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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

in co-operation with

THE CONSTITUTIONAL COURT OF ARMENIA

With the support of

**THE YEREVAN OFFICE OF THE OSCE AND
THE GERMAN INTERNATIONAL COOPERATION (GIZ)**

**XVI Yerevan International Conference
on the occasion of the 15th anniversary of the Constitutional Court of
the Republic of Armenia**

**“LEGAL CONSEQUENCES OF CONSTITUTIONAL COURT DECISIONS IN
STRENGTHENING CONSTITUTIONALITY IN THE COUNTRY”**

Yerevan, Armenia, 6-8 October 2011

SYNOPSIS

The Constitutional Court of Armenia and the Venice Commission under the aegis of the Conference of Constitutional Control Organs of Countries of Young Democracy (CCCOCYD) organised the annual Yerevan Conference on “Legal consequences of constitutional court decisions in strengthening constitutionality in the country” on the occasion of the 15th anniversary of the Constitutional Court of Armenia. The event took place in Yerevan and Jermuk on 5-8 October 2011.

The Yerevan Conferences are held under the auspices of the Conference of Constitutional Control Organs of Countries of New Democracy. It has been established thanks to the initiative of the President of the Constitutional Court of Armenia Mr G. Harutyunyan on the basis of a common declaration of the constitutional courts of Armenia, Belarus, Georgia, Kazakhstan, Moldova, Russia, Tajikistan and Ukraine. The Constitutional Court of Armenia holds the Presidency of this Conference and the Venice Commission signed a co-operation agreement with it.

The Council of Europe’s delegation consisted of judges Ms. Alvina Gyulumyan and Mr. Luis Lopez Guera, Judges, European Court of Human Rights, President of the Venice Commission Mr Gianni Buquicchio, Bulgarian member of the Commission, President of the Constitutional Court of Bulgaria Mr Evgeni Tanchev and Ms Tatiana Mychelova, External Relations Officer of the Venice Commission.

The following participated in this conference:

- Judges of the Constitutional Court of Armenia and members of its registry; Ombudsman of Armenia Mr K.Andreasyan;
- Presidents and judges from the constitutional courts of Albania, Bulgaria, Croatia, Georgia, Latvia, Lithuania and Ukraine; judges from the constitutional courts and courts of equivalent jurisdiction of Belarus, Belgium, Denmark, Kazakhstan, Luxemburg, Moldova, Netherlands, Norway, Poland, Russia, Tajikistan, Turkey and Tajikistan;
- Head of the OSCE office in Armenia Mr S. Kapinos, the SRSG in Armenia Ms Silvia Zehe, Head of the GIZ Office in Armenia Mr V.Pogosyan;
- Mr. Otto Luchterhandt, Professor of the Hamburg University, Mr. Matthias Hartwig, Doctor at Max Planck Institute for Comparative Public Law and International Law.

The conference coincided with the official visit of the French President N. Sarkozy to Armenia, hence, the absence of high ranking government officials at the conference.

As for the anniversary of the Court the participants agreed that during the 15 years of its existence, the Armenian Constitutional Court had contributed to building a basis for a democratic State based on the rule of law and, notably, respect for the Constitution. A necessary condition to further progress on the path to stable democracy for Armenia would be to maintain the independence of the Constitutional Court.

As for the topic of the conference, two aspects were examined. First, whether Constitutional Court judgments were implemented at all, and second, if not, how this could be remedied. It was noted that the execution of judicial decisions is one of the cornerstones of the rule of law, which is one of the three pillars of the Council of Europe. Other elements discussed were how judgments of the Constitutional Court were drafted in view of their implementation and how the other state bodies could act in conformity with these judgments. In order to be of use, the judgments had to be clear and understandable both for state actors and for the general public. While in some countries decisions lead to the annulment of laws with generally binding effects (*erga omnes*), in others, decisions are limited to the parties of the respective proceedings (*inter partes*)

Temporal effects must also be taken into account: for instance, in some countries, decisions have general *ex tunc* effects which often need to be attenuated in order to provide for legal certainty for individual acts already taken on the basis of laws found unconstitutional. The Constitutional Court should be able to determine the time of entry into force of its judgments, in order to allow Parliament to adopt a new law before the current unconstitutional one loses force.

The President of the Commission used the occasion to encourage the introduction of a full individual complaint to the Constitutional Court of Armenia. He noted that its introduction was beneficial for the protection of human rights in any country; as a positive side-effect it was likely to reduce the condemnations of a country by the Strasbourg Court.

While dealing with individual complaints, Constitutional courts need to pay special attention to the effects of their decisions, the re-opening of ordinary court procedures, the rights of third parties in such cases, the question whether other persons in the same situation should benefit, even though they have not appealed to the Court. In these discussions participants referred to some of the Venice Commission's recommendations made in the Report on Individual Access to Constitutional Justice, adopted in December 2010¹.

In addition, rather heated discussions concerned recent constitutional developments in Moldova and Ukraine and the relevant Venice Commission opinions.

The proceedings of this conference will be published in the CCCOCYD Almanac.

At this event, Mr Buquicchio, gave an interview to the local press on the forthcoming opinions concerning Armenia (electoral code, freedom of religion and alternative service).

¹ [http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)039rev-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)039rev-e.pdf)