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CDL-JU-PV (91) 1

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

Working Party on Constitutional Justice
(Venice, 12 September 1991)

Meeting Report

1. On 12 September 1991 the Working Party met in Venice with Mr Steinberger in the Chair. Liaison Officers from Constitutional Courts and other equivalent bodies had also been invited in order to discuss the modalities for the setting up and functioning of a documentation centre on Constitutional case law.

A list of participants is reproduced in Appendix I hereto.

2. The participants had at their disposal the document CDL-JU (91) 2 drawn up by the Secretariat, listing the practical issues to be discussed.

3. Summing up a first general discussion on the advisability of setting up such a Centre, the Chairman concluded that there was general support for the idea. A Centre endowed with statutory stability and continuity would not overlap existing initiatives that are of high scientific value but are dependant on individual researchers. It goes without saying that the Centre would seek an active co-operation with any similar centres already in existence.

Decisions to be collected

nature - the participants agreed that each Constitutional Court or equivalent body should be left free to chose the decisions that it wishes to communicate to the Centre. As a general guideline, decisions should be capable of interesting foreign jurisdictions because of the nature of the questions dealt with (e.g. human rights, competence and functioning of the organs of a democratic State, role of international and EEC law, locus standi before the Court, etc.).

Decisions dealing with matters specific to the country in question or merely recalling previous decisions would not need to be communicated.

time - a majority of participants considered that the collection should start with present and future decisions, since existing publications give already sufficient information on past years' case law.

Furthermore, an obligation to communicate past decisions would constitute too heavy a burden on those Courts that have been in existence for many decades.

However, Courts should be left free to communicate certain past decisions of particular importance, if they so wish.

format and languages - decisions should be communicated in extenso in the original language or languages in which they have been adopted. Courts should be encouraged to accompany the decision with a summary drafted in English or French (to be translated by the Secretariat of the Centre into the other language), and some key words.

As a first step, an interested Court would only obtain a copy of the decision it requires in the original language and would have to translate it into its own language if necessary.

In the long run, the Secretariat of the Centre could be asked to provide the translation in English and French of the full text of the decisions, thus ensuring high standard and consistency of translations.

At a later stage one could envisage the possibility of having decisions translated also in other languages (e.g. Spanish or German).

Modalities of communication and circulation of decisions

At the beginning of the operation of the Centre, the Courts could communicate their decisions to the Centre on paper and on diskette of the standard to be communicated by the Council of Europe. The Centre in turn would transmit the requested texts by the same methods.

In the long run the computerisation of the whole system could be envisaged, whereby the data bank of the Centre could be fed and questioned directly by computer.

Users and costs

Access to the Centre's data bank should be granted to Constitutional Courts and other equivalent bodies of interested States in Europe and North America, which would have free access to the data bank in consideration of their feeding the

bank.

Access could also be granted to other users such as Ministries of Justice, Parliaments, lower Courts, Universities, etc. These users could be asked to pay a fee meant to cover the costs.

In the first period of operation of the Centre it is unlikely that yearly budgetary contributions would be needed.

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Follow-up

The Chairman undertook to report to the plenary Commission meeting scheduled for 13 September on the proposals of the Working Party; it would then be for the Commission to decide whether to endorse these proposals and to forward them to the competent organs of the Council of Europe for approval.

The Working Party considered that it should then convene once more, together with the Liaison Officers from the Courts, in order to consider certain questions still open, such as:

- elaboration of common guidelines for the choice of decisions to be transmitted;
- procedure for the elaboration of a Thesaurus of key words in English and French;
- modalities of co-operation with existing research centres which publish collections of Constitutional case law and doctrine;
- modalities of the future possible computerisation of the Centre.

A P P E N D I X I

LIST OF PARTICIPANTS/LISTE DES PARTICIPANTS

MEMBERS OF THE EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW/
MEMBRES DE LA COMMISSION EUROPEENNE POUR LA DEMOCRATIE
PAR LE DROIT

FINLAND/FINLANDE :

Mr Antti SUVIRANTA, President of the Supreme Administrative Court

FRANCE :

M. Jacques ROBERT, Membre du Conseil constitutionnel

GERMANY/ALLEMAGNE :

Mr. Helmut STEINBERGER, Director of the Max-Planck Institute,
Professor at the University of Heidelberg (Rapporteur)

ITALY/ITALIE :

Mr Antonio LA PERGOLA, Member of the European Parliament
(President of the European Commission for Democracy through
Law)

NORWAY/NORVEGE :

Mr Jan HELGESEN, Professor at the University of Oslo

PORTUGAL :

M. José Menéres PIMENTEL, Juge à la Cour Suprême de Justice
M. José Manuel MARTINS MEIRIM DA SILVA, Assesseur du Cabinet du
Procureur Général

SWITZERLAND/SUISSE :

M. Giorgio MALINVERNI, Professeur à l'Université de Genève

LIAISON OFFICERS/AGENTS DE LIAISON

AUSTRIA/AUTRICHE :

Mme. Anneliese ELHENICKY, Conseillère à la Cour constitutionnelle,
Service de la documentation

BELGIUM/BELGIQUE :

M. Pierre VANDERNOOT, Référéndaire à la Cour d'Arbitrage
M. Rik RYCKEBOER, Référéndaire à la Cour d'Arbitrage

GERMANY/ALLEMAGNE :

Mrs. Sabine STUTH, Assistant to the President,
Bundesverfassungsgericht

HUNGARY/HONGRIE :

Mr Péter PACZOLAY, Chief Counsellor, Constitutional Court

ITALY/ITALIE :

M. Giovanni CATTARINO, Correspondant de la Cour constitutionnelle

M. Nicola SANDULLI, Correspondant de la Section de droit comparé de
la Cour constitutionnelle

Mme Elisa BIANCHI, Correspondant de la Section de droit comparé de
la Cour constitutionnelle

NETHERLANDS/PAYS-BAS :

M. W.H.B. den Hartog Jager, Chef du Cabinet du Procureur
Général, Cour de Cassation

POLAND/POLOGNE :

Mrs Halina PLAK, Head of the Library and Information Centre,
Constitutional Court

PORTUGAL :

M. Miguel LOBO ANTUNES, Responsable du Service de Documentation,
Tribunal Constitutionnel

SPAIN/ESPAGNE :

M. Pedro BRAVO GALA, Directeur du Service de la Bibliothèque

SWEDEN/SUEDE :

Mr Johan MUNCK, Supreme Court of Justice

SWITZERLAND/SUISSE :

Mr Paul TSCHÜMPER, Director of Administration, Federal Court

TURKEY/TURQUIE :

Mr Mehmet TURHAN, Reporter, Constitutional Court

YUGOSLAVIA/YOUGOSLAVIE :

Dr Arne MAVCIC, Head of the Legal Information Centre,
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SECRETARIAT

Giovanni BUQUICCHIO

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