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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

in co-operation with
THE SUPREME COURT OF THE REPUBLIC OF NAMIBIA

**GENERAL MEETING OF THE SOUTHERN AFRICAN
JUDGES COMMISSION**

Windhoek, 12-13 August 2005

SYNOPSIS

In co-operation with the Supreme Court of Namibia, the Venice Commission organised the General Meeting of the Southern African Judges Commission (SAJC) on “Independence and Accountability of the Judiciary” held on 11-13 August 2005, Windhoek, Namibia. Chief Justices from all member states participated, with the exception of Botswana (represented by a judge) and Seychelles (excused). The conference was opened by Dr. A. Kawana, Minister for Presidential Affairs.

The first day of the meeting was opened by the Chief Justice of Namibia Mr Shivute and the Secretary of the Venice Commission Mr Buquicchio. The SAJC members then proceeded to discuss the independence and accountability of the judiciary on the basis of two keynote reports by the Chief Justices of Malawi and Zambia.

The justices agreed that the independence of the judiciary was a benchmark indicating how free and democratic a society was. An independent judiciary is indispensable in order to safeguard rule of law, protection of human rights and good governance. Both the judiciary and governments should join efforts to promote and protect this independence. An appropriate legal framework and adequate funding are crucial and therefore the justices called on the governments to adhere to their obligations in this regard. In addition, the participants considered necessary for efficient functioning of the judiciary to institute measure for the basic education on the functioning of the judiciary for the general public and the executive and legislative powers.

At the same time, participants agreed that the judges were accountable for the way they discharged their duties, i.e. their conduct. Proper selection of the members of the judiciary, clear reasoning in the rendered decisions, transparent appeal proceedings, access of the general public to court proceedings and accurate reporting by the media, all contribute to the proper functioning of judiciary. To ensure accurate reporting by the media, judiciaries were encouraged to develop communication policies, including informal consultations with media representatives and the provision of clear summaries of judgments. Moreover, codes of conduct and appropriate bodies ensuring that members of the judiciary act according to the high ethical standards of their office, had to be established where absent and existing ones made to function in accordance with the relevant international instruments such as the Latimer House Guidelines and the Bangalore Principles. Participants also took note of a number of existing Council of Europe documents in the field¹, which were put at their disposal. The first day of the meeting concluded with the SAJC adopting a statement outlining its position on the above-mentioned issues.

The second day of the meeting was devoted to current matters of the SAJC. Reports of activities held since establishment of the SAJC and the SAJC financial statement were discussed and adopted. The current management committee will continue exercising its duties until the end of 2005. Following the presentation of the report of the meeting on “Judicial Training Institutions in the Southern African Region”, held in Johannesburg, 24-25 June 2005, a Committee on the Training of Judicial Staff was constituted comprising of the Chief Justices of Namibia, South Africa and Zimbabwe. The General Meeting also adopted a resolution formalising Kenya’s membership in the SAJC.

The Secretary of the Venice Commission informed the SAJC of the recent Irish government’s voluntary contribution to support a new programme of the SAJC activities which had been drafted on the basis of the individual proposals of the SAJC participating judiciaries. The text of the programme was distributed.

¹ Charter on the status of judges of 1998, Recommendation on the independence, efficiency and role of judges – R(1994)12, Opinion of the CCJE No 3 on professional conduct.

Apart from the annual conferences and training activities, the new programme aims to foster the exchange of case-law via the Venice Commission's CODICES and its preliminary website for the SAJC: www.venice.coe.int/sajc. Courts should send their important cases via their liaison officer in electronic format. However, the new programme also provides for scanning of texts which are available only on paper. Courts should send constitutional cases, however, key civil and criminal cases can also be included. Decisions will be made available sorted by country and date on the site. The deadline for contributions is 30.11.2005.

The question of the current situation in Zimbabwe arose and participants concluded that the SAJC, whilst keeping in mind the utmost importance of the atmosphere of peer trust for the survival of the Commission, should nevertheless voice its concerns with regard to similar situations in the region. However, the manner in which such action should take place should be well thought through. Therefore appropriate rules had to be drafted. The Venice Commission was asked to share the available know-how in these matters with the SAJC.

The next meeting of the SAJC will take place in Venice during one of the plenary sessions of the Venice Commission, either in March or June 2006, to enable the members of the SAJC to meet and to work together with their European colleagues. The final decision on the dates is subject to the availability of the meeting room at the *Scuola Grande di san Giovanni Evangelista* on a Saturday afternoon and the availability of additional funds in participating states to top the travel expenses of the SAJC members.

In the course of the meeting, and in conclusion, participants stressed their gratitude to the Venice Commission and the Norwegian and Irish governments for their support of the SAJC.

The local and regional media coverage of the event was of a good level.