



Council of Europe
United Kingdom Chairmanship



The Bingham Centre for the Rule of Law

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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

in co-operation with
the Foreign and Commonwealth Office of the United Kingdom and
the Bingham Centre for the Rule of Law

under the auspices of the United Kingdom Chairmanship
of the Committee of Ministers of the Council of Europe

CONFERENCE ON
“THE RULE OF LAW AS A PRACTICAL CONCEPT”
Lancaster House, London
Friday 2 March 2012 (9h00 to 17h30)

SYNOPSIS

The Venice Commission organised, under the auspices of the UK Chairmanship of the Committee of Ministers of the Council of Europe, in co-operation with the Foreign and Commonwealth Office of the United Kingdom and the Bingham Centre for the Rule of Law, a Conference on “The Rule of Law as a practical concept”.

This event, which took place on 2 March 2012 at Lancaster House in London, brought together approximately 80 participants from Council of Europe and Venice Commission members States, including some 15 rapporteurs and speakers. Academics, politicians, practicing lawyers, prosecutors, judges and constitutional judges attended the Conference.

The Conference was opened by Mr Dominic Grieve QC MP, Attorney General, UK, Lord Phillips of Worth Matravers, President of the UK Supreme Court and Chair of the Bingham Centre's Council, Mr Gianni Buquicchio, President of the Venice Commission and Mr Keith Whitmore, President of the Congress of Local and Regional Authorities of the Council of Europe. This opening session was chaired by Professor Sir Jeffrey Jowell KCMG QC, Director of the Bingham Centre for the Rule of Law and former UK member of the Venice Commission.

The first session, on “the Rule of Law as a Goal for the XXI Century”, was chaired by Dame Rosalyn Higgins DBE QC, President of the British Institute of International and Comparative Law and former President of the International Court of Justice, and included a keynote speech by Mr Ronald Dworkin, Frank Henry Sommer Professor of Law at New York University and Professor Emeritus of Jurisprudence at University College London, as well as presentations on “the common core of the Rule of Law and the Rechtsstaat” by Mr Kaarlo Tuori, Professor of Jurisprudence at University of Helsinki and Vice-President of the Venice Commission and on “the rule of law in action” by Mr Serhiy Holovaty, Professor of Jurisprudence at the Taras Shevchenko University of Kyiv, member of the Parliamentary Assembly of the Council of Europe and former Ukrainian member of the Venice Commission, followed by a discussion.

The second session, on “The quality of the laws”, was chaired by Ms Angelika Nussberger, Judge at the European Court of Human Rights and former German substitute member of the Venice Commission, and included reports on “Law-making principles under the rule of law” by Mr Sergio Bartole, Professor Emeritus of Constitutional Law at the University of Trieste and Italian substitute member of the Venice Commission and on “the interaction between the parliament and the government in the law-making process” by Mr Jean-Claude Colliard, President of University Paris 1 Pantheon-Sorbonne, former member of the Constitutional Council and French member of the Venice Commission, followed by a discussion.

The third session, chaired by Lord Mance, Judge at the UK Supreme Court, explored the topic “Preventing arbitrariness” through reports on “The control of executive discretion in implementing laws in order to prevent arbitrariness” by Ms Slavica Banić, Judge at the Constitutional Court of Croatia and Croatian substitute member of the Venice Commission, and on “Executive Discretion in the field of freedom of assembly” by Ms Finola Flanagan, Office of the Attorney General of Ireland and Irish member of the Venice Commission, followed by a discussion.

There followed a general discussion on “the Rule of Law as a Practical Concept”, chaired by Mr Jan Helgesen, First Vice-President of the Venice Commission and Professor at the University of Oslo. Participants agreed that the three pillars of the Council of Europe – democracy, respect for human rights and the rule of law – were closely intertwined so that none could be said to exist in the absence of the other two. While it was not necessary to reach a common definition of the Rule of law, workable ways could be found to promote this principle in the future. It was possible to identify some core elements of the notion of the Rule of law; the Venice Commission had listed some of them in a “checklist”, which however was neither exhaustive nor fixed in time: indeed, it could be further developed and adapted to evolving circumstances.

The important elements of the Rule of law which had been discussed at the conference - a due process of drafting laws and due judicial control of acts of the legislative branch as well as of the executive branch – were worth exploring further and developed into practical criteria. Finally, participants agreed about the importance of including the Rule of Law in the foundation of the regimes in transition in the South Mediterranean.

The general conclusions were presented by Mr Jan Helgesen and Sir Jeffrey Jowell. The conference was closed by Mr Richard Heaton, First Parliamentary Counsel and Permanent Secretary, Government in Parliament Group, Cabinet Office.