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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

Round Table on Constitutional Justice

Sarajevo, 4-5 April 1998

S Y N O P S I S

On 4-5 April 1998 a Round Table on Constitutional Justice was held in Sarajevo and organised by the Constitutional Court of Bosnia and Herzegovina, the Venice Commission/Council of Europe, the American Bar Association/Central and East European Law Initiative (ABA/CEELI) and the PHARE Programme of the European Communities.

The organisation of such a round table had been on the agenda of the Venice Commission for some time. Following the establishment of the Constitutional Court of Bosnia and Herzegovina in May 1997, a study visit of the local members of the court to the seat of the Council of Europe in November 1997 had allowed to implement this project.

The prime goal of the Round Table was to bring together for the first time the Constitutional Courts of Bosnia and Herzegovina, the Constitutional Courts of the entities and the specialised institutions of the Dayton Agreement, in particular the Human Rights Commission (Human Rights Chamber and Ombudsperson) for an exchange of views. Participants from all sides underlined that the major success of the Round Table was already the fact that it took place and was attended by the judges of the State Constitutional Court as well as those of both entities, something which had been unthinkable only shortly ago.

Major issues discussed were the role of the Constitutional Court of Bosnia and Herzegovina in the protection of constitutional principles, the relationship between the Constitutional Court and other judicial bodies in Bosnia and Herzegovina and the effects of and enforcement of decisions by the Constitutional Court.

Given a pending case before the Constitutional Court of Bosnia and Herzegovina, the relationship

between it and the Human Rights Chamber raised particular interest. The Constitutional Court judges referred to the complexity of the issue and to a variety of possible interpretations without taking any stand as to the case in question. Even though they were limited in their ability to actively contribute to the discussion in regard to possible appeals from one body to the other, a fruitful exchange of views was held during the Round Table.

There was general agreement that the constitutional regime was most complex and that the multitude of existing institutions in the constitutional and human rights fields required co-operation between these bodies. After the first step taken at the Round Table, further meetings like this one would need to be organised.

G. BUQUICCHIO