

COUNCIL
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EUROPEAN COMMISSION FOR DEMOCRACY

THROUGH LAW

ANNUAL REPORT OF ACTIVITIES FOR 1990 (*)

1. Introduction

At the invitation of the Italian Government, a Conference for the constitution of the Commission for Democracy through Law was held in Venice on 19-20 January 1990.

The member States of the Council of Europe participated in the Conference; Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, Yugoslavia and the USSR were also invited as observers.

At the close of the session, the participants adopted a Resolution by which they set up the Commission for Democracy through Law under the auspices of the Council of Europe.

In the same Resolution setting up the Commission, the participants in the Venice Conference invited the competent bodies of the Council of Europe to examine, in consultation with the Commission, proposals aimed at specifying and developing the institutional links between the latter and the Council of Europe.

On 10 May 1990, the Committee of Ministers decided, by Resolution (90) 6, to establish the European Commission for Democracy through Law as a Partial Agreement of the Council of Europe (see Appendix I).

The Commission is composed of experts who have achieved international fame through their experience in democratic institutions or by their contribution to the enhancement of law and political science. To date, 20 member States have appointed an expert (the list of members appears in Appendix II).

The Committee of Ministers decided to admit Bulgaria, Poland, Romania and Yugoslavia to participate in the work of the Commission. The Commission invited these States to participate as associate members. (Hungary, previously an associate member, is now a full member).

The Commission held five plenary meetings in 1990; it also set up five working groups (the composition of which appears in Appendix III) which also started their work.

(*) Adopted by the Commission during its 6th meeting
(Venice, 8-9 February 1991)

2. Activities

Protection of Minorities

At the request of Italy and Hungary the Commission studied the problem of the protection of minorities. In this context, it adopted a list of principles on national minorities (Appendix IV), which was presented to the CSCE Copenhagen Conference on the Human Dimension in June 1990 by the President of the Commission. The Commission continued then its work with a view to transforming the list of principles into a draft convention, which is now submitted to the Committee of Ministers for examination (doc CM (91) 29).

The Commission furthermore asked one of its members, Mr Malinverni, to prepare a report on the relations between the notion of Federal State and the protection of minorities.

Constitutional Justice

On 8 October 1990 the Commission held a meeting in Piazzola sul Brenta (Italy) with the Presidents of Constitutional Courts or equivalent judicial bodies of the member States of the Council of Europe and of interested States of Central and Eastern Europe, aimed at sharing experience gained by the countries in which such organs exist and have been working for a long time (the conclusions of the meeting appear in Appendix V). In the light of the results of this meeting and at the request of the States of Central and Eastern Europe concerned, the Commission decided to concentrate its efforts on the procedure before the Constitutional jurisdiction as a matter of priority. Mr Steinberger accepted to prepare a report on this issue.

Furthermore, the Council of Europe was asked to explore the possibility of establishing a documentation centre on the case law of European and American Constitutional Courts.

Constitutional Reforms

Poland : the Task Force on Constitutional Reforms started its co-operation with this country by first replying to a questionnaire submitted by Mrs Zakrzewska, Judge at the Constitutional Court of Poland. Following this, the Task Force accepted to examine the first chapter of the draft new constitution bearing human and citizens' rights, freedoms and obligations.

Romania : on the occasion of an exchange of views with the Task Force, Mr Jorgovan, President of the Commission for the elaboration of the draft constitution of the Romanian Parliament submitted a preliminary draft constitution, that the Task Force started examining. It is reminded that some members of the Commission joined a delegation of the Council of Europe which visited Romania in October 1990, where a contact was made with the Commission chaired by Mr Jorgovan and various other Romanian authorities.

Bulgaria : Mr Djerov, President of the Legislative Commission of the Bulgarian Parliament, expressed the wish of the Bulgarian Parliament to benefit from the assistance of the Commission during its work of drafting a new constitution, which should start at the beginning of 1991.

During its 6th meeting, the Commission heard a presentation by Mr Ganev, Vice-president of the Grand National Assembly of Bulgaria and President of the Constitutional Commission, on the main principles of the constitutional reform.

The Commission appointed the following rapporteurs :

on Bulgaria - Messrs Laporta and Malinverni
on Poland - Messrs Russell and Triantafyllides
on Romania - Messrs Ragnemalm and Scholsem

Local Authorities

The Working Group on Local Authorities, having studied the European Charter of Local Self-Government considered that the Charter provided an adequate legal framework; no other binding text appeared to be necessary in order to meet the particular needs of the States of Central and Eastern Europe. The Working Group is continuing its contacts with Poland, the requesting State, to check whether, on the other hand, the drawing up of model instruments for the implementation of the Charter would be desirable.

3. Future Activities

The activities of the Commission depend on the requests addressed to it, requests that are usually of an urgent nature; therefore, it is not possible to prepare a detailed annual programme of activities in advance.

However, one can already foresee that a considerable part of the resources of the Commission will be devoted to continuing its relations with Bulgaria, Poland and Romania within the framework of the constitutional reforms taking place in these countries.

The modalities of such relations will be agreed with the authorities of the countries concerned; they might include meetings with the bodies responsible for drawing up the draft constitution, the preparation of reports or opinions on draft texts submitted to the Commission etc. The Task Force of the Commission has already accepted the offer by the Spanish member of the Commission, Professor Laporta, to organise in Spain, in principle during the month of April 1991, a symposium with draftsmen of the Spanish Constitution; this will allow the constitution drafters of the countries of Central and Eastern Europe to benefit from the experience gained when drawing up a similar text in recent times.

Furthermore, an important activity of the Commission will be the preparation of its participation in the CSCE Seminar of Experts on Democratic Institutions, to be held in Oslo from 4-15 November 1991.

A P P E N D I X I

RESOLUTION (90) 6

ON A PARTIAL AGREEMENT ESTABLISHING THE EUROPEAN
COMMISSION FOR DEMOCRACY THROUGH LAW

(adopted by the Committee of Ministers on 10 May 1990
at its 86th Session)

The representatives in the Committee of Ministers of Austria, Belgium, Cyprus, Denmark, Finland, France, Greece, Ireland, Italy, Luxembourg, Malta, Norway, Portugal, San Marino, Spain, Sweden, Switzerland and Turkey,

Having regard to the Resolution adopted by the Conference for the constitution of the Commission for Democracy through Law (Venice, 19-20 January 1990) which created the European Commission for Democracy through Law for a transitional period of two years;

Considering that the participants in the Conference invited the competent bodies of the Council of Europe to examine, in consultation with the Commission, proposals aimed at specifying and developing institutional links between the latter and the Council of Europe;

Welcoming the fact that a large number of member States has already expressed the intention to participate in the work of the Commission;

Considering that the Commission will constitute a fundamental instrument for the development of democracy in Europe;

Having regard to the decision of 23 April 1990 whereby the Committee of Ministers unanimously authorised the member States who so wish to pursue these objectives within the Council of Europe by means of a Partial Agreement;

Resolve to establish the European Commission for Democracy through Law, governed by the Statute appended hereto;

Agree to re-examine before 31 December 1992 the institutional links between the Commission and the Council of Europe in the light of the experience acquired, in particular with a view to strengthening them, if appropriate by the incorporation of the activities of the Commission into the intergovernmental programme of activities of the Council of Europe.

Appendix to Resolution (90) 6

**Statute of the European Commission
for Democracy through Law**

Article 1

1. The Commission shall be a consultative body which co-operates with the member States of the Council of Europe and with non-member States, in particular those of Central and Eastern Europe. Its own specific field of action shall be the guarantees offered by law in the service of democracy. It shall fulfill the following objectives :

- the knowledge of their legal systems, notably with a view to bringing these systems closer;
- the understanding of their legal culture;
- the examination of the problems raised by the working of democratic institutions and their reinforcement and development.

2. The Commission shall give priority to work concerning:

- a. the constitutional, legislative and administrative principles and technique which serve the efficiency of democratic institutions and their strengthening, as well as the principle of the rule of law;
- b. the public rights and freedoms, notably those that involve the participation of citizens in the life of the institutions;
- c. the contribution of local and regional self-government to the development of democracy.

Article 2

1. Without prejudice to the competence of the organs of the Council of Europe, the Commission may carry out research on its own initiative and, where required, may outline laws, recommendations and international agreements. Any proposal of the Commission can be discussed and adopted by the statutory organs of the Council of Europe.

2. The Commission shall supply opinions upon request submitted through the Committee of Ministers in its composition limited to the member States of the Partial Agreement (hereafter referred to as the Committee of Ministers) by the Parliamentary Assembly, by the Secretary General or by any member State of the Council of Europe.

3. Any non-member State as well as any intergovernmental organisation may benefit from the activities of the Commission by making a request to the Committee of Ministers with a view to obtaining its consent.
4. In the course of its work, the Commission shall co-operate with the International Institute for Democracy created under the auspices of the Strasbourg Conference on Parliamentary Democracy.
5. Furthermore, the Commission may establish links with documentation, study and research institutes and centres.

Article 3

1. The Commission shall be composed of independent experts who have achieved international fame through their experience in democratic institutions or by their contribution to the enhancement of law and political science.
2. The experts, members of the Commission, shall be appointed, one in respect of each country, by the member States of the Council of Europe members of the Partial Agreement. They shall hold office for a four year term and may be reappointed. The President of the Parliamentary Assembly and the President of the Giunta of the Region Veneto or their representative may attend the work of the Commission.
3. The Committee of Ministers may unanimously decide to admit any European non-member State of the Council of Europe to participate in the work of the Commission. After consultations with the Commission, the State concerned may appoint either an associate member or an observer to sit on the Commission.
4. Any other State may be invited under the same modalities to appoint an observer.
5. Any State which appointed a member or an associate member may appoint a substitute. The modalities by which substitutes may participate in the work of the Commission shall be determined in the Rules of Procedure of the Commission.

Article 4

1. The Commission shall elect from among its members a Bureau, composed of the President, three Vice-Presidents and four other members. The term of office of the President, the Vice-Presidents and the other members of the Bureau shall be two years; however, the term of office of one of the Vice-Presidents and two of the other members of the Bureau appointed in the first election, to be chosen by lot, shall expire at the end of one year. The President, the Vice-Presidents and the members of the Bureau may be re-elected.

2. The President shall preside over the work of the Commission and shall represent it externally. The Vice-Presidents shall replace the President whenever he is unable to take the Chair.
3. The Commission shall be convened in plenary session whenever necessary by the President, who shall decide the venue of the meeting. The Commission may also set up restricted chambers in order to deal with specific questions.
4. The Commission shall establish its procedures and working methods in the Rules of Procedure and shall decide on the publicity to give to its activities. The working languages of the Commission shall be English and French.

Article 5

1. Whenever it considers it necessary, the Commission may be assisted by consultants particularly competent in the law or the institutional practice of the country or countries concerned.
2. The Commission may also hold hearings or invite to participate in its work, on a case by case basis, any qualified person or non-governmental organisation active in the fields of competence of the Commission and capable of helping the Commission in the fulfilment of its objectives.

Article 6

1. Expenditure relating to the implementation of the programme of activities and common secretariat expenditure shall be covered by a Partial Agreement budget funded by the member States of the Partial Agreement and governed by the same financial rules as foreseen for the other budgets of the Council of Europe.
2. In addition, the Commission may accept voluntary contributions, which shall be paid into a special account opened under the terms of Article 4.2 of the Financial Regulations of the Council of Europe. Other voluntary contributions can be earmarked to specific research.
3. The Region Veneto shall put a seat at the disposal of the Commission free of charge. Expenditure relating to the local secretariat and the operation of the seat of the Commission shall be borne by the Region Veneto and the Italian Government, under terms to be agreed between these authorities.
4. Travel and subsistence expenses of each member of the Commission shall be borne by the State which appointed him.

Article 7

Once a year, the Commission shall forward to the Committee of Ministers a report on its activities containing also an outline of its future activities.

Article 8

1. The Commission shall be assisted by the Secretariat General of the Council of Europe, which shall also provide a liaison with the staff seconded by the Italian authorities at the seat of the Commission.
2. The staff seconded by the Italian authorities at the seat of the Commission shall not belong to the staff of the Council of Europe.
3. The seat of the Commission shall be based in Venice.

Article 9

1. The Committee of Ministers may adopt amendments to this Statute by the majority foreseen at Article 20.d of the Statute of the Council of Europe, after consulting the Commission.
2. The Commission may propose amendments to this Statute to the Committee of Ministers, which shall decide by the above mentioned majority.

A P P E N D I X II

LIST OF MEMBERS OF THE EUROPEAN COMMISSION
FOR DEMOCRACY THROUGH LAW

- AUSTRIA : Mr Franz MATSCHER, (Vice-President) Professor at the University of Salzburg, Judge at the European Court of Human Rights
- BELGIUM : Mr Jean-Claude SCHOLSEM, Professor at the University of Liège
- CYPRUS : Mr Michael TRIANTAFYLLIDES, Attorney General of the Republic
- DENMARK : Mr Christian TRØNNING, Under-Secretary of State at the Ministry of Justice
- FINLAND : Mr Antti SUVIRANTA, (Member of the Bureau) President of the Supreme Administrative Court
- FRANCE : Mr Jacques ROBERT, (Vice-President) Member of the Constitutional Council
- GERMANY : Mr Helmut STEINBERGER, (Vice-President) Professor at the University of Heidelberg
- GREECE : Mr Constantin ECONOMIDES, (Member of the Bureau) Professor at Pantis University, Director of the Legal Department, Ministry of Foreign Affairs
- HUNGARY : Mr Géza HERCZEGH, Vice-President of the Constitutional Court
- IRELAND : Mr Matthew RUSSELL, Senior Legal Assistant to the Attorney General
- ITALY : Mr Antonio LA PERGOLA (President), Member of the European Parliament
- LUXEMBOURG : Mr Gérard REUTER, President of the Court of Auditors
- MALTA : Mr Giovanni BONELLO, Barrister at Law
- NORWAY : Mr Jan HELGESEN, Professor, University of Oslo
- PORTUGAL : Mr José Menéres PIMENTEL, Judge at the Supreme Court of Justice
- SAN MARINO : Mr Giovanni GUALANDI, Vice-President Council of Presidency of the Legal Institute of San Marino
- SPAIN : Mr Francisco LAPORTA, (Member of the Bureau) Director, Centro de Estudios Constitucionales
- SWEDEN : Mr Hans RAGNEMALM, Ombudsman

SWITZERLAND : Mr Giorgio MALINVERNI, (Member of the Bureau)
Professor at the University of Geneva

TURKEY : Mr Ergun ÖZBUDUN, Professor at the
University of Ankara, President of the Turkish
Foundation for Democracy

ASSOCIATE MEMBERS

BULGARIA : Mr Alexandre DJEROV, President of the Legislative
Commission of the Bulgarian Parliament

POLAND : Mr Jerzy MAKARCZYK, Secretary of State, Ministry
of Foreign Affairs

ROMANIA : Mr Ion ANGHEL, Ambassador of Romania in the
Netherlands

YUGOSLAVIA : Mrs Vanja RISTIC, Head of Group, Ministry of
Foreign Affairs

A P P E N D I X III

WORKING GROUPS

Task Force

Belgium, Cyprus, Finland, France, Greece, Italy, Luxembourg, Portugal, Spain, Sweden, Switzerland, Turkey + Bulgaria, Poland, Romania

Constitutional Justice

Cyprus, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, Malta, Portugal, Sweden, Turkey + Bulgaria, Hungary, Poland, Romania, Yugoslavia

Minorities

Austria (Chairman), Belgium, Greece, Norway, San Marino, Switzerland, Turkey + Hungary, Romania, Yugoslavia

Local Authorities

France, Germany, Ireland, Portugal, Sweden + Poland

Federal and Regional State

Austria, Belgium, Cyprus, Germany, Italy, Spain, Switzerland + Yugoslavia

Bureau

Austria, Finland, France, Germany, Greece, Italy, Spain, Switzerland

A P P E N D I X IV

SET OF PRINCIPLES ON NATIONAL MINORITIES
DRAWN UP BY THE EUROPEAN COMMISSION FOR
DEMOCRACY THROUGH LAW

INTRODUCTION

The European Commission for Democracy through Law set up by the Resolution adopted by the Committee of Ministers of the Council of Europe on 10 May 1990 started to examine the problem of the protection of minorities in Europe.

For the time being, it has agreed on a number of principles which apply to national minorities, i.e. groups of people who are nationals of the State concerned and which could be incorporated into a legal instrument.

To this end they will form the basis of further work and in-depth study.

The Commission already believes that the drawing up of a binding European legal instrument would offer in the long run the best solution to these problems.

The experience and results already obtained, notably in the field of Human Rights as well as of other intergovernmental and parliamentary works on minorities under way within the Council of Europe, could make this Organisation the appropriate forum for the continuation of this initiative.

I. General Principles

1. The international protection of ethnic, linguistic and religious minorities must be a fundamental component of the international protection of Human Rights, and as such fall within the scope of inter-State co-operation. It represents a basic element of peace and stability in Europe.
2. The international protection of minorities does not permit any activity which is contrary to the fundamental principles of international law and in particular of sovereignty, territorial integrity and political independence of States.
3. The international protection of minorities must be conducted in good faith, in a spirit of understanding, tolerance and good neighbourliness between States.
4. For the purposes of this text, "minority" shall mean a group which is smaller in number than the rest of the population of a State, whose members, although nationals of that State, have ethnical, religious or linguistic features different from those of the rest of the population, and are guided by the will to safeguard their culture, traditions, religion or language.

Any group complying with the terms of this definition has the right to be recognised as an ethnic, religious or linguistic minority.

II. Rights of Minorities

5. Minorities have the right to the respect, safeguard and development of their ethnical, religious, cultural or linguistic identity.

They shall have the right to be protected against any activity capable of threatening their existence.

6. Any person belonging to a minority has the right to enjoy the same rights as any other citizen, without any distinction and on an equal footing.

The adoption of special measures in favour of minorities or of their members, aimed at promoting equality between minorities and the rest of the population or at taking due account of the specific conditions of minorities, is not considered as an act of discrimination.

7. Any person belonging to a minority shall have the right to associate and to maintain relations, notably with other members of the same group, including across national borders. This right includes notably the right to leave one's country and to go back to it.
8. Any person belonging to a minority shall have the right to a real participation in the State's affairs, and in particular in the decisions affecting the regions where he lives.
9. Any person belonging to a minority shall have the right to his own cultural life.

10. Any person belonging to a linguistic minority shall have the right to use his language freely, in public as well as in private.

11. Whenever the minority reaches a high percentage of the population of a region or of the total population, its members should have the right to speak and write in their own language to the political, administrative and judicial authorities of this region or, where appropriate, of the State. These authorities should have a corresponding obligation.

12. In State schools, obligatory schooling is given in the mother tongue of the pupils belonging to a minority. However, should the State not be in a position to provide such schooling, it must permit children who so wish to attend private schools. The State has the right to prescribe that the language spoken by the majority also be taught in such schools.

13. Any person belonging to a religious minority has the right to manifest his religion or belief, either alone or in community with others and in public or private, in worship, teaching, practice or observance, in conformity with the international instruments on Human Rights.

14. Any person belonging to a minority whose rights herein set forth are violated shall have an effective remedy before a national authority.

III. Obligations of States

15. The States refrain from pursuing or encouraging policies aimed at the assimilation of minorities or aimed at intentionally modifying the proportions of the population in the regions inhabited by minorities.

16. As far as possible, States bear minorities in mind when dividing the national territory into political and administrative sub-divisions, as well as into constituencies.

IV. Obligations of Minorities

17. Any person who belongs to a minority fulfils loyally his obligations connected with his status as a national of his State.

18. In the exercise of his rights any person who belongs to a minority respects the rights of others, in particular those of the members of the majority and of other minorities.

The States take all the necessary measures with a view to ensuring that, in any region where those who belong to a minority represent the majority of the population of that region, those who do not belong to the minority shall not suffer from any discrimination.

V. Protection Machinery

19. To ensure that the rights set forth above are respected, it is indispensable that States study the possibility of establishing a European mechanism for the protection of the rights of minorities.

A P P E N D I X V

Meeting between the European Commission for
Democracy through Law and the Presidents of
Constitutional Courts or equivalent bodies in
the member states of the Council of Europe and
interested states of Central and Eastern Europe

(Piazzola sul Brenta, 8 October 1990)

Summary of discussions

1. The participants had been supplied with the working paper entitled "models of constitutional jurisdiction" written by Mr Helmut STEINBERGER, Vice-President of the Commission and rapporteur on constitutional justice.

The discussion, to which a large number of speakers contributed, focused on the following main topics:

I. Nature and composition of the judicial body

2. In most European countries jurisdiction for the verification of the constitutional legitimacy of legislation or its equivalent is specifically allotted either to a constitutional court or to some other court. In very few countries is such jurisdiction shared by all courts or simply not allocated to any state body.

3. The institution of a constitutional court as an autonomous judicial body is one of the great innovations of recent decades in the field of constitutional law. However, some states prefer to grant such jurisdiction to the ordinary supreme court, along the lines of the United States' Supreme Court, lest a special court be tempted to pass judgement on the political value of the provision under consideration.

In both cases, control "a posteriori" (see below) is normally exercised through a constitutional objection being raised in connection with contentious jurisdiction after all other remedies have been exhausted.

4. From a presentation of systems in operation in the various states great diversity emerged in the organisation and composition of bodies performing the constitutional control function, whether they be constitutional courts proper or some other body.

5. However, some common features could be identified on a number of fundamental points.

- The judges must be able to act in complete independence; this objective could be achieved by means of a long term of office, by non-dismissibility or through the granting of immunity comparable to that of members of parliament. Such safeguards should be provided for in the constitution itself. The fact that judges were appointed by a political body (parliament, head of state) on the basis of political considerations did not impair their independence, if there were appropriate safeguards.

- Even though in practice most judges would be lawyers, or even career judges, in some states it was thought wise also to appoint people from different backgrounds.

- Where in a federal state seats were reserved for representatives of the units making up the state, the number of seats did not necessarily reflect the numerical proportions of the populations of those units.

II. Role played in the life of democratic institutions

6. The role of scrutinising the constitutional legitimacy of legislation and other acts of the state made the constitutional jurisdiction a guarantor of the concrete implementation of a country's constitution.

7. Even if a decision by the constitutional court could have the effect of annulling an act of parliament, the court must not be regarded as a further legislative body. Save in rare exceptions, it pronounced only upon specific application and regardless of any consideration of political expediency.

The court's jurisdiction and its position in relation to other state bodies were determined inter alia by the moment in history at which the constitution was adopted: the political and social climate in an emerging democracy was different from that in a well-established democracy.

8. While it was true that the annulment of a law by the court could give rise to a legal vacuum, it was for the parliament and government to take care to fill the gap along the lines indicated by the court.

III. Jurisdiction

9. Generally speaking, control of constitutional legitimacy could be applied to legislation and other acts having the force of law. Depending on each state's constitutional system, it could also be applied to subordinate legislation (enacted in pursuance of a statute) and legislation emanating from constituent units of the state (federated states, regions). This was the indirect means by which conflicts of jurisdiction between various state bodies enjoying legislative power were settled.

10. Constitutional control could be exercised preventively. In this case, the authorities designated by the constitution itself could request a judgement as to whether a law was constitutional before it was promulgated (including a law authorising ratification of a treaty); the judgement as to conformity with the constitution then became a necessary requirement for promulgation.

In order to avoid the court becoming involved in political debate, the requesting authority (normally the head of state) must precisely define the terms of the question put to the court.

11. Constitutional control could also be exercised "a posteriori" In this case, either certain designated authorities, or any citizen, could attack a law in force for being unconstitutional. Where individual citizens were concerned, as a general rule a constitutional objection had to be raised before an ordinary court in connection with proceedings in which the application of the contested legislation was involved; an initial filter between the ordinary citizen and the constitutional court appeared to be indispensable. In addition, this also made it possible to assess the concrete implications of the application of the contested legislation.

In countries which had a constitutional court the legislation (or equivalent) found contrary to the constitution was declared null and void with effect "erga omnes".

In countries where constitutional jurisdiction lay with the Supreme Court, the declaration of non-constitutionality had no formal effect except in the actual case concerned but, needless to say, in practice such a decision constituted a precedent.

12. In particular cases, the constitutional court also had jurisdiction to act as a court of justice for the highest state authorities (head of state, ministers).

IV. Relationship between constitutional law and international law

13. In countries where the legal system provided for the incorporation into domestic law of international treaties, the problem arose of the position of international law in the hierarchy of sources of national law, and subsidiarily the question of the jurisdiction of the constitutional court to settle any conflicts between a treaty, the constitution and legislation.

14. In some countries the provisions of a treaty incorporated into domestic law had statutory force, in others they took precedence over national legislation, but in no case did they have the force of constitutional provisions. Consequently, the constitutional court did not have the function of verifying the conformity of a law (still less of the constitution) with a treaty; however, where the conformity of a statute with the constitution was in question, the statute was interpreted in the light of the relevant international instruments.

A remarkable exception was Yugoslavia, where the constitutional court was empowered to annul a law contrary to a treaty.

In the Federal Republic of Germany as well the Federal Constitutional Court may review the compatibility of a State law with a treaty of the Federation duly promulgated and enacted and declare such State law to be null and void.

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15. Many participants stressed the need for a documentation centre to gather together the case law of European and American constitutional courts and arrange for its circulation among interested bodies. The Council of Europe was asked to explore the possibility of establishing such a centre.