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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

JOINT MEETING OF THE SUB-COMMISSIONS ON THE PROTECTION OF MINORITIES AND ON DEMOCRATIC INSTITUTIONS (Venice, 7 September 1995)

MEETING REPORT

The joint meeting of the Sub-Commissions on the Protection of Minorities and on Democratic Institutions was held in Venice on 7 September 1995 with Mr Matscher, Chair of the Sub-Commission on the Protection of Minorities, in the Chair. The participants are listed in the appendix to this report.

1. Adoption of the Agenda

Mr Matscher proposed that a point on the Parliamentary Assembly's request concerning the Provisions of the European Charter for Regional and Minority Languages which should be accepted by all contracting States be added to the agenda.

The Sub-Commission adopted the agenda with the modification proposed by Mr Matscher.

2. Study on the participation of persons belonging to minorities in public life

Mr Matscher recalled that, during its March session, the Commission expressed its willingness to assist the Council of Europe organs in the monitoring of the obligations of member States. The study on the participation of persons belonging to minorities in public life would form part of this activity.

The Sub-Commission took note of document CDL (95) 23 Rev, which contains the basis for a draft questionnaire on the participation of persons belonging to minorities in the electoral

process. The Sub-Commission proposed to include in the questionnaire questions relating to elections of both local government and legislator as well as questions on access to public service. Moreover, the national as well as the regional and local levels should be taken into consideration. Finally, not only the legislative texts but also the legislative practice should be acquired.

The Sub-Commission proposed that Mr Özbudun, in co-operation with the Secretariat, prepare a draft questionnaire on the participation of persons belonging to minorities in public life.

3. Report on the work of the Ad Hoc Committee for the protection of National Minorities (CAHMIN)

The Secretariat reported on the work of CAHMIN. Document CDL-MIN (95) 1 relates to the participation of the Venice Commission in the work of CAHMIN on the preparation of a draft additional Protocol to the European Convention on Human Rights. Mr Matscher presented some proposals based on the draft Convention of the Venice Commission. As no member of the Commission is available to take part in the CAHMIN meeting on 11-15 September, the Sub-Commission instructed the Secretariat to attend.

The Sub-Commission instructed the Secretariat to represent the Commission at the next CAHMIN meeting on 11-15 September.

4. Request of the Parliamentary Assembly concerning the Provisions of the European Charter for Regional and Minority Languages which should be accepted by all contracting States

Mr Matscher informed the Sub-Commission of the Committee of Legal Affairs and Human Rights of the Parliamentary Assembly's request for opinion concerning the Provisions of the European Charter for Regional and Minority Languages which should be accepted by all contracting States. The Commission had already given an opinion on this Charter in 1991.

Mr Maas Geesteranus proposed to prepare a first draft for the November meeting; it would however be difficult for him to continue further with this work.

The Sub-Commission proposed that Mr Maas Geesteranus prepare for the November meeting a first draft report on the Provisions of the European Charter for Regional and Minority Languages which should be accepted by all contracting States.

5. Parliamentary Immunity

The Secretariat informed the Sub-Commission on the progress of the work on Parliamentary Immunity. The Sub-Commission took note of the questionnaire and of the replies and invited those members who have not yet replied to the questionnaire to submit their replies as soon as possible. It was reminded that it was desirable to proceed speedily with this study and the participants instructed the Secretariat to report at the Sub-Commission's next meeting on the progress of the work on the study.

The participants decided to resume consideration of this topic at the Sub-Commission's next meeting in order to determine the steps to be taken in relation to the study.

6. Composition and establishment of Constitutional Courts

The Sub-Commission took note of the synoptic tables concerning the composition of Constitutional Courts prepared by the Secretariat as a preliminary background document. The Sub-Commission considered it necessary that the legal provisions on composition (appointing authority, term of office, qualifications required, concurrent offices and termination of office) should be presented together with information on the competences and functions of the respective courts. Such information, without being exhaustive on the question of jurisdiction, should facilitate the comparison of the various models of composition of Constitutional Courts and other equivalent jurisdictions. Moreover, supplementary information should be provided e.g. on the appointment of the President, the authority which has the power to revoke judges, the procedure of revocation and the right of initiative to propose candidates. The Sub-Commission decided to resume consideration of this topic at its next meeting.

The Sub-Commission decided to invite the Commission members, associate members and observers to comment on the synoptic tables and to raise further questions relevant to the topic.

A N N E X E

LIST OF PARTICIPANTS

AUSTRIA/AUTRICHE :

M. Franz MATSCHER, Professeur, Université de Salzburg, Juge à la Cour Européenne des Droits de l'Homme (Chairman/Président)

BELGIUM/BELGIQUE :

M. Jean-Claude SCHOLSEM, Doyen de la faculté de droit à l'Université de Liège

CYPRUS/CHYPRE :

Mr Michael TRIANTAFYLLIDES, Chairman of the Council of the University of Cyprus, Former President of the Supreme Court and former Attorney-General of the Republic

CZECH REPUBLIC/REPUBLIQUE TCHEQUE :

Mr Cyril SVOBODA, First Deputy Minister of Justice

FINLAND/FINLANDE :

Mr Antti SUVIRANTA, Former President of the Supreme Administrative Court

FRANCE :

M. Jacques ROBERT, Président honoraire de l'Université de droit, d'économie et des Sciences sociales de Paris, Membre du Conseil constitutionnel (Apologised/Excusé)

GERMANY/ALLEMAGNE :

Mr Helmut STEINBERGER, Professor at the University of Heidelberg, Director of the Max-Planck Institute

GREECE/GRECE :

M. Constantin ECONOMIDES, Professeur à l'Université Pantios, Directeur du Département juridique, Ministère des Affaires Etrangères

HUNGARY/HONGRIE :

M. János ZLINSZKY, Juge à la Cour constitutionnelle

LITHUANIA/LITUANIE :

Mr Kestutis LAPINSKAS, Judge at the Constitutional Court

NETHERLANDS/PAYS-BAS

Mr Godert W. MAAS GEESTERANUS, Former Legal Adviser to the Minister of Foreign Affairs

NORWAY/NORVEGE :

Mr Jan HELGESEN, Professor, University of Oslo

ROMANIA/ROUMANIE :

M. Petru GAVRILESCU, Ambassade de Roumanie à Bruxelles

SAN MARINO/SAINT-MARIN :

M. Giovanni GUALANDI, Vice-Président du Conseil de Présidence de l'Institut juridique de Saint-Marin (Apologised/Excusé)

SLOVAKIA/SLOVAQUE :

Mr Ján KLU_KA, Judge, Constitutional Court

SPAIN/ESPAGNE :

M. Luis AGUIAR DE LUQUE, Directeur du Centre d'Etudes constitutionnelles (Apologised/Excusé)

M. Jaime NICOLAS, Directeur adjoint du Centre d'Etudes constitutionnelles

SWITZERLAND/SUISSE :

M. Giorgio MALINVERNI, Professeur à l'Université de Genève

TURKEY/TURQUIE :

Mr Ergun ÖZBUDUN, Professor at the University of Ankara, Vice-President of the Turkish Foundation for Democracy

ASSOCIATE MEMBERS/MEMBRES ASSOCIES

CROATIA/CROATIE :

Mr Stanko NICK, Chief Legal Adviser, Ministry of Foreign Affairs

SECRETARIAT

DIRECTORATE OF LEGAL AFFAIRS/DIRECTION DES AFFAIRES JURIDIQUES

M. Gianni BUQUICCHIO

M. Christos GIAKOUMOPOULOS

M. Pierre GARRONE

Mlle Helen MONKS

Mlle Brigitte AUBRY