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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

in co-operation with the
CONSTITUTIONAL COURT OF ARMENIA

**5TH CONFERENCE OF SECRETARIES GENERAL
OF CONSTITUTIONAL COURTS
OR COURTS WITH EQUIVALENT JURISDICTION**

Yerevan, Armenia, 13-14 April 2012

SYNOPSIS

The Venice Commission organised the 5th Conference of Secretaries General of Constitutional Courts and Courts with Equivalent Jurisdiction in co-operation with the Constitutional Court of Armenia in Yerevan on 13-14 April 2012.

The Conference gathered together 22 secretaries general of constitutional courts from all over Europe as well as from the Constitutional Council of Morocco and the Constitutional Tribunal of Peru. Mr G. Harutyunyan, the President of the Constitutional Court and Mr A. Hakobyan, Head of Staff of this Court, welcomed the participants.

The reports and discussions focused on two themes:

The first was on procedural time-limits (time-limits for litigants/time-limits for the court). Participants discussed the role of these time-limits, ranging from stemming the flow of cases heading to the Constitutional Court and avoiding overburdening it (that Constitutional Courts which have introduced the individual complaints procedure are of course more burdened with cases than those that have not) to taking into consideration the decision-making time allocated to the Court, which inevitably leads to the need of finding an effective way to deal with a great caseload within a limited amount of time and not hinder access to the court. In this respect, courts have found various solutions. Most courts have introduced filters through the use of time-limits for applications, mandatory legal representation, court fees etc. Some have resorted to prioritising cases, thereby dealing with what they consider to be the most important cases first, which could in some cases lead to courts being seen as arbitrary in choosing what case to deal with first. Participants also discussed the length of time-limits and the need for them to be reasonable and flexible in a number of situations.

The second theme dealt with reactions to negative criticism of court judgments. This is something that all courts have to deal with at some point in their history. Criticism of court judgments is not unusual in a democratic society and it shows that judges are no less immune to scrutiny than other branches of power. This is all the more true in this day and age with information technology. It is therefore important that courts are open to it and deal with the points raised in the criticism received. In order to “neutralise” criticism, it is important to be prepared to react. But, there is no universal recipe on how to react to criticism. Discussions dealt with the source of the criticism received by the court, which can emanate from individual letters of complaint addressed to the President of the Court to criticism received from the legal community or by the media. With the latter, participants agreed that it is important to act “with” the media and not “against” it and courts need to be ready and available to communicate with the media. Some courts, rather than address criticism directly, produce scientific papers on the problem raised or organise seminars on the issue concerned to clarify the court’s position. Criticism can be based on many factors such as a misunderstanding on the constitutional court’s role (which is sometimes done by the regional press), sometimes the unclear language used is to blame or sometimes there is a lack of trust in a negative decision of the court and sometimes, it is just a statement of dissatisfaction with a decision rendered.

Participants agreed that the interaction of the court with the public is important and that events such as “open house days”, which open the doors to the public to visit the court, are important to create trust and transparency. They also agreed that ensuring judgments are written clearly and that an abstract is provided which explains the decision in layman’s terms can clear up misunderstandings.

The reports, the programme and the list of participants are available on the Venice Commission website (www.venice.coe.int), in the Constitutional Justice section (CDL-JU documents).