



Strasbourg, 15 November 2013

CDL-JU-PV(2013)002
Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**12th meeting of the Joint Council
on Constitutional Justice**

**Venice, Italy
8 – 9 October 2013**

MEETING REPORT

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A. Training session

Mr Schnutz Dürr presented the various IT tools that are at the disposal of the liaison officers.

He explained to the liaison officers how to reset their passwords (see http://www.venice.coe.int/WebForms/pages/?p=05_password_reset) in order to have access to the three restricted websites, Newsgroup: (<http://www.venice.coe.int/WebForms/login.aspx>), Venice Commission site: (<https://cs.coe.int/team21/veniceforum>) and JU site: (<http://www.venice.coe.int/JU/>), how to navigate through the various websites of the Venice Commission and how to use the CODICES database (www.CODICES.coe.int).

Ms Anne Rasson and Mr Rik Ryckeboer from the Constitutional Court of Belgium together with the Secretariat organised a training session for the liaison officers on how to prepare *précis*, using practical examples.

B. Joint Council meeting

Mr Christoph Grabenwarter, Co-Chair of the Joint Council, opened the meeting with a moment of silence for the death of the liaison officer from Peru, Ms Kharime Benvenuto Rojas, who was the Adviser to the President of the Constitutional Court of Lima.

Mr Grabenwarter then welcomed the liaison officers and the participants to the 12th meeting of the Joint Council on Constitutional Justice.

1. Adoption of the Agenda

The Agenda was adopted without any changes.

2. Communication by the Secretariat

Mr Dürr informed the participants about the upcoming 96th Plenary Session of the Venice Commission and about the draft opinions that would be adopted during that Session - notably:

- the *amicus curiae* brief for the Constitutional Court of Bosnia and Herzegovina on the compatibility with the non-discrimination principle of the selection of the Republic Day of the Republika Srpska;
- the draft opinion on draft amendments to three constitutional provisions relating to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council of Montenegro;
- the draft opinion on the draft constitutional laws amending two constitutional laws amending the Constitution of Georgia;
- the draft opinion on the final draft Constitution of Tunisia;
- the constitutional reform process in Romania and on the Commission's involvement in this process;
- the preparation of the opinion on the so-called laws on "foreign agents" and on "treason" of the Russian Federation, requested by the Parliamentary Assembly of the Council of Europe.

Mr Dürr introduced Ms Charlotte de Broutelles to the participants. She is a new staff member who had already joined the Division of Constitutional Justice when the Joint Council meeting took place in Brno last year, however she could not attend the meeting due to an event in Jordan regarding the establishment of a constitutional court in that country.

3. Updating data on the participating courts

The Secretariat reminded participants that this was a regular item on the agenda and invited them to share their views on the personalised emails they receive from the Secretariat on a regular basis.

4. Venice Forum

4.a “Classic” Venice Forum

Ms Tanja Gerwien reminded the liaison officers that the Classic Venice Forum is a system of exchange based on e-mail, through which they can exchange information regarding pending cases before their courts. Previous exchanges are available at a restricted website (<http://www.venice.coe.int/JU/VeniceForum/>).

She informed the liaison officers that it was important that they include a clear deadline for replies in their requests and reminded them to indicate in their requests whether replies after the given deadline were still welcome.

The table below shows that in 2011, 30 questions were sent by liaison officers to which 467 replies were sent (giving an average of approximately 15 answers per question). In 2012, 19 questions were sent by liaison officers to which 370 replies were sent (giving an average of approximately 19 answers per question). For 2013, 17 questions have already been received to which 279 replies were sent.

Year	Number of questions received (in total)	Number of courts which sent questions	Number of answers received
2011	30	14	467 (~15 answers per question)
2012	19	13	370 (~19 answers per question)
2013	17	10	279 (~16 answers per question)
TOTAL	66	37	1116

Ms Gerwien thanked the liaison officers for their interesting requests and for taking time out of their busy schedules to answer the questions from other liaison officers.

Link: <http://www.venice.coe.int/JU/VeniceForum/>

4.b Forum Newsgroup

Mr Dürr encouraged the liaison officers to use the Newsgroup to post information regarding their courts, including appointments of presidents, secretaries general, important decisions, conferences etc.

Link: <https://cwsn.coe.int/team21/veniceforum>

5. Opinions and studies of the Venice Commission

Participants were informed about opinions and reports adopted by the Venice Commission on ordinary and constitutional justice since the last meeting of the Joint Council in Brno, Czech Republic on 31 May 2012.

June 2012 – 91st Plenary Session of the Venice Commission

Bosnia and Herzegovina	Opinion on Legal certainty and the independence of the judiciary http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)014-e
Hungary	- Opinion on the Act on the Prosecution Service and on the Act on the Status of the Prosecutor General, Prosecutors and other Prosecution employees and the Prosecution career http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)008-e - Opinion on the Act on the Constitutional Court http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)009-e

October 2012 – 92nd Plenary Session of the Venice Commission

Hungary	Opinion on the amendments to the cardinal acts on the judiciary http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)020-e
Ukraine	Opinion on the draft law prepared by the Ukrainian Commission on Strengthening Democracy and the Rule of Law on the Public Prosecutor's Office http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)014-e

December 2012 – 93rd Plenary Session of the Venice Commission

Montenegro	Opinion on draft constitutional amendments relating to the judiciary http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)024-e
Romania	Opinion on the constitutional situation http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)026-e

March 2013 – 94th Plenary Session of the Venice Commission

Georgia	Opinion on the draft amendments to the organic law on courts of general jurisdiction http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)007-e
Moldova	<i>amicus curiae</i> brief on the immunity of judges for the Constitutional Court http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)008-e
Serbia	- Opinion on the draft amendments to the law on the public prosecution http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)006-e - Opinion on draft amendments to laws on the judiciary http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)005-e
Moldova	Joint <i>amicus curiae</i> brief for the Constitutional Court of Moldova on the compatibility with European standards of law no 192 of 12 July 2012 on the prohibition of the use of symbols of the totalitarian communist regime and of the promotion of totalitarian ideologies http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)004-e

June 2013 – 95th Plenary Session of the Venice Commission

Bosnia and Herzegovina	Opinion on the draft Law on the Courts http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)015-e
Hungary	Opinion on the Fourth Amendment to the Fundamental Law http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)012-e
Monaco	Opinion on the balance of powers in the Constitution and the legislation of the Principality of Monaco http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)018-e

Ukraine	Opinion on the draft Law on the Amendments to the Constitution, strengthening the independence of judges and on the changes to the Constitution proposed by the Constitutional Assembly http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)014-e
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6. Co-operation activities

6.a. Co-operation with the Conference of European Constitutional Courts (CECC)¹

Ms Adamovich-Wagner explained to the participants that the CECC provides an important pan-European forum for a comprehensive, multilateral exchange of opinions, ideas and experiences on substantive issues, as set out in the preamble to the Statute of the CECC. It is within this context that the Constitutional Court of Austria, which currently chairs the CECC, is organising the XVIth Congress of the CECC at the Vienna Hofburg on 11 to 14 May 2014.

The theme of this Congress is "The Co-operation of Constitutional Courts in Europe – Current Situation and Perspectives". A questionnaire on the topic was sent out in November 2012.

Participants will include the full members of the CECC, associate members, observers and guests – as was decided at the Circle of Presidents in 2012.

The Court has created a website for this event: <http://www.vfgh.gv.at/cms/vfgh-kongress/en/index.html>.

6.b Co-operation with the Association of Constitutional Courts using the French Language (ACCPUF)²

Mr Dürr informed the participants that Ms Caroline Pétilion, Secretary General of the ACCPUF, could unfortunately not attend this meeting.

Participants were told that a congress by ACCPUF was held in Marrakech, Morocco on 3-5 July 2013 on "The Citizen and the Constitutional Judge", which was inter alia devoted to the introduction of the preliminary question of constitutionality (the "QPC"). This was a major constitutional change in France and the congress dealt with the question of whether or not those African countries that have a similar system to the French one would follow suit.

Mr Dürr informed the participants that there will be a seminar of the national correspondents of ACCPUF in Paris, France on 7-8 November 2013. That seminar would include a training session, similar to the one held for liaison officers of the Joint Council on Constitutional Justice.

The 7th Conference of the Heads of Institutions of ACCPUF will be meeting in Ottawa, Canada on 27-29 April 2014 and the 7th Congress of ACCPUF will be hosted by the Federal Tribunal of Switzerland, at the beginning of June 2015.

6.c. Co-operation with the Southern African Chief Justices Forum (SACJF)³

Ms Lombe Chibesakunda, Chief Justice of the Supreme Court of Zambia, informed the participants about the Co-operation Agreement between the SACJF and the Venice Commission that was signed in Maseru, Lesotho in March 2007.

¹ See the co-operation site: <http://www.venice.coe.int/CECC/>.

² See the co-operation page: <http://www.venice.coe.int/ACCPUF/>

³ See the co-operation page: <http://www.venice.coe.int/SACJF/>

She underlined the importance of organising regional meetings, such as those of the SACJF, which gives judges the possibility of exchanging information and experiences with other judges. It allows them to see that, although systems are different, there are many similarities, as most share the basic and fundamental principles of constitutional justice.

Chief Justice Chibesakunda hopes to continue the fruitful exchange of jurisprudence through CODICES and the World Conference on Constitutional Justice (WCCJ) and announced that the Supreme Court of Zambia would become a member of the WCCJ.

She informed the participants that a judges' seminar of the SACJF will take place in Windhoek, Namibia in November 2013, hosted by the Supreme Court of Namibia, however not all courts will be able to attend due to a lack of funds. The next Annual General Meeting is foreseen in Zimbabwe in 2014.

Chief Justice Chibesakunda also informed the participants that the Venice Commission was instrumental in the establishment of the SACJF and had provided financial support for its activities. Since 2010 the Venice Commission could no longer do so due to budgetary constraints. However, since then, the SACJF has not been able to organise all its activities and is now calling for the renewed support of the Venice Commission.

Mr Grabenwarter thanked Chief Justice Chibesakunda and welcomed the Supreme Court of Zambia as a future member of the WCCJ.

Mr Dürr informed the participants that the Venice Commission was able to support the SACJF in the past thanks to the voluntary contributions from Ireland, Italy, Norway and Switzerland. These funds are however no longer available and the Venice Commission was continuing to look into possibilities of supporting the SACJF.

6.d. Co-operation with the Conference of the Constitutional Control Organs of the Countries of New Democracy (CCCOCND)⁴

Mr Dürr informed the participants about the co-operation with the CCCOCND and the Venice Commission, which meets in Yerevan on an annual basis.

He told the participants that Armenia is chairing the Committee of Ministers of the Council of Europe and that for this reason, the annual meeting of the CCCOCND was held in July rather than in October. The conference's topic this year was "The European standards of the rule of law and the scope of discretion of powers in the member states of the Council of Europe".

6.e. Co-operation with the Association of Asian Constitutional Courts and Equivalent Institutions (AACC)⁵

Mr Dürr informed the participants that a preparatory meeting of the AACC took place in Ankara, Turkey on 24 March 2013, bringing together 30 permanent members. The Constitutional Court of Georgia was admitted as an observer to the AACC.

The 2nd Congress of the AACC will be held in Istanbul, Turkey on 28-30 April 2014, to discuss co-operation between the member states.

Mr Çoban told the participants that a summer school is currently being held in Ankara involving over 10 countries on the theme "Equality and prohibition of discrimination". The proceedings of this event will be available in the publication on Constitutional Justice in Asia.

⁴ See the co-operation page: <http://www.venice.coe.int/CCCOCND>

⁵ See the co-operation page: <http://www.venice.coe.int/AACC/>

The Venice Commission will be invited to the 2nd Congress in Istanbul next year.

6.f. Co-operation with the Ibero-American Conference of Constitutional Justice (CIJC)⁶

Mr Dürr informed the participants that the CIJC regularly organised congresses and that the Xth Congress will be held on 12-15 March 2014 in Santo Domingo, Dominican Republic.⁷

He reminded the participants that the CIJC has two secretariats: one permanent one, Justice Francisco Pérez de los Cobos Orihuel, the President of the Constitutional Court of Spain, and one *pro tempore*, the Constitutional Court of the Dominican Republic.

6.g. Co-operation with the Union of Arab Constitutional Courts and Councils (UACCC)⁸

Mr Gebaly, Secretary General of the UACCC, informed the participants that the UACCC was established in 1997 to enhance constitutional control in the Arab countries. In February 1997, Constitutional Courts and courts with equivalent jurisdiction held a preparatory meeting in Cairo, Egypt at the end of which a draft statute for the UACCC was approved. The Statute was signed and adopted in June 1997.

The UACCC has entered into a co-operation agreement with the Venice Commission in 2008.

With the accession of Bahrain in March 2013 followed by the United Arab Emirates and Iraq, the UACCC now has 15 members.

6.h. Co-operation with the Conference of Constitutional Courts of Portuguese Speaking Countries (CJCPLP)⁹

Ms Da Imaculada L. da Conceição Melo, Judge Councillor at the Constitutional Court of Angola, which currently holds the presidency of the CJCPLP, told the participants that its statute was approved at the first meeting in Lisbon, Portugal in May 2010 and that the members now include Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, Portugal, São Tomé and Príncipe and Timor-Leste.

In October 2012, the CJCPLP organised a seminar on the financial autonomy of constitutional justice and it is looking into creating its own website, which is currently hosted by the Federal Supreme Court of Brazil (http://www2.stf.jus.br/cjcplp/cjcplp_home.html), (http://www.venice.coe.int/WebForms/pages/?p=02_01_Regional_CJCPLP).

A conference will be organised in 2014 under the presidency of Angola, the theme of which will be chosen by the member states by the end of the year.

6.i. Co-operation with the Conference of Constitutional Jurisdictions of Africa (CJCA)¹⁰

Mr Ndiaye, Secretary General of the CJCA, explained to the participants that this Conference was established in Algiers in 2011 with the support of the Venice Commission. During the 2nd

⁶ See the co-operation page: <http://www.venice.coe.int/CIJC/>

⁷ <http://www.cijc.org/Paginas/Default.aspx>

⁸ See the co-operation page: <http://www.venice.coe.int/UACCC>

⁹ See the co-operation page: <http://www.venice.coe.int/CJCPLP>

¹⁰ See the co-operation page: <http://www.venice.coe.int/CJCA>

Congress in Benin, the co-operation agreement with the Venice Commission was entered into. Amendments were brought to the statute of the CJCA to open it to all African countries states outside the African Union and it now has 29 members.

Mr Laraba, Deputy Secretary General of the CJCA, informed the participants about the difficult situation in the Republic of Central Africa, where all the institutions were dissolved, including the Constitutional Court. It is important that assistance be brought to ensure that such institutions are set up again and that the rule of law, human rights and democracy prevail.

The Secretariat took the opportunity to thank the CJCA for having provided the logo for the WCCJ.

7. World Conference on Constitutional Justice (WCCJ)¹¹

Mr Dürr informed the participants that since the WCCJ's Statute entered into force, on 24 September 2011, 79 Constitutional Courts, Constitutional Councils and Supreme Courts exercising constitutional justice have joined the WCCJ. The updated list of members is available at www.venice.coe.int/WCCJ.

He said that the meeting of the Bureau of the WCCJ took place immediately after the 95th Plenary Session of the Venice Commission on 15 June 2013.

Mr Jin Wook Kim, Deputy Secretary General and Chief of Staff of the Constitutional Court of Korea, reminded the participants that the 3rd Congress of the WCCJ will be hosted by the Constitutional Court of the Republic of Korea in Seoul, on 28 September to 1 October 2014 on "*Constitutional Justice and Social Integration*". Invitation letters to this event will be sent out soon. He informed the participants that an independent website has been set up for the 3rd Congress and that the address of this website will be included in the invitation letter.

Mr Dürr added that a concept paper on the main topic of the Congress and a short questionnaire on the sub-topics would be sent with the invitation letters. He went on to explain that on the first day of the 3rd Congress, group meetings will take place, but that for budgetary reasons no interpretation would be provided.

Mr Grabenwarter explained that the topic of "The independence of courts" would appear on a regular basis on the agenda of the Congresses in order to take stock of the situation in the members of the WCCJ. The reason for this stock-taking exercise was to provide a signal that the independence of constitutional justice is important for all. This suggestion was made by the CECC at the meeting of the WCCJ Bureau last June.

8. Seminars with Constitutional Courts (CoCoSem)

Mr Dürr informed the participants about the seminars held since the last Joint Council meeting as well as the programme for future CoCoSem seminars, as follows:

2012	
25 October	Vilnius, Lithuania – International Conference on Standards of Europe's Constitutional Heritage, 20 th anniversary of the Constitution of the Republic of Lithuania, organised in co-operation with the Constitutional Court and Vilnius University
29-30 November	Rabat, Morocco - Seminar on preliminary requests to the Constitutional Court in co-operation with the Constitutional Council of the Kingdom of Morocco

¹¹ See the co-operation page: <http://www.venice.coe.int/WCCJ>

2013	
29-31 May	Arequipa, Peru – Regional conference on “Individual access to constitutional justice” (in co-operation with the Constitutional Court of Peru)
20-22 June	Yalta, Ukraine – the Venice Commission participated in the International Conference on “the Protection of Human and Citizens' rights by bodies of Constitutional Jurisdiction in the current context”, organised in co-operation with the Constitutional Court of Ukraine
29-30 June	Batumi, Georgia - Conference in co-operation with the Constitutional Court of Georgia on “Theoretical and Practical Aspects of Reviewing the Constitutionality of the Constitutional Norms”
5 September	Vilnius, Lithuania - International Conference in co-operation with the Constitutional Court of Lithuania on the topic “Present Tendencies of Constitutional Justice: the Relation between national and international Law”
26-27 September	Riga, Latvia - International Conference on the “Jurisdiction of the Constitutional Court: Limits and Possibilities of Expansion”
Upcoming	
17 October	Belgrade, Serbia - On the occasion the 50 th Anniversary of the founding of the Constitutional Court of Serbia, conference on “Position and Perspectives of constitutional Justice”
22 November 2013	Tirana, Albania - Conference on “The Constitution as an instrument of stability and development”
28-29 November 2013	St. Petersburg, Russian Federation - “Moot Court on Constitutional Justice”

9. Publication of the *Bulletin on Constitutional Case-Law*

9.a Regular issues of the *Bulletin*

Participants were shown Bulletin no. 2012/3, which they should have received. The Secretariat thanked the liaison officers for their work in submitting regular contributions for the Bulletin on Constitutional Case-Law.

Bulletin no. 2013/1 is currently being prepared and will be published before the end of the year.

9.b Special *Bulletins*

Participants were informed that the Special Bulletin on the Leading Cases of the Court of Justice of the European Union will be published by the end of 2013.

Participants were also informed that the Secretariat will publish an updated version of the Special Bulletin on Court Descriptions, which was last published in 1999.

In addition, the working document on “Court Relations” for the XVIth Congress of the Conference of European Constitutional Courts, which will be held in Vienna on 12-15 May 2014, will be distributed in April 2014. Following further updates, this working document will be published in 2015 as a special bulletin together with the General Report of the XVIth Congress.

Mr Ryckeboer pointed out that the Bulletin was celebrating its 20th anniversary this year. The first liaison officers had met, 20 years ago, to find a means to efficiently share their case-law and the description of their courts, which resulted in the CODICES database and the Bulletin on Constitutional Case-Law.

10. CODICES database

Mr Dürr informed the participants that the internet version of CODICES will change and that improvements include changes to the look of the database and to the search engine as regards search results. Liaison officers will be able to earmark judgments more easily through the introduction of bookmarks, which will make it easier to share search results in the database. This should be finalised by the end of the year.

10.a Updating and indexing of constitutions and laws in CODICES

Participants were informed about the progress made in updating constitutions, laws on and descriptions of courts (see CDL-JU(2013)011).

10.b CODICES Internet entry mask

Mr Dürr informed the participants that due to the fact that the Secretariat and liaison officers had encountered a number of difficulties with the CODICES Internet entry mask – the Secretariat asked the liaison officers that the CODICES Internet entry mask would no longer be supported. Liaison officers whose access was still working could continue to use it.

Liaison officers agreed that the CODICES Internet entry mask would no longer be supported for the submission of contributions to the Bulletin on Constitutional Case-Law and CODICES.

11. Documentation Centre on Constitutional Justice / Library

The Secretariat thanked all the participating courts for their contributions to the Venice Commission's library in Strasbourg. The list of documents is available at:
<http://www.venice.coe.int/WebForms/cocentre/>

12. Other business

Mr Dürr informed the participants that the link on the Venice Commission's website to the page on regional co-operation with the UACCC needed to be changed – and that this would be done in due course.

13. Date and place of the next meeting

Following the Brno and Venice meetings, the next meeting of the Joint Council will take place in Batumi, Georgia at the end of June or at the beginning of July 2014 upon the kind invitation of the Constitutional Court of Georgia.

C. Mini-conference on “Children’s Rights”

A mini-conference on Children's Rights took place on Wednesday, 9 October 2013. The reports are available at the following link:
<http://www.venice.coe.int/WebForms/events/?id=1562>.

LIST OF PARTICIPANTS

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SERBIA / SERBIE

Ms Verica JAKOVLJEVIC, Senior Legal Adviser, Constitutional Court, BELGRADE

SLOVENIA / SLOVENIE

Ms Vesna BOŽIČ, Advisor, Constitutional Court, LJUBLJANA

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

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