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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**BULLETIN ON CONSTITUTIONAL CASE-LAW
AND CODICES DATABASE**

**Report on the
questionnaires sent to liaison officers and readers/users**

In November 2005, the Venice Commission's Secretariat sent out a questionnaire on the Bulletin on Constitutional Case-Law in order to obtain comments and suggestions from those involved in the editing of the bulletin as well as its readers, and thereby to improve the quality of information, presentation and readability.

In February 2006, a similar questionnaire was sent out with the CD-Rom specifically regarding the CD-rom and Internet versions. The results of this served to reinforce responses already given by the earlier questionnaire and shed some light on the search facilities.

I Content

The content and the quality of the information provided by the Bulletin are generally considered very high. An aspect particularly appreciated by the majority of those involved was the opportunity to receive information on issues raised before the constitutional courts and equivalent bodies, and also to have access to case summaries from a wide range of European countries in English and French, thus overcoming language barriers. This is even more important as there is still a major lacuna in comparative constitutional law literature.

Furthermore, the ability to read the Bulletin by topic (systematic thesaurus or alphabetical index) or by country of interest is considered a very valuable aspect of the publication as it allows to find the required information more easily. Even more so when using the CD-Rom and Internet versions, where the various search facilities were much appreciated and one could search on the whole database rather than just the year of the publication in hand. There seemed to be a slight preference for searching by topic although several replies commented on the fact that often the search facility used depended on the type of research required. Most common topics seemed to be related to fundamental freedoms and human rights, although again this depended on the research in question.

Several persons regretted the fact that summaries published in the Bulletin represented only a selection of cases, that they were short (which sometimes made it harder to understanding the facts and legal reasoning behind a judgment or decision), and being neither full nor partial translations of the decision concerned, limits their citation value. There was also a suggestion that courts not only send their leading cases but also stereotypical and procedural ones (admissibility cases (for example *ratione personae*)).

A number of liaison officers acknowledged the pertinence of the Bulletin in a survey about the recent development of the case-law in other countries, as well as its "inspiration role" during the decision-making process. This is even more true for the information available through the CODICES database. However, this is not publicly known, as although there are special units/staff at the Courts of several countries doing the comparative research on constitutional case-law and jurisprudence, the decisions referred to are rarely quoted in the judgments or decisions of the Courts (four countries have done so).

The great majority of those involved showed particular interest in the publication of special issues of the Bulletin. Among the topics proposed were: the right of parliamentary representation of minorities, rights of prisoners/detainees, relations between the State and religion, protection of property, independence of the courts, federalism, distribution of powers between State authorities, social and economic rights and horizontal effects of human rights.

Proposals made included: dividing the précis “summary” into “Facts” and “Points of law; that the legal backgrounds of a judgment or decision needed to be drafted with more accuracy and precision; that it might be useful to insert a reference to the website where the full text of the decisions reproduced in the Bulletin could be found; that it might be interesting to envisage publishing, in each number of the Bulletin, one or two decisions that are particularly significant for the country concerned, in full or partial translation; publishing not only important cases but even simple admissibility decisions.

II Presentation

With regard to the presentation of the Bulletin, replies acknowledge that it was user friendly, readable, comprehensive and the presentation was clear. Certain delays in publishing the Bulletin were generally not seen as a serious problem although the majority would indeed appreciate prompter publication. The present numbering of the Bulletin was considered appropriate, as the proposed continuous listing (e.g. “Volume 50”) would have the disadvantage of not including the year of reference. Some indicated that such a change would be welcome.

Proposals made included: that the Bulletin could be printed in a smaller, more compact format (A5), in order to facilitate its use and manipulation; Bulletin numbering could remain as it presently stands. If this were to change, a reference to the year when it was published should be added.

Proposals made included: that the internet version be more like the CD Rom version.

III Access and use

In the great majority of countries, the paper copy of the Bulletin is kept in the library of the institution concerned (Court/University/Parliament), and is thus easily accessible to staff and the general public. While the Bulletin is generally consulted on a monthly basis by liaison officers and readers, it is rather difficult to evaluate the “general public” that consult it on a regular basis. According to the replies received, this number is estimated at approximately between 15 to 20 persons¹.

IV CODICES database, Venice Forum and Venice Commission *amicus curiae* legal opinions

Despite some initial difficulties in understanding the way CODICES is run and how to use the search facilities, liaison officers and readers of the Bulletin seem to become familiar with the CODICES database and use it quite often² for research and especially when looking for the full

¹ Although the number of replies received remained low, the fact that the Bulletin seems to be consulted on average, by 15 to 20 persons within each institution that receives it, is encouraging and justifies not only the continuation of its publication, but also the improvement of its quality.

² Nevertheless, 15 persons replied that they are not familiar with it: Belgium, Croatia, Denmark, Finland, France (2), Hungary, Luxembourg, Netherlands, Romania, Russian Federation, Slovenia (2), Sweden and the UK.

texts of decisions reproduced in the Bulletin. Interestingly, there was no clear preference as to which particular version of CODICES they used: both the CD-Rom and the Internet version are used by an equal number of persons. In the case of the paper copy of the Bulletin, a slight majority of the persons who replied preferred searching it by topic.

Proposals made included: that the search engine of the database should be simplified (the HUDOC database was mentioned by way of example), and the use of PDF documents be increased. Improving the national language support (non-Latin characters), ranked searches, adding the Systematic Thesaurus and search templates also in other languages especially Russian, a better user's guide.

The Venice Forum is widely appreciated by the liaison officers³ who use it, as it offers a unique platform to discuss specific issues informally with colleagues from other states.

Proposals made included: that this initiative should be used more and to the full extent of its capacities.

That constitutional courts and equivalent bodies are able to ask the Venice Commission to give its opinion on a specific subject, *amicus curiae*, seems to be known among the liaison officers. Only two liaison officers replied in the negative.

³ Only 21 of 53 Courts contributing to the Bulletin have sent their replies to the Questionnaire.