



Strasbourg, * 2000

<cdl\doc\2000\cdl-ju*>

Restricted
CDL-JU (2000) 9
Or. Eng.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**Organisation of seminars in co-operation
with Constitutional Courts (CoCoSem)**

I Introduction

Since 1993 the Venice Commission co-operates with constitutional courts and equivalent bodies (constitutional councils, supreme courts, etc.) with a view to fostering a mutual exchange of information between the courts and to inform the interested public about their decisions. To this end, the Commission has established a network of liaison officers within the courts. Three times a year they contribute to the *Bulletin on Constitutional Case-Law* and the database CODICES of the Commission. These publications allow the reader to have a rapid up-to-date overview of major constitutional decisions of the participating courts. Thus, the *Bulletin* contributes to the knowledge of the common constitutional heritage in Europe and abroad.

Upon the demand of several constitutional courts, the Venice Commission has organised a series of seminars with recently established constitutional courts entitled "CoCoSem". Since 1996, such seminars have taken place in Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kyrgyzstan, Latvia, Moldova, Russia and Ukraine. A list of these seminars figures in Appendix I.

II Choice of topics

The topics of such seminars are chosen by the courts and often reflect issues with which the courts are currently confronted, for example the independence of the Constitutional Court, the role of the Constitutional Court in the protection of human rights or electoral disputes before the Constitutional Court. More practical issues like the budget of the Court or case management have also been embarked upon. Often, other State powers participate in these seminars upon the invitation of the courts. The Venice Commission hoped to contribute to a discussion within the country concerned which is conducive to further the fundamental values of the Council of Europe.

Appendix II lists topics which can be of interest for the organisation of CoCoSeminars. The topics mentioned below are those of CoCoSems already held or which have been mentioned in discussions with or within the Secretariat. The list is open-ended. The courts are free to propose any other topic. The choice of topic lies with the Court. The fact that a topic has already been dealt with in another seminar does not preclude it from being dealt with again. A combination of several topics is possible during a two-day seminar.

For the success of the seminar it is of particular importance, that the Court informs the Secretariat how the rapporteurs should tackle the topics they are invited to speak about. Therefore, the Court is invited to send a short note on what the actual problems or experiences are in relation to this topic which the Court is faced with. Only such information will allow the rapporteurs to address the questions, which really are of interest for the Court and to avoid misunderstandings.

The programme of the seminar is set up jointly by the Secretariat of the Commission and the Court concerned. Often, the Secretariat presents a first draft programme for which proposals by the Court are welcomed. Usually three or four international rapporteurs, financed by the Venice Commission, and two or three national rapporteurs present their reports.

In the elaboration of the programme consideration should be given to a short presentation of the CODICES database to the members and the staff of the Court by a member of the Secretariat of the Commission (only of the necessary technical means and personal skills

are available). This may help to facilitate the use of CODICES and the *Bulletin on Constitutional Case-Law* within the Court.

III Financing

The Venice Commission is, in principle, able to cover the costs of transport and subsistence for the international rapporteurs. Within budgetary limits, the Commission can contribute a lump sum for covering organisational expenses (interpretation, interpretation equipment).

In order to obtain this lump sum, the Court concerned is kindly asked to approve an administrative arrangement with the Council of Europe (see form in Appendix III) to which a draft budget of the seminar - prepared by the Court - should be attached, and this has to be approved by the financial bodies within the Council of Europe. The Secretariat is not in a position to indicate the precise amount of the financial contribution before the Financial Controller of the Council of Europe has approved the administrative arrangement including the budget. In order to obtain this approval, the Court is kindly asked to provide an estimate of the costs for which it requests coverage by the Venice Commission. Once this approval has been given, the financial contribution by the Venice Commission cannot be increased any further.

An amount, usually 50 per cent, of the contribution of the Commission can be transferred to the Court in advance of the seminar, the rest is sent by bank transfer following the seminar upon the presentation of invoices corresponding to the budget agreed upon beforehand. It is not necessary to translate the invoices but a list of the invoices showing the sums and their purpose is very useful. It should be borne in mind that the transfer of the money can take several weeks due to administrative procedures within the Council of Europe and the actual transfer from bank to bank.

The international rapporteurs financed by the Venice Commission receive a *per diem* (always by bank transfer following the meeting) which allows them to cover their subsistence expenses (food and accommodation). Consequently, the draft budget must not contain costs for their meals. The organisation of receptions and dinners is optional and is left to the Court. The Court, on the other hand, is kindly requested to assist in the reservation of hotel rooms for the rapporteurs and the Secretariat.

IV Working languages

The Venice Commission is usually able to finance interpretation between the language of the host country and one of the two official languages of the Council of Europe (English or French).

Interpreters are usually recruited on the spot by the Court and must be able to guarantee a very high level of interpretation **because the success of the seminar often very much depends on the possibility on an effective communication between the national and international participants of the event.**

The Court also takes care of the installation of interpretation booths in the meeting room whether it be on the premises of the Court or at another place chosen by the Court.

V Participants

The international rapporteurs (and possibly other international participants financed by the Commission) are invited by the Venice Commission given that such an invitation entails financial obligations. The Court is kindly asked to assist in facilitating the delivery of visas for the international rapporteurs upon their arrival at the airport. The Court is, of course, free to invite national participants of its choice. The number of participants should remain limited in order to allow for fruitful discussions in the atmosphere of a workshop. In addition, the total number of participants has to remain within the technical limits imposed by the size of the meeting room and number of interpretation headsets available.

The Court is invited to assure that political parties do not act as co-sponsors of the seminar and that no symbols of political parties appear on the programme or other material prepared for the seminar (badges etc.). It would indeed be preferable that the Court consult the Commission about any other co-organisers / co-sponsors of the seminar.

VI Proceedings

The co-organising courts are invited to inform the Secretariat of the Commission whether they intend to publish the proceedings of the seminar. In this case the Secretariat will try to transmit the reports presented by the international rapporteurs on electronic storage media (e-mail, diskette) in order to facilitate the production of such a publication. In no case can the Venice Commission contribute financially to such a publication after the seminar has taken place.

The Commission usually distributes the reports available in English or French as non-restricted CDL-JU documents. Sometimes the Venice Commission publishes these reports together in one volume as a CDL-INF document. Again, this depends on the availability of the reports in one of the two official languages of the Council of Europe.

VII Contacts

Courts wishing to organise a CoCoSeminar in co-operation with the Venice Commission can address themselves to the Secretary of the Commission, Mr Gianni Buquicchio (Tel. +33 3 88 41 22 05, fax +33 3 88 41 37 38, e-mail: Gianni.Buquicchi@coe.fr) or to Mr Schnutz Rudolf Dürr (Tel +33 3 88 41 39 08, fax: +33 3 88 41 37 38, e-mail: Schnutz.Durr@coe.fr).

Appendix I

CoCoSems organised by the Venice Commission in co-operation with constitutional Courts

16-18.10.1996	Seminar on the Constitutional Court of Armenia, Yerevan, Armenia
1.-3.12.1996	Seminar on Contemporary Problems of Constitutional Justice, Tbilissi
3.-4.7.1997	Workshop on the Functioning of the Constitutional Court of the Republic of Latvia, Riga, Latvia
22-24.9.1997	Workshop on the Relationship of Central Constitutional Courts and Constitutional Courts of Federated Entities, Petrozavodsk, Karelia, Russia
22-24.10.1997	Seminar on Constitutional Control and the Protection of Human Rights, Yerevan, Armenia
24.11.1997	Workshop for Legal Staff of the Constitutional Court of Bosnia and Herzegovina, Sarajevo, Bosnia and Herzegovina
17-19.11.1997	Workshop on the Execution of Judgments of Constitutional Courts, Tbilissi, Georgia
4-5.12.1997	Workshop on the Constitutional Court of the Republic of Azerbaijan, Baku, Azerbaijan
19.-21.1.1998	Workshop on the Budget of the Constitutional Court: Control and Management, Kyiv, Ukraine
31.1.-2.2.1998	Conference on Equality Jurisprudence, 31 January to 2 February 1998, Cape Town, South Africa
4.-5.4.1998	Round Table of Constitutional Court in Bosnia and Herzegovina, Sarajevo, Bosnia and Herzegovina
20.-21.4.1998	Workshop on Judicial Independence and Incompatibilities of the Office of Judge with other Activities, Bishkek, Kyrgyzstan
5.-6.6.1998	Workshop on "Principles of constitutional control, techniques of constitutional and statutory interpretation", Kyiv, Ukraine
15.-16.10.1998	Seminar on electoral disputes before the Constitutional Court, Yerevan, Armenia
23-24.10.1998	Round Table on Constitutional Justice in Bosnia and Herzegovina, Banja Luka, Bosnia and Herzegovina

- 7-8.10.1998 Seminar on the Role of the Constitutional Court in the Implementation of International Law, Lviv, Ukraine
- 30.-31.3.1999 The role of the Constitutional Court in the protection of private property, Chisinau, Moldova

These seminars have been organised in co-operation with the local constitutional courts, sometimes also in co-operation with other international bodies (ABA/CEELI, COLPI, Joint Programmes European Commission - Council of Europe, OSCE, PHARE Programme of the European Union, USAID - ARD/CHECCI).

Appendix II

Topics of interest for CoCoSeminars

The topics mentioned below are those of CoCoSems already held or which have been mentioned in discussions with or within the Secretariat. The list is open ended. The courts are free to propose any other topic. The choice of the topic lies with the Court. The fact that a topic has already been dealt with in another seminar does not preclude it from being dealt with again. A combination of several topics is possible during a two day seminar.

Note: The topics mentioned do not only refer to the subjects of past seminars as such but also to individual issues dealt with by one or more rapporteurs within the seminar. The topics of past seminars are not reproduced literally.

1 Constitutional justice

- The functioning of the Constitutional Court (Tbilissi 12/1996, Yerevan 10/1996, Baku 12/1997)
- Case management (Riga 07/1997, Tbilissi 11/1997)
- The role of the registry / secretariat of the Constitutional Court (planned: Kyiv 09/1999)
- The budget of the Constitutional Court (Kyiv 01/1998)
- Documentation and international comparative studies (Riga 07/1997)
- Types of claim
- The individual complaint (Tbilissi 12/1997, Riga 07/1997, Yerevan 10/1997)
- The drafting of decisions
- Publication of decisions
- Effects of decisions of the Constitutional Court (Riga 07/1997)
- Execution of decisions of the Constitutional Court (Tbilissi 11/1997, planned: Kyiv 10/1999)
- Public relations of the Constitutional Court

2 General principles

- Techniques of constitutional and legal interpretation
- General principles applied in constitutional control (Yerevan 10/1997)
- Possibilities and limits of constitutional control
- Separation of powers
- Judicial independence (Yerevan 12/1996, Bishkek 05/1998)
- Guarantees of independence of the Constitutional Court
- Incompatibilities of the office of judge with other activities (Bishkek 05/1998)
- The principle of legality
- The principle of equality (Cape Town 01-02/1998)
- The principle of proportionality

3 Institutions

- Relations between the ombudsman and the system of constitutional control (Yerevan 10/1997, planned: Kyiv 05/1999)
- Relations between the Federal Constitutional Court and Constitutional Courts of federated entities (Petrozavodsk 09/1997)

- Relations between the Constitutional Court and ordinary courts (Petrozavodsk 09/1997, planned: Batumi 07/1999)
- Relations between the Constitutional Court and other public institutions (Yerevan 10/1996)
- Electoral control by the Constitutional Court (Yerevan 10/1998)
- The impact of decisions of the Constitutional Court on society

4 The role of the Constitutional Court in the protection of human rights

- Economic transition: property rights, restitution, pensions, etc. (Chisinau 03/1999)
- Social and economic rights (Yerevan 10/1997)
- The implementation of international human rights norms (Yerevan 10/1996, Yerevan 10/1997)
- The role of the Constitutional Court in the protection of the rights of minorities
- The role of the decision by the European Court of Human Rights for the decisions of the Constitutional Court
- The role of the Constitutional Court in the implementation of international law (Lviv 10/1998)

Appendix III

ADMINISTRATIVE ARRANGEMENT BETWEEN THE COUNCIL OF EUROPE AND

The undersigned.....

in his / her capacity as (1)

in receipt of a grant in aid of a maximum of FF.....
(sum written in full) from the Council of Europe as payment for the expenses (2) to be met for,
.....

The budget of the Activity (appendix 1), which forms an integral part of this agreement, details the nature of the income and expenses and estimated costs for this Activity and in particular those costs to be covered by the contribution of the Council of Europe.

AGREES TO THE FOLLOWING TERMS :

1. To use this grant exclusively for the object herein above stated.
2. To make no profit through the Council of Europe grant.
3. To transmit to the Council of Europe before,
 - a report on the use made of the grant
 - a financial statement of expenditure and income for the Activity accompanied by appropriate **original** supporting documents.
4. To relinquish the right to the payment of any balance of the grant if the documents specified in 3 above are not received by the due date.
To keep the accounts of the Activity for any further verification by the Council of Europe or its appointed representative for a period of two years from the date of payment of the balance.
5. To repay the grant :
 - to the extent that it has not been used for carrying out the Activity, or
 - where its use for the Activity cannot be substantiated, or
 - where the required documents have not been submitted by the due date, or
 - where the terms of the grant have not been fulfilled.
6. To acknowledge the support of the Council of Europe wherever possible.

(1) Please state your position in the administration of the authority signing this form.

(2) Please give in Appendix details of the total costs of the Activity.

7. The above mentioned amount will be paid in two instalments :
- % on receipt of this Administrative Arrangement duly signed ;
 - the balance within 30 days on receipt and approval of the documents specified in 3 above ;
8. The above mentioned amounts will be **paid only by bank transfer** to an account opened in the name of the beneficiary of the grant.

Full bank account number

Bank.....
.....

Address.....
.....

Account holder.....

Correspondence Bank.....

SWIFT Code.....

9. Any dispute regarding the terms of execution of this Arrangement shall - failing a friendly settlement between the parties - be submitted to arbitration in accordance with Rule N° 481 issued by the Secretary General with the approval of the Committee of Ministers as provided in Article 21 of the General Agreement on Privileges and Immunities of the Council of Europe.
10. The provisions of this Arrangement may be amended only by written agreement between the parties.

Date:

Signature: