets forth in her work. This obviates the need for the author to reference all the cases which she has researched.

2) The second main source for this evidence is rigorous consideration by the author of the views expressed by other thinkers; their ideas about key questions which the author has raised in her own manuscript (including, but not limited to, the case-law research of another about topics relevant to the author's key questions). These other thinkers will come both from the jurisdiction in which the author is "at home" and, also, from other parts of the region (and farther abroad).

This approach forms part of the "comparative perspective" which an *RCEEL/LEE* author will need to use at main junctures of her narrative. Furthermore, the readers of *RCEEL/LEE* also will expect an author to use a multi-disciplinary approach whenever possible, *e.g.*, consideration (at least in brief) of associated issues in the fields of history, economics, political science, sociology, etc.

Yet, it may well be the case that some of the ideas which an author expresses in her manuscript are new to the field; *i.e.*, there may not be any opinions of other thinkers with which to compare an author's own thoughts. In such a case, the author will want explicitly to inform her reader about this and speculate for the reader's benefit about some of the possible reasons for such an "opinion gap".

(B) Additional requirements for non-native speakers. One:

1) An author who is not native speaker of English should engage an outside professional editor to assist in editing her manuscript; to ensure that her thinking is expressed with clarity and precision and that her evidence convincingly is offered to the reader. This will facilitate preparation of reports by anonymous referees and the subsequent comments and questions about the author's manuscript which, also, usually are posed by the *RCEEL/LEE* general editor at a later stage of the editorial evaluation process.

If an author wishes, we can recommend the names of qualified persons who are able to assist her in this. Unfortunately, what we cannot do for any author is to finance this part of her research-and-publication effort. Each author needs to engineer (and, in particular, to fund) this third-party editorial work herself. While undoubtedly most contributors to a law review would not expect the journal to fund this for them, there are some authors who seem to believe that this is a task which an editorial board should take upon its shoulders. Alas, we cannot.

2) Furthermore, each author who is a non-native-speaker of English must have her manuscript edited by a native-speaker of English for English “legalese”. This outside language editor needs to be: (i) a person who has a law degree; or (ii) a person having significant experience in dealing with English-language legal publications.

There can be no exceptions to this profile requirement. A native speaker who does not fit the (i) or (ii) profile above usually will be unable to offer the author (and us) the needed assistance and, in turn, lessens the chances of a manuscript quickly being approved for publication. Here too: we are not in a position to finance any of this work for our authors.

An author may wish to engage one person to perform both these tasks (1) and (2) for her: editing her work in substance and, also, refining it linguistically. Or she may prefer to split up these tasks among two professionals.

(C) Additional requirements for non-native speakers. Two:

An author will need to revert to her outside editor(s) after each-and-every-one of her major revisions as she responds to comments and questions from her outside editor(s) and, also, as she makes further changes in her work for other reasons. The only exception to this constant-need-for-revision check is for truly *de minimis* alterations, *e.g.*, in spelling or punctuation. The author should not re-transmit her revised manuscript to the *RCEEL/LEE* editorial offices for final evaluation unless this careful work has been done and until she verifies it in her submission communication to our editorial office.

One concern here is as follows: occasionally, a non-native-speaking author mistakenly will assume: (i) that it is sufficient when her outside editor reviews only the first version of her work and, subsequent to this, (ii) that she can introduce changes to her manuscript – responding to points raised in a referee report and/or to comments/questions of the general editor as well as making her own further refinements in her manuscript – without reverting to her outside editor. Failure to revert to the outside editor after every set of substantive changes usually will result in a sub-optimal revision which again delays consideration of her work.

A second concern is where an author presumes she has freedom to “cherry pick” from among the comments/questions raised by an anonymous referee (or by the general editor); pick-and-choose those comments/questions she likes and disregard the rest.

As logic should suggest, failing to revert to the outside editor at every stage of the way-to-publication – and cherry-picking one’s way through comments/questions by others – always will lead to an inferior result and return of the manuscript to the author for attention to these points as a minimum, further delaying a determination of whether the ms. is acceptable for publication.

(D) *Comments/questions of external, anonymous referees and of the general editor for all authors:*

In the majority of cases after the initial stages of the anonymous referee and outside editorial review processes have been completed by the author and approved by the anonymous external referee, the general editor also will offer each author comments and questions before her manuscripts can be approved for publication.

These internal remarks always are designed to be supportive, not destructive – as is the case with the observations and suggestions of the anonymous referee. As mentioned above, these internal comments (as the external reports) are never intended to reflect any particular “intellectual school”; never to propagate any line of thinking with which an author must agree before her manuscript will be accepted for publication in *RCEEL* (or *LEE*). To the contrary: each author is accorded full independence in formulating the approaches to her research and crafting her own conclusions.

As noted above, an author “only” needs to respond to all (not just to some of) the comments/questions of the anonymous referees and the general editor. However, in this part of the evaluation process, we also offer each author full independence: to select the way in which she will respond to these comments/questions. *I.e.*, briefly or in an extended fashion; in the main text or in the footnotes.

(E) *“The important thing is to not stop questioning.”*

An author may wish to double-check some of the points raised in these Guidelines or raise matters which are not covered herein with the general editor or editorial board office members. She is encouraged to do so by contacting the Editorial Office at the email address shown on the first-page footer of this document.

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