

Strasbourg, 9 December 1993  
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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**Fifth Meeting of the Working Party  
on Constitutional Justice with the Liaison Officers  
from Constitutional Courts and other equivalent bodies**

**(Venice, 10 November 1993)**

**MEETING REPORT**

1. The Working Party on Constitutional Justice held its fifth meeting with liaison officers from constitutional courts and other equivalent bodies in Venice on 10 November 1993. The meeting was chaired by Mr Matthew Russell, member of the Commission for Ireland. The list of participants appears in Appendix I.

I. Publication of the Bulletin on Constitutional Case-Law

Bulletins 1 and 2

2. The participants welcomed the success of Bulletin No. 1 and took note of Bulletin No. 2, distributed during the meeting.

They asked the Secretariat to remind the Presidents of constitutional courts and other equivalent bodies which were not represented at the meeting and/or had not contributed to the Bulletin of the need to take steps to participate effectively in the Documentation Centre's work.

3. With regard to presentation, the following decisions were taken:

- **The pagination of the bulletin should be continuous for the three editions covering one year of case-law<sup>1</sup>.**
- **A note should be inserted into the Thesaurus (Page 61 of Bulletin No. 2) to explain why some headwords appear in bold type.**
- **It would be useful to state for each decision referred to in the Bulletin whether and in which language(s) the Secretariat has the text.**

4. In addition, each liaison officer was asked to send the Secretariat details of ministries, courts, universities or institutes wishing to receive the bulletin on a regular basis.

Publication Schedule

5. The participants adopted the following schedule for 1994:

- **Period from 1 September to 31 December 1993**  
  
**Last date for contributions: 31 January 1994**  
**Publication date: 1 March 1994 (1993, Volume 3)**
- **Period from 1 January to 30 April 1994**  
  
**Last date for contributions: 31 May 1994**  
**Publication date: 1 July 1994 (1994, Volume 1)**
- **Period from 1 May to 31 August 1994**  
  
**Last date for contributions: 30 September 1994**  
**Publication date: 1 November 1994 (1994, Volume 2)**
- **Period from 1 September to 31 December 1994**  
  
**Last date for contributions: 31 January 1995**  
**Publication date: 1 March 1995 (1994, Volume 3)**

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<sup>1</sup> *Secretariat note: For technical reasons, this decision will become effective from the 4th edition of the Bulletin which will be numbered 1994 Volume I.*

Model for presentation of contributions

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| <p><b>6. The participants made a number of changes to the model for presentation of contributions to the Bulletin. The revised version appears in Appendix II.</b></p> |
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The liaison officers were asked to send their contributions to the Bulletin on 3.5" diskettes, preferably in WordPerfect 5.1, otherwise in ASCII format.

7. Depending on administrative and budgetary possibilities, it was decided that a liaison officer should be present in Strasbourg when the Bulletin was being finalised, on the basis of contributions received.

This could be organised on a rotating basis for countries and/or courts. At the same time, the liaison officers might be asked to make practical suggestions on setting up the Documentation Centre.

II. Special Bulletin on the presentation of Constitutional Courts and other equivalent bodies

8. Having examined the draft of the special Bulletin, the participants took the following decisions:

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| <ul style="list-style-type: none"><li>- the texts describing the courts should as far as possible follow the model contained in Appendix III.</li><li>- texts should not exceed 4 pages for each court.</li><li>- contributions should be sent to the Secretariat by 31 December 1993; the scheduled publication date is March/April 1994.</li></ul> |
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III. Systematic Thesaurus

9. The participants evaluated the systematic thesaurus and decided, in the light of experience gained with the first two issues of the Bulletin, that it provided a useful aid for preparation of contributions and consultation of case-law featured in the Bulletin.

Participation of liaison officers in finalising the Bulletin

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| <p><b>10. The following changes were adopted and have been included in the thesaurus, the new version of which is No. 6 (Document CDL-JU (93) 10):</b></p> <ul style="list-style-type: none"><li>- In section 3.2.30, "Right to property", the following sub-divisions have been inserted:</li></ul> |
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- **General**
- **Expropriation**

- **Nationalisation**
- **Privatisation**
- **Other**
- **Section 3.1.2. has been renamed "Protection of minorities and persons belonging to minorities"**
- **Section 3.2.29 has become "Non-retrospective effect of law" and has been subdivided as follows:**
  - **General**
  - **Non-retrospective effect of criminal law**
  - **Non-retrospective effect of civil law**
  - **Non-retrospective effect of taxation law**
  - **Other**

IV. Future working methods of the Documentation Centre for Constitutional Case Law

11. The participants stressed again that the Bulletin was simply a first step towards setting up a Documentation Centre, and reiterated their hope that the Centre would be able to start operating as soon as possible, given the importance for constitutional courts or equivalent bodies of immediate and full access to decisions given by courts in other states.

12. Special importance was also attached to rapid computerisation of the steadily growing body of data collected for the Bulletin. The participants felt that any delay in computerisation would simply make the operation harder.

**13. The participants asked the Commission to consider practical arrangements for the operation and funding of the Documentation Centre.**

V. Date of the next meeting

14. In principle, the sixth meeting will take place in Venice towards the end of 1994, on the occasion of one of the Commission's meetings.

If necessary, and particularly if decisions were needed on the running of the Centre, an interim meeting could be held before then.

## **APPENDIX 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**

##### **BULGARIA/BULGARIE**

M. Alexandre DJEROV, Président de la Commission législative de l'Assemblée Nationale (Apologised/Excusé)

Mme Snejana BOTUSHAROVA, Vice-Président de l'Assemblée Nationale (Apologised/Excusé)

##### **CYPRUS/CHYPRE :**

Mr Michael TRIANTAFYLLIDES, Attorney General of the Republic

##### **DENMARK/DANEMARK :**

Mr Michael ELMER, Deputy Permanent Secretary of State for Justice

##### **FINLAND/FINLANDE :**

Mr Antti SUVIRANTA, President of the Supreme Administrative Court

##### **FRANCE :**

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

##### **GERMANY/ALLEMAGNE :**

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

##### **HUNGARY/HONGRIE :**

M. Janos ZLINSZKY, Judge at the Constitutional Court

##### **IRELAND/IRLANDE :**

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

##### **ITALY/ITALIE :**

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

##### **LIECHTENSTEIN :**

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

**LUXEMBOURG :**

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

**MALTA/MALTE :**

Mr Joseph SAID PULLICINO, Judge

**POLAND/POLOGNE :**

Mr Zdzislaw KEDZIA, Minister Plenipotentiary, Counsellor, Permanent Mission of Poland to the Office of the United Nations in Geneva (Apologised/Excusé)

**PORTUGAL :**

M. José MENERES PIMENTEL, Médiateur (Apologised/Excusé)

**SLOVAKIA/SLOVAQUIE :**

M. Ján KLU\_KA, Judge at the Constitutional Court

**SWEDEN/SUEDE :**

Mr Hans RAGNEMALM, Justice of the Supreme Administrative Court (Apologised/Excusé)

**TURKEY/TURQUIE :**

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

**ASSOCIATE MEMBERS/MEMBRES ASSOCIES**

**LITHUANIA/LITUANIE :**

Mr Kestutis LAPINSKAS, Professor, Judge of the Constitutional Court

**ROMANIA/ROUMANIE**

Mr Petru GAVRILESCU, Specialist, Human Rights Division, Ministry of Foreign Affairs

**OBSERVERS/OBSERVATEURS**

**JAPAN/JAPON :**

M. Masato ITO, Consul, Consulat Général du Japon à Strasbourg

**KYRGYZSTAN/KYRGHZSTAN :**

Mr Serikul KOSAKOV, Deputy Minister of Justice, President of the Supreme Court of Arbitration

**LIAISON OFFICERS/AGENTS DE LIAISON**

**AUSTRIA/AUTRICHE :**

Mme Anneliese ELHENICKY, Conseillère à la Cour constitutionnelle, Service de la documentation (Apologised/Excusé)

**BELGIUM/BELGIQUE :**

M. Rik RYCKEBOER, Reférendaire à la Cour d'Arbitrage

M. Pierre VANDERNOOT, Reférendaire à la Cour d'Arbitrage

**BULGARIA/BULGARIE :**

Mr Kiril MANOV, Secretary General of the Constitutional Court (Apologised/Excusé)

**CYPRUS/CHYPRE :**

Mr Ioannis PAPADOPOULOS, Justice, Supreme Court (Apologised/Excusé)

**FINLAND/FINLANDE :**

Justice Per LINDHOLM, Supreme Court Judge (Apologised/Excusé)

**FRANCE :**

Mme Dominique REMY-GRANGER, Attachée auprès du Président du Conseil constitutionnel

**GERMANY/ALLEMAGNE :**

Mr Matthias HARTWIG, Bundesverfassungsgericht (Apologised/Excusé)

**GREECE/GRECE :**

Mr K. MENOUDAKOS, Member of the Council of State (Apologised/Excusé)

**HUNGARY/HONGRIE :**

Mr Peter PACZOLAY, Counsellor at the Constitutional Court

**IRELAND/IRLANDE :**

Mr James COMERFORD, Registrar of the Supreme Court (Apologised/Excusé)

**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 :**

Mr Oscar KORTE, Assistant to the Chief Justice

**NORWAY/NORVEGE :**

Ms Birgit BERG, Law Secretary at the Supreme Court

**POLAND/POLOGNE :**

Mrs Halina PLAK, Head of the Library and Documentation Centre

**PORTUGAL :**

M. Miguel LOBO ANTUNES, Service de documentation, Tribunal Constitutionnel

**SPAIN/ESPAGNE :**

M. Pedro BRAVO-GALA, Conseiller Service de Bibliothèque et Documentation, Tribunal Constitutionnel (Apologised/Excusé)

**SWEDEN/SUEDE :**

Mr Bengt-Ake ENGSTROM, Administrative Director, Supreme Court

**SWITZERLAND/SUISSE :**

M. Paul TSCHÜMPERLIN, Directeur administratif (Apologised/Excusé)

**TURKEY/TURQUIE :**

Mr Mehmet TURHAN, Reporter, Constitutional Court

**ALBANIA/ALBANIE :**

Mr Hilmi DAKLI, Member of the Constitutional Court

**CROATIA/CROATIE :**

Mrs Marija SALECIC, Legal Adviser of the Constitutional Court

**ROMANIA/ROUMANIE :**

Mme Margareta BERZESCU, Secrétaire en chef à la Cour constitutionnelle

**SLOVENIA/SLOVENIE :**

Mr Arne MAVCIC, Head of the Legal Information Centre, Constitutional Court

**CANADA :**

Ms Louise MEAGHER, Deputy Registrar, Supreme Court (Apologised/Excusé)

**JAPAN/JAPON :**

Mr Yu SHIRAKI, Judge, Director of Secretary Division, Supreme Court of Japan (Apologised/Excusé)

**U.S.A. :**

Mr Robb M. JONES, Administrative Assistant to the Chief Justice (Apologised/Excusé)

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**SECRETARIAT**

M. Giovanni BUQUICCHIO  
M. Régis BRILLAT  
M. Thomas MARKERT  
Mlle Helen MONKS

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**INTERPRETERS/INTERPRETES**

M. Roland HERRMANN  
Mme Maria FITZGIBBON

## APPENDIX II

### MODEL SUMMARY

The summary is divided into 5 zones:

**ZONE 1<sup>1</sup>:**     **a)** Country/ **b)** Name of court/ **c)** Chamber (if appropriate)/ **d)** Date of decision(s)/ **e)** Number of decision/ **f)** Title (if appropriate) of decision (in short)/ **g)** Publications (if appropriate)<sup>2</sup>

**ZONE 2:**             **KEY-WORDS OF THE SYSTEMATIC THESAURUS**<sup>3</sup>

This zone covers one or more key-words for the systematic thesaurus, moving from the general to the specific<sup>4</sup>. The liaison officers are asked to use the thesaurus terminology (based on a comparative approach), and not national terminology.<sup>5</sup>

**ZONE 3:**             **KEY-WORDS OF THE ALPHABETICAL INDEX**<sup>6</sup>

Key-words intended to give a more pragmatic indication of the subject of decisions and the main concepts or institutions covered by summaries may be entered in this zone, whether or not they appear in the thesaurus. These key-words will then be classified alphabetically by the Secretariat, and do not therefore have to be presented systematically.

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<sup>1</sup> Obviously, only headings applying in the country concerned should be completed

<sup>2</sup> Although not every court uses all these headings, for computerisation purposes, please follow the presentation shown, indicating letters used (a to g) and separating entries with a slash [/].

<sup>3</sup> For details and explanations, see the report of 7 January 1992 produced by MM Ryckeboer and Vandernoot (CDL (92) 2) Nos. 14-17

<sup>4</sup> The whole series, and not just the final key-word, should be mentioned. For example, do not simply write "Referendums"; the whole sequence, "CONSTITUTIONAL JUSTICE - Types of litigation - Electoral Disputes - Referendums", should be quoted. The key-word sequence should always begin with one of the four main chapter headings used in the thesaurus. The numbering system, which has not yet been finalised, should not be included at this stage.

<sup>5</sup> If classifying a judgment under one of the thesaurus headwords still proves difficult, please:

- point this out to the Secretariat when forwarding
- make a note of the problem for discussion at the annual thesaurus review meeting

<sup>6</sup> For details and explanations, see the report of 7 January 1992, prepared by MM. Ryckeboer and Vandernoot (CDL (92) 2) Nos. 14 and 18.

**ZONE 4:** **SUMMARY<sup>1</sup>**

Once important court decisions of probable interest to other countries have been selected, one or more significant passages should be chosen from them. Each synopsis can only have one summary<sup>2</sup>, and this should indicate the context of the case, including any facts needed for this purpose. Without citing constitutional or other texts<sup>3</sup>, it should indicate the subject matter and the general interpretation given by the court, paraphrasing the relevant provision if necessary. The summary brings out what can be learned from the decision. Summaries should be kept short<sup>4</sup>.

**ZONE 5:** **SUPPLEMENTARY INFORMATION<sup>5</sup>**

This zone is optional and can be used to put cases more clearly in context, for example, by using the following phrases : settled case law, compare with such a such decision, see such and such a text, such and such reference to legal theory, etc.... It can also be used to indicate and briefly describe any dissenting opinions.

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<sup>1</sup> For details and explanations, see the report of 7 January 1992 prepared by MM. Ryckeboer and Vandernoot (CDL (93) 2) Nos. 8 and 9.

<sup>2</sup> If a judgment contains several important passages, more than one summary must therefore be made.

<sup>3</sup> One should not say, for example, that a case concerned Article 10 of the Belgian Constitution - but that it concerned the inviolability of the home.

<sup>4</sup> Not more than 15 lines, whenever possible.

<sup>5</sup> For details and explanations, see the report of 7 January 1992, prepared by MM. Ryckeboer and Vandernoot (CDL (92) 2) No. 9 in fine.

## APPENDIX III

### **Proposed guide for preparation of liaison officers' contributions to the Special Bulletin on the presentation of Constitutional Courts<sup>1</sup>**

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Since this summary presentation is to be made by each Court for purposes of systematic comparison, the liaison officers are asked to follow the terminology set out below as closely as they can. All the sections should be completed, and total length should not exceed 4 pages. A simple list is therefore sufficient.

#### **Introduction**

1. Date and context of establishment
2. Position in the hierarchy of courts

#### **I. BASIC TEXTS**

A simple list of articles of the Constitution, laws or other legal texts which concern the court, its powers, composition and procedure;

#### **II. COMPOSITION AND ORGANISATION**

##### **1. Composition**

- . number of judges
- . procedures for appointment of judges and president
- . term of office
  - } - qualification (age, profession, etc.)
  - } - taking of oath
- . status of judges
  - } - incompatibilities
  - } - immunities
  - } - suspension or dismissal

##### **2. Procedure**

- . hours of sitting of the court
- . division into chambers, structures for conducting investigations and/or giving judgments
- . quorum rules
- . procedure (written/oral/time-limits/representation of parties, etc.)

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<sup>1</sup> Summary based on discussions at the meeting held in Venice on 10 November 1993 and on certain documents, including the Turkish Constitutional Court's contribution, the booklet presenting the Romanian Constitutional Court and the file presenting the Slovene Constitutional Court.

3. Organisation

Summary presentation of organisation chart, categories and recruitment of court staff, possibly details of administrative and budgetary affiliation.

**III. POWERS**

In the order best suited to each case, this section should cover:

- . the nature of the constitutional control exercised (specific/general/mandatory/optional).
- . the nature of the texts reviewed (treaties, constitutional laws, institutional acts, ordinary laws, regulatory texts, court decisions, etc.)
- . any other disputes for which the court has jurisdiction.

**IV. NATURE AND EFFECTS OF JUDGMENTS**

1. Types of decision
2. Legal effects of decisions  
Appeal or approval procedures, if applicable
3. Publication - arrangements for access to complete texts
4. If available, bibliography (in French or English) on the constitutional court.

**CONCLUSION**

Evaluation

If applicable, reforms planned or under way.