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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**Seminar on the Role of the Constitutional Court
in the Protection of Private Property**

**in co-operation with the Constitutional Court of Moldova
Chisinau, 30-31 March 1999**

Synopsis

Upon request by the Constitutional Court of Moldova and in co-operation with the latter, the Venice Commission organised a seminar on the role of the Constitutional Court the protection of private property in Chisinau on 30-31 March 1999 within the framework of its series of seminars with newly established constitutional courts (CoCoSem).

The primary goal of the seminar was to enable an exchange of experience between participants from constitutional courts in Eastern and Western Europe with national participants. Representatives from constitutional courts and universities from Armenia, Belgium, France, Romania, Russia and the European Court of Human Rights gave an insight in the major issues concerning property that had been dealt with by their respective courts.

Moldova had opted not to return any immovable property to its previous owners, a choice criticised by some participants of the seminar. While the issuing of privatisation certificates for agricultural land had progressed quite well, the process of exchanging these certificates for real land is still in under way.

A major topic discussed was the problem of agricultural land which is not being cultivated - sometimes even by its new owners - due to economic difficulties. The issue of expropriation of such land in case it is not being cultivated for more than two years was discussed controversially.

Another topic raised was the question whether privatised apartments which remain empty or are even used to raise animals should be expropriated or otherwise be made available to persons who are in need of housing. Here as well, opinions were divided.

On several occasions, the role of Parliament to legislate on these and other issues was underlined taking into account the margin of appreciation it has under the European Convention on Human Rights and the case-law of the Strasbourg Court. The principles of public interest and proportionality were discussed as yardsticks for an assessment by the Constitutional Court of the admissibility of restrictions of the right to property. Emphasis was given to fair and effective compensation in return for the deprivation or limitation of private property.

The participants underlined the usefulness of the seminar which was the first of its kind organised by the Constitutional Court which gave representatives from all branches of power in Moldova the possibility to draw on the experience from other countries, especially also from those which themselves are undergoing a process of transformation.