

Strasbourg, 24 November 1997

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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

Report of the 12th Meeting of the Sub-Commission on Constitutional Justice

(Venice, 16 October 1997)

The Sub-Commission on Constitutional Justice held its 12th meeting in Venice on 16 October 1996, with Mr Matthew Russell in the Chair. A list of participants can be found in Appendix I.

1. Adoption of the Agenda

The participants adopted the agenda set out in Appendix II.

2. Communication by the Secretariat

The Secretariat informed the Sub-Commission about the series of seminars which are being organised with Constitutional Courts. Since the 11th meeting of the Sub-Commission, a seminar had been held in Co-operation with the Constitutional Court of Karelia in Petrozavodsk (Russia) on the Relations between the Constitutional Court of the Russian Federation and Constitutional Courts of Subjects of the Russian Federation.

Other seminars planned until the end of 1997 were to take place in Yerevan (on Constitutional Control and the Protection of Human Rights), Tbilissi (The Execution of Decisions of Constitutional Courts) and in Baku (Essential Elements of a Constitutional Court). Some of these seminars are co-organised with USAID (Yerevan, Tbilissi), UNDP (Tbilissi) and COLPI (Yerevan, Tbilissi, Baku).

2. Study on the Composition of Constitutional Courts

The Sub-Commission discussed the draft Report on the Composition of Constitutional Courts (CDL-JU (97) 34).

Firstly, the Sub-Commission recalled the deadlines for sending replies to the questionnaire set at

its 11th meeting (comments until 20 July, new contributions until 15 August 1997) and decided that no further contributions could be taken into account.

The rapporteurs who attended (Messrs Robert and Vandernoot - Mr Zlinsky having sent his apology) presented the report and the conclusions they had drawn. The Sub-Commission discussed the report in detail and made certain changes with respect to information provided by the members of the Commission. The titles of the chapters were rearranged.

The Sub-Commission discussed in detail the point in the conclusions concerning the necessity that a decision to dismiss a member of the court should involve a vote by the court itself. It was pointed out that this did not correspond to the practice in some of the participating countries. Finally, however, the opinion prevailed that the conclusions of the report were not intended to summarise existing regulations but rather to point out directions which the Venice Commission considered desirable.

The Sub-Commission adopted the report with the amendments made (CDL-JU (97) 34rev).
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4. Other business

The Sub-Commission recalled that it had accepted the invitation of the Belgian Court of Arbitration to hold its next meeting with liaison officers at the seat of the Court in Brussels on 31 October 1997. The Sub-Commission expressed its gratitude for this kind invitation.

A P P E N D I X 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

BELGIUM/BELGIQUE

M. Pierre VANDERNOOT, Référéndaire, Courd'Arbitrage, Bruxelles, Belgique

BULGARIA/BULGARIE

Mme Ana MILENKOVA, Membre de l'Assemblée nationale

CANADA

M. Gerald A. BEAUDOIN, Sénateur, Ottawa

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 (Apologised/Excusé)

FINLAND/FINLANDE

Mr Antti SUVIRANTA, Former President of the Supreme Administrative Court

FRANCE

M. Jacques ROBERT, Membre du Conseil constitutionnel

GERMANY/ALLEMAGNE

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

HUNGARY/HONGRIE

M. János ZLINSZKY, Juge, Cour constitutionnelle, Budapest (Apologised/Excusé)

ITALY/ITALIE

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, Riga

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 (Apologised/Excusé)

POLAND/POLOGNE

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

PORTUGAL

M. Armando MARQUES GUEDES, Ancien Président du Tribunal constitutionnel
Mme Maria de Jesus SERRA LOPES, Ancienne Batonnière de l'ordre des Avocats

ROMANIA/ROUMANIE

Mr Petru GAVRILESCU, Conseiller, Ambassade de Roumanie, Bruxelles

SLOVENIA/SLOVENIE

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

SOUTH AFRICA/AFRIQUE DU SUD

Mr D.C.C. DU PLESSIS, Director, Constitutional Court, Johannesburg

SPAIN/ESPAGNE

M. Luis LOPEZ GUERRA, Président adjoint du Conseil Général de la Magistrature

SWEDEN/SUEDE

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

UKRAINE

Mr Serhiy HOLOVATY, Minister of Justice, Kyiv (Apologised/Excusé)

SECRETARIAT

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW / COMMISSION
EUROPEENNE POUR LA DEMOCRATIE PAR LE DROIT**

M. Christos GIAKOUMOPOULOS

M. Schnutz Rudolf DÜRR

INTERPRETERS/INTERPRETES

Mr Derrick WORDSDALE

Ms Maria FITZGIBBON

AGENDA

1. Adoption of the Agenda
2. Communication by the Secretariat
3. Study on the "Composition of Constitutional Courts"
4. Other business