



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**SERVICES
PROVIDED BY THE
VENICE COMMISSION
TO CONSTITUTIONAL COURTS AND EQUIVALENT BODIES**

Established in 1990 and composed of independent members, the Venice Commission is an advisory body of the Council of Europe in the field of constitutional law (www.Venice.coe.int). While the main activity of the Commission is centred on advising on draft constitutions, constitutional amendments and para-constitutional legislation such as minority or electoral legislation, the Venice Commission has always been aware that these texts have to be implemented in society in order to be of any use. It was only natural that the Commission turned to constitutional courts and equivalent bodies as the institutions where this implementation could best be supported.

The co-operation of the Commission with the courts is steered by its Joint Council on Constitutional Justice, which is a mixed organ composed of liaison officers appointed by the courts and members of the Commission.

The *Bulletin on Constitutional Case-Law* and the database CODICES

Three times a year, the Venice Commission publishes the *Bulletin on Constitutional Case-Law* and the database CODICES (on CD-ROM and via www.CODICES.coe.int), which inform about the important case-law of about 80 constitutional courts and equivalent bodies in Europe, Asia, Africa and the Americas as well as the European Court of Human Rights and the Court of Justice of the European Communities. CODICES contains about 5000 judgments (as summaries – *précis* – in English or French and as full texts in 26 languages). The main purpose of the *Bulletin* and CODICES is to foster an exchange between the courts and to assist national judges in solving critical questions of law which often arise simultaneously in different countries. The contributions to the *Bulletin* are supplied by the liaison officers.

The regular issues of the *Bulletin* are supplemented by a series of *special bulletins* containing leading cases on specific topics (usually prepared upon request by the Conference of European Constitutional Courts), descriptions of the courts and basic texts, such as extracts from constitutions and legislation on the courts, thus enabling readers to put the different courts' case-law in context.

The so-called *interim Bulletin* site (www.venice.coe.int/JU/Bulletin) does not only allow the liaison officers to access on-line the contributions from the other courts but also to follow the editing of their own contribution from its submission to its publication in the *Bulletin* and CODICES.

Updating of information on the courts

In order to facilitate exchange and dialogue between the courts, the Venice Commission keeps updated information on the courts (lists of presidents, judges, secretaries general, liaison officers, court's addresses and web-sites) on its restricted site for the courts (www.Venice.coe.int/JU). In addition, the Commission updates in the CODICES database the information published in the special *Bulletins* on descriptions of the courts (setting out the composition, organisation, jurisdiction, nature and effects of decisions), as well as constitutions and the laws on the courts. In its Documentation Centre, the Commission makes available the digests and publications kindly provided by the courts.

Seminars in co-operation with the courts (CoCoSem programme)

In response to requests from a number of constitutional courts, the Commission has established a series of conferences, seminars and work-shops with these bodies. Since 1996, such events have been held in 17 countries. They covered both practical issues - such as case management, the budget of the courts or

relations with the public – and topics relating to basic democratic principles, such as human rights, the separation of powers or the independence of the judiciary.

Venice Forum

The Commission provides a confidential on-line forum for the courts where they can quickly request and exchange information relating to current questions as well as openly discuss any question relating to the activities of the courts. Past exchanges remain available for reference on the restricted web-site of the Commission (www.venice.coe.int/ju/VeniceForum). In addition, the new Venice Forum Newsgroup allows for direct on-line discussions between the courts:

www.extraweb.coe.int/team10/veniceforum/Lists/Newsgroup/AllItems.aspx.

***Amicus curiae* opinions**

Upon request by a constitutional court (or equivalent body), the Venice Commission, can provide *amicus curiae* opinions which present aspects of comparative or international law relating to cases pending before the court. The Commission does not give an answer to the question of the constitutionality of the impugned national act but will limit its opinion to issues of comparative and international law. If need be, such *amicus curiae* opinions can also be given within a very short time, at least in a preliminary form.

Upon request by state organs, including the constitutional courts themselves, the Commission gives opinions on draft legislation on the courts.

Direct support for constitutional courts

Constitutional courts' decisions striking down laws or decrees are sometimes criticised by other state powers. Such criticism may be acceptable if it is combined with respect for the judgements. Unfortunately, this is not always the case. The Venice Commission can and does support constitutional courts when they are under undue pressure from other state powers or when their decisions remain unexecuted by organising international seminars on the issue of contention or by making declarations - if necessary public. In two cases, the Commission was even able to contribute to safeguard constitutional courts, which were in danger of being dissolved.

Even the Bulletin and the database CODICES contribute to the goal of strengthening the courts *vis à vis* other state powers. In delicate cases, decisions which make reference to similar judgments given by courts in other countries carry more weight and may be a means to better resist criticism.

The Venice Commission hope that its co-operation with constitutional courts contributes to further the basic principles of the Council of Europe: democracy, the protection of human rights and the rule of law.

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