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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

in co-operation with  
**THE CONSTITUTIONAL COURT OF GEORGIA**  
**USAID Georgia**  
**ABA Rule of Law Initiative and**  
**The Open Society Georgia Foundation**

**CONFERENCE**

**“THE INTERACTION OF NATIONAL COURTS WITH  
EUROPEAN COURTS”**

**Batumi, Georgia**  
**6-7 November 2007**

**SYNOPSIS**

The Conference on “The interaction of National Courts with European Courts” held in Batumi, Georgia on 6-7 November 2007, was organised by the Constitutional Court of Georgia in co-operation with the Venice Commission, USAID Georgia, ABA Rule of Law Initiative and the Open Society Georgia Foundation.

Discussions focused on the status of the European Convention on Human Rights (ECHR) and its influence on how national courts interpret the ECHR’s provisions and how they apply it domestically in Austria, Georgia, Romania and the Nordic countries. The differences in the practice of countries that adopt a monist approach from those that adopt a dualist approach to the implementation of the ECHR were compared and the role of enabling legislation was discussed. Amongst other examples, the practice of Ireland was mentioned, where a “declaration of incompatibility” can be made by the High Court and the Supreme Court on appeal stating that a law (etc.) is not in line with Ireland’s international obligations. Such a declaration puts pressure on the government to change the legislation.

The progress made by Georgia in the implementation of democratic laws through independent courts was considered and the Georgian Constitutional Court’s extensive reference to the case-law of the European Court of Human Rights in its judgments was highlighted.

Discussions also addressed the role of domestic courts in the interpretation of the ECHR. Some countries take the view that national courts are entitled to interpret the ECHR and that by doing so, they contribute to human rights protection. Others, however, take the view that national courts should refrain from evaluating matters already decided by the European Court of Human Rights. For instance, a recurring trend in the Nordic countries, although not a prevalent one, goes as far as claiming that the case-law of the Court has developed to such an extent that it has changed the initial meaning of the ECHR. For this reason, this trend encourages parliaments to not be inhibited in their democratic choices by the Court’s interpretation of the ECHR.

Participants raised questions on the problems encountered in the execution of judgments by the Court and it transpired that this was an issue faced by many countries.

The issues of undue delay and the right to a fair trial were also discussed. The participants pointed out the danger of artificially shortening the length of proceedings, as this would affect their quality and thereby defeat the purpose of a fair trial. They agreed that more concrete solutions needed to be found in order to speed up proceedings.

Discussions also addressed the question of the likelihood of the EU adhering to the ECHR.