



Strasbourg, 26 September 2022

CDL-WCCJ-GA(2022)005prov.

Draft Activity Report of the World Conference on Constitutional Justice

Submitted by the Secretariat
to the 19th meeting of the Bureau of the World Conference on Constitutional Justice
Bali, 4 October 2022
for presentation to the 3rd General Assembly, Bali, 6 October 2022

By virtue of Article 4.b of the Statute of the World Conference on Constitutional Justice (WCCJ), the Bureau reports to the General Assembly on the activity of the WCCJ. As the 3rd meeting of the General Assembly will take place on 6 October 2022 in Bali, this report covers the period since the 2nd General Assembly in Vilnius in September 2017.

The main activities of the WCCJ in this period included :

1. Training for liaison officers of the Member Courts of the WCCJ in the use of the CODICES database and the Venice Forum (Santo Domingo, 7-8 February 2019)
2. Meetings of the Bureau
3. Participation in meetings of regional and linguistic groups.
4. Maintaining the CODICES database and the Venice Forum

1. Training for liaison officers in the use of the CODICES database and the Venice Forum (Santo Domingo, 7-8 February 2019)

Upon invitation by the Constitutional Court of the Dominican Republic, the Secretariat held a training for liaison officers of the WCCJ Member Courts on the use of and contributions to the CODICES database and the Venice Forum. Expenses for liaison officers from Member Courts in Least Developed Countries were covered from the budget of the WCCJ.

The training started with a general presentation on how the World Conference on Constitutional Justice is structured, how CODICES works and how to access the Venice Forum. The participants were then divided into English and French-speaking groups, working on practical exercises. The participants in both groups were very active.

The participants of the 14th meeting of the WCCJ Bureau, which took place right after the training in Santo Domingo on 8 February 2019, were reminded how important liaison officers are and called upon Member Courts to support them in their work. The main tasks of liaison officers are

to contribute summaries of cases for inclusion in the CODICES database and to exchange with other liaison officers via the Venice Forum. They act as ambassadors of their Courts.

The Secretariat noted a significant increase in the quality of the contributions sent after the training.

2. Meetings of the Bureau of the WCCJ

Since the 3rd Congress of the WCCJ in Vilnius, the Bureau of the WCCJ met:

17/03/2018	<p>Venice, Italy – 13th meeting of the Bureau of the WCCJ</p> <p>The Bureau:</p> <ul style="list-style-type: none"> - undertook a post-mortem of the 4th Congress on “The Rule of Law and Constitutional Justice in the Modern World” held in Vilnius, September 2017 and concluded it was excellently organised by the Constitutional Court of Lithuania and the Secretariat; - felt that regional and linguistic groups of courts should be given more than an hour for their meetings during the next Congress; - accepted the candidacy of the Constitutional Council of Algeria to host the 5th Congress in Algiers in 2020; - approved the proposal by the Constitutional Council of Algeria of “Constitutional Justice and Peace” as the topic of the 5th Congress and invited the Constitutional Council of, in co-operation with the Secretariat, to prepare a concept note on this topic together with a questionnaire; - took note of the financial report submitted by the Secretariat and decided that the World Conference should, on an exceptional basis, cover the expenses of LDC representatives from regional or linguistic groups, but only if a request to do so was made and the group was unable to meet the cost; - approved the preparation of a training session on CODICES and the Venice Forum in co-operation with the Constitutional Court of the Dominican Republic in February 2019; - decided to discuss at its next meeting a procedure for statements supporting constitutional courts under undue pressure, upon their request, following consultation with the relevant group and authorised the President of the Venice Commission until then; - was reminded that the Constitutional Court of Indonesia had volunteered to host the 6th WCCJ Congress in 2023 in Indonesia and that the proposal would be considered at the next meeting.
08/02/2019	<p>Santo Domingo, Dominican Republic – 14th meeting of the Bureau of the WCCJ</p> <p>The main decisions were:</p> <ul style="list-style-type: none"> - approved the concept paper and the questionnaire for the 5th Congress on “<i>Peace and Constitutional Justice</i>” prepared by the host, the Constitutional Council of Algeria, and the Secretariat. The deadline for replies by the Member Courts is 15 September 2019 - decided that the invitations should be sent to: <ul style="list-style-type: none"> - regional and international courts (e.g. European Courts, Inter-American Court, African Courts), as done for previous congresses;

	<ul style="list-style-type: none"> - national courts having participated in the 4th Congress.; - international bodies co-operating with the Venice Commission in the field of Constitutional Justice (<i>Organisation Internationale de la Francophonie</i>, Konrad Adenauer Foundation, etc.); - members of the Venice Commission; - other personalities proposed by the host Court (e.g. former presidents of constitutional courts); - agreed with the limit to four persons per court delegation; - decided that: <ul style="list-style-type: none"> - interpretation will be made available during regional and linguistic group meetings, financed by the budget of the World Conference; - regional and linguistic group meetings would be organised in such a way as not to overlap to the extent possible; - left the decision whether or not to hold a joint meeting to the Commonwealth and the SACJF groups ; - accepted the offer by the Constitutional Council of Algeria to cover the hotel expenses of up to two representatives of Member Courts from LDCs and that the budget of the World Conference should cover flight tickets (economy class) for these persons; - decided that interpretation during the 5th Congress should be provided through the Council of Europe Interpretation Service; - decided that there should be four positions for each session: chair, key-note speaker, discussant and rapporteur. Each group could make a maximum of three nominations for such positions. The nominations should be made by 15 September 2019, at the latest; - approved the distribution of expenses into three blocks: (1) the budget of the World Conference, (2) the Host Court and (3) the Member Courts; - invited the Host Court and the Secretariat to prepare a draft <i>Communiqué</i> for the 5th Congress; - discussed and agreed with the arrangements to allow the World Conference to support its Member Courts the independence of which is endangered, according to the procedure set out in the Note of the Secretariat of 25 January 2019 (see appendix); - agreed with the proposal that a part of the expenses of the Secretariat would be covered by the WCCJ budget (up to 10.000 €).
<p>21/03/2020 written procedure</p>	<p>Venice, Italy – 15th meeting of the Bureau of the WCCJ Nb - Following the spread of COVID-19, the 15th meeting was replaced by a written procedure. The Bureau:</p> <ul style="list-style-type: none"> - decided on new dates of the 5th Congress on the basis of a proposal by the Constitutional Council of Algeria following the postponement of 5th Congress from 2020 to 2021; - extended the deadline for replies to the questionnaire on the topic “Peace and Constitutional Justice” from 15 September 2019 to 30 April 2020; - invited the regional and linguistic groups to decide whether they wished to hold regional meetings on the first day of the Congress; - invited the regional and linguistic groups to make a maximum of three nominations for the positions of Chair, key-note speaker, discussant

	<p>and rapporteur and extended the deadline from 15 September 2019 to 30 April 2020;</p> <ul style="list-style-type: none"> - asked the Constitutional Court of Algeria and the Secretariat to prepare a draft a <i>Communiqué</i>, to be adopted at the 5th Congress; - examined the Financial Report; - took note of measures taken by the Venice Commission to support Member Courts under undue pressure.
20/03/2021	<p>Online – 16th meeting of the Bureau of the WCCJ</p> <p>The Bureau:</p> <ul style="list-style-type: none"> - welcomed and accepted the generous offer by the new Host Court, the Constitutional Court of Indonesia, to cover the hotel expenses of up to two representatives of Member Courts from Least Developed Countries (LDC) to attend the 5th Congress of the WCCJ and that the budget of the WCCJ will cover flight tickets for these representatives in economy class; - welcomed and accepted that the Host Court will cover the costs of room hire, meals indicated in the programme, a cultural programme and local transport between the venue and nearby hotels, and airport pick-ups. The budget of the WCCJ will cover the costs of interpretation in the seven official languages (Arabic, English, French, German, Portuguese, Russian, Spanish); interpretation equipment, travel expenses (economy class) for two participants from Member Courts in LDC countries and the participation of the Secretary General; Member Courts will cover the hotel expenses for their delegations (up to four persons maximum) themselves; - invited regional and linguistic groups, which have not yet done so, to nominate up to three personalities as session chair, key-note speaker, discussant, or rapporteur for the sessions of the 5th Congress (deadline: 30 June 2021); - took note that the Secretariat will send a reminder to Member Courts about the deadline for replies to the questionnaire (30 September 2021) and that those Member Courts which have already sent their replies are invited to update their earlier replies if they so wish; - agreed to continue discussing the draft Bali Communiqué as a template for a final communiqué to be adopted at the 5th Congress; - agreed to send letters of reminder for the payment of WCCJ contributions through diplomatic channels for Member Courts which have not contributed to the budget for a longer period of time; - agreed to collect good practices developed by Member Courts during the COVID-19 pandemic and to discuss, at its next meeting, the possibility of organising a seminar on this topic.

<p>19/03/2022</p>	<p>Venice, Italy/online– 17th meeting of the Bureau of the WCCJ The Bureau:</p> <ul style="list-style-type: none"> - held a <i>tour de table</i> with respect to the issue of suspending the membership in the WCCJ of the Constitutional Courts of the Russian Federation and of Belarus under Article 9 of the Statute of the WCCJ, as well as the Italian proposal to instead adopt a resolution ; - agreed, in the absence of consensus regarding suspension, to postpone the decision to an extraordinary meeting; - took note of preparations underway for the 5th Congress (Bali, 4-7 October 2022) and that it had the full support of the Indonesian Government and Parliament; - examined the Financial Report; noted the low expenditure due to the pandemic and the higher cost for the 5th Congress notably for interpretation, interpretation equipment, participation of delegations from Member Courts of Least Developed Countries, missions of the Secretariat as well as the participation in several events of regional and linguistic groups this year; - confirmed the new procedure adopted at the 19th meeting of the Bureau for supporting Member Courts; - took note of Regional and linguistic group activities; - encouraged the regional and linguistic groups to assist the Secretariat in updating data on Member Courts.
<p>07/06/2022</p>	<p>Strasbourg / online– 18th meeting of the Bureau of the WCCJ The Bureau:</p> <ul style="list-style-type: none"> - voted against suspending the Constitutional Court of the Russian Federation’s membership in the WCCJ; - voted against suspending the Constitutional Court of Belarus’ membership in the WCCJ; - voted in favour of the proposal of the Constitutional Court of Italy for a Resolution: https://www.venice.coe.int/webforms/documents/?pdf=CDL-WCCJ-GA(2022)003-e.

3. Participation in meetings of the Regional and Linguistic Groups

By virtue of cooperation agreements and partnerships with the [10 regional and linguistic \(language based\) groups](#), which are represented in the [Bureau of the WCCJ](#), the Secretariat participated in several events (conferences, congresses, seminars) of these groups.

Recent participations include:

<p>25-25/05/2022</p>	<p>Chisinau/online - Preparatory meeting for the XIXth Congress of the Conference of European Constitutional Courts</p>
<p>31/05/2022 - 02/06/2022</p>	<p>Dakar – 9th Congress of the Association of Francophone Constitutional Courts (ACCF) on "The constitutional judge and human rights".</p>

30/06/2022 - 01/07/2022	Lisbon - Vth Assembly of the Conference of Constitutional Courts of Portuguese-Speaking Countries on "Guaranteeing the protection of fundamental rights in a time of pandemic".
----------------------------	---

Upcoming participation:

22-24/11/2022	Rabat - 6th Congress of the Conference of Constitutional Jurisdictions of Africa on "African Constitutional Courts and International Law".
---------------	--

Furthermore, on 16-17/09/2021, the Secretariat participated online in the 2nd Judicial Conference of Constitutional and Supreme Courts/Councils of the OIC Member/Observer States (J-OIC), hosted by the Constitutional Court of Indonesia.

4. Maintaining the CODICES database and the Venice Forum

The Venice Commission produces the CODICES database, which contains annotated summaries (précis) and full texts of around 11.300 decisions from Member Courts of the World Conference, mainly in English and French, but also about 14.000 full texts in more than 40 other languages. The constitutions, laws on the courts and descriptions of the courts are also included in the CODICES database. Since 2017, some 1500 new annotated decisions have been added to CODICES.

The CODICES database greatly facilitates comparative research carried out by the courts, which can draw on approaches already adopted by other countries, particularly in the field of fundamental rights. The circulation of information is therefore a powerful cross-fertilisation tool that enables courts to draw inspiration from the constitutional practice of their counterparts in other countries. While the courts do not always refer to these foreign sources, the arguments they obtain through their comparative research in CODICES enriches national judgments. CODICES is available at www.CODICES.CoE.int and is regularly updated to show recent case-law.

Currently, the Secretariat is preparing a new CODICES database, on a more stable server structure of the Council of Europe. Liaison officers will be able to upload their contributions directly to CODICES rather than sending précis and full texts by e-mail.

For the benefit of the Members of the WCCJ, the Venice Commission also maintains the Venice Forum, which contains

1. the Newsgroup (liaison officers from Member Courts can make announcements / ask questions notified to all other Member Courts),
2. references to 4200 articles of the Constitutional Justice Media Observatory,
3. contact data for all regional and linguistic groups and the Member Courts of the WCCJ and
4. about 240 documents of the World Conference on Constitutional Justice (CDL-WCCJ and CDL-WCCJ-GA series).

The restricted Venice Forum is open to liaison officers appointed by the Courts Members of the World Conference. Liaison officers in Member and Observer States of the Venice Commission also have access to the replies to 543 requests via the Classic Venice Forum.

Appendix

Procedure for support for Member Courts under undue pressure Approved by the Bureau of the World Conference in Santo Domingo on 8 February 2019

The Statute of the World Conference provides for support for Member Courts by the WCCJ (“good offices to its members upon their request”, Article 1.2); resolutions by the WCCJ Bureau “in accordance with the World Conference’s objectives” (Article 4.b.7). However, in practice the WCCJ Bureau had difficulty providing such support to members in need. Members of the Bureau may have felt that their Court should not be seen as the author of a statement by the Bureau.

On the other hand, the Venice Commission, and notably its President, has consistently provided such support to constitutional courts that were under undue pressure, but this was limited to the 61 Member States of the Venice Commission.

In order to render support for WCCJ Member Courts operational also in non-Member States of the Venice Commission, the Secretariat proposes to entrust the President of the Venice Commission with the task of making statements on behalf of the World Conference in situations where one of the Members Courts of the WCCJ comes under undue pressure from national authorities.

The following procedure would apply in a situation warranting support. The President of the Venice Commission:

1. consults with the regional or linguistic group(s) concerned and s/he refrains from making a statement when the group(s) is expressly opposed to it ;
2. refrains from making any statement if it is clear that the Court concerned refuses such support;
3. Consults with the members of the Bureau of the WCCJ (in a written procedure in urgent cases) and refrains from making a statement if a Bureau member (regional or linguistic group, a court representing a continent, or the former and future hosts) expressly insists that consensus on support by the WCCJ cannot be achieved in this case, notwithstanding the fact that their opposition is recorded.

The President of the Venice Commission shall make a public statement only when all three conditions set out above are met

If necessary and if requested to do so, the Secretariat could visit the country concerned or join missions of the regional and linguistic groups.

[note: instead of the President, this function could be exercised by the Special Representative of the Venice Commission]