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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**14th meeting of the Joint Council
on Constitutional Justice**

**Bucharest, Romania
11-12 June 2015**

MEETING REPORT

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A. Training session

Mr Schnutz Dürr presented the various IT- tools at the disposal of the liaison officers, which include the procedure for resetting the password, which expires every 63 days (see http://www.venice.coe.int/WebForms/pages/?p=05_password_reset); access to the public and restricted website of the Venice Commission, including the list of courts, the list of secretaries general, the list of liaison officers, regional and linguistic groups, the World Conference on Constitutional Justice, opinions and reports.

Mr Dürr also explained how to access the Interim Bulletin, the Venice Forum, which includes the Newsgroup, the "Classic" Venice Forum (per e-mail exchange), the Observatory (<https://cs.coe.int/team21/veniceforum/default.aspx>) and the CODICES database (www.CODICES.coe.int).

B. Joint Council meeting

Opening address

Mr Augustin Zegrean, President of the Constitutional Court of Romania, opened the meeting and welcomed the participants to Bucharest. He informed them that the meeting was being held in one of the largest public buildings in the world: the Parliament of Romania.

Mr Dürr congratulated the Constitutional Court of Romania for being active in sharing its experiences with other Constitutional Courts in Europe and beyond, thereby greatly contributing to the exchange of information between Constitutional Courts and Courts with equivalent jurisdiction.

He reminded the participants that the Joint Council on Constitutional Justice (hereinafter, the "JCCJ") has two co-chairs: Mr Il-Wong Kang, member of the Venice Commission for the Republic of Korea, who represents the Venice Commission and Ms Krisztina Kovacs, who represents the liaison officers.

Mr Kang chaired this meeting.

1. Adoption of the Agenda

The Agenda was adopted without any changes.

2. Communication by the Secretariat

Mr Dürr informed the participants that the Venice Commission is 25 years old this year and that it has steadily grown since its establishment. The Commission has been and still is most active in Central and Eastern Europe, but has also been requested to assist with changes in the old European democracies e.g. Finland, Iceland, Luxembourg and Norway. It has also started to prepare opinions for countries outside greater Europe, such as Kyrgyzstan and Peru.

The participants were also informed about the draft opinions on the agenda of the 103rd plenary session of the Venice Commission, notably for the constitutional reforms in Armenia and Ukraine, of an *amicus curiae* brief for the Constitutional Court of Georgia and of an important opinion for Kyrgyzstan concerning the future of the Constitutional Chamber. The Venice Commission is also active in the preparation of the Constitution of Tunisia and is

now in contact with the High Judicial Council in that country, which is preparing a law for a Constitutional Court.

3. Updating data on the participating courts

Mr Dürr presented the User's Guide to the Venice Forum (CDL-JU(2015)003), which was updated.

4. Venice Forum

The Venice Forum site includes the Newsgroup, the "Classic" Venice Forum, the Constitutional Justice Observatory and the Interim Bulletin.

4.a. "Classic" Venice Forum

Ms Tanja Gerwien briefly reminded liaison officers about the functioning of the "Classic" Venice Forum, a system based on e-mails that are shared on a restricted website, on which liaison officers can safely exchange information regarding pending cases before their courts (<http://www.venice.coe.int/JU/VeniceForum/>).

Liaison officers were reminded of the rule that *"requests should relate to the case-law of the participating courts, but can also be questions relating to the activity of courts e.g. procedure before the Court, budget of the Court, relations with the media."*

The liaison officers approved document CDL-JU(2015)006 on the revised Guidelines for the "Classic" Venice Forum – (admitting requests on the issues related to the procedure before the Courts).

Liaison officers were also encouraged to seek assistance from the Secretariat, should they encounter any problems.

Link: <https://cs.coe.int/team21/veniceforum/SitePages/Classic%20Venice%20Forum.aspx>

Year	Number of questions received (in total)	Number of answers received (in total)
2014	32	454
2015	11	183
TOTAL	43	637

4.b. Newsgroup

The Venice Forum Newsgroup is used to provide information about accessions to the World Conference on Constitutional Justice (WCCJ) and appointments of Presidents to Courts or other news, such as postings on new websites.

Liaison officers are alerted about new items added to the Newsgroup every Friday at 16:00 CET. New liaison officers or those that have not received such alerts are invited to contact the Secretariat.

4.c. Constitutional Justice Media Observatory

The Observatory contains press articles on constitutional courts, recent judgments as well as discussions on constitutional reform compiled by the Secretariat using a google-alert system.

It is not exhaustive and the Secretariat neither censures the information nor is responsible for its content.

Liaison officers who would like to receive information regularly through the Observatory were invited to register with the Secretariat.

Link: <https://cws.m.coe.int/team21/veniceforum>

5. Opinions and studies of the Venice Commission

Participants were informed about opinions and reports on constitutional justice, adopted by the Venice Commission since the last meeting of the Joint Council that took place in Batumi, Georgia on 26-27 June 2014.

Armenia	Opinion on the Draft Concept Paper on the Constitutional Reforms of the Republic of Armenia (CDL-AD(2014)027). http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)027-e
Montenegro	Opinion on the draft law on the Constitutional Court of Montenegro (CDL-AD(2014)033). http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)033-e
“the former Yugoslav Republic of Macedonia”	Opinion on the seven amendments to the Constitution of “the former Yugoslav Republic of Macedonia”, concerning, in particular, the Judicial Council, the competence of the Constitutional Court and special financial zones (CDL-AD(2014)026). http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)026-e
Georgia	<i>Amicus Curiae</i> brief for the Constitutional Court of Georgia on the question of the defamation of the deceased (CDL-AD(2014)040). http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)040-e
Moldova	<i>Amicus curiae</i> brief on certain provisions of the Law on professional integrity testing (anti-corruption law) of the Republic of Moldova (CDL-AD(2014)039). http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)039-e

6. Co-operation activities

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

Ms Irina Khakhutaishvili, liaison officer for the Constitutional Court of Georgia which holds the presidency of the CECC, could not attend this JCCJ meeting due to illness.

Mr Dürr informed the participants that the Constitutional Court of Georgia will be hosting the XVIIth Circle of Presidents (preparatory meeting) of the CECC on the topic “*Application of International Treaties by Constitutional Courts and Equivalent Bodies: Challenges to the Dialogue,*” on 9-11 September 2015 in Batumi, Georgia.

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

Mr Paul Tschümperlin informed the participants that ACCPUF’s 7th Congress took place on 3-7 June 2015 in Lausanne, Switzerland on the topic “*Supremacy of the Constitution*”. The proceedings will be published on ACCPUF’s website in due course.

Mr Tschümperlin informed the participants that ACCPUF's General Assembly had renewed the composition of its Bureau: the Federal Tribunal of Switzerland now holds the presidency following the presidency of the Constitutional Council of Morocco; Gabon was elected first vice-president, Canada holds the position as the second vice-president and Belgium as the third vice-president. Romania and Morocco were elected members of the Bureau.

The General Assembly decided to enter into a partnership with the UACCC and to continue its co-operation with the OIF and the Venice Commission. It has also decided that the next seminar for the national correspondents will discuss "*Decision-writing techniques*".

ACCPUF's bureau meetings will take place on 4-5 February 2016 in Brussels, Belgium and on 15 July 2016, in Morocco. The meeting for the Heads of institutions is scheduled for 2017 in Moldova.

Mr Tschümperlin also said that ACCPUF intends to develop a search engine for its website. Since the Venice Commission's CODICES database is also ACCPUF's database, there is a direct link to CODICES on ACCPUF's website. However, due to the fact that there are a large number of states – members of ACCPUF – that do not contribute to CODICES, the ACCPUF's General Secretariat decided to encourage its member courts, once again, to send their case-law.

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

Mr Dürr informed the participants about the co-operation with the SACJF, saying that it had reduced its activity significantly due to budgetary problems. In 2014, it did not organise a meeting of its own, but linked it to the meeting of the Association of Common Law Judges. There is no further information on their activity and there are no sponsors for the moment.

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

Mr Grigori Vahanyan informed the participants that the last meeting of the CCCOCND took place on 28 September 2015 in Seoul, Republic of Korea, within the framework of the 3rd Congress of the WCCJ. The participants reiterated the importance of the Bulletin on Constitutional Case-Law, the more general co-operation with the Venice Commission and the participation in the WCCJ.

Mr Vahanyan explained that the CCCOCND's website contains 66 volumes in electronic format of the Bulletin on Constitutional Justice and 13 Volumes of the International Almanac (<http://www.concourt.am/english/almanakh>).

The Constitutional Court of Armenia organised the 19th International Conference on "*The Constitutional Status of Human Dignity*" in Yerevan, Armenia on 23-25 October 2014. The 20th International Conference will take place in Yerevan on 8-10 October 2015, celebrating the 20th anniversary of the adoption of the Constitution and the establishment of the Constitutional Court. Its theme will be "*The role of Constitutional Courts in strengthening the independence of the judicial power: doctrinal approaches and contemporary challenges*".

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

Ms Kook Hee Lim informed the participants that the Constitutional Court of Indonesia currently holds the presidency of the AACC. The secretary generals of the AACC met in Jakarta,

Indonesia on 24-27 May 2014. One of the main topics concerned the establishment of a permanent secretariat of the AACC and Korea has received support for this.

The board meeting of the AACC will take place in Jakarta on 15 August 2015 to discuss the 3rd congress of the AACC and the possible accession of the Constitutional Chamber of Kyrgyzstan. The 3rd Congress will take place in Nusa Dua, Bali in April 2016. The topic will be decided at the next board meeting, in Jakarta in August 2015.

Ms Lim hopes that the Venice Commission will be invited on a regular basis to the meetings of the AACC.

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

Mr Dürr informed the participants about the co-operation with the Ibero-American Conference of Constitutional Justice (CICJ).

A Seminar of the CICJ on "*Fundamental rights of people deprived of their freedom in penitentiary establishments*" will take place in La Antigua, Guatemala on 28 September to 2 October 2015.

Mr Felipe Paredes San Roman pointed out that the topic of the XIth Conference of the CICJ will be on the rule of law and economic development and will take place in June and not in March 2016. This is due to the fact that Peru will have general presidential elections in 2016, since the incumbent president is ineligible to run, having reached the constitutional term limit.

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

Mr Dürr informed the participants about the co-operation with the Union of Arab Constitutional Courts and Councils (UACCC).

The UACCC held its meeting in Kuwait on 22 March 2015, one day before the WCCJ's Bureau in Venice, hence the Secretariat of the Venice Commission could not participate in this meeting. It was, however, represented by the President of the Constitutional Court of Kosovo.

The presidency of the UACCC has passed to the Constitutional Council of Mauritania.

The members' attendance at UACCC meetings has been dwindling due to the turmoil in the region. One example is the Constitutional Council of Tunisia, which was a member of the UACCC in the past, but currently has no Constitutional Council and Libya's Supreme Court is in a difficult situation at the moment.

However, the Venice Commission continues to seek to work with the UACCC in order to support democracy in the region.

6.h. Co-operation with the Conference of Constitutional Jurisdictions of the Portuguese-speaking Countries (CJCPLP)

Ms Baptista Lopes informed the participants that Angola hosted the third assembly of the CJCPLP on the topic "*Constitutional jurisdiction and protection of fundamental rights*" on 2-5 June 2015.

A website is currently being developed for the CJCPLP by the Constitutional Court of Portugal together with the Supreme Federal Court of Brazil and the Constitutional Court of Angola as well as an e-platform to allow member courts to securely exchange information.

An interim meeting is usually held in the year in which there is no ordinary assembly meeting, held by the country which will hold the next presidency. This interim meeting was scheduled for November 2015 in Brazil, but due to the Olympic Games there in August 2016, it has been moved forward to the first quarter of 2016.

Ms Baptista Lopes also informed the participants that the President of Cape Verde has finally appointed five justices to the Constitutional Court of his country on 24 May 2015. This Court is expected to begin its work at the end of this year.

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

As Mr Laraba could not be present, Mr Dürr informed the participants about the co-operation with the Conference of Constitutional Jurisdictions of Africa (CCJA).

The executive bureau of the CCJA took place in Mozambique in May. The third congress was attended by the President of the Venice Commission and further expansion of the CCJA's membership was discussed, notably to Eastern Africa e.g. the Court of Appeal of Tanzania has become a member.

7. World Conference on Constitutional Justice (WCCJ)

Mr Kang informed the participants that Constitutional Court of Korea hosted the 3rd Congress of the WCCJ on 28 September to 1 October 2014 in Seoul. Since then, the WCCJ has increased its membership to 96 Constitutional Courts, Constitutional Councils and Supreme Courts exercising constitutional justice.

The updated list of members is available at www.venice.coe.int/WCCJ.

Ms Lim added that there were 109 Constitutional Courts, Supreme Courts and International Organisations present at the 3rd Congress from 92 countries and that Mr Park, the President of the Constitutional Court of the Republic of Korea had suggested that Asia create a Human Rights Court. This was included in the Seoul *Communiqué*, adopted at the 3rd Congress of the WCCJ.

Ms Ingrida Daneliene informed the participants that the Constitutional Court of Lithuania will be hosting the 4th Congress of the WCCJ in Vilnius in 2017. In that year, Lithuania will also be celebrating the 25th anniversary of its Constitution.

Ms Daneliene explained that a working group had been set up to deal with the organisation of the Congress and that, for the moment, tentative dates for the 4th Congress were 10-13 September 2017.

Mr Dürr, the Secretary General of the WCCJ, presented the conclusions of the 9th Bureau meeting of the WCCJ that took place in Venice, Italy on 21 March 2015. The Bureau discussed, in particular:

- the venue for the 4th Congress of the WCCJ with President Žalimas of the Constitutional Court of Lithuania and accepted the offer of the Constitutional Court of Lithuania to host the 4th Congress of the WCCJ in 2017;

- noted that the Constitutional Court of Austria generously offered to cover part of the contribution of the Constitutional Court of Ukraine to the WCCJ for 2015 (500 euros);
- invited the Secretariat to establish a system of book exchange via the Venice Forum.

8. Seminars and conferences with Constitutional Courts (CoCoSem)

The participants were informed about the seminars/conferences in which the Venice Commission has participated since the last Joint Council meeting as well as the programme for future CoCoSem seminars.

2014 – completed events since the last JCCJ meeting	
27-28 June	<i>Minsk, Belarus</i> – International conference on “Constitutional review: modern tendencies of development and improvement”.
4-7 July	<i>Batumi, Georgia</i> – 4 th Black Sea Regional Conference on "Emerging Challenges to the Right to Privacy", organised by the Constitutional Court of Georgia with the support of the German Co-operation/GIZ.
7 July	<i>Strasbourg, France</i> – Conference on “Best Constitutional Court Practices in Europe” in co-operation with the Constitutional Court of Turkey and the Directorate of Human Rights/DGI of the Council of Europe.
29-30 August	<i>Astana, Kazakhstan</i> – International conference organised by the Constitutional Council of Kazakhstan on “Constitution: stability, peace and social cohesion”.
8 September	<i>Chisinau, Republic of Moldova</i> – International Conference on "The role of constitutional justice in protecting the values of the rule of law" celebrating the 20 th anniversary of the Constitution of the Republic of Moldova, organised by the Constitutional Court of the Republic of Moldova.
17-20 September	<i>Skopje, “the former Yugoslav Republic of Macedonia”</i> – international conference with the Constitutional Court on Contemporary Challenges of the Constitutional Judiciary, with two sub-topics: 1) the principle of the separation of powers and its protection by the Constitutional Court and 2) Constitutional review of byelaws.
23-24 October	<i>Yerevan, Armenia</i> – Conference in co-operation with the Constitutional Court of Armenia and the Conference of Constitutional Control Organs of the Countries of New Democracy (CCOCND) on the "Constitutional Status of Human Dignity".
29 October	<i>Budapest, Hungary</i> – the Constitutional Courts of Austria, Croatia, Romania, Slovakia, Slovenia and Hungary met for the International Football Cup at the occasion of the 25 th anniversary of the Constitutional Court of Hungary.
13-14 November	<i>Beirut, Lebanon</i> – the President of the Venice Commission participated in the conference on the “Evaluation of constitutional control in the Arab states”.
13-14 November	<i>San José, Costa Rica</i> – seminar celebrating the 25 th anniversary of the Constitutional Chamber of the Supreme Court of Costa Rica.
21 November	<i>Saint-Petersburg, Russian Federation</i> – Final round of the national moot-court competition on constitutional law amongst law school students under the auspices of the Constitutional Court of the Russian Federation.
24-25 November	<i>Algiers, Algeria</i> – the President of the Venice Commission participated in the seminar on "The Progress of Constitutionalism in Africa", organised by the Constitutional Council of Algeria in co-operation with the Conference of Constitutional Jurisdictions of Africa on the occasion of the 25 th anniversary of the Council.
24-28 November	<i>Madrid, Spain and Strasbourg, France</i> – a study visit was organised for judges and staff of the Constitutional Chamber of Kyrgyzstan to the Constitutional Court of Spain. This study visit was followed by a visit to the Council of Europe and the European Court of Human Rights.

27-28 November	<i>Antalya, Turkey</i> – the Venice Commission participated in the International Conference on “Individual Application to Constitutional Court as a System to Protect Human Rights at National Level” (organised by the Constitutional Court of Turkey and Directorate of Human Rights of the Council of Europe).
27-28 November	<i>Budva, Montenegro</i> – the Venice Commission participated in the Conference on "Constitutional protection of Human Rights and Fundamental Freedoms" organised by the Constitutional Court at the occasion of 50 years of constitutional justice in Montenegro.
5-6 December	<i>Bucharest, Romania</i> – a study visit to the Constitutional Court of Romania was organised for judges and staff of the Constitutional Court of Tajikistan.
10 December	<i>Amman, Jordan</i> – the Venice Commission held a workshop together with the Constitutional Court of Jordan on the “Organisation of a Constitutional Court”.
2015 – completed events	
21 March	<i>Venice, Italy</i> – the WCCJ held its 9 th Bureau meeting. The Bureau accepted the candidacy of the Constitutional Court of Lithuania to host the 4 th Congress in Vilnius in 2017. The Bureau also examined the financial report and discussed activities in between the congresses. The regional and linguistic groups of Courts represented in the Bureau informed the participants about the programme of activities of their respective groups.
22 March	<i>Kuwait</i> – the Union of Arab Constitutional Courts and Councils (UACCC) held its bi-annual symposium. The President of the Constitutional Court of Kosovo represented the Venice Commission at this meeting.
26-27 March	<i>Strasbourg, France</i> – the Venice Commission co-organised a training session with the ACCPUF for ACCPUF liaison officers on contributing to the CODICES database.
1 April	<i>Brussels, Belgium</i> – the Venice Commission took part in a Symposium celebrating the 30 th anniversary of the Belgian Constitutional Court.
27 April	<i>Strasbourg, France</i> – CODICES training for the staff of the Constitutional Chamber of Kyrgyzstan
28 April	<i>Bishkek, Kyrgyzstan</i> – the Venice Commission organised a Conference on “International experience on introducing Constitutional amendments and on Constitutional revisions” in support of the Constitutional Chamber of Kyrgyzstan.
5 May	<i>Libreville, Gabon</i> – the President of the Venice Commission participated in the 3 rd Congress of the Conference of Constitutional Jurisdictions of Africa (CCJA) on the topic "Constitutional Court and regulatory function".
11-12 May	<i>Bishkek, Kyrgyzstan</i> – the Venice Commission organised a workshop for judges and staff of the Constitutional Chamber of the Kyrgyz Republic on the reasoning of judgments. The workshop was followed by a Conference on the rule of law for a wider audience on 12 May.
14 May	<i>Tunis, Tunisia</i> – Meeting with the Head of the Commission drafting the Law on the Constitutional Court of Tunisia.
22 May	<i>Tbilisi, Georgia</i> – Roundtable with the Constitutional Reform Commission on individual complaints.
28 May	<i>Tunis, Tunisia</i> – Meeting with the Commission drafting the Law on the Law on the Constitutional Court of Tunisia.
3-7 June	<i>Lausanne, Switzerland</i> – participation in the 7 th Congress of the Association of Constitutional Courts using the French Language.
2015 – upcoming events	
27-28 June	<i>Batumi, Georgia</i> – 5 th annual Black Sea Regional Conference on “Liberty and Security: increasing the effectiveness of the constitutional complaint” co-organised with the Constitutional Court of Georgia.
August	<i>Indonesia</i> – the Association of Asian Constitutional Courts and Equivalent Institutions (AACC) will hold the meeting of its Board.
9-12 September	<i>Batumi, Georgia</i> – the Conference of European Constitutional Courts will hold its preparatory meeting for the XVII th Congress.

2 October	<i>Baku, Azerbaijan</i> – in co-operation with the Constitutional Court of Azerbaijan, the Venice Commission will organise a conference on the topic “Protection of human rights and freedoms by the Constitutional Court by means of individual complaint” at the occasion of the 20 th anniversary of the Constitutional Court.
2016	
2016	<i>Indonesia</i> – the Association of Asian Constitutional Courts and Equivalent Institutions (AACC) will hold its 3 rd Congress.
March	<i>Peru</i> – XI th Ibero-American Conference of Constitutional Justice.
April	<i>Brazil</i> – the Conference of Constitutional Jurisdictions of the Portuguese-Speaking Countries (CJCPLP) will hold its General Assembly in Brazil.
2017	
	<i>Meeting of the CJCA</i>
	<i>Vilnius, Lithuania</i> – Fourth Congress of the World Congress on Constitutional Justice (WCCJ)

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

9.a Regular issues of the *Bulletin*

Mr Dürr presented Bulletin no. 2014/2 and thanked the liaison officers for their regular contributions.

9.b Special *Bulletins*

The Special Bulletin on Court Descriptions has been published.

A Special Bulletin, prepared on the basis of the working document on “*Co-operation of Constitutional Courts in Europe – current situation and perspectives*” for the XVIth Congress of the Conference of European Constitutional Courts (Vienna on 12-15 May 2014), was published together with the General Report of the XVIth Congress.

The participants approved:

- document CDL-JU(2015)007 on the revised Guidelines for contributions to the *Bulletin on Constitutional Case-Law* and CODICES (amendments to – citation rules), which will be published this year;
- the preparation of a working document in 2016 for the XVIIth CECC, which will be published as a Special Bulletin edition in 2017. The topic of this Congress will be determined at the preparatory meeting in Batumi, Georgia on 9-12 September 2015.

10. CODICES database

Updating and indexing of constitutions, laws and descriptions in CODICES

Participants were informed about the progress made in updating constitutions and laws on courts (see Status of Updates of constitutions and laws in CODICES – CDL-JU(2015)008).

New CODICES database

The Secretariat informed the participants about the new CODICES database that should be up and running by the end of next year. The European Commission had provided funds for the database within the Programmatic Cooperation Framework. Currently specifications for the database were drawn up. The Secretariat was grateful to liaison officers who had responded to the call for proposals for the improvement of CODICES (the deadline had been

31 May 2015). It was expected that the tender would be possible towards the end of 2015 with the new database available towards the end of 2016 or in 2017.

11. Documentation Centre on Constitutional Justice / Library

The Secretariat thanked the participating courts for their contributions to the Documentation Centre. The list of documents is available at:

<http://www.venice.coe.int/WebForms/cocentre/new.aspx>

12. Other business

Ms Vesna Božič informed the participants that the Constitutional Court of Slovenia is going to celebrate its 25th anniversary in 2016 and that an international conference will be organised in Ljubljana on 22-24 June 2016.

13. Date and place of the next meeting

The participants were informed that the next meeting of the Joint Council on Constitutional Justice will take place in Venice, Italy probably on 7-8 June 2016 and, upon the kind invitation of the Federal Constitutional Court of Germany, in Karlsruhe, Germany in 2017.

C. Mini conference on “Blasphemy and other limitations to the freedom of expression”

The co-chairs of the Joint Council, Mr Kang and Ms Krisztina Kovács chaired the mini-conference. The speakers were: Ms Vesna Božič, Ms Aida Grgic, Ms Sung He Lim, Ms Krisztina Kovács, Mr Cristian Garcia Mechsner, Ms Sarahrose Murphy, Ms Marieta Safta and Ms Marjolein Van Roosmalen.

Mr Dürr explained that the topic of the mini conference was chosen following the attack by gunmen of the office of the French satirical magazine *Charlie Hebdo* in Paris, France on 7 January 2015 that left 12 people dead. This led to the organisation of “*Je suis Charlie*” rallies all over France and abroad – supporting the freedom of expression.

He told the participants that the Venice Commission had organised a conference on blasphemy in Athens, Greece in 2008, after which the Commission adopted a Report on the relationship between Freedom of Expression and Freedom of Religion: the issue of regulation and prosecution of Blasphemy, Religious Insult and Incitement to Religious Hatred (CDL-AD(2008)026). This report looked into the issue of whether there should be criminal sanctions for blasphemy. The Venice Commission differentiated between hate speech (which should be criminalised) and blasphemy (which should not), under the motto: not everything that can be said should be said, but not everything said should be punished. The Venice Commission took a clear position against criminalising blasphemy, but saying that civil or administrative sanctions could be applied and calls upon member states to open a dialogue and for the responsible use of free speech. Politicians have a responsibility to be more careful than ordinary citizens in what they say in order to avoid hate speech.

The speakers intervened on issues that tie their Courts’ experience to the topic of blasphemy and other limits to the freedom of expression such as: finding a balance between free speech and protecting interests connected to religious beliefs; the relevant case law of the European Court of Human Rights, the Court of Justice of the European Union and the Constitutional Courts of Slovenia and of Romania on the issue; the changes and developments in relation to blasphemy in Ireland and the Netherlands and the right to compensation of immaterial

damages as a result of an abuse of the freedom of expression in Chile.

Discussions revolved around whether there is, what Dworkin termed, a “*right to ridicule*” beliefs or whether there was a need for blasphemy laws. Participants agreed that there is a difference between blasphemy and hate speech or incitement to hatred. It was, however, quite clear to them that there was no general agreement on where to draw the line. The European Court on Human Rights, in this respect, leaves states a relatively wide margin of appreciation in terms of what may be considered “*religious insult*”.

Participants also agreed that the founding principle for many International Organisations was “tolerance”, which means to grant respect to opinions or world views one does not happen to share and that this was necessary for peaceful co-existence in a pluralistic society.

The mini-conference provided an enriching point of view from both European Courts (ECtHR and ECJ) and from national Constitutional Courts and courts with equivalent jurisdiction.

Discussions showed the various ways in which this topic is dealt with around the world and to recognise that there was a general tendency to abolish blasphemy laws, but introduce legislation against hate speech and the incitement to hatred instead.

Every country’s constitutional situation is different, but the exchange of information and experience, notably in the form of case law, can be very useful and may help and inspire courts in their decision-making when confronted with similar cases.

All the presentations made during this mini conference will be published in the proceedings of this event.

**LIST OF PARTICIPANTS /
LISTE DES PARTICIPANTS**

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ARMENIA / ARMÉNIE

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Ms Mira PEKMEZ, Deputy Secretary General, Constitutional Court, Sarajevo
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and Publication, Constitutional Court, Sarajevo

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Mr Cristián Andrés GARCÍA MECHSNER, Director de Estudios, Tribunal Constitucional,
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