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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**(VENICE COMMISSION)**

**in co-operation with the  
CONSTITUTIONAL COURT OF SLOVENIA**

**INTERNATIONAL CONFERENCE**

**"THE POSITION OF CONSTITUTIONAL COURTS  
FOLLOWING INTEGRATION INTO THE  
EUROPEAN UNION"**

**Grand Hotel Toplice, Bled  
30 September - 2 October 2004**

**SYNOPSIS**

In co-operation with the Constitutional Court of Slovenia, the Venice Commission supported the Conference on "The Position of Constitutional Courts following Integration into the European Union". Participants from constitutional courts and equivalent bodies of the new member states of the European Union met with their peers from constitutional courts in 'old' member countries (Austria, Germany, Italy), with the President of the European Court of Human Rights, the President of the Court of Justice of the European Communities and the European Ombudsman.

The Conference was opened by the Minister of Justice of Slovenia, Ms Cerar. The participants were received by the President of the Republic of Slovenia, Mr Drnovsek. The media coverage of the Conference was important.

The main topics discussed were:

- constitutional changes, which had taken place in the new EU member states in view of their accession to the European Union,
- the protection of human rights in the European Union in the triangle between constitutional courts, the Court of Justice of the European Communities and the European Court of Human Rights,
- the question of the supremacy of EU legislation (primary and secondary) over national constitutional law,
- the relationship of constitutional courts with the Court of Justice of the European Communities – especially whether constitutional courts are obliged to seek preliminary decisions from the Luxembourg court.

The discussion was particularly intensive as concerns the last two points. While the President of the Court of Justice of the European Communities cited the case-law of his Court according to which EU (EC) legislation clearly has priority even over national constitutions, some participants maintained that at least basic principles of the Constitution or 'unchangeable' constitutional provisions were not superseded by EU law.

Some constitutional courts have actively sought preliminary decisions whereas others are more hesitant and consider that their role can be limited to ensure the right of access to the lawful judge by guaranteeing that other, ordinary courts, request preliminary rulings from the Court of Justice.

In general, participants agreed that these problems are often of a theoretical nature and found that the solution to most of these problems can be found in a genuine dialogue between the actors involved. At the closure of the Conference, the "Declaration of Bled" (annexed) was adopted in this spirit.

## **THE DECLARATION OF BLED**

Bled, October 1, 2004

The participants of the international conference on "The Position of Constitutional Courts following Integration into the European Union" assembled at Bled, September 30 to October 2, 2004, upon the initiative of the Constitutional Court of the Republic of Slovenia and with the support of the Venice Commission have comprehensively discussed the effects of their integration into the European Union as well as the position and jurisdiction of the Constitutional Courts of the member States. In particular, they have discussed the supremacy of the European Union Law and the position of the Constitutional Courts of the member States concerning Article 234 of the Treaty establishing the European Communities. In the light of the signature of the Treaty establishing a Constitution for Europe, special attention was paid to the fundamental rights of their citizens and to the relations between the system of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the national legal systems and the European Union.

The judges of the Constitutional Courts of the new member States of the European Union have emphasized the historical and legal significance of adherence of their States to the European Union and specific issues which hence the Courts will have to address: especially concerning the ramifications deriving from the supremacy of European law, the expansion of the judicial review of legislation implementing European Union law, the interpretation of the Charter of Fundamental Rights of the European Union, and the necessary reconciliation between national sovereignty and the transfer of powers to the European Union. Emphasizing the individuality of each State emanating from its own distinct history and legal tradition, and considering the position of Constitutional Courts within the framework of national jurisdictions, the participants have established that from now on the implications of the twofold commitment, to the European Union and to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the need to strengthen the protection of fundamental rights of citizens of the member States must be carefully taken into consideration. Such a state of affairs requires rapprochement between the national and the European case law. This implies genuine cooperation between the Courts of the member States of the European Union, the Court of Justice of the European Communities, and the European Court of Human Rights.

The members of the Constitutional Courts and the European Courts have insisted on the advantage of continuous communication between the Courts, the intensification of a truly efficient network of data exchange. They have also emphasized the need for a sustained effort leading to better awareness of fundamental rights among both legal profession and citizens.