



Strasbourg, 23 May 2007

CDL-JU(2007)016*
Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT CO-OPERATION AGREEMENT
BETWEEN
THE UNION OF ARAB CONSTITUTIONAL COURTS
AND COUNCILS
AND
THE VENICE COMMISSION

**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.*

In view of the fact that security and prosperity are at the core of the relationship between the two shores of the Mediterranean, that is to say between Europe and the Arab world, and that neither can be firmly established without dialogue and co-operation;

Aware of the importance of exchanges in the field of constitutional law, which is the basis of the universal principles of democracy, rule of law and human rights;

Considering that constitutionalism calls for constitutions to be applied in practice so that the major constitutional principles are not confined to writing alone;

Having regard, in this connection, to the importance of supervisory mechanisms guaranteeing the precedence of the constitution in each state's domestic legal system;

Considering that monitoring compliance with the constitution, as a fundamental legal norm, is one of the main functions, if not the *raison d'être* of Constitutional Courts and Councils;

Noting that, since its foundation, the Venice Commission has established co-operation with Constitutional Courts and equivalent bodies in order to enhance their capacity to perform these functions;

Considering that through the CODICES database the Commission enables regular exchanges of information between Courts which are conducive to mutual inspiration and "cross-fertilisation";

Considering that encounters between judges from various courts at seminars and working meetings contribute to this process;

Considering that, in the context of the sweeping movement to establish constitutional justice throughout Europe after the fall of the Berlin Wall, the Arab countries also made major constitutional reforms, each in keeping with their specific political history, as a result of which they also developed constitutional review mechanisms;

Noting that, in this connection, aware of the need to establish a forum for dialogue and pooling of experience, at the initiative of Algeria and Egypt, 11 Arab countries met in Algiers on 25 and 26 June 1997 to found the Union of Arab Constitutional Courts and Councils;

Considering that the Union brings together constitutional review bodies from 13 countries (Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, the Palestinian Authority, Sudan, Tunisia and Yemen) and that other Arab countries are expected to join;

Bearing in mind that the Union pursues several aims, including those of establishing and extending co-operation with similar institutions throughout the world and of taking part in international conferences on the subject of constitutional review, and that these aims are entirely in keeping with those pursued by the Commission;

Considering that at its ninth session, in Kuwait on 17-21 December 2005, the Union asked the Algerian Constitutional Council and the Secretary General of the Union to investigate the possibility of co-operating with the Venice Commission;

In view of this shared interest and in order to initiate a productive exchange on the subject of constitutionalism, the Union and the Venice Commission enter into the following co-operation agreement:

Article 1 – Contributions to CODICES

The Constitutional Courts and Councils which are members of the Union are invited to contribute to the CODICES database. For this purpose, they shall appoint liaison officers, who shall submit their institutions' leading constitutional case-law for inclusion in the CODICES constitutional law database three times a year.

Case-law contributions shall be centralised by the Secretariat of the Union or one of its members, which shall ensure that they are consistent in form and properly indexed in accordance with the Commission's Systematic Thesaurus so they can be added to the database without any further processing.

Article 2 – Exchange of publications

Courts and Councils which are members of the Union shall, if they so wish, receive free of charge publications from the Venice Commission (in the Science and Technique of Democracy series) together with the *Bulletin on Constitutional Case-Law* and the CODICES CD-ROM.

Courts and Councils which are members of the Union shall send their publications free of charge to the Venice Commission's multilingual Documentation Centre on Constitutional Justice in Strasbourg.

Article 3 – Joint seminars

In so far as budgetary constraints allow and thanks in particular to any voluntary contributions made, the Union and the Commission shall hold joint seminars.

Article 4 - Participation in meetings

A representative of the Union shall be invited to attend the Commission's plenary sessions and the meetings of its Joint Council on Constitutional Justice.

A representative of the Commission shall be invited to attend the meetings of the Union as well as the scientific events, which the Union organises.

Article 5 – Financial provisions

The costs relating to the inclusion into the CODICES database of the data prepared according to Article 1, paragraph 2, of this agreement, are covered by the Venice Commission, which also manages the database.

Depending on the availability of financial resources stemming from possible voluntary contributions from member states, the expenses of the organisation of joint seminars between the member courts of the Union or the Union itself and the Venice Commission are split between the organising court or the Union and the Venice Commission. The Commission can contribute to the expenses directly linked to the organisation of the seminars (rental of hall, interpretation and interpretation equipment etc.) and cover the expenses of rapporteurs invited by her.

Each party covers the expenses of its own participation in meetings organised by the one or the other party.

Article 6 – Length and termination of the agreement

The present agreement shall apply for an indeterminate period. It shall enter into force once it has been approved by the appropriate bodies of the two parties and signed by representatives of the Union and the Commission.

The agreement may be terminated by any of the parties, by written notification.

Done in duplicate at on 2007.