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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

in co-operation with

THE CONSTITUTIONAL COURT OF GEORGIA

and the

«THE DEUTSCHE GESELLSCHAFT FÜR TECHNISCHE ZUSAMMENARBEIT
(GTZ)»

SEMINAR

"THE PRECEDENT AS A SOURCE OF LAW"

BATUMI, GEORGIA, 7 – 8 NOVEMBER 2009

SYNOPSIS

The Constitutional Court of Georgia in cooperation with the German NGO GTZ and the Venice Commission organised a seminar on the "Precedent as a source of Law" which took place on 7-8 November 2009 in Batumi, Georgia.

The Venice Commission's delegation consisted of three experts, namely Mr Egidius Kuris, Professor at Vilnius University, former President of the Constitutional Court of Lithuania, Mr Konstantin Korkelia, Professor at Tbilisi State University, Ambassador in Latvia; Ms Charlotte Skeet, Doctor, Lecturer in Law, Sussex Law School, UK and Ms Tatiana Mychelova, External Relations Officer of the Venice Commission.

The aim of the seminar was for the Constitutional Court to acquire more expertise in the area of the topic of the seminar.

The participants included:

- Judges and members of the registry of the Constitutional Court of Georgia;
- Members of the Georgian Parliament, the State Constitutional Commission, judges from the Supreme Court and Batumi regional court;
- Law professors and students of Tbilisi State University;
- International and local NGOs, School of Magistrates;
- Mr Mathias Hartwig, Professor at the Max-Plank-Institute for Comparative Public Law and International Law, expert of the GTZ.

The seminar was a success, brought about lively discussions and was appreciated by local participants and international experts alike.

The following issues have been covered by the reports and discussions:

- the influence of the precedent of the constitutional and ordinary courts judgments upon subsequent cases;
- the value of precedent in the European courts of constitutional jurisdiction and European Court of Human Rights (further ECtHR) and in Georgia;
- the comparison between the Lithuanian, German, UK and Georgian practice.

The issues of judicial activism, smooth relations between the Constitutional Courts and the parliaments, the lack of awareness of the local judiciary of the binding character of the ECHR and of the ECtHR jurisprudence enjoyed a particular focus.

The event was very well organised by the Court's registry; the cooperation with the GTZ was very smooth.

The Court requested support for its awareness-raising activities; the amount of individual complaints is rather low, also due to a decision by the ECtHR stating that applying to the Constitutional Court of Georgia was not necessary from the point of view of the exhaustion of domestic remedies.