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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

Synopsis of CoCoSem seminars (year 2000)

held in co-operation with Constitutional Courts

ACTIVITY SYNOPSIS

1. Identification of activity

Title of activity
Seminar on the Draft Amendments to the Law on the Constitutional Court of Latvia
Country
Latvia
Date and place
25-26 February 2000, Riga

2. Participants

Partner institution / organisation
Constitutional Court of Latvia
Experts
1) László Sólyom, Hungary 2) Rune Lavin, Sweden 3) Herman Schwartz, USA 4) Cesare Pinelli, Italy
Participants
About 40 Judges and staff of the Constitutional Court, representatives from Parliament, Public Prosecutor, Universities, Supreme Court, NGOs
Secretariat member(s)
Schnutz Dürr

3. Objectives

Specific objectives of activity
Discussion of draft amendments to Law on the Constitutional Court of Latvia with a view to broaden the access of the individual to the Court (introduction of an individual appeal).
Reference to other activities (if relevant)
An opinion on a previous draft had been given by the rapporteurs (documents CDL (99) 68, 70, 71).

4. Evaluation

Evaluation
The seminar was useful on the one hand because several technical points could be settled and streamlined. On the other general agreement was reached between the participants to opt for the widest possible access of individuals to the Court via ordinary courts, via the ombudsman and by way of an individual complaint.

During the seminar, Mr Mucins, Chairman of the Legal Affairs Committee, welcomed the proposals by the Venice Commission and informed the participants of the seminar that he would defend the proposals within his Committee.

Feedback

At the 42nd plenary meeting on 31 March-1 April 2000, the acting Chairman of the Constitutional Court, Mr Endzinš, thanked the experts who had taken part in the seminar and informed the Commission that the Secretariat's memorandum on the results of the seminar (CDL (2000) 20) had been translated into Latvian and sent together with the draft amendments to Parliament.
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5. Results

Conclusions

Most of the Venice Commission's proposals had been followed in the revised version of the draft amendments.

Follow-up

The amendments were adopted by Parliament and came into force on 1 January 2001 (document CDL(2001)4).
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ACTIVITY SYNOPSIS

1. Identification of activity

Title of activity
The Constitutional Court as protector of individual rights and freedoms
Country
Azerbaijan,
Date and place
17-18 April 2000, Constitutional Court, Baku, Azerbaijan

2. Participants

Partner institution / organisation
Constitutional Court of Azerbaijan, ABA, CEELI
Experts
Mr Melchior, President of the Court of Arbitration, Belgium Mr Ferrari Bravo, Judge, ECHR Ms Lang, Federal Constitutional Court, Germany Mr Pinelli, Professor of law, Italy Mr Borrajo-Inestia, Constitutional Court, Spain Judge Angeletti, United States (financed by ABA)
Participants
Judges of the Constitutional Court of Azerbaijan Chiefs of administrative, constitutional, civil, international law department Chief of the registry Heads of section, presidential administration Head of administration, Parliament (Milli Mejlis) Members of Parliament (Milli Mejlis) Chairman of legal reforms, Parliament (Milli Mejlis) Heads of department for state construction legislation, Parliament (Milli Mejlis) Deputy Chairmen and judges, Supreme Court Prosecutor General and Deputy Prosecutor General Head of Legal Department, Cabinet of Ministers Ministry of Justice, Minister, Deputy Minister Ministry of Foreign Affairs, Minister Ministry of National Security, Minister Economic Court, Chairman Baku City Court, Chairman Newspaper journalists Ambassadors of USA, Italy, France, United Kingdom, Germany German Agency on Technical Cooperation American Bar Association Total number (approx): 70
Secretariat member(s)
Gianni Buquicchio Caroline Martin

3. Objectives

Specific objectives of activity
<p>In view of introducing the possibility of individual complaint to the constitutional Court of Azerbaijan, the experts</p> <ul style="list-style-type: none"> - presented the experience of their country in this matter - raised substantive and practical issues related to the process of individual complaints

4. Evaluation

Evaluation
Wide and active participation that revealed the relevance of this seminar for Azerbaijan's partners.
Feedback
Coverage by the national mass media.

5. Results

Conclusions
This seminar can be considered as the first step in the preparation of the forthcoming Azerbaijan reform concerning the access of individuals to the Constitutional Court; considering that this is one of the commitment of Azerbaijan in view of its accession to the Council of Europe.
Publications (if relevant)
Documents CDL-JU (2000) 23, 24, 25, 27

ACTIVITY SYNOPSIS

1. Identification of activity

Title of activity
“Direct access of the citizen to the Constitutional Court”
Country
Poland
Date and place
5-8 October 2000, Zakopane

2. Participants

Partner institution / organisation
Constitutional Tribunal of Poland
Experts
Prof Georg Brunner, Director of the Institute for Eastern European Law (Institut für Ostrecht), University of Cologne, Germany Prof Javier Garcia Roca, Professor in Constitutional Law, University of Valladolid, Spain
Participants
<u>Constitutional Court of Austria:</u> Professor Ludwig Adamovich, President Dr Lisbeth Lass, Judge <u>Constitutional Court of the Czech Republic:</u> Pavel Holländer, Judge Valdimir Jurka, Judge Pavel Varvarovsky, Judge <u>Constitutional Court of the Republic of Hungary:</u> Dr Istvan Bagi, Judge Dr Arpad Erdei, Judge Dr Laszlo Kiss, Judge <u>Constitutional Court of the Republic of Lithuania:</u> Vladas Pavilionis, President Egidijus Jarasiunas, Judge Zigmas Levickis, Judge Teodora Staugaitiene, Judge <u>Constitutional Tribunal of the Republic of Poland:</u> Professor Marek Safjan, President Professor Janusz Trzcinski, Vice-President Professor Jerzy Ciemniewski, Judge Professor Zdzislaw Czeszejko-Sochacki, Judge

<p><u>Constitutional Court of the Republic of Slovakia:</u> Jan Mazak, President Ludmila Gajdosikova, Judge</p>
<p><u>Constitutional Court of the Republic of Slovenia:</u> Franc Testen, President Mirjam Skrk, Judge</p>
<p>Secretariat member(s)</p>
<p>Gianni Buquicchio Helen Moore</p>

3. Objectives

<p>Specific objectives of activity</p>
<p>The purpose of this conference was to provide an opportunity for constitutional court judges from the central European region to share their experiences of direct access by the citizen to the constitutional court and to further their understanding of this mechanism and its role in protecting individual rights from a regional perspective.</p>
<p>Reference to other activities (if relevant)</p>
<p>This conference was the second to be organised for constitutional courts from the central European region.</p>

4. Evaluation

<p>Evaluation</p>
<p>The topic was well chosen. Direct access of the citizen to the constitutional court has been introduced in some form or other in all the courts represented, with the exception of Lithuania. It was therefore appropriate to evaluate the functioning of this mechanism in the light of recent practice.</p> <p>All the courts gave presentations indicating how direct access operates in their country or, in the case of Lithuania, on the extent to which an individual may have some sort of access, albeit indirect, to the constitutional court. It was very interesting to compare the differences between the systems and this led to an identification of some of the shared problems. For example, judges from several countries referred to the tension which can arise between the constitutional court and the supreme court regarding interpretative decisions. Another issue raised by a number of courts present was how to tackle the ever increasing case load of the constitutional court. Opinions varied concerning the question of limiting the access of individuals to the constitutional court and the extent to which judicial discretion should play a role in the selection of cases in the central European context.</p> <p>Very fruitful discussions took place after all the presentations. The experts invited by the Venice Commission gave an insight from outside the region. Prof Brunner's extensive knowledge of constitutional justice in the region provided an interesting comparative perspective while Prof Garcia Roca focussed on the rich experience of the Spanish Constitutional Court.</p>

Feedback

Feedback from participants both during and immediately after the conference was very positive.

5. Results**Follow-up**

It is planned to organise such conferences for constitutional courts from the central European region on a regular basis (every one or two years). Possible topics were proposed for the next conference, including constitutional protection of the right to property, but none has yet been agreed.

Publications (if relevant)

CDL-JU (2001) 22

ACTIVITY SYNOPSIS

1. Identification of activity

Title of activity
Seminar on "The Efficiency of constitutional justice in a society in transition"
Country
Armenia
Date and place
6-7 October 2000, Yerevan

2. Participants

Partner institution / organisation
Constitutional Court of the Republic of Armenia
Experts
<ol style="list-style-type: none"> 1. Mr. V. Güttler, Judge at the Constitutional Court of the Czech Republic 2. Ms. S. Walter, legal assistant (judge) at the Federal Constitutional Court of Germany
Participants
<p>Judges from Constitutional courts of Armenia, Belarus, Kazakhstan, Moldova, Russia and Slovakia, Armenian officials, specialists in constitutional law.</p> <p>Total number (approx): 30</p> <p>The Prime Minister of Armenia, Mr A. Markaryan, took part in the opening of the seminar.</p>
Secretariat member(s)
S. Kouznetsov

3. Objectives

Specific objectives of activity
<ol style="list-style-type: none"> 1) To have an exchange of views on the tendencies of development of constitutional justice in countries that go through a democratic transition. 2) Exchange experience in the field of constitutional justice through analysing national case-law of participants' countries and to define possible fields of co-operation.

4. Evaluation

Evaluation
The activity was a useful exchange of information. Some of the contributions gave concrete examples of the new approaches adopted by certain constitutional courts in such important issues as the execution of judgements of the constitutional courts, protection of Human Rights and relations with other state powers.

Feedback

The seminar was followed by the national press. Documents of the seminar will be available at the Web-site of the Constitutional Court of Armenia.

5. Results**Conclusions**

This seminar was of great importance to the Constitutional Court of Armenia, which participates actively in the process of the on-going constitutional revision in this country. Some of the experience of participating countries will be certainly used by Armenian authorities for the extension of powers of the Constitutional Court in the new constitutional text.

Publications (if relevant)

The results of the seminar will be published by the Constitutional Court of Armenia. They will be also available on the Web-site of the Constitutional Court.

CDL-JU (2000) 40, 41

ACTIVITY SYNOPSIS

1. Identification of activity

Title of activity
Seminar on "The Implications of the New Century and Striving to Join European Structures for Constitutional Courts"
Country
Estonia
Date and place
17-18 November 2000, Tartu

2. Participants

Partner institution / organisation
Supreme Court of Estonia
Experts
1. Rainer Arnold, Professor of European Law, University of Regensburg, Germany 2. Mr Armando Toledano Laredo, Honorary Director General, European Commission 3. Mr Barna Berke, President of the Hungarian Competition Council and former legal advisor to the President of the Constitutional Court, Hungary
Participants
Judges and legal staff from Supreme Court of Estonia and Constitutional Courts of Latvia and Lithuania, Estonian officials (Office of the President of the Republic, Ministry of Justice, Office of the Legal Chancellor), Estonian members of parliament, law students. Total number (approx): 40
Secretariat member(s)
Sarah Burton

3. Objectives

Specific objectives of activity
1) To hold an exchange of views on the influence of European integration on national constitutional law in member states of the European Union and candidate countries. 2) To exchange experiences in the field of constitutional justice through analysing and comparing the system of constitutional justice of participants' countries.

4. Evaluation

Evaluation
The activity was a highly useful exchange of information. In particular, it showed that a number of wide-ranging concerns are currently shared by the Baltic states. These extend from the question of national sovereignty in the face of European integration to the question of individual access to the courts of constitutional jurisdiction in human rights cases.

Feedback

Participants expressed their interest in the information provided and raised the possibility of further contacts on this subject and others of mutual interest.

5. Results**Conclusions**

This seminar was of great importance to the Supreme Court of Estonia as part of its active preparation for Estonia's future accession to the European Union. It was also a valuable opportunity for Baltic courts with constitutional jurisdiction to identify areas of interest to all, on which further exchanges of information between these courts would be beneficial.

Follow-up

Follow-up will be determined according to expressions of interest from the participating courts. The Supreme Court of Estonia voiced its interest in pursuing such collaboration.

Publications (if relevant)

CDL-JU (2000) 42, 43, 44