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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**20th anniversary of the Constitutional Court of the
Republic of Bulgaria**

**“CLASSICAL AND MODERN TRENDS IN
CONSTITUTIONAL REVIEW”**

SOFIA, BULGARIA, 29-30 July 2011

SYNOPSIS

The Constitutional Court of Bulgaria, with the participation of the Venice Commission, organised a conference on “Classical and modern trends in constitutional review” to celebrate the XXth anniversary of the Constitutional Court’s establishment.

The conference discussed several issues relating to the evolution of constitutional law and it presented the experience of over 20 countries, including Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Czech Republic, Georgia, Germany, Italy, Korea, Lithuania, Moldova, Montenegro, Poland, Portugal, Romania, Russia, Serbia, Turkey and the United Kingdom.

Several major developments were noted, such as the importance given to the individual in the access to constitutional justice. Indeed, the protection of the individual is now accepted as being the main task of constitutional law. Discussions also covered the challenges that lie ahead for this task, such as Turkey, which presented the complexities of the new constitutional mechanism for individual access.

The participants also discussed the implications of the difficult political situation in Moldova and the possible functional interpretation of the Constitution to solve the Presidential and governmental crisis.

It was said that Constitutional Courts are the guardians of domestic law, but that they have also become the guardians, to a certain extent, of international and supranational law. They have, in addition, acquired a relatively new dimension as guardians of foreign law because of the opening of States to international co-operation and to the dialogue of judges and the use of foreign law in the reasoning of their judgments.

Other main and relevant topics mentioned in most of the interventions were the relationship between Constitutional Courts and the European Courts (European Court of Human Rights and the European Court of Justice). If the binding character of international treaties was not under discussion, the attitude of the Constitutional Courts was very varied and depended on many factors. Requests for preliminary rulings from the European Court of Justice were considered by some as a mechanism rarely used by Constitutional Courts, as most of the issues of EU Law should have been raised at a lower level already.

The European Court of Human Rights and the Convention are mechanisms more directly related to International Law and, as such, should be integrated at the domestic level. The experience of dualistic countries, such as the United Kingdom, was much discussed, mainly concerning the complexity of a condemnation by the Strasbourg Court and the fact that Parliament remains sovereign in deciding whether to modify the legislation at stake.