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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**Guidelines for the
Organisation of seminars in co-operation
with Constitutional Courts (CoCoSem)**

I Introduction

Since 1992 the Venice Commission co-operates with constitutional courts and equivalent bodies (constitutional councils, supreme courts, etc.) with a view to fostering a mutual exchange of information between the courts and to inform the interested public about their decisions. To this end, the Commission has established a network of liaison officers within the courts. Three times a year they contribute to the *Bulletin on Constitutional Case-Law* and the database CODICES of the Commission. These publications allow the reader to have a rapid up-to-date overview of major constitutional decisions of the participating courts. Thus, the *Bulletin* contributes to the knowledge of the common constitutional heritage in Europe and abroad.

Upon the demand of several constitutional courts, the Venice Commission has organised a series of seminars with recently established constitutional courts entitled "CoCoSem". Since 1996, such seminars have taken place in Armenia, Azerbaijan, Bosnia and Herzegovina, Estonia, Georgia, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Russia, South Africa and Ukraine. A list of these seminars figures in Appendix I.

II Choice of topics

The topics of such seminars are chosen by the courts and often reflect issues with which the courts are currently confronted, for example the independence of the Constitutional Court, the role of the Constitutional Court in the protection of human rights or electoral disputes before the Constitutional Court. More practical issues like the budget of the Court or case management have also been embarked upon. Often, other State powers participate in these seminars upon the invitation of the courts. The Venice Commission hopes to contribute to a discussion within the country concerned which is conducive to further the fundamental values of the Council of Europe.

Appendix II lists topics which can be of interest for the organisation of CoCoSeminars. The topics mentioned there are those of CoCoSems already held or which have been mentioned in discussions with or within the Secretariat. The list is open-ended and the courts are free to propose any other topic. The choice of topic lies with the Court. The fact that a topic has already been dealt with in another seminar does not preclude it from being dealt with again in another country. A combination of several topics is possible during a two-day seminar.

For the seminar to be successful, it is of particular importance that the Court informs the Secretariat how the rapporteurs should tackle the topics they are invited to speak about. Therefore, the Court is invited to send a short note on what the actual problems or experiences are in relation to this topic which the Court is faced with. Only such information will allow the rapporteurs to address the questions which really are of interest for the Court and to avoid misunderstandings.

The programme of the seminar is set up jointly by the Secretariat of the Commission and the Court concerned. Often, the Secretariat presents a first draft programme for which proposals by the Court are welcomed. Usually three or four international rapporteurs, financed by the Venice Commission, and an equivalent number of national rapporteurs present their reports.

III Financing

The Venice Commission is, in principle, able to cover the costs of transport and subsistence for the international rapporteurs. Within budgetary limits, the Commission can contribute a lump sum for covering organisational expenses (interpretation, interpretation equipment, etc.).

In order to obtain this lump sum, the Court concerned is kindly asked to approve an administrative arrangement with the Council of Europe (see form in Appendix III) to which a draft budget of the seminar - prepared by the Court - should be attached. The latter has to be approved by the financial bodies within the Council of Europe. The Secretariat is not in a position to indicate the precise amount of the financial contribution before the administrative arrangement including the budget has been approved. In order to obtain this approval, the Court is kindly asked to provide an estimate of the costs for which it requests coverage by the Venice Commission. Once this approval has been given, the financial contribution by the Venice Commission cannot be increased any further.

An amount, usually 50 per cent, of the contribution of the Commission can be transferred to the Court in advance of the seminar, the rest is sent by bank transfer following the seminar upon the presentation of invoices corresponding to the budget agreed upon beforehand. It is not necessary to translate the invoices but a list of the invoices showing the sums and their purpose is very useful. It should be borne in mind that the transfer of the money can take several weeks due to administrative procedures within the Council of Europe and the actual transfer from bank to bank (often via correspondent banks).

The international rapporteurs financed by the Venice Commission receive a *per diem* (always by bank transfer following the meeting) which allows them to cover their subsistence expenses (food and accommodation). Consequently, the draft budget should not contain costs for these. The organisation of receptions and dinners is optional and is left to the Court. The Court, on the other hand, is kindly requested to assist in the reservation of hotel rooms for the rapporteurs and the Secretariat.

IV Working languages

The Venice Commission is usually able to finance interpretation between the language of the host country and one of the two official languages of the Council of Europe (English or French).

Interpreters are usually recruited on the spot by the Court. They must be able to guarantee a very high level of interpretation because the success of the seminar depends on effective communication between the national and international participants.

The Court also takes care of the installation of interpretation booths in the meeting room whether it be on the premises of the Court or at another place chosen by the Court.

V Participants

The international rapporteurs (and possibly other international participants financed by the Commission) are invited by the Venice Commission given that such an invitation entails financial obligations. The Court is kindly asked to assist in facilitating the delivery of visas for the international rapporteurs and participants upon their arrival at the airport. The Court is, of

course, free to invite national participants of its choice. The number of participants should remain limited in order to allow for fruitful discussions in the atmosphere of a workshop. In addition, the total number of participants has to remain within the technical limits imposed by the size of the meeting room and number of interpretation headsets available.

The Court is invited to assure that political parties do not act as co-sponsors of the seminar and that no symbols of political parties appear on the programme or other material prepared for the seminar (badges etc.). The Court should consult the Commission about any other co-organisers / co-sponsors of the seminar.

The Court should inform the Secretariat whether the seminar should be open or closed to the public and the media or only open during the opening phase.

VI Proceedings

The co-organising courts are invited to inform the Secretariat of the Commission whether they intend to publish the proceedings of the seminar. In this case, the Secretariat will try to transmit the reports presented by the international rapporteurs on electronic storage media (e-mail, diskette) in order to facilitate the production of such a publication. In no case can the Venice Commission provide a further financial contribution to such a publication once the seminar has taken place.

The Commission usually distributes the reports available in English or French as non-restricted CDL-JU documents. This depends on the availability of the reports in one of the two official languages of the Council of Europe. In any case, the Court is kindly asked to transmit to the Secretariat the national reports in the language in which they have been given.

VII Evaluation

The participants in the seminar will be asked to kindly fill in an evaluation form after the seminar (Appendix IV). The Commission intends to send such a form to the participants again one year after the seminar in order to be able to evaluate the short and long-term effectiveness of the CoCoSem. This evaluation is done in co-operation with the Court and the latter is kindly invited to assist with the evaluation of forms filled in the language of the host country.

VIII Contacts

Courts wishing to organise a CoCoSeminar in co-operation with the Venice Commission can address themselves to the Secretary of the Commission, Mr Gianni Buquicchio (Tel. +33 3 88 41 22 05, fax +33 3 88 41 37 38, e-mail: Gianni.Buquicchi@coe.int) or to Mr Schnutz Rudolf Dürr (Tel +33 3 88 41 39 08, fax: +33 3 88 41 37 38, e-mail: Schnutz.Durr@coe.int).

Appendix I

CoCoSems organised by the Venice Commission in co-operation with constitutional Courts

- 16-18.10.1996 Seminar on the Constitutional Court of Armenia, Yerevan, Armenia
- 1-3.12.1996 Seminar on Contemporary Problems of Constitutional Justice, Tbilissi
- 3-4.7.1997 Workshop on the Functioning of the Constitutional Court of the Republic of Latvia, Riga, Latvia
- 22-24.9.1997 Workshop on the Relationship of Central Constitutional Courts and Constitutional Courts of Federated Entities, Petrozavodsk, Karelia, Russia
- 22-24.10.1997 Seminar on Constitutional Control and the Protection of Human Rights, Yerevan, Armenia
- 24.11.1997 Workshop for Legal Staff of the Constitutional Court of Bosnia and Herzegovina, Sarajevo, Bosnia and Herzegovina
- 17-19.11.1997 Workshop on the Execution of Judgments of Constitutional Courts, Tbilissi, Georgia
- 4-5.12.1997 Workshop on the Constitutional Court of the Republic of Azerbaijan, Baku, Azerbaijan
- 19-21.1.1998 Workshop on the Budget of the Constitutional Court: Control and Management, Kyiv, Ukraine
- 31.1.-2.2.1998 Conference on Equality Jurisprudence, 31 January to 2 February 1998, Cape Town, South Africa
- 4-5.4.1998 Round Table of Constitutional Courts in Bosnia and Herzegovina, Sarajevo, Bosnia and Herzegovina
- 20-21.4.1998 Workshop on Judicial Independence and Incompatibilities of the Office of Judge with other Activities, Bishkek, Kyrgyzstan
- 5-6.6.1998 Workshop on Principles of constitutional control, techniques of constitutional and statutory interpretation", Kyiv, Ukraine
- 15-16.10.1998 Seminar on electoral disputes before the Constitutional Court, Yerevan, Armenia
- 23-24.10.1998 Round Table on Constitutional Justice in Bosnia and Herzegovina, Banja Luka, Bosnia and Herzegovina

- 7-8.10.1998 Seminar on the role of the Constitutional Court in the Implementation of International Law, Lviv, Ukraine
- 30-31.3.1999 Seminar on the role of the Constitutional Court in the protection of private property, Chisinau, Moldova
- 1-2.07.1999 Workshop on the relationship between the Constitutional Court and the Ombudsman, Kyiv, Ukraine
- 1-2.07.1999 Seminar on Constitutional Control in Federal and Unitary States, Batumi, Ajaria, Georgia
- 4-5.10.1999 Seminar on cases of conflict between State powers before the Constitutional Court, Yerevan, Armenia
- 28-29.10.1999 Seminar on the Execution of decisions of the Constitutional Court, Kyiv, Ukraine
- 25-26.11.1999 1st Conference of Secretaries General of Constitutional Courts and bodies of equivalent jurisdiction, Kyiv, Ukraine
- 25-26.02.2000 Seminar on the draft amendments to the Law on the Constitutional Court of Latvia, Riga
- 17-18.04.2000 Workshop on The Constitutional Court as a protector of individual rights and freedoms, Baku, Azerbaijan
- 27-28.04.2000 Seminar on economic transition: property rights, restitution, pensions and other issues concerning the constitutional protection of economic rights of citizens, Bishkek, Kyrgyzstan
- 6-7.10.2000 Seminar on the efficiency of constitutional justice in a society in transition (functional, institutional and procedural aspects), Yerevan, Armenia
- 6-7.10.2000 Direct Access of the citizen to the Constitutional Court, Zakopane, Poland
- 17-18.11.2000 Seminar on The Implications of the New Century and Striving to Join European Structures for Constitutional Courts, Tartu, Estonia
- 10-11.05.2001 Seminar on the Role of the Constitutional Court in the State and Society, Kyiv, Ukraine
- 11-12.09.2001 Colloquium on the relations between the courts and the public for judges from Constitutional Courts and Supreme Courts of Southern Africa, Willow Park, South Africa
- 5-6.10.2001 Seminar on guarantees of independence of constitutional justice and influence of decisions of the Constitutional Court on public practice, Yerevan, Armenia
- 25-26.10.2001 Seminar on constitutional control: basic problems of practice organisation and legal proceedings, Tbilissi, Georgia

- 11-12.01.2002 Conference on the actual problems of constitutional jurisdiction: contemporaneity and perspectives of development, Kyiv, Ukraine
- 11-12.01.2002 Conference on the legal frameworks to facilitate the settlement of ethno-political conflicts in Europe, Baku, Azerbaijan
- 15-16.03.2002 Baltic-Nordic regional Conference on Interpretation and Direct Application of the Constitution, Vilnius, Lithuania

These seminars have been organised in co-operation with the local constitutional courts, sometimes also in co-operation with other international bodies (ABA/CEELI, COLPI, Joint Programmes European Commission - Council of Europe/Venice Commission, OSCE, PHARE Programme of the European Union, USAID - ARD/CHECCI).

Appendix II

Topics of interest for CoCoSeminars

The topics mentioned below are those of CoCoSems already held or which have been mentioned in discussions with or within the Secretariat. The list is open ended. The courts are free to propose any other topic. The choice of the topic lies with the Court. The fact that a topic has already been dealt with in another seminar does not preclude it from being dealt with again. A combination of several topics is possible during a two-day seminar.

Note: The topics mentioned do not only refer to the subjects of past seminars as such but also to individual issues dealt with by one or more rapporteurs within the seminar. The topics of past seminars are not reproduced literally.

1 Constitutional justice

- The functioning of the Constitutional Court (Tbilissi 12/1996, Yerevan 10/1996, Baku 12/1997)
- Case management (Riga 07/1997, Tbilissi 11/1997, Tbilissi 10/2001)
- The role of the registry / secretariat of the Constitutional Court (planned: Kyiv 09/1999)
- The budget of the Constitutional Court (Kyiv 01/1998)
- Documentation and international comparative studies (Riga 07/1997)
- Types of claim
- The individual complaint (Tbilissi 12/1997, Riga 07/1997, Yerevan 10/1997)
- The drafting of decisions
- Publication of decisions
- Effects of decisions of the Constitutional Court (Riga 07/1997)
- Execution of decisions of the Constitutional Court (Tbilissi 11/1997, Kyiv 10/1999)
- Constitutional justice in a society in transition (Yerevan, 10/2000)
- The Constitutional Court and the media (Willowpark 09/2001)

2 General principles

- Techniques of constitutional and legal interpretation
- General principles applied in constitutional control (Yerevan 10/1997)
- Separation of powers
- Judicial independence (Yerevan 12/1996, Bishkek 05/1998, Yerevan, 10/2001)
- Incompatibilities of the office of judge with other activities (Bishkek 05/1998)
- The principle of legality
- The principle of equality (Cape Town 01-02/1998)
- The principle of proportionality
- Direct application of the Constitution (Vilnius 09/2002)

3 Institutions

- Relations between the ombudsman and the system of constitutional control (Yerevan 10/1997, Kyiv 05/1999)
- Relations between the Federal Constitutional Court and Constitutional Courts of federated entities (Petrozavodsk 09/1997, Batumi 07/1999)

- Relations between the Constitutional Court and ordinary courts (Petrozavodsk 09/1997, Batumi 07/1999)
- Relations between the Constitutional Court and other public institutions (Yerevan 10/1996, Yerevan 10/2001)
- Electoral control by the Constitutional Court (Yerevan 10/1998)
- The impact of decisions of the Constitutional Court on society (Kyiv 05/2000)
- Constitutional Court and European Union (Tartu 11/2000)

4 The role of the Constitutional Court in the protection of Human Rights

- The role of the Constitutional Court in the protection of human rights (Baku 04/2000)
- Economic transition: property rights, restitution, pensions, etc. (Chisinau 03/1999, Bishkek, 04/2000)
- Social and economic rights (Yerevan 10/1997)
- The implementation of international human rights norms (Yerevan 10/1996, Yerevan 10/1997)
- The role of the Constitutional Court in the protection of the rights of minorities (Baku 01/2002)
- The role of the decisions by the European Court of Human Rights for the decisions of the Constitutional Court
- The role of the Constitutional Court in the implementation of international law (Lviv 10/1998)

Appendix III

REF:
FIMS PO N°

**ADMINISTRATIVE ARRANGEMENT
BETWEEN THE COUNCIL OF EUROPE
AND**

The Council of Europe, with its Head office at Avenue de l'Europe, F-67075 Strasbourg, France, represented by("the Council of Europe")

on the one hand

and

The¹, represented by² ("the Beneficiary")

on the other hand

have agreed as follows:

Article 1 - Subject

1(1) The subject of this Arrangement is a Council of Europe grant in aid of a maximum of € (sum written in full) from the Council of Europe as payment for the expenses to be met for,(hereinafter referred to as "the Activity")

1(2) The Beneficiary will be awarded the grant on the terms and conditions set out in this Agreement and its Appendix.

Article 2 - Obligations of the Beneficiary

The Beneficiary undertakes:

- 2(1) To use this grant exclusively for the object herein above stated;
- 2(2) To make no profit through the Council of Europe grant;
- 2(3) To transmit to the Council of Europe before,
 - a report on the use made of the grant;

¹ Name and address of the Beneficiary
² Name of the representative and of his position within the administration of the Beneficiary

- a financial statement of income and expenditure for the activity, certified by a responsible financial officer of the beneficiary organisation, accompanied by appropriate original supporting documents. If for legal reasons the original documents must be retained by the beneficiary certified copies must be submitted with the financial statement;
 - a copy of the credit advice slip for the first instalment, as referred to in Article 3 below;
- 2(4) To relinquish the right to the payment of any balance of the grant if the documents specified in 2(3) above are not received by the Council of Europe by the due date;
- 2(5) To keep the accounts of the Activity for any further verification of the proper use of the grant by the Council of Europe, its auditors or its appointed representative for a period of two years from the date of payment of the balance;
- 2(6) To acknowledge the support of the Council of Europe wherever possible.
- 2(7) To observe any applicable laws in the execution of this Arrangement, and to hold the Council of Europe harmless from any claims from third parties (including State authorities) related to the execution of this Arrangement

Article 3 - Payment arrangements

- 3(1) The Council of Europe shall pay the amount mentioned above under Article 1(1) in two instalments as follows :
- 50 % within 20 days of receipt of this Administrative Arrangement duly signed;
 - the balance within 30 days of receipt and approval of the documents specified in Article 2(3) above.
- 3(2) The instalments will only be paid in the currency in which this Arrangement is made. Conversion into that currency from other currencies shall be based on the following:
- for expenditure up to the amount of the first instalment the exchange rate shall be that of the date of the bank transfer. As proof of the exchange rate a copy of the bank credit advice slip must be provided as specified in Article 2(3) above, otherwise the official Council of Europe exchange rate at the date of the bank transfer will be applied;
 - for the remaining balance the exchange rate shall be the official Council of Europe rate applicable at the date of submission of the documents specified in Article 2(3) above, and no later than the date referred to in Article 2(3) above.
- 3(3) The above mentioned amounts will be **paid only by bank transfer** to the following account opened in the name of the Beneficiary.

Full bank account number

Bank.....

International SWIFT code of the bank.....

Full address of the bank.....

.....

Account holder.....

Article 4 - Termination

The Council of Europe reserves the right to terminate this Arrangement and the Beneficiary undertakes to repay the grant in the following cases:

- If the Beneficiary fails to use the grant for the purpose of carrying out the Activity, or
- If the Beneficiary fails to substantiate the use of the grant for the Activity, or
- If the Beneficiary fails to submit the required documents by the due date, or
- If the Beneficiary fails to fulfil any of the terms of this Arrangement.

Article 5 - Amendments

The provisions of this Arrangement may be amended only by written agreement between the parties.

Article 6 - Appendix

An Appendix to this Arrangement describes the budget of the Activity, detailing the nature of the income and expenses and estimated total costs for this Activity, in particular those costs to be covered by the contribution of the Council of Europe.

Such Appendix forms an integral part of this Arrangement.

Article 7 - Disputes

Any dispute regarding the terms of execution of this Arrangement shall - failing an amicable settlement between the parties - be submitted to arbitration in accordance with Rule N° 481 issued by the Secretary General with the approval of the Committee of Ministers as provided in Article 21 of the General Agreement on Privileges and Immunities of the Council of Europe.

Done in two copies in on

For the Council of Europe

For the Beneficiary

Appendix IV

SEMINAR EVALUATION FORM

Title:

Venue:

Date:

Dear Participant,

In order to raise the effectiveness of the series of seminars of the Venice Commission with Constitutional Courts, you are kindly invited to fill in this form concerning the seminar in which you participated and to return it to the organisers. This will help us to find out how we can improve these seminars in order to make them as useful for the participant as possible. Within a year's time, we would like to send you a similar form which would show us whether the seminar has had also long-term effects. The Constitutional Court of [country] and the Venice Commission are grateful for your help.

1. Was the Seminar useful in general?

2. Which were the main elements of interest to you?

3. Were there relevant issues that should have been dealt with in more detail or which have not been dealt with at all? If so, which ones?

4. What do you think of the regional distribution of the international speakers? Did they represent legal systems of interest for comparison?

5. Would you prefer longer/shorter presentations?

6. Would you prefer if more time were dedicated to discussion?

7. What was your impression of the quality of the interpretation?

8. Which other topics do you think should be dealt with in a similar seminar?

In order to be able to contact you within a year from now to find out whether your impression of the seminar will have changed, you are kindly asked to provide your contact details (please write legibly). **You are, of course, not obliged to provide this information if you do not wish to do so.**

NAME:

ADDRESS:

FAX:

E-mail:

Thank you very much for your valuable assistance.