



Strasbourg, 31 August 2011

CDL-JU-PV(2011)001 \*  
Or. Engl.

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**10<sup>th</sup> meeting of the Joint Council  
on Constitutional Justice**

**Ankara, 30 June – 1 July 2011**

**REPORT**

---

*\*This document has been classified restricted at the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

*This document will not be distributed at the meeting. Please bring this copy.  
[www.venice.coe.int](http://www.venice.coe.int)*

On the morning of 30 June 2011, two meetings were held at the seat of the Constitutional Court of Turkey (Ankara) before the 10<sup>th</sup> meeting of the Joint Council on Constitutional Justice:

- (1) a meeting of the Working Group on the Systematic Thesaurus (see item 12 below);
- (2) a training session on the Newsgroup, the restricted website of the Venice Commission for liaison officers ([www.venice.coe.int/JU](http://www.venice.coe.int/JU)) and the CODICES database (CD-ROM and Internet versions).

## 1. Adoption of the Agenda

The Agenda was adopted by the participants without any changes.

## 2. Communication by the Secretariat

The Secretariat informed the participants about the budgetary restrictions the Council of Europe was facing and that this, in turn, had affected the activities of the Venice Commission. As a result, the Venice Commission was falling behind with certain improvements that needed to be made, such as updating the Internet site.

Participants were informed about the new liaison officers, as follows:

Nominations since Venice 1-2 June 2010		
ALBANIA	Mr Ardit HYSA <sup>1</sup>	Constitutional Court
CANADA	Mr David Power <sup>2</sup>	Supreme Court
DENMARK	Mr Lasse RISAGER <sup>3</sup>	Supreme Court
ESTONIA	Ms Kristi AULE <sup>4</sup>	Supreme Court
FINLAND	Ms Freja HÄGGBLÖM <sup>5</sup>	Supreme Administrative Court
	Mr Gustav BYGGLIN and Mr Tommi VUORIALHO <sup>6</sup>	Supreme Court
FRANCE	Ms Caroline PETILLON <sup>7</sup>	Constitutional Council
	Mr Lionel BRAU <sup>8</sup>	
GEORGIA	Ms I. KHAKHUTAISHVILI <sup>9</sup>	Constitutional Court
KOREA	Ms Miyong SHIN Ms Jeong Su HA <sup>10</sup>	Constitutional Court
NORWAY	Ms Kjersti BUUN NYGAARD <sup>11</sup>	Supreme Court
MEXICO	Mr Francisco TORTOLERO CERVANTES <sup>12</sup>	Supreme Court
	Mr Víctor Manuel CASTRO BORBÓN <sup>13</sup>	Supreme Court
	Mr Gerardo DE ICAZA <sup>14</sup>	Electoral Court

<sup>1</sup> Replaced Mr Denar BIBA.

<sup>2</sup> Replaced Mr Claude MARQUIS.

<sup>3</sup> Replaced Mr Jens Harkov HANSEN.

<sup>4</sup> Replaced Ms Gea GUSTAVSON.

<sup>5</sup> Replaced Ms Satu-Maarit TARKKANEN.

<sup>6</sup> Replaced Ms Kirsti UUSITALO.

<sup>7</sup> Replaced Mme Marie-Christine-MEINNINGER.

<sup>8</sup> Third LO for CC France.

<sup>9</sup> Replaced Mr K. KIPIANI.

<sup>10</sup> Replaced Ms Kyung-Mok KIM.

<sup>11</sup> Replaced Ms Cecilie ØSTENSEN NOSS.

<sup>12</sup> Replaced Mr Victor CASTRO BORBON and Mr Alfonso ONATE LABORDE.

<sup>13</sup> Replaced Ms Cielito BOLÍVAR GALINDO.

<sup>14</sup> New: Electoral Court of Mexico.

MONTENEGRO	Ms Nerma DOBARDZIC <sup>15</sup>	Constitutional Court
PERU	Ms Kharime BENVENUTO <sup>16</sup>	Constitutional Tribunal
SERBIA	Mrs V. JAKOVLJEVIC <sup>17</sup>	Constitutional Court
SOUTH AFRICA	Ms Lisa DRAGA <sup>18</sup>	Constitutional Court
	Ms Avani SINGH	
	Ms Sarah-Jane FRITH <sup>19</sup>	Constitutional Court
SWEDEN	Mrs Kerstin NORMAN <sup>20</sup>	Supreme Court

### 3. Updating data on the participating courts

The Secretariat thanked the liaison officers for updating the information on their courts and invited those that had not yet done so, to inform the Secretariat about any changes as soon as possible. This information was needed in order to update the website and ensure that the Secretariat's contact information was correct.

### 4. Venice Forum

#### 4.a "Classic" Venice Forum

Link: <http://www.venice.coe.int/JU/VeniceForum/>

The Secretariat informed the participants about the exchange of information that had taken place on the 'Classic' Venice Forum (revised guidelines CDL-JU(2008)001rev). Since the last meeting of the Joint Council in June 2010, the Venice Forum received 35 questions from 23 countries to which 538 answers were sent. Topics covered a variety of issues, including the "Entering into force of court decisions" (Albania), "Expropriation" (South Africa), "Detention in a psychiatric ward" (Azerbaijan), "Suspensive effect of appeals" (Brazil), "Free legal representation" (Czech Republic), "Age discrimination" (Estonia) and "Acquired rights with respect to pensions and age of retirement" (Moldova), "Prohibition of foreign military bases" (Lithuania), "Disciplinary responsibility of judges" (Moldova), Children's rights (Mexico) and the last one that was sent by the Albanian liaison officer on 21 June 2011 on "Nationality and citizenship" issues.

The suggestion was made that questions sent to the Venice Forum be indexed by theme and that tables be made to provide a better overview of the answers received from liaison officers.

**The participants agreed that the Venice Forum be indexed by theme and that tables of the answers received to Venice Forum questions be introduced.**

#### 4.b Forum Newsgroup

Link: <https://cwsn.coe.int/team21/veniceforum>

The Secretariat explained that the Forum Newsgroup was a restricted site, made for liaison officers to display information which mainly concerns adopted or upcoming decisions of their courts and appointments of new presidents of courts etc.

<sup>15</sup> Replaced Ms Jadranka NOVAKOVIC.

<sup>16</sup> New: CT Peru.

<sup>17</sup> Replaced Ms Natasa PLAVSIC.

<sup>18</sup> Replaced Mr Chris MCCONNACHIE.

<sup>19</sup> Replaced Ms A. SINGH.

<sup>20</sup> Replaced Ms Aneta BLADER.

The Secretariat suggested that news alerts in the form of emails be established in order to draw liaison officers' attention to new items displayed on this site.

**The participants agreed with the proposal made by the Secretariat to receive news alerts on the Forum Newsgroup by email.**

#### 4.c Venice-Monnet Forum

Link: <https://cwsm.coe.int/team21/venicemonnet/default.aspx>

The Secretariat reminded the participants that the *Venice-Monnet Forum*, unlike the Classic Venice Forum and the Newsgroup, is dedicated to academic discussions (CDL-JU(2010)007).

So far, three questions<sup>21</sup> have been posted on this Forum and discussions have started. Further participants from the International Association of Constitutional Law will be invited to join this Forum to increase discussions.

Ms Alberini, co-chair of the Joint Council, reminded liaison officers that they spoke on their own behalves on this website and did not represent their courts.

#### 5. Opinions and studies of the Venice Commission

Participants were informed about opinions, *amicus curiae* briefs and reports adopted by the Venice Commission on constitutional as well as ordinary justice since the last meeting of the Joint Council.

The Secretariat mentioned the *amicus curiae* brief for the Constitutional Court of "the Former Yugoslav Republic of Macedonia" on amendments to several laws relating to the system of salaries and remunerations of elected and appointed officials. Two questions arose in this opinion, notably whether the salaries of judges may be reduced or whether that was excluded and whether judges of the Constitutional Court should be treated in the same manner as ordinary judges. The Venice Commission's reply to the first question was that if a general reduction of salaries for all persons employed by the state was introduced, then there was no general principle of law that excluded the reduction of salaries of judges in particular. Hence, the answer to the second question was that constitutional court judges should be treated in the same manner as ordinary judges.

The Secretariat also referred to the Opinion on the constitutional situation in Ukraine. The Constitutional Court of Ukraine had annulled the amendments to the Constitution that had been in force for six years. The Venice Commission was asked about the consequences of this decision.

In respect of reports adopted by the Venice Commission, the Secretariat mentioned the Report on European Standards as regards the Independence of the Judicial System: Part II – The Prosecution Service, adopted at the December plenary session.

The Secretariat also referred to an Opinion for Bolivia on the draft Law on the Prosecution, adopted at the Venice Commission's March plenary session. As the Venice Commission may only make opinions for its member states, this opinion was requested by the European Union.

---

<sup>21</sup> (1) Sovereignty and European integration; (2) preventive detention and constitutional law and (3) integration clauses and referral for a preliminary ruling of the ECJ.

The Secretariat also mentioned two opinions for Hungary, one on three legal questions arising out of the process of drafting the new Constitution and the second on the Fundamental Law of Hungary of 25 April 2011.

The Secretariat also referred to three opinions for Kyrgyzstan, notably the opinion on the Constitutional Chamber of the Supreme Court, indicating that despite its name, this Chamber was *de facto* a fully fledged Constitutional Court, independent from the Supreme Court.

The *amicus curiae* brief for the Constitutional Court of Peru was also mentioned, which dealt with the issue of crimes against humanity carried out by the previous Peruvian regime.

The Secretariat outlined the content of the Report on Individual Access to Constitutional Justice – [http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)039rev-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)039rev-e.pdf) explaining that the final document was 172 pages long, 60 of which were the report and the rest tables containing extracts of the relevant legislation. Information was received from approximately 60 countries, referring to different types of individual access that exist in the various countries. This information was checked by the liaison officers and the Venice Commission is grateful to them for their work. It transpired from the information received that almost all countries had some sort of individual access procedure to question the constitutionality of a norm or individual act, with the exception of Algeria, Morocco, the Netherlands and Tunisia - although the latter was currently undergoing major reforms following the revolution.

The relationship between individual access and the European Court of Human Rights had also been considered in this report, indicating that it depended on how direct individual complaints were regulated in a country to be considered an effective means of reducing the caseload in front of the European Court of Human Rights. The principle of subsidiarity is a pillar of the European Convention on Human Rights system and the access of individuals to the Constitutional Court or an equivalent body may be considered an important tool in fighting the growing caseload of the European Court of Human Rights.

**List of opinions and reports:**

October 2010 – 84<sup>th</sup> Plenary Session of the Venice Commission

**Opinions:**

<b>Bosnia and Herzegovina</b>	<i>Amicus curiae</i> brief on certain provisions of the election law of BiH, of the Constitution of the Federation of BiH and of the statute of the city of Mostar <a href="http://www.venice.coe.int/docs/2010/CDL-AD(2010)032-e.pdf">http://www.venice.coe.int/docs/2010/CDL-AD(2010)032-e.pdf</a>
<b>Georgia</b>	Final Opinion on the draft Law on changes and amendments to the Constitution of Georgia (CDL-AD(2010)028) <a href="http://www.venice.coe.int/docs/2010/CDL-AD(2010)028-e.pdf">http://www.venice.coe.int/docs/2010/CDL-AD(2010)028-e.pdf</a>
<b>Ukraine</b>	Joint Opinion on the Law on the Judicial System and the Status of Judges - <a href="http://www.venice.coe.int/docs/2010/CDL-AD(2010)026-e.pdf">http://www.venice.coe.int/docs/2010/CDL-AD(2010)026-e.pdf</a> Joint Opinion on the Law on the prevention on the abuse of the right to appeal - <a href="http://www.venice.coe.int/docs/2010/CDL-AD(2010)029-e.pdf">http://www.venice.coe.int/docs/2010/CDL-AD(2010)029-e.pdf</a>

December 2010 – 85<sup>th</sup> Plenary Session of the Venice Commission

**Opinions:**

<b>Bulgaria</b>	Opinion on the draft Law amending the Law on judicial power and the draft Law amending the Criminal Procedure Code - <a href="http://www.venice.coe.int/docs/2010/CDL-AD(2010)041-e.asp">http://www.venice.coe.int/docs/2010/CDL-AD(2010)041-e.asp</a>
<b>“the Former Yugoslav</b>	<i>Amicus curiae</i> brief for the Constitutional Court of “the Former Yugoslav Republic of Macedonia” on amendments to several laws relating to the system of salaries and remunerations of elected and appointed officials.

<b>Republic of Macedonia</b>	<a href="http://www.venice.coe.int/docs/2010/CDL-AD(2010)038-e.pdf">http://www.venice.coe.int/docs/2010/CDL-AD(2010)038-e.pdf</a>
<b>Turkey</b>	Interim Opinion on the draft Law on the High Council for Judges and Prosecutors - <a href="http://www.venice.coe.int/docs/2010/CDL-AD(2010)042-e.asp">http://www.venice.coe.int/docs/2010/CDL-AD(2010)042-e.asp</a>
<b>Ukraine</b>	Opinion on the Constitutional situation in Ukraine - <a href="http://www.venice.coe.int/docs/2010/CDL-AD(2010)044-e.pdf">http://www.venice.coe.int/docs/2010/CDL-AD(2010)044-e.pdf</a>

**Reports:**

Report on European Standards as regards the Independence of the Judicial System: Part II – The Prosecution Service - [http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)040-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)040-e.pdf)

*March 2011 – 86<sup>th</sup> Plenary Session of the Venice Commission*

**Opinions:**

<b>Bolivia</b>	Opinion on the draft Organic Law on the Public Prosecutor's office <a href="http://www.venice.coe.int/docs/2011/CDL-AD(2011)007-e.pdf">http://www.venice.coe.int/docs/2011/CDL-AD(2011)007-e.pdf</a>
<b>Hungary</b>	Opinion on three legal questions arising in the process of drafting the new Constitution - <a href="http://www.venice.coe.int/docs/2011/CDL-AD(2011)001-e.pdf">http://www.venice.coe.int/docs/2011/CDL-AD(2011)001-e.pdf</a>
<b>Turkey</b>	Opinion on the draft Law on Judges and Prosecutors - <a href="http://www.venice.coe.int/docs/2011/CDL-AD(2011)004-e.pdf">http://www.venice.coe.int/docs/2011/CDL-AD(2011)004-e.pdf</a>

*June 2011 – 87<sup>th</sup> Plenary Session of the Venice Commission*

<b>Hungary</b>	The Venice Commission adopted the Opinion on the Fundamental Law of Hungary of 25 April 2011
<b>Kazakhstan</b>	The Venice Commission adopted the Joint Opinion by the Venice Commission and the OSCE/ODIHR on the constitutional Law on the Judicial System and Status of Judges
<b>Kyrgyzstan</b>	The Venice Commission adopted: - the Opinion on the draft Law on the Constitutional Chamber of the Supreme Court - the Opinion on the draft Law on the introduction of changes to the constitutional law on the status of judges - the Opinion on the draft law on the Council on Selection of judges
<b>Moldova</b>	The Venice Commission adopted the <i>amicus curiae</i> brief on Article 78 of the Constitution
<b>Montenegro</b>	The Venice Commission adopted the Opinion on the draft amendments to the Constitution of Montenegro
<b>Serbia</b>	The Venice Commission endorsed without debate the Interim Opinion on the draft decisions of the High Judicial Council and of the State Prosecutorial Council on the implementation of the laws on the amendments to the laws on judges and on the public prosecution

*October 2011 – 88<sup>th</sup> Plenary Session of the Venice Commission*

<b>Turkey</b>	The Venice Commission will be invited to examine, with a view to adoption, the draft Law on the establishment and rules of procedure of the Constitutional Court.
<b>Peru</b>	The Venice Commission will be invited to examine, with a view to adoption, the draft <i>amicus curiae</i> brief for the Constitutional Court of Peru on a statute of limitations.

**6. Co-operation activities****6.a. Co-operation with the Conference of European Constitutional Courts (CECC)**

23-25/05/2011	<i>Bucharest, Romania</i> - the Venice Commission participated in the XV <sup>th</sup> Congress of the CECC
---------------	---

Ms Sabareanu informed the participants that the Constitutional Court of Romania had hosted the XV<sup>th</sup> Congress of the CECC (see also the co-operation page: <http://www.venice.coe.int/CECC/>). As set out in Resolution no. V of the CECC, the proceedings of this Congress will be published in book form and all the members of the CECC will each receive five books. It will also be placed on the website of the Constitutional Court of Romania and on the permanent website of the CECC hosted by Belgium. She said that the member courts will have enough time to make changes before publication: the deadline is 30 September 2011. The book of proceedings will be published by the end of the year and a copy will be donated to the main libraries in order to spread information on such events.

She explained that 40 members of the CECC had participated in this Congress and that all of them sent their national reports. At the end of the Congress, the presidency of the CECC was taken over by the Constitutional Court of Austria. The next meeting of the Circle of Presidents will therefore be held in Vienna in September 2012.

The Secretariat congratulated the Constitutional Court of Romania for the successful organisation of this Congress and thanked it for inviting non-European regional groups to the event, which allowed a meeting of the Bureau of the World Conference on Constitutional Justice to take place on this occasion. The participants were informed that, since 1999, the Venice Commission regularly prepared a working document for each Congress which contained extracts from CODICES on the topic of the Congress and the general report of the Conference. This working document is then distributed to the members of the CECC. The final publication, which will include the Congress' three general reports and the working document in the form of a Special Bulletin, will be published at the end of 2011 or the beginning of 2012, in English and in French (see item 9.b, below).

#### **6.b Co-operation with the Association of Constitutional Courts using the French Language (ACCPUF)**

Ms Pétilion, Secretary General of ACCPUF as well as the Head of external relations for the French Constitutional Council, informed participants about the development of the co-operation between ACCPUF and the Venice Commission (co-operation page: <http://www.venice.coe.int/ACCPUF/>).

She said that this co-operation was very successful and that the Venice Commission was systematically invited to take part in ACCPUF meetings. She explained to the participants that during the last meeting of the ACCPUF Bureau, members were in favour of the World Conference on Constitutional Justice. She informed the participants that the 6<sup>th</sup> Conference of Heads of Institutions of ACCPUF, which was to be held in Bucharest in November 2011, was cancelled, but that the annual Bureau meeting was nevertheless going ahead in Bucharest during the same month.

Ms Pétilion told the participants that a conference will be organised in Marrakesh in 2012, hosted by the President of the Moroccan Constitutional Council, who will be ACCPUF's next Presidency. She also said that during the course of 2010, the French Constitutional Council had helped the Court of Mali in donating 200 kilograms of books to its library and that the site of the ACCPUF was currently being redone entirely.

18-19/11/2010	Paris, France - 7 <sup>th</sup> seminar of national correspondents of ACCPUF on "The Functioning of Constitutional Courts in Election Periods"
---------------	--

### 6.c. Co-operation with the Southern African Chief Justices Forum (SACJF)

13-14/08/2010	<i>Johannesburg, South Africa</i> - The Venice Commission co-organised the SACJF's Conference on "Sustaining the independence of the Judiciary" followed by the SACJF's annual general meeting. <a href="http://www.venice.coe.int/docs/2010/CDL-JU(2010)014syn-e.pdf">http://www.venice.coe.int/docs/2010/CDL-JU(2010)014syn-e.pdf</a>
---------------	---

Participants were informed about the programme of co-operation between the Southern African Chief Justices Forum (SACJF) and the Venice Commission (co-operation page: <http://www.venice.coe.int/SACJF/>). The last meeting with SACJF took place at the Second Congress of the World Conference on Constitutional Justice (Rio de Janeiro, 16-18 January 2011), but unfortunately the Venice Commission currently has no funds to support the SACJF.

The SACJF will therefore meet in Kampala, Uganda in August 2011 without the Venice Commission. A number of members of the SACJF contribute to the CODICES database, hence the co-operation continues.

### 6.d. Co-operation with the Conference of the Constitutional Control Organs of the Countries of New Democracy (CCCOCND)

Participants were informed about the co-operation with the Conference of the Constitutional Control Organs of the Countries of New<sup>22</sup> Democracy and the Venice Commission (site <http://www.concourt.am/intconf/index-e.htm>).

Mr Harutyunyan, the President of the Constitutional Court of Armenia and member of the Venice Commission for Armenia, hosts the meeting of CCCOCND in Yerevan each autumn. Their next meeting will take place in October 2011 on the "Legal Outcome of Constitutional Court decisions on strengthening the state's constitutional order" on the occasion of the 15<sup>th</sup> anniversary of the Constitutional Court of Armenia.

### 6.e. Co-operation with the Association of Asian Constitutional Courts and Equivalent Institutions

12-15/07/2010	<i>Jakarta, Indonesia</i> - the Venice Commission participated in the 7 <sup>th</sup> Conference of Asian Constitutional Court Judges, organised by the Constitutional Court of Indonesia and the <i>Konrad Adenauer Foundation</i>
---------------	---

Participants were informed about the co-operation with the newly established Association of Asian Constitutional Courts and Equivalent Institutions and the Venice Commission (co-operation page: <http://www.venice.coe.int/AACCEI/>).

This Association was established in Jakarta in July 2010. For several years before its establishment, a group of Asian constitutional courts and other courts with equivalent jurisdiction had met as a "Conference of Constitutional Court Judges of Asia", sponsored by the Konrad Adenauer Foundation.

The Constitutional Court of Korea currently holds the presidency of this Association. At the Congresses of the World Conference on Constitutional Justice (Cape Town 2009 and Rio de Janeiro 2011), the Venice Commission provided the opportunity for these courts to meet at the sidelines of the event.

<sup>22</sup> There was a change in the name of this Conference, which was formerly known as the "Conference of the Constitutional Control Organs of the Countries of Young Democracy".

Their first regular conference will be held under the chairmanship of the Constitutional Court of Korea in Seoul, probably in May 2012. The Venice Commission is likely to enter into a co-operation agreement with the Association.

**6.f. Co-operation with the Ibero-American Conference of Constitutional Justice (CIJC)**

07-09/07/2010	<i>Managua, Nicaragua</i> - the Venice Commission participated in the VIII <sup>th</sup> Ibero-American Conference on Constitutional Justice on "Constitutional Justice and Social and Economic Rights"
---------------	---

Participants were informed about the co-operation with the Ibero-American Conference of Constitutional Justice (co-operation site: <http://www.venice.coe.int/CIJC/>) and that the number of cases for the CODICES from Latin American courts is steadily increasing. In July 2010, the Venice Commission was invited to the VIII<sup>th</sup> Ibero-American Conference on Constitutional Justice on "Constitutional Justice and Social and Economic Rights" in Nicaragua. The Constitutional Chamber of the Supreme Court of Nicaragua was undergoing a crisis at the time.

The next conference will be hosted by the Constitutional Court of Spain in Cadiz in 2012. The CICJ does not have a presidency, but two secretariats: a permanent secretariat held by the Constitutional Court of Spain and a rotating one also currently held by the Constitutional Court of Spain.

**6.g. Co-operation with the Union of Arab Constitutional Courts and Councils (UACCC)**

Participants were informed about the co-operation with the Union of Arab Constitutional Courts and Councils (co-operation page: <http://www.venice.coe.int/UACCC/>). The co-operation between the UACCC and the Venice Commission is funded by Norway.

The Presidency and Secretariat of the UACCC is held by the Supreme Constitutional Court of Egypt. The activities in the field of this co-operation have been interrupted due to revolutions in the region. However, these did not directly affect the Supreme Constitutional Court, which still has an important role in the country.

In other Arab countries such as Morocco and Tunisia, however, notable changes have taken place. In Tunisia, the Constitutional Council had been dissolved, but a new Constitution will be adopted, which may provide for constitutional justice. In October 2012, elections will be held and the Venice Commission is working with the election authorities, notably in the training of staff.

The constitutional reform process in Morocco is taking its course, notably by the setting up of a constitutional commission to draft constitutional amendments. A referendum will take place in July on the proposals for the draft. The Venice Commission has not been involved in the process. A conference in Marrakesh with the Venice Commission has been rescheduled and will also deal with the constitutional amendments.

**6.h. Co-operation with the Conference of Constitutional Courts of Countries using the Portuguese Language**

Participants were informed that the Conference of Constitutional Courts of Countries using the Portuguese Language held their first official meeting in Lisbon in 2010. The Conference is composed of eight courts from the following countries: Angola, Brazil, Cape Verde, Guinea Bissau, Mozambique, Portugal, São Tomé and Príncipe and Timor Leste.

Their first seminar took place in Luanda, Angola in June 2011 on the right to access to constitutional justice in Angola, which Schnutz Dürr attended. During this seminar, Mr Dürr presented the Venice Commission's Study on Individual Access to Constitutional Justice<sup>23</sup>.

The Conference of Constitutional Courts of Countries using the Portuguese Language has expressed an interest in co-operating with the Venice Commission and would like to enter a co-operation agreement (CDL-JU(2011)005) on the same lines as the one the Venice Commission has entered into with the Ibero-American Conference of Constitutional Justice.

#### 6.i. Co-operation with the Conference of Constitutional Jurisdictions of Africa

The Conference of Constitutional Jurisdictions of Africa (CCJA) was set up in Algiers, Algeria on 7-8 May 2011. The President of the Constitutional Council of Algeria took the initiative of establishing a pan-African group within the African Union. A meeting on this issue was organised on the sidelines of the Second Congress of the WCCJ with the help of the Venice Commission. Some 30 courts participated in this meeting and entrusted the Constitutional Council of Algeria to draft a statute for the CCJA.

A Conference was organised in Algiers in May devoted to drafting the statute for the CCJA. This statute was then adopted and signed by 25 courts. The Conference elected the President of the Constitutional Court of Benin, Mr Dossou as president of the CCJA. Mr Dossou is therefore both president of ACCPUF and of the CCJA, until 2012 when the presidency of ACCPUF goes to Morocco.

This Conference has also expressed an interest in co-operating with the Venice Commission.

### 7. World Conference on Constitutional Justice

05/06/2010	<i>Venice, Italy - 3rd meeting of the Bureau of the World Conference on Constitutional Justice.</i>
16-18/01/2011	<i>Rio de Janeiro, Brazil - 2<sup>nd</sup> Congress of the World Conference on Constitutional Justice on "Separation of Powers and Independence of Constitutional Courts and Equivalent Bodies".</i> <a href="http://www.venice.coe.int/WCCJ/WCCJ_E.asp">http://www.venice.coe.int/WCCJ/WCCJ_E.asp</a> <a href="http://www.venice.coe.int/docs/2011/CDL-JU(2011)003syn-e.pdf">http://www.venice.coe.int/docs/2011/CDL-JU(2011)003syn-e.pdf</a>
23/05/2011	<i>Bucharest, Romania – 4th meeting of the Bureau of the World Conference on Constitutional Justice.</i>

After the 1<sup>st</sup> Congress of the World Conference on Constitutional Justice took place in Cape Town in 2009, the 2<sup>nd</sup> Congress of the World Conference on Constitutional Justice was hosted by the Federal Supreme Court of Brazil together with the Venice Commission and was held in Rio de Janeiro, Brazil on 16-18 January 2011 on the topic the "Separation of Powers and Independence of Constitutional Court and Equivalent Bodies". This event brought together 88 constitutional courts, constitutional councils and supreme courts as well as 10 regional and linguistic groups of courts from Africa, the Americas, Asia and Europe.

One of the main goals of the Congress in Rio de Janeiro was to prepare the adoption of the Statute of the World Conference on Constitutional Justice. The text had been under the responsibility of the Bureau, composed of representatives of the regional and linguistic groups, which co-operate with the Venice Commission (see item 6, above), created in 2009. Two major questions remained open: one on the financial contributions, which a clear majority of all participating courts agreed to make compulsory; and, two, the possibility of suspending a

<sup>23</sup> [http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)039rev-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)039rev-e.pdf).

member who was in clear violation of the principles of the World Conference was also backed by a majority.

Courts in general responded very favourably to the Statute after the Congress. The Statute of the World Conference on Constitutional Justice was adopted by the Bureau on the sidelines of the XV<sup>th</sup> Congress of the CECC on 23 May 2011. Constitutional Courts, Constitutional Councils and Supreme Courts exercising constitutional justice may now become members of the World Conference by giving written notification to the Venice Commission, which acts as the Secretariat of the World Conference according to the Statute. The Statute will enter into force with the accession of 30 Courts from at least three regional or linguistic Groups. There are three groups of contributors according to the PNB of each country: members who belong to group 1 will make a contribution of 200 Euros; members who belong to group 2 will make a contribution of 1000 Euros and members who belong to group 3 will make a contribution of 2000 Euros. According to the decision made during the Tallinn meeting, the Joint Council on Constitutional Justice would not act as a "group" within the World Conference Bureau, but its participating Courts, which were not members of another group (e.g. the State Council of the Netherlands and the Supreme Court of Iceland etc.) are entitled to become members of the World Conference. The Supreme Court of Mexico was the first court to join the World Conference.

Ms Alberini congratulated the Secretariat for this achievement and for including German as an official language and supports the established contributions.

It was agreed that official letters with the invitation to join the Statute would be sent to all Courts interested in joining the World Conference.

The 3<sup>rd</sup> Congress of the World Conference on Constitutional Justice will be hosted by the Constitutional Court of the Republic of Korea in Seoul, in September or October 2014.

## **8. Seminars with Constitutional Courts (CoCoSem)**

Participants were informed about the seminars held since the last Joint Council meeting as well as the programme for future CoCoSem seminars. The Secretariat briefly mentioned the Conference that took place in Georgia on judicial activism and dissenting opinions, which attracted much interest and copies of reports were requested after the meeting. The meeting in St Petersburg, Russia on the "European Convention on Human Rights and Fundamental Freedoms in the XXI<sup>st</sup> Century: Practice, Problems and Prospects of Implementation" brought about interesting, but also tense discussions around the European Court of Human Rights and the extent to which it can intervene in the national sphere.

The Secretariat informed the participants that in 2011, due to the organisation of the 2<sup>nd</sup> Congress of the World Conference on Constitutional Justice together with the Supreme Federal Court of Brazil, there was a relatively smaller programme of CoCoSems for the remainder of 2011. In 2012, however, CoCoSem activities should resume their regular pace.

The last Secretary Generals meeting took place in 2009 in Ankara, kindly hosted by the Constitutional Court of Turkey, and the next meeting should take place in 2012. The Secretariat invited the participants to come up with topics for the next meeting of the Secretary Generals and would be grateful if a court would be interested in hosting this event. As regards the topics, the Secretary General of the Constitutional Court of Luxembourg suggested "Procedural time limits before European constitutional courts". This could be taken up as the topic for the next meeting or could be combined with another one.

In this respect, the Secretariat also invited participants to update the contact details concerning their Secretaries General.

### **2009 (since last meeting of the Joint Council)**

<b>2010</b>	
13-14/07	<i>Batumi, Georgia</i> - Conference in co-operation with the Constitutional Court of Georgia on "Judicial Activism" <a href="http://www.venice.coe.int/docs/2010/CDL-JU(2010)020-e.pdf">http://www.venice.coe.int/docs/2010/CDL-JU(2010)020-e.pdf</a>
27/08	Astana, Kazakhstan - the Venice Commission participated in the Conference on the "Constitution – the foundation of democratic development of the State" on the occasion of the 15 <sup>th</sup> anniversary of the Constitution of Kazakhstan.
17-18/09	<i>Batumi, Georgia</i> - Black Sea Region Conference in co-operation with the Constitutional Court of Georgia and GTZ on the "Importance of Dissenting and Concurring Opinions in the Development of Judicial Review". <a href="http://www.venice.coe.int/docs/2010/CDL-JU(2010)008-e.pdf">http://www.venice.coe.int/docs/2010/CDL-JU(2010)008-e.pdf</a>
21-23/10	<i>Yerevan, Armenia</i> - XV <sup>th</sup> International Conference in co-operation with the Constitutional Court of Armenia on "Safeguarding and protection of human constitutional rights in the practice of constitutional justice, taking into account the legal positions of the European Court of Human Rights" on the occasion of the 15 <sup>th</sup> anniversary of the Constitution of Armenia.
04-05/11	<i>Dushanbe, Tajikistan</i> - Conference in co-operation with the Constitutional Court of Tajikistan, the German Society for Technical Co-operation and the Open Society Institute Assistance Foundation in Tajikistan on the occasion of the 15 <sup>th</sup> anniversary of the Constitutional Court on the "Bodies of constitutional control in the context of the integration of legal systems: international experience and practice in Tajikistan". <a href="http://www.venice.coe.int/docs/2010/CDL-JU(2010)021-e.pdf">http://www.venice.coe.int/docs/2010/CDL-JU(2010)021-e.pdf</a>
12/11	<i>Baku, Azerbaijan</i> - Conference on the "Constitutional Mechanism of Protection of Human Rights and Freedoms" organised in co-operation with the Constitutional Court of Azerbaijan on the occasion of the 15 <sup>th</sup> anniversary of the Constitution of Azerbaijan. <a href="http://www.venice.coe.int/docs/2011/CDL-JU(2011)002syn-e.pdf">http://www.venice.coe.int/docs/2011/CDL-JU(2011)002syn-e.pdf</a>
18-20/11	<i>St. Petersburg, Russia</i> - Conference in co-operation with the Institute of Law and Public Policy and under the aegis of the Constitutional Court of the Russian Federation on "European Convention on Human Rights and Fundamental Freedoms in the XXI <sup>st</sup> Century: Practice, Problems and Prospects of Implementation". <a href="http://www.venice.coe.int/docs/2010/CDL-JU(2010)027syn-e.pdf">http://www.venice.coe.int/docs/2010/CDL-JU(2010)027syn-e.pdf</a>
<b>2011</b>	
18-19/02	<i>Almaty, Kazakhstan</i> - Conference with Constitutional Council of Kazakhstan on "Safeguarding constitutional human rights in pre-trial criminal proceedings." This activity is organised within the framework of the EU-Central Asia Rule of Law Initiative. <a href="http://www.venice.coe.int/docs/2011/CDL-JU(2011)004syn-e.pdf">http://www.venice.coe.int/docs/2011/CDL-JU(2011)004syn-e.pdf</a>
23-24/06	<i>Luanda, Angola</i> - the Venice Commission will participate in the Seminar of the Conference of Constitutional Courts of Countries using the Portuguese Language on "the Right to Access to Constitutional Justice".
24-26/06	<i>Batumi, Georgia</i> - Conference on the "Past and the Future of Constitutional Review in New Democracies" on the occasion of the 15 <sup>th</sup> anniversary of the Constitutional Court of Georgia.

### **Future programme**

<b>2011 (continued)</b>	
29- 30/07	<i>Sofia, Bulgaria</i> - 20 <sup>th</sup> anniversary of the Constitutional Court of Bulgaria. Conference on the "Classical and modern trends in Constitutional review".
15-17/09	<i>Kiev, Ukraine</i> - Conference in co-operation with the Constitutional Court of Ukraine, on "The protection of human rights by bodies of constitutional justice: possibilities and problems of individual access" in the framework of the Ukrainian Chairmanship in the

	Committee of Ministers of the Council of Europe.
29-30/09	<i>Riga, Latvia</i> - Conference on the occasion of the 15 <sup>th</sup> anniversary of the Constitutional Court of Latvia on the "Role of the Constitutional Court in protecting constitutional values".
06-08/10	<i>Yerevan, Armenia</i> - Conference on "Legal Outcome of Constitutional Court decisions on strengthening the state's constitutional order" at the occasion of the 15 <sup>th</sup> anniversary of the Constitutional Court of Armenia.
<b>2012</b>	Conference of the Secretaries General (venue and exact date to be determined).

## **9. Publication of the *Bulletin on Constitutional Case-Law***

### **9.a Regular issues of the *Bulletin***

Participants were informed that Bulletin no. 2010/2 will be published at the end of June or beginning of July 2011.

### **9.b Special *Bulletins***

The Secretariat informed the participants on the progress made with the Special Bulletin on the "Basic Texts 8" (BTX 8) and the working document on "State Powers", prepared for the XV<sup>th</sup> Congress of the CECC that took place in Bucharest, Romania on 23-25 May 2011.

The BTX 8 should have been published in 2009, but due to budgetary reasons will only be published by the end of this year. It will include extracts of the relevant legislation (extracts of constitutions, laws on constitutional courts or equivalent bodies) from the following countries: Algeria, Argentina, Brazil, Chile, Mexico, Montenegro, Morocco, Peru, Serbia, Sweden, the United Kingdom and Uruguay.

The working document on "State Powers" was prepared on the basis of a decision made during the Joint Council meeting in Tallinn in 2009, to prepare a working document followed by a Special Bulletin on the topic chosen by the Circle of Presidents of the CECC for their XV<sup>th</sup> Congress. The topic chosen was: "The relations of the Constitutional Court with other state authorities. Sub-topic 1: relations between the constitutional court and parliament. Sub-topic 2: conflicts of competence; Sub-topic 3: the execution of judgments." The working document on State Powers was distributed to all participating courts prior to the XV<sup>th</sup> Congress.

The deadline for contributions and amendments was 30 June 2011 and the Secretariat has received two requests for amendments: one from Armenia and one from "the Former Yugoslav Republic of Macedonia". This working document will be published as a Special Bulletin together with the three General Reports of the XV<sup>th</sup> Congress.

## **10. CODICES database**

The Secretariat informed the participants about the current development of a system to produce the Bulletin on Constitutional Case-Law directly from the CODICES database.

The Secretariat explained that the CD-ROM will be replaced by a DVD, as the database has increased in size and a CD-ROM does not have the capacity to record all the information. In addition, the DVD version will also solve the technical problem concerning the query links which must be either in English or in French in more recent versions of CODICES. The DVD will need a complete English and a complete French copy of CODICES.

The Internet version of CODICES is produced out of a conversion of the CD-ROM (which is not optimal). It is a complicated process and requires an automated reworking of the converted version. It would be easier to produce the Internet version directly, without using the conversion process and this is a project for the future that will take time.

#### **10.a Updating of constitutions, laws and descriptions in CODICES**

Participants were informed about the progress made in updating constitutions, laws on and descriptions of courts (CDL-JU(2011)007).

**The Secretariat invited those liaison officers who had not yet submitted a description of their courts to the Secretariat for the CODICES database to do so and send the Secretariat a Word file with the contents of brochures or prospectuses/leaflets on their courts.**

#### **11. Documentation Centre on Constitutional Justice / Library**

The Secretariat thanked the participating courts for providing their publications to the Documentation Centre. The Secretariat was running behind in updating the Documentation Centre and the Secretariat apologised for not sending letters of acknowledgment. The Secretariat therefore always takes the opportunity to thank liaison officers for their contributions during their yearly Joint Council meetings.

The list of documents remains available at:

[http://www.venice.coe.int/site/dynamics/N\\_CoCentre\\_ef.asp?L=E](http://www.venice.coe.int/site/dynamics/N_CoCentre_ef.asp?L=E)

#### **12. Version 21 of the Systematic Thesaurus**

The Secretariat informed the participants about the outcome of the meeting of the Working Group on the Systematic Thesaurus on the suggestions for amendments and additions to version 21 of the Systematic Thesaurus (CDL-JU(2011)008).

The Secretariat presented the proposed new entries (such as “contextual interpretation”, “parliamentary groups” or “access to media”) and explained the complexities of having concepts translated into English, such as the “natural” judge (or, according to the terminology of the European Convention on Human Rights, the “tribunal established by law”). Harmonising the change from “European Community” to “European Union” throughout the Thesaurus was also proposed.

**Participants approved the proposals made by the Working Group on the Systematic Thesaurus for version 21 of the Systematic Thesaurus (CDL-JU(2011)009).**

#### **13. Other business**

No other business was discussed.

#### **14. Date and place of the next meeting**

The participants were informed by Ms Sonia Matochová that the next meeting of the Joint Council will be hosted by the Constitutional Court of the Czech Republic in Brno in May or June 2012.

The Secretariat thanked Ms Matochová for this kind invitation.

## **LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS**

### **ALBANIA / ALBANIE**

Mr Ardit HYSA, Legal Adviser, Constitutional Court, TIRANA

### **ALGERIA / ALGÉRIE**

Mr Aomar TAGUERCIFI, Membre du Conseil Constitutionnel, ALGER  
Mr Hocine DAOUD, Sous-Directeur du Conseil Constitutionnel, ALGER

### **ARMENIA / ARMENIE**

Mr Gregor VAHANIAN, Adviser, Constitutional Court, YEREVAN

### **AZERBAIJAN / AZERBAÏDJAN**

Mr Fuad TAGHIYEV, Chief Advisor, International Relations Department, Constitutional Court, BAKU

### **BELGIUM / BELGIQUE**

Mr Rik RYCKEBOER, Référendaris, Cour constitutionnelle, BRUXELLES

### **BOSNIA AND HERZEGOVINA / BOSNIE-HERZÉGOVINE**

Ms Mira PEKMEZ, Deputy Secretary General, Constitutional Court, SARAJEVO

### **CROATIA / CROATIE**

Ms Slavica BANIC, Judge, Constitutional Court, ZAGREB (Substitute Member of the Venice Commission)  
Ms Mirjana STRESEC, Adviser, Constitutional Court, ZAGREB

### **CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE**

Ms Sona MATOCHOVÁ, Foreign Department, Constitutional Court, BRNO

### **ESTONIA / ESTONIE**

Ms Ulrika EESMAA, Law Clerk of the Constitutional Review Chamber, Supreme Court, TARTU  
Ms Kristi AULE PARMAS, Law Clerk of the Constitutional Review Chamber, Supreme Court, TARTU

### **FRANCE / FRANCE**

Mme Caroline PETILLON, Chef de service des relations extérieures, Conseil constitutionnel, PARIS

### **GEORGIA / GÉORGIE**

Ms Irina KHAKHUTAISHVILI, Chief Specialist, International Relations, Constitutional Court, BATUMI

### **HUNGARY / HONGRIE**

Ms Krisztina KOVACS, Counsellor, Constitutional Court, BUDAPEST

### **IRELAND / IRLANDE**

Mr Tom DALY, Executive Legal Officer to the Chief Justice, Supreme Court, DUBLIN

**KAZAKHSTAN / KAZAKHSTAN**

Mr Bakyt NURMUKHANOV, Adviser to the Chairman, Constitutional Court, ASTANA

**LATVIA / LETTONIE**

Ms Laila JURCENA, Adviser to the President, Constitutional Court, RIGA

**LIECHTENSTEIN / LIECHTENSTEIN**

Mr Ivo ELKUCH, Legal Adviser, State Court, VADUZ

**LITHUANIA / LITUANIE**

Ms Jolita URBONAITE, Legal Adviser, Constitutional Court, VILNIUS

**MEXICO / MEXIQUE**

Mr Manuel GONZALEZ OROPEZA, Judge, Electoral Court of the Federal Judiciary, MEXICO  
(Substitute Member of the Venice Commission)

Mr Marco ZAVALA ARRENDONDO, Registrar of the Electoral Court of the Federal Judiciary,  
MEXICO

**MOLDOVA / MOLDOVA**

Mme Valéria STERBET, Juge, Cour constitutionnelle, CHISINAU

**MONTENEGRO / MONTÉNÉGRÓ**

Ms Nerma DOBARDZIC, Adviser, Constitutional Court, PODGORICA

Ms Jadranka NOVAKOVIC, Adviser, Constitutional Court PODGORICA

**NETHERLANDS / PAYS-BAS**

Ms Mariam CHEBTI, Legal Assistant, Supreme Court, THE HAGUE

Ms Marjolein VAN ROOSMALEN, Legal Adviser, Council of State, THE HAGUE

**NORWAY / NORVÈGE**

Ms Kjersti Buun NYGAARD, Deputy Secretary General, Supreme Court, OSLO

**PERU / PÉROU**

Ms Kharime BENVENUTO ROJAS, Adviser to the President, International Relations,  
Constitutional Court, LIMA

**POLAND / POLOGNE**

Mr Marcin NOWAK, Department of Jurisprudence and Studies, Constitutional Tribunal,  
WARSAW

**PORTUGAL / PORTUGAL**

Mme Manuela BAPTISTA LOPES, Senior Legal Adviser, Tribunal constitutionnel, LISBOA

**ROMANIA / ROUMANIE**

Mr Tudorel TOADER, Judge, Constitutional Court, BUCAREST

Ms Ruxandra SABAREANU, Secretary General, Constitutional Court, BUCAREST

**SERBIA / SERBIE**

Ms Verica JAKOVLJEVIC, Senior Legal Adviser, Constitutional Court, BELGRADE

**SLOVAKIA / SLOVAQUIE**

Ms Gabriela FETKOVA, Legal Adviser, Constitutional Court, KOŠICE

**SLOVENIA / SLOVENIE**

Ms Urška UMEK, Acting Head, Analysis and International Co-operation Department, Constitutional Court, LJUBLJANA

**TURKEY / TURQUIE**

Mr Ali COBAN, Rapporteur Judge, Constitutional Court, ANKARA

**SWITZERLAND / SUISSE**

M. Paul TSCHÜMPERLIN, Secrétaire Général, Tribunal fédéral, LAUSANNE

Mme Juliane ALBERINI-BOILLAT, Chef du Service de documentation, Tribunal fédéral, LAUSANNE, **Co-président du Conseil mixte sur la justice constitutionnelle**

**«THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA» / «L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE»**

Ms Tatjana JANJIC-TODOROVA, State Adviser for International Co-operation, Constitutional Court, SKOPJE

Ms Gordana SILJANOVSKA-DAVKOVA, Professor, Law Faculty "Iustinianus Primus", SKOPJE (Member of the Venice Commission)

**UNITED KINGDOM / ROYAUME UNI**

Mr Richard CLAYTON, Barrister at Law, LONDON (Member of the Venice Commission)

**COURT OF JUSTICE OF THE EUROPEAN UNION / COUR DE JUSTICE DE L'UNION EUROPEENNE**

M. Philippe SINGER, Chef de Service, Cour de justice de l'Union européenne, LUXEMBOURG

**SECRETARIAT**

**VENICE COMMISSION / COMMISSION DE VENISE**

Mr Schnutz Rudolf DÜRR

Ms Tanja GERWIEN

Ms Amaya UBEDA DE TORRES

Ms Marian JORDAN

**INTERPRETERS / INTERPRÈTES**

Ms Maria FITZGIBBON

Ms Corinne MC GEORGE