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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**Report of the 10th Meeting of the Sub-Commission  
on Constitutional Justice  
with the Liaison Officers from Constitutional  
Courts and other equivalent bodies**

**(Venice, 5 March 1997)**

The Sub-Commission on Constitutional Justice held its 10th meeting with liaison officers from Constitutional Courts and other equivalent bodies in Venice on 5 March 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. Presentation of version 1.5 12/96 of CODICES**

The Secretariat presented new features of the CODICES V1.5 12/96 which had been sent to liaison officers on CD-ROM. CODICES now contains all regular and special issues of the Bulletin on Constitutional Case-Law since 1993 together with about 1000 full texts of decisions.

New features introduced since the version presented at the last meeting on 28 June 1996 in Madrid are the following:

- a. CODICES expires 270 days after installation. Subscribers will receive a new CD-ROM before the end of this period.
- b. CODICES is protected. No changes can be made to its contents and copying is blocked.
- c. A second query template allows searches in the full texts, descriptions of courts, basic

- texts and the ECHR.
- d. The full texts have been grouped according to language. This facilitates searches in the texts.
- e. The European Convention on Human Rights (ECHR) and its protocols have been incorporated and links from references to its articles to the texts of the articles have been established.

**The participants welcomed the progress of the infobase CODICES and its availability on CD-ROM.**

### **3. Publication of the *Bulletin on Constitutional Case-Law***

The Secretariat provided information concerning the publication of the most recent *Bulletins*. *Bulletin* no. 96/2 will be sent out in March 1997. The *Special Bulletin on Basic Texts 1 and 2* have been published. Number 3 is under preparation. A fourth and last issue might be ready towards the end of the year or at the beginning of 1998.

**The Participants confirmed the publication schedule for 1997:**

- **Period from 1 January to 30 April 1997**  
Last date for contributions : 31 May 1997  
Publication date of *Bulletin* 97/1 : September 1997
- **Period from 1 May to 31 August 1997**  
Last date for contributions : 30 September 1997  
Publication date of *Bulletin* 97/2 : January 1998
- **Period from 1 September to 31 December 1997**  
Last date for contributions : 31 January 1998  
Publication date of *Bulletin* 97/3 : May 1998

The Secretariat informed the participants of some difficulties in the preparation of the Bulletin concerning contributions which did not fully comply with the guidelines on the preparation of the précis (CDL-JU (96) 14).

**The participants recalled that:**

- a. Very long précis should be shortened;
- b. Chapter 1 of the Systematic Thesaurus should be used restrictively; its keywords should be used only when the particular point is at issue;
- c. Headnotes should contain only the legal "ratio" of the decision in abstract terms. Facts and further legal arguments should figure in the summary;
- d. The outcome, e.g. whether a law was abolished, should be mentioned in the summary.

The Secretariat invited the liaison officers who had not done so to send their contribution for Bulletin 1996/3 as soon as possible. This Bulletin was already suffering a considerable delay.

The Secretariat informed the participants about the follow-up of the CoCoNet initiative of the University of Chicago of which they had been informed at their 7th meeting in Lausanne (3-4 July 1995). The Villanova University (USA) co-operates in the ECEULnet project with the Russian, Hungarian, Czech and Slovak courts in order to assist them in connecting themselves to the Internet.

The Secretariat informed the participants about the difficult situation of the Secretariat section dealing with Constitutional Justice. Mr. Jörg Polakiewicz who had been working for the Sub-Commission is no longer working for the Secretariat.

The workload in this sector has increased substantially now that about 40 Courts participate in the publication of the Bulletin and due to the new task of designing and producing the CODICES database. This dramatic increase in the workload was not followed by an increase in human resources available. Some participants indicated their willingness to draw the attention of their national authorities to this situation in view of supporting the Venice Commission in its effort.

Mr Maruste stressed the importance the work of the Sub-Commission has especially for the new Courts in Central and Eastern Europe. The Bulletin and CODICES were essential means of information needed for the work of these Courts.

**The participants expressed regret about Mr Polakiewicz no longer working for the Secretariat and voiced their high appreciation of his work.**

**The participants stressed the importance of mutually exchanging information on their work and its dissemination to the public. They expressed their concern about the lack of human resources in the Secretariat and urged the competent authorities within the Council to attribute to the Secretariat the means which are indispensable for this task.**

#### **4. Conditions of subscription to the *Bulletin* and CODICES**

The Secretariat informed the participants of the very high cost of production of the *Bulletin* which might require the introduction of a higher subscription fee. Prices for subscriptions to the CD-ROM and the Internet access would need to be fixed as well. Participating courts would, of course, continue to receive or have access to all these publications free of charge.

The Participants expressed their understanding of the need to raise the subscription price of the Bulletin. The price should, however, be increased moderately in order not to limit the chances of a wider distribution of the Bulletin. Subscriptions to both the English and French versions of the Bulletin should entitle subscribers to a reduction. The whole series of all Bulletins should also be available as a package.

On the other hand, participants pointed out that the CD-ROM and the Internet access could be

priced substantially higher than the Bulletin.

It was suggested that an advertisement campaign should be launched in order to make the Bulletin and CODICES known not only to constitutional lawyers but also to jurists in other branches of law.

**The participants charged the Secretariat to adapt the price of the subscription of the Bulletin and to fix prices for the CD-ROM, the Internet access and for a combination of these products, taking into account the views which had been expressed.**

**The participants charged the Secretariat to start an advertisement campaign in order to make the Bulletin and CODICES more widely known.**

## **5. CODICES entry mask**

The Secretariat presented the new version 1.1 03/97 of the input mask. It has the following new features in comparison to version 1.0

- a. Statistical data can be entered via the mask
- b. Additional information concerning the publication of decisions after the preparation of the précis for the Bulletin can be reported with a view to its inclusion in CODICES
- c. The boxes "c) Chambers", "g) Official publications" and "h) Non-official" provide assistance in filling in these zones
- d. Updates for new versions of the Thesaurus and modified lists of the Alphabetical Index and publications are possible

The mask will be sent to liaison officers. Its use will not be mandatory for liaison officers who can continue to use word-processing software to deliver their contributions.

## **6. Inclusion of constitutions into CODICES**

The Secretariat presented the project to include the constitutions of the participating countries in the infobase CODICES. This would allow for the establishment of links from references to articles of the constitutions to the corresponding text of this article. This method had already been applied in CODICES with respect to the European Convention on Human Rights.

Participants pointed out that the national constitutions would be more volatile than the ECHR. A link which once had been established could become invalid when the text of the article was changed later on. The Secretariat informed the participants that all old versions of articles of a constitution would be kept in CODICES and such links would thus be maintained. A special database keeping track of all modifications of the constitutions as from their date on inclusion into CODICES would be set up for this purpose. The Secretariat would, of course, have to be informed by the liaison officers about changes in the constitution.

**The participants adopted the project of including the constitutions in the original language and in English and French into CODICES. Links should be established from references of an article to the corresponding text. The liaison officers would henceforth inform the Secretariat about constitutional amendments by sending the text of the amendment (wherever possible also in translation; on diskette or via e-mail).**

## **7.       *Special Bulletin* on "Leading Cases" of European Constitutional Case-Law**

A new series of publications could complement the regular *Bulletins* by providing précis on a selection of landmark decisions which have been handed down prior to the coming into existence of the *Bulletin*. In order not to overstretch the capacities of the liaison officers, the Secretariat proposed to prepare these précis which would then be submitted to the liaison officers for approval.

The liaison officers would provide the Secretariat with the text of the decisions and summaries already existing (all of this if possible also on diskette/e-mail). Decisions which were not available electronically would, however, not be scanned or retyped.

Given the many changes of constitutions of participating countries, no links from references to articles of the constitution to the text of the article would be established for the "leading cases".

A proposal was made to create a Special Bulletin with bibliographic references to notes on decisions but also to more general literature on the jurisdiction of the courts. Participants were of the opinion that such references could already be made in the "Supplementary information" zone of a précis or the introductory part on statistics when a liaison officer felt that this would be of use for the readers.

**The participants decided to adopt the project of publishing a series of Bulletins on "leading cases" which were handed down prior to the participation of the courts in the Bulletin. The choice of these decisions would be made by the liaison officer or the Court. The participants charged the Secretariat to prepare a first issue in this series on decisions of the European Court of Human Rights.**

## **8.       Amendments to version 9 of the Systematic Thesaurus**

The Swiss and Belgian liaison officers and the Secretariat had made proposals as to the amendment of version 9 of the Systematic Thesaurus.

The Secretariat presented the cumulative tables 1993/1 - 1996/2 of the Systematic Thesaurus (CDL-JU (97) 12), the cumulative alphabetical index (CDL-JU (97) 11), and a list of "unfinished" keyword chains (CDL-JU (97) 13). These lists could serve in the task of identifying legal concepts which were missing in the Systematic Thesaurus.

The Secretariat informed the participants of the possibility to add the cumulative lists to each

Bulletin no 3 (covering the period from September to December) in order to provide a better reference to previous issues.

**The participants decided to charge the working group which had elaborated version 8 of the Systematic Thesaurus at its meeting in Brussels on 31 January 1995 to discuss the proposed amendments. Members of the working group will be contacted by the Secretariat.**

## **9. Study on the "Composition of Constitutional Courts"**

On the basis of about 20 replies to the questionnaire on the composition of constitutional courts the Secretariat had elaborated a first preliminary report on the Composition of Constitutional Courts (CDL-JU (97) 10 prov). The questionnaire was addressed to the members of the Commission who were invited to establish contact with the liaison officer when they deemed this necessary.

Responses to question 7 on the age of the judges had been answered ambiguously. Some replies refer to the age at appointment. The question had been geared towards the average age of the court members as such.

The English translation of Question 11 of the questionnaire referred to the "highest court" of the respective country. This question intended to refer to the highest constitutional jurisdiction. Some replies to this question, however, refer to the highest appellate jurisdiction.

It was pointed out that the report was yet descriptive and should be developed. The main similarities and differences in the composition of the courts should be pointed out in the conclusions.

**Members not having done so are invited to send their replies to the questionnaire as soon as possible to the Secretariat with a view to integrate them into the preliminary report. Members who so wish are invited to complement their replies until 25 April 1997.**

**Comments and complementary information by liaison officers would also be welcomed until that date.**

## **10. Constitutional reform in Hungary**

The President of the Hungarian Constitutional Court, Mr László Sólyom, addressed the Sub-Commission on the subject of constitutional reform in Hungary. In the discussion which ensued, it appeared that the main points of this reform would affect the position of parliament *vis à vis* government and the guarantee of social rights by the constitution.

The participants were informed that seats at the Hungarian Constitutional Court have been

vacant for several years. Next year the retirement of two more judges might lead to the absence of a quorum to pass further judgments.

**The participants expressed their concern about developments which might lead to a dangerous diminution of the effectiveness of the Hungarian Constitutional Court.**

#### **11. Other business**

The Secretariat informed the participants that within the framework of the programme of co-operation with South Africa a study visit of South African judges in Europe was envisaged. These judges would be interested in visiting participating courts. Those courts would be contacted by the Secretariat in due time.

Ms Alberini-Boillat informed participants about the new home-page of the Federal Court:

"<http://www.eurospider.ch/BUGE/>"

Mr Cottin informed the participants about the new web-site of the Constitutional Council:

"<http://www.conseil-constitutionnel.fr>"

The home-page of the Slovenian Constitutional Court provides many links to other Courts:

"<http://www.sigov.si/us/eus-ds.html>"

#### **12. Date and place of next meeting**

Messrs Ryckeboer and Vandernoot invited the Sub-Commission to hold its next meeting in autumn in Brussels at the Seat of the Belgian Court of Arbitration. The meeting of the working group on the amendment of the Systematic Thesaurus could be held in Brussels the day before the meeting of the Sub-Commission with the liaison officers.

**The participants expressed their gratitude for the invitation by the Belgian Court of Arbitration and decided to accept this invitation. Precise dates of the meetings would be fixed by the Secretariat in co-operation with the Court of Arbitration depending on a sufficient number of points on the agenda to be dealt with.**

**A P P E N D I X I**

**LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS**

**SUB-COMMISSION ON CONSTITUTIONAL JUSTICE/**  
**SOUS-COMMISSION JUSTICE CONSTITUTIONNELLE**

**IRELAND/IRLANDE**

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

**ARMENIA/ARMENIE**

M. Khatchig SOUKIASSIAN, Conseiller chargé des relations extérieures, Cour  
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**BULGARIA/BULGARIE**

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

**CANADA**

Monsieur Gérard BEAUDOIN, Sénateur

**CYPRUS/CHYPRE**

Mr Michael TRIANTAFYLIDIS, Chairman of the Council of the University of Cyprus,  
Former President of the Supreme Court and Former Attorney General of the Republic  
(Apologised/Excusé)

**DENMARK/DANEMARK**

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

**HUNGARY/HONGRIE**

M. János ZLINSZKY, Juge, Cour constitutionnelle, BUDAPEST

**LATVIA/LETTONIE**

Mr Aivars ENDZINS, 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, (also Liaison Officer)

**LUXEMBOURG**

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

**MALTA/MALTE**

Mr Joseph SAID PULLICINO, Chief Justice, Kappara (Apologised/Excusé)

**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  
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**TURKEY/TURQUIE**

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

**LIAISON OFFICERS/AGENTS DE LIAISON**

**ALBANIA/ALBANIE**

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**AUSTRIA/AUTRICHE**

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M. Rick RYCKEBOER, Référendaire à la Cour d'Arbitrage, BRUXELLES

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**CZECH REPUBLIC/REPUBLIQUE TCHEQUE**

Mr Miloš HOLE\_EK, Vice-Chairperson, Constitutional Court, BRNO

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**ESTONIA/ESTONIE**

Mr Rait MARUSTE, President of the Supreme Court, TARTU

**EUROPEAN COURT OF HUMAN RIGHTS/  
COUR EUROPEENNE DES DROITS DE L'HOMME**

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**FINLAND/FINLANDE**

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Mr Tapio KUOSMA, Judge, Supreme Administrative Court, HELSINKI  
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M. Stéphane COTTIN, Service de documentation, Conseil constitutionnel, PARIS

**GEORGIA/GEORGIE**

Mr Paata LEGAVA, Constitutional Court of Georgia, TBILISSI

**GERMANY/ALLEMAGNE**

Ms Renate JAEGER, Judge, Bundesverfassungsgericht, KARLSRUHE

Mr Wolfgang ROHRHUBER, Regierungsdirektor, Bundesverfassungsgericht, KARLSRUHE (Apologised/Excusé)

**GREECE/GRECE**

Mr Konstantinos MENOUDAKOS, Supreme Court, Council of State, ATHENS (Apologised/Excusé)

**HUNGARY/HONGRIE**

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**IRELAND/IRLANDE**

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Mrs Halina PLAK, Head of the Library and Documentation Centre, Constitutional Tribunal, WARSZAWA

**PORTUGAL**

M. António ARAÚJO, Tribunal constitutionnel, LISBONNE

**ROMANIA/ROUMANIE**

Mr Gheorghe IANCU, Head Secretary at the Constitutional Court, BUCHAREST

**RUSSIA/RUSSIE**

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**SLOVAKIA/SLOVAQUIE**

Mr Ján DRGONEC, Judge at the Constitutional Court, KOŠICE

**SLOVENIA/SLOVENIE**

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M. Paul TSCHÜMPERLIN, Secrétaire Général, Tribunal fédéral, LAUSANNE

(Apologised/Excusé)

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**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA/**

**L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE"**

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**TURKEY/TURQUIE**

Mr Mehmet TURHAN, Reporter, Constitutional Court, Ankara (Apologised/Excusé)

**UNITED STATES/ETATS-UNIS**

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Mr Harry POHLMAN, Judicial Fellow, Supreme Court, WASHINGTON (Apologised/Excusé)

**SPECIAL GUEST / INVITE D'HONNEUR**

Mr László SÓLYOM, President of the Constitutional Court, BUDAPEST

**SECRETARIAT**

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**INTERPRETERS/INTERPRETES**

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## APPENDIX II

### AGENDA

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7. *Special Bulletin* on "Leading Cases" of European Constitutional Case-Law
8. Amendments to version 9 of the Systematic Thesaurus
9. Study on the "Composition of Constitutional Courts"
10. Constitutional reform in Hungary
11. Other business
12. Date and place of next meeting