

Strasbourg, 4 July 1997

<s:\cdl\ju\pv\97\11.e>

Restricted
CDL-JU-PV (97) 11
Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

Report of the 11th Meeting of the Sub-Commission on Constitutional Justice

(Venice, 19 June 1997)

The Sub-Commission on Constitutional Justice held its 11th meeting in Venice on 19 June 1996, with Mr Matthew Russell in the Chair. A list of participants will be found in Appendix I.

1. Adoption of the Agenda

The participants adopted the agenda set out in Appendix II.

2. Study on the Composition of the Constitutional Courts

The rapporteurs present (Messrs Zlinsky and Vandernoot) expressed their satisfaction with the revised report (CDL-JU (97) 10 rev.) prepared by the Secretariat in general. Nonetheless, they suggested to add concluding paragraphs to summarise each chapter of the report. Mr Zlinsky pointed out that of the three main goals mentioned in the conclusion, i.e. balanced representation of group interests, independence and effectiveness, the latter should be further developed. He proposed to formulate a recommendation along the lines of the Portuguese example where vacant seats can be filled on an interim basis by the Court itself (either with a judge having left the Court or with another person) until the appointing authority fills that vacancy. Mr Vandernoot proposed to highlight the differences between constitutional courts proper and supreme courts, especially as concerns the representation of various groups within the court.

The Sub-Commission decided to ask all members of the Commission and the liaison officers for their comments on the draft report by 20 July at the latest. Members having not yet done so are invited to send their replies to the questionnaire by 15 August. Contributions received past that date will not be included in the report.

3. Ukraine

The discussion on the opinion on the Law on the Constitutional Court of Ukraine was held at the plenary session.

4. Co-operation with USAID

Mr David Bronheim, representative of the United States governmental agency USAID (United States Agency for International Development), proposed to co-operate with the Venice Commission in a series of workshops together with newly established constitutional courts. These workshops would build upon and be complementary to each other. USAID would be able to provide financing, in particular with regard to Armenian and Georgian participation.

Co-operation with USAID may begin with the workshop in Riga (3-4 July 1997) and the Seminar on Human Rights in Yerevan on 22-24 October 1997, which are both being organised by the Venice Commission, in co-operation with the respective Constitutional Courts. These workshops are part of a series of seminars with newly established constitutional courts which began with the Yerevan and Tbilissi events in October and December 1996.

<p>The Sub-Commission instructed the Secretariat to study possibilities of co-operation with USAID and to work out a time-table for the series of workshops with newly established constitutional courts.</p>
--

APPENDIX I

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

IRELAND/IRLANDE

Mr Matthew RUSSELL, Former Senior Legal Assistant to the Attorney General of Ireland (Chairman/Président)

ARMENIA/ARMENIE

M. Khatchig SOUKIASSIAN, Conseiller à la Cour constitutionnelle chargé des relations avec l'extérieur

BULGARIA/BULGARIE

Mme Ana MILENKOVA, Membre de l'Assemblée nationale (Apologised/Excusée)

M. Alexandre DJEROV, Membre du Parlement (Apologised/Excusé)

CANADA

M. Gerald A. BEAUDOIN, Sénateur

CYPRUS/CHYPRE

Mr Michael TRIANTAFYLLIDES, Chairman of the Council of the University of Cyprus, Former President of the Supreme Court and Former Attorney General of the Republic

DENMARK/DANEMARK

Mr Asbjorn JENSEN, Supreme Court Judge (Apologised/Excusé)

Mr John LUNDUM, High Court Judge

FINLAND/FINLANDE

Mr Antti SUVIRANTA, Former President of the Supreme Administrative Court

FRANCE

M. Jacques ROBERT, Membre du Conseil constitutionnel (Apologised/Excusé)

GERMANY

Mr. Helmut STEINBERGER, Professor, University of Heidelberg, Director of the Max-Planck Institute (Apologised/Excusé)

HUNGARY/HONGRIE

M. János ZLINSZKY, Juge, Cour constitutionnelle, BUDAPEST

ITALY

Mr Antonio LA PERGOLA, President of the European Commission for Democracy through Law, Advocate General, Court of Justice of the European Communities, LUXEMBOURG (Apologised/Excusé)

LATVIA/LETTONIE

Mr Aivars ENDZI_Š, Acting Chairman of the Constitutional Court

LIECHTENSTEIN

M. Gérard BATLINER, Président du Conseil Scientifique du Liechtenstein Institut (Apologised/Excusé)

LITHUANIA/LITUANIE

Mr Kestutis LAPINSKAS, Professor, Judge of the Constitutional Court, VILNIUS

LUXEMBOURG

M. Gérard REUTER, Président de la Chambre des Comptes (Apologised/Excusé)

MALTA/MALTE

Mr Joseph SAID PULLICINO, Chief Justice, KAPPARA

POLAND

Mrs Hanna SUCHOCKA, Member of Parliament, WARSAW (Apologised/Excusée)

PORTUGAL

M. Armando MARQUES GUEDES, Ancien Président du Tribunal constitutionnel (Apologised/Excusé)

Mme Maria de Jesus SERRA LOPES, Ancienne Batonnière de l'ordre des Avocats (Apologised/Excusée)

ROMANIA/ROUMANIE

Mr Petru GAVRILESCU, Conseiller, Ambassade de Roumanie, BRUXELLES

SLOVENIA/SLOVENIE

Mr Peter JAMBREK, Judge at the Constitutional Court, LJUBLJANA (Apologised/Excusé)

SPAIN/ESPAGNE

Mr Pablo PÉREZ TREMPES, Professor at the University of Extramadura, CÁCERES

SWEDEN

Mr Rune LAVIN, Parliamentary Ombudsman, Professor of Administrative Law, STOCKHOLM (Apologised/Excusé)

TURKEY/TURQUIE

Mr Ergun ÖZBUDUN, Professor at the University of Ankara, Vice-President of the Turkish Foundation for Democracy (Apologised/Excusé)

UKRAINE

Mr Serhiy HOLOVATY, Minister of Justice, KYIV

SPECIAL GUESTS / INVITES SPECIAUX

Mr David BRONHEIM, USAID, Arlington, USA

M. Pierre VANDERNOOT, Référendaire, Cour d'Arbitrage, BRUXELLES

SECRETARIAT

DIRECTORATE OF LEGAL AFFAIRS/DIRECTION DES AFFAIRES JURIDIQUES

M. Gianni BUQUICCHIO

M. Christos GIAKOUMOPOULOS

M. Schnutz Rudolf DÜRR

Ms Helen MOORE

M. Pierre GARRONE

Ms Helen MONKS

Mme Emmy KEFALLONITOU-STAVROS

INTERPRETERS/INTERPRETES

Mr Derrick WORDSLEY

Mme Maria FITZGIBBON

M. Nikita KRIVOCHEINE

M. Viktor PROKOFIEV

AGENDA

1. Adoption of the Agenda
2. Study on the "Composition of Constitutional Courts"
3. Ukraine
4. Co-operation with USAID
5. Other business