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

**8<sup>th</sup> MEETING OF THE JOINT COUNCIL  
ON CONSTITUTIONAL JUSTICE**

**Tallinn, 18-19 June 2009**

**REPORT**

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A training session took place before the meeting, in which the Secretariat presented the Newsgroup, the restricted website of the Venice Commission for liaison officers ([www.venice.coe.int/JU](http://www.venice.coe.int/JU)) and the CODICES database (CD-ROM and Internet version). The latter now contains 6041 précis (June 2009).

The meeting was opened by Mr M. Rask, President of the Supreme Court of Estonia, who kindly hosted the meeting of the Joint Council. He praised the good co-operation between the Supreme Court of Estonia and the Venice Commission and welcomed the fact that the work of the Commission now reached far beyond the borders of Europe. Mr Rask presented the Secretariat of the Venice Commission with a book on the 15 years of constitutional review in the Supreme Court of Estonia for its Library/Documentation Centre in Strasbourg, France.

The Secretariat presented the liaison officers present, who had acted as liaison officers for the Venice Commission for ten years, with a Venice Commission medal on the occasion of the dinner organised by the Constitutional Court of Estonia in Tallinn. On the list of liaison officers to be attributed a medal were: Ms Alberini-Boillat, Mr Borrajo Iniesta, Mr Cattarino, Mr Duarte Silva, Mr Elkuch, Mr Ellul, Mr Gialdino, Mr Guliyev, Ms Kovacs, Mr Krug, Mr Marquis, Mr Mavčič, Mr Paczolay, Ms Papadopoulou, Mr Myrikov, Mr Ryckeboer, Mr Singer, Mr Torfason and Mr Tschümperlin.

## 1. Adoption of the Agenda

The agenda was adopted without any changes.

## 2. Communication by the Secretariat

The Secretariat informed the participants that Mr van Dijk, co-president of the Joint Council for the Venice Commission could not attend this meeting and that Mr Jentgen, co-president for the liaison officers, would therefore chair the meeting.

The participants were informed about the new appointments of liaison officers, as set out below:

IRELAND	Supreme Court	Mr Tom DALY <sup>1</sup>
TURKEY	Constitutional Court	Mr Ali Riza ÇOBAN <sup>2</sup>
ALGERIA	Constitutional Council	Mr Hocine BENGRI <sup>3</sup>
DENMARK	Supreme Court	Mr Jens HARKOV HANSEN <sup>4</sup>
SOUTH AFRICA	Constitutional Court	Ms Clare BALLARD <sup>5</sup>
Organisation of American States	Inter-American of Court Human Rights	Ms Julie RECINOS <sup>6</sup> and Cecilia MEDINA-QUIROGA
BELARUS	Constitutional Court	Mrs Olga G. SERGEEVA <sup>7</sup>
MEXICO	Supreme Court	Mr Alfonso OÑATE LABORDE <sup>8</sup>
KOREA	Constitutional Court	Ms Kyong-Mok KIM <sup>9</sup>
POLAND	Constitutional Tribunal	Mr Marcin NOWAK <sup>10</sup>
BRAZIL	Federal Supreme Court	Ms Susan KLEEBANK
MOROCCO	Constitutional Council	Ms Amina HASSOUNI

<sup>1</sup> Replaces Ms Sophia Purcell.

<sup>2</sup> Replaces Me Bekir Sözen.

<sup>3</sup> 1<sup>st</sup> nomination Algeria.

<sup>4</sup> Replaces Ms Stine Maria Tolstrup Christensen.

<sup>5</sup> Replaces Mr A. Price.

<sup>6</sup> Replaces Mr S. Garcia-Ramirez.

<sup>7</sup> Replaces Mr V. Shuklin.

<sup>8</sup> Replaces Mr E. Ferer McGregor Poisot.

<sup>9</sup> Replaces Mr B.-Y. Bae.

<sup>10</sup> Replaces Mr J. Krolikowski.

Mr Dürr informed the participants about the current activities of the Venice Commission, notably about the **opinions** and reports that were adopted during the 79<sup>th</sup> plenary session on 12-13 June 2009. These included a joint opinion with the OSCE/ODIHR on the Law on the freedom of conscience and on religious organisations of Armenia (CDL-AD(2009)036); an opinion on the draft Law on meetings, rallies and manifestations of Bulgaria (CDL-AD(2009)035); an opinion on the draft amendments to the Constitution of Georgia (CDL-AD(2009)030); an opinion on the amendments to the organic Law on political unions of citizens of Georgia (CDL-AD(2009)033); an opinion on the draft Law on assemblies of Kyrgyzstan (CDL-AD(2009)034); an opinion on the criteria on the election of judges and court presidents of Serbia (CDL-AD(2009)023); an opinion on the criteria on the appointment of prosecutors in Serbia (CDL-AD(2009)022) and an opinion on the rules of procedure of the Assembly of “the former Yugoslav Republic of Macedonia”. Adopted **reports** included a report on the impact of electoral systems on women’s representation in politics (CDL-AD(2009)029); the recommendations on an internationally recognised status of election observers (CDL-AD(2009)026); the joint guidelines of the OSCE/ODIHR and the Venice Commission on media analysis during election observation missions (CDL-AD(2009)031); the report on the imperative mandate and the report on private military and security firms and the erosion of the state monopoly on the use of force (CDL-AD(2009)027).

Mr Dürr then went on to inform the participants that the Venice Commission received a request from Luxemburg for an opinion on draft constitutional amendments.

He reminded participants that the Venice Commission now had 56 member states, with the accession of Brazil and Peru in 2009, which brought the population covered by the expertise of the Venice Commission to over 1.2 billion people.

Mr Dürr also mentioned that the Venice Commission was referred to by a number of institutions over the course of the year, notably by the European Union and the United States’ House of Representatives.

The European Court of Human Rights has referred to the Venice Commission in over 30 of its judgments since 2001 – the guidelines on prohibition and dissolution of political parties and the Code of Good Practice in Electoral Matters being the most cited texts.

International Human Rights NGOs such as Amnesty International and Human Rights Watch have also referred to the Venice Commission in dozens of their documents.

Mr Dürr also announced that there was going to be a change in the staff of the Secretariat as Mr Gianni Buquicchio will be retiring in November this year. Further changes include the return of Ms Caroline Martin, who had left the division two years ago, and will deal again, *inter alia*, with the meetings of the Secretaries General.

He informed the participants that the Venice Commission has had a zero growth budget for several years already, however it hoped that with the accessions and contributions of Brazil and Peru, the budget will increase, as previous accessions merely decreased the contribution of existing members without providing the Venice Commission with any additional funds. A decision on the possible increase of the budget is expected at the end of this year.

### **3. Updating data on the participating courts**

The liaison officers were invited to inform the Secretariat about any changes to data in the list of constitutional courts ([http://www.venice.coe.int/site/dynamics/N\\_Courts\\_ef.asp?L=E](http://www.venice.coe.int/site/dynamics/N_Courts_ef.asp?L=E)), the list of liaison officers ([http://www.venice.coe.int/site/dynamics/N\\_LO\\_officers\\_ef.asp?L=E](http://www.venice.coe.int/site/dynamics/N_LO_officers_ef.asp?L=E)) and the list of websites of constitutional courts and equivalent bodies ([http://www.venice.coe.int/site/dynamics/N\\_Court\\_Links\\_ef.asp?L=E](http://www.venice.coe.int/site/dynamics/N_Court_Links_ef.asp?L=E)).

Liaison officers were also informed that individualised e-mails would soon be sent to them with direct links to information on the composition of the court, constitutions, laws and descriptions on the restricted and CODICES websites in order to facilitate the updating of this information.

**The participants decided to keep the Venice Commission's liaison officers' site restricted, after having been given the option to have the contact details of their courts placed on the public site of the Venice Commission.**

#### **4. Venice Forum – Classic (e-mail based) and Newsgroup**

The Secretariat reported on the exchanges that have taken place on the 'Classic' Venice Forum (available through the restricted web-site for the replies to the e-mail Venice Forum ([www.venice.coe.int/ju/VeniceForum](http://www.venice.coe.int/ju/VeniceForum) - revised user guide CDL-JU(2008)001rev).

##### 'Classic' requests:

Ms Gerwien told the liaison officers that since the Joint Council's meeting in Tirana last June, the Venice Forum had received 33 requests from liaison officers from over 10 countries. Many topics were covered and a number of themes appeared: for instance lustration was a topic raised by Poland followed by a question related to this topic by "the former Yugoslav Republic of Macedonia". The topic of energy and gas transmission was raised by Georgia and a question on a similar issue then followed from "the former Yugoslav Republic of Macedonia". Several questions from Latvia concerned prison rights, such as the right of convicted persons to work, to receive telephone calls or prison visitation rights and the general theme of paternity rights was also introduced by Latvia and then followed by a more specific question on contesting paternity from the Czech Republic.

Questions from Slovenia covered the remuneration or fees of judges and lawyers/barristers and media issues were also raised, with respect to freedom of the press by Poland and broadcasting regulations by Georgia, the latter led to an *amicus curiae* opinion by the Venice Commission (CDL-AD(2009)013).

The issue of insult laws was raised by Poland. Germany then raised the issue of incitement to hatred and violence. Hungary requested information on same sex partnerships and on registers of incapable adults and Lithuania had questions regarding the competence of courts to investigate activities of parliament, government and the president and on the effect of disability on employment.

Several issues were brought up by liaison officers over the year, one on the fact that too many questions were sent out as "English only". The Secretariat will endeavour to translate all questions received, except if they are addressed to a limited number of liaison officers who are all English-speakers.

Ms Gerwien reminded liaison officers to limit their requests to the Venice Forum to issues pertaining directly to cases in front of their respective courts and to request case-law. Some liaison officers pointed out that the nature of the questions sent to the Venice Forum were changing, moving away from the case-law of constitutional courts and equivalent bodies towards knowledge of legislation, turning the Venice Forum into a comparative law forum. The Secretariat replied that the guidelines (CDL-JU(2008)001rev) had been revised following the Tirana meeting and read "*Requests should relate to the case-law of the participating courts.*" The Secretariat will not process requests that do not refer to any case-law.

**The participants agreed that, within the strict framework of the guidelines, a certain amount of flexibility should be given to the forum in order to let it grow and evolve. However, they also agreed that this should be looked into further during the 9<sup>th</sup> meeting of the Joint Council on Constitutional Justice next year.**

Ms Gerwien also reminded liaison officers that the guidelines requested liaison officers to inform the Secretariat of any searches they have carried out in CODICES before sending their requests to the Venice Forum. This will prevent the Secretariat from carrying out a replication of the search in the database.

Newsgroup posts (the Newsgroup is open to courts in non-member or observer states of the Commission):

⊕ Religious education in public schools - Decision of the Constitutional Court of the Republic of Macedonia	📧	JANJIC Tatjana	5/15/2009 14:46
⊕ Composition de la Cour constituionnelle des Comores		DURR Schnutz	2/24/2009 15:58
⊕ new site of the constitutional court of belarus		FILIPCHIK Rimma	2/20/2009 7:45
⊕ Constitutional review in the Netherlands: changing the Constitution?		VANROOSMALEN Marjolien	12/2/2008 15:31
⊕ Czech Republic - decision on Lisbon treaty (abstract)		DURR Schnutz	11/28/2008 22:46
⊕ nouvelle des comores	📧	YOUSSOUF Mohamed ali	10/31/2008 6:10
⊕ rectification		YOUSSOUF Mohamed ali	10/29/2008 11:43
⊕ Tunisie,modification de la Constitution	📧	BERTEGI Brahim	10/17/2008 10:17
⊕ Le Conseil constitutionnel tunisien,membre de l'ACCPUF		BERTEGI Brahim	9/25/2008 8:31

The Secretariat presented a revised Forum Newsgroup, based on a new version of the software SharePoint. While the Classic Venice Forum is open only to liaison officers in member and observer states of the Venice Commission, the Newsgroup is also open to courts linked via regional agreements (ACCPUF, etc.). Liaison officers were encouraged by the Secretariat to place announcements in the Newsgroup.

Mr Dürr explained that liaison officers will no longer log on to the Newsgroup using their username, but do so using their e-mail address. For the restricted site, the username (e.g. DURRS) is still required. He also informed them that the Secretariat could set up e-mail alerts to show that new messages have been added to the Newsgroup.

Liaison officers pointed out that there was a problem with the French translation of the Newsgroup, translated as "*Forum de discussion*", which is misleading as it is not a forum for discussion. It was agreed that the French translation would be changed to "*Forum d'actualité*".

Mr Dürr informed the participants that he had set up an observatory in the Newsgroup and the restricted website of the Venice Commission containing articles on events linked to and recent decisions of Constitutional Courts or equivalent bodies.

Ms Kovacs asked whether it was possible for a court to use the Newsgroup site to inform other courts, members of the Venice Commission, that it has referred to their case-law. The Secretariat very much welcomed this, as the Newsgroup is a site for the exchange of information and it would provide positive feedback for courts whose case-law has been referred to.

**The participants welcomed the setting up of weekly alerts on new announcements made in the Newsgroup by the liaison officers.**

**The participants agreed to change the French word for the Newsgroup, which is "*Forum de discussion*" to "*Forum d'actualité*".**

## 5. Opinions and studies of the Venice Commission

The Secretariat informed the participants about the opinions adopted by the Venice Commission on laws on constitutional courts and *amicus curiae* opinions adopted since the last meeting of the Joint Council.

### Constitutional Court Legislation

Under this heading, three opinions were adopted since last June:

**CDL-AD(2008)030** [Opinion on the Draft Law on the Constitutional Court of Montenegro, adopted by the Venice Commission at its 76th Plenary Session \(Venice, 17-18 October 2008\);](#)

**CDL-AD(2008)029** [Opinion on the Draft Laws amending and supplementing \(1\) the Law on Constitutional Proceedings and \(2\) the Law on the Constitutional Court of Kyrgyzstan adopted by the Venice Commission at its 76th Plenary Session \(Venice, 17-18 October 2008\);](#)

**CDL-AD(2009)014** [Opinion on the Law on the High Constitutional Court of the Palestinian National Authority adopted by the Venice Commission at its 78th Plenary Session \(Venice, 13-14 March 2009\).](#)

Also, an opinion on the amendments to the Law on the Constitutional Court of Latvia was currently being prepared and should be adopted during the 80<sup>th</sup> Plenary Session of the Venice Commission in October 2009. The Secretariat informed the liaison officers that the Latvian request raised, *inter alia*, the issue of social guarantees, which were especially important during times of crisis, such as the current financial crisis. Due to this crisis, a number of events had taken place also in other member states that raised concern. For instance, while all civil service salaries in Lithuania were reduced by 15%, that of the Constitutional Court judges was reduced by 30%. While there generally was an expansion with respect to the independence of constitutional justice, such examples show that inherent dangers remained. An example was the legislation introduced by Russia to have the president of the Constitutional Court elected by parliament upon proposal by the President of the Republic, rather than be elected by the judges themselves, as was the case in the past.

### General Judiciary

The Secretariat's Division on Constitutional Justice also dealt with the general judiciary. Under this heading, the following have been adopted:

**CDL-AD(2008)019** [Opinion on the draft law on the Public Prosecutors' service of Moldova adopted by the Venice Commission at its 75th Plenary Session \(Venice, 13-14 June 2008\);](#)

**CDL-AD(2008)038** [Opinion on the Constitutional Law on Court Juries of Kyrgyzstan adopted by the Venice Commission at its 77th Plenary Session \(Venice, 12-13 December 2008\);](#)

**CDL-AD(2008)039** [Opinion on the Draft Amendments to the Constitutional Law on the Status of Judges of Kyrgyzstan adopted by the Venice Commission at its 77th Plenary Session \(Venice, 12-13 December 2008\);](#)

**CDL-AD(2008)040** [Opinion on the Constitutional Law on bodies of Judicial self-regulation of Kyrgyzstan adopted by the Venice Commission at its 77th Plenary Session \(Venice, 12-13 December 2008\);](#)

**CDL-AD(2008)041** [Opinion on the Draft Amendments to the Constitutional Law on the Supreme Court and Local Courts of Kyrgyzstan adopted by the Venice Commission at its 77th Plenary Session \(Venice, 12-13 December 2008\);](#)

**CDL-AD(2009)011** [Opinion on the Draft Law amending and supplementing the Law on Judicial Power of Bulgaria adopted by the Venice Commission at its 78th Plenary Session \(Venice, 13-14 March 2009\);](#)

**CDL-AD(2009)022** [Opinion on Rules of Procedure on Criteria and Standards for the Evaluation of the Qualification, Competence and Worthiness of Candidates for Bearers of Public Prosecutor's Function of Serbia adopted by the Venice Commission at its 79th Plenary Session \(Venice, 12-13 June 2009\);](#)

**CDL-AD(2009)023** [Opinion on the Draft Criteria and Standards for the Election of Judges and Court Presidents of Serbia adopted by the Venice Commission at its 79th Plenary Session \(Venice, 12-13 June 2009\).](#)

The Secretariat also informed the liaison officers that, upon request by the Parliamentary Assembly of the Council of Europe, a general report on the Independence of the Judicial System was being prepared by the Venice Commission.

#### Amicus curiae briefs

The following *amicus curiae* briefs were adopted:

**CDL-AD(2008)027** [Amicus Curiae Brief in the cases of Sejdic and Finci v. Bosnia and Herzegovina \(Applications no. 27996/06 and 34836/06\) pending before The European Court of Human Rights adopted by the Venice Commission at its 76th Plenary Session \(Venice, 17-18 October 2008\);](#)

**CDL-AD(2009)013** [Amicus Curiae Brief for the Constitutional Court of Georgia on the viewer's right of access to Court against decisions of an independent broadcasting authority concerning the programme schedule adopted by the Venice Commission at its 78th Plenary Session \(Venice, 13-14 March 2009\);](#)

**CDL-AD(2009)012** [Amicus Curiae Brief for the Constitutional Court of Georgia on the Retroactivity of Statutes of Limitation and the Retroactive Prevention of the Application of a conditional sentence adopted by the Venice Commission at its 78th Plenary Session \(Venice, 13-14 March 2009\).](#)

The Venice Commission was currently preparing an *amicus curiae* brief for Albania on the issue of lustration, which should be adopted in October 2009.

#### Studies

Upon request by Germany, the Venice Commission prepared a study on individual access to constitutional justice.

**The draft study will be sent to liaison officers for comments. The latter should be sent to the Secretariat by 30 September 2009, at the latest.**

## **6. Co-operation activities**

### **6.a Co-operation with the Conference of European Constitutional Courts (CECJ)**

The Secretariat informed the liaison officers about the co-operation with the Conference of European Constitutional Courts (co-operation site <http://www.venice.coe.int/CECC>).

In June 2008, the Venice Commission participated in the XIV<sup>th</sup> Congress of the Conference on "Problems of Legislative Omission in Constitutional Jurisprudence", held in Vilnius. The resolution adopted by the Circle of Presidents of the Conference sets out the following:

*"Recalling Resolution XII taken by the Circle of Presidents of the Conference of European Constitutional Courts, having convened to the Preparatory Meeting of its XIV<sup>th</sup> Congress on 7*

*September 2006 in Vilnius, calling for the pursuit of friendly co-operation with the Venice Commission;*

*Taking into account the wide range of services, which the Venice Commission provides to the Constitutional Courts, in particular the publication of the Bulletin on Constitutional Case-Law, the database CODICES, the Venice Forum, opinions on the legislation on the courts, amicus curiae opinions; the continued updating on information on the Courts; the organisation of conferences and seminars with the Courts (including the first World Conference on Constitutional Justice, Cape Town, 23-24 January 2009) and direct support for Courts under pressure;*

*Recalling that since the XI<sup>th</sup> Congress in 1999, the Venice Commission regularly produces special issues of the Bulletin on Constitutional Case-Law on the topics chosen for the Congresses of the Conference and provides information on the candidates for membership with the Conference:*

- 1. welcomes the excellent co-operation between the European Constitutional Courts and the Venice Commission and*
- 2. seeks the continuation and further strengthening of this co-operation for the benefit of constitutional justice in Europe.”*

As had been proposed by Mr Singer, the general report of the Vilnius Congress was included in the publication of the Special Bulletin on Legislative Omissions. This good practice is likely to continue under the Romanian presidency.

#### **6.b Co-operation with the Association of Constitutional Courts using the French Language (ACCPUF)**

The Secretariat informed the participants about the development of the relations between ACCPUF and the Venice Commission, as Ms Meininger was already in Cotonou, Benin, preparing for the 5<sup>th</sup> Congress of ACCPUF on the topic “Constitutional Courts and Crises” (22-25 June 2009). Mr Dürr was also attending this meeting to present the changes in the CODICES database and discuss the World Conference on Constitutional Justice.

Mr Dürr explained that the Venice Commission set up specific WebPages for each of its co-operating partners, for instance, ACCPUF’s website at the Venice Commission was <http://www.venice.coe.int/ACCPUF>.

He explained that the co-operation continued and kept growing with the recent addition of contributions from Mali and Gabon to the CODICES database.

The membership of the Organisation of French Speaking Countries (OIF) was growing with the membership of countries from Eastern Europe. OIF indicated that it would be ready to finance translations from English to French for OIF member, associate and observer states which contribute in English to the Bulletin. There was also a possibility for co-operation in the integration into CODICES of constitutions from French-speaking countries.

#### **6.c Co-operation with the Southern African Chief Justices Forum (SACJF)**

The Secretariat informed the participants about the programme of co-operation between the Southern African Chief Justices Forum (SACJF, formerly Southern African Judges Commission SAJC) and the Venice Commission and introduced its specific co-operation webpage: <http://www.venice.coe.int/SAJC> - which will be changed to “SACJF” soon.



Due to budgetary reasons, a slump had occurred in the co-operation with African courts. However, Ireland had recently made a contribution, which helped to restart this co-operation and will enable the organisation to hold two meetings of chief justices in co-operation with other donors. The next meeting will be held in Botswana in August on the rule of law, human rights, separation of powers and judicial independence and their relationship to socio-economic development.

#### **6.d Co-operation with the Conference of the Constitutional Control Organs of the Countries of Young Democracy (CCCOCYD)**

The Secretariat informed the participants on the progress made in the co-operation with the Conference of the Constitutional Control Organs of the Countries of Young Democracy and the Venice Commission.

Mr Dürr explained that the XIV<sup>th</sup> International Yerevan Conference will be organised in October 2009 in co-operation with the Constitutional Court of Armenia, the CCCOCYD and the International Association of Constitutional Law on the topic "The interaction between constitutional courts and parliaments in guaranteeing the supremacy of the Constitution". The Venice Commission had taken part in these events almost since their outset and these events have now become a tradition between the Venice Commission and the Constitutional Court of Armenia and are held on a yearly basis.

#### **6.e Co-operation with the network of Constitutional Courts of Asia**

The Secretariat informed the participants about the co-operation with the network of Constitutional Courts of Asia (Cambodia, Indonesia, Republic of Korea, Mongolia, Philippines) and the Venice Commission (co-operation site <http://www.venice.coe.int/Asia>).

Mr Dürr explained that this co-operation with Central Asia began with the assistance of the Konrad Adenauer Foundation. These courts now intend to create an Association of Asian Constitutional Courts, with the Court in Korea taking the lead. A statute has been drafted and a preparatory meeting has taken place in May 2009, however the statute has not yet been approved.

#### **6.f Co-operation with the Ibero-American Conference of Constitutional Justice (CIJC)**

Mr Onate Laborde informed the participants about the co-operation with the Ibero-American Conference of Constitutional Justice (co-operation site <http://www.venice.coe.int/CIJC>).

He explained that a co-operation programme between the Venice Commission and the CIJC was signed in Vilnius on the occasion of the Conference of European Constitutional Courts (<http://www.venice.coe.int/cijc>). It was the first time that the CIJC signed such an agreement. So far, the courts of Argentina, Brazil, Chile, Ecuador, Guatemala, Mexico and Peru have appointed liaison officers.

Furthermore, in the CODICES database, the Systematic Thesaurus was now available in four languages: English, French, Spanish and Portuguese. However, the Ibero-American Courts contribute their précis in English or French.

A positive decision was taken with respect to the World Conference on Constitutional Justice at the VII<sup>th</sup> Conference of the Ibero-American Conference of Constitutional Justice in Mérida, Mexico. This will give the CIJC *pro tempore* and permanent Secretariats the opportunity to approve the final version of the statute in December 2009.

Mr Onate Laborde also informed the participants that Brazil would like to hold the second World Conference on Constitutional Justice in 2011.

### 6.g Co-operation with the Union of Arab Constitutional Courts and Councils (UACCC)

The Secretariat informed the participants about the co-operation with the Union of Arab Constitutional Courts and Councils (co-operation site <http://www.venice.coe.int/UACCC>). Norway has provided a contribution for activities with Arab countries.

The programme funded by Norway covers the following activities:

25/10/2008	26/10/2008	Ramallah, Palestinian National Authority - In co- operation with the Ministry of Justice of the Palestinian National Authority, the Venice Commission organised a seminar on "Models of Constitutional Jurisdiction".
30/10/2008	31/10/2008	Algiers, Algeria – Colloquy on "Constitutional Interpretation" and preparatory meeting for the World Conference on Constitutional Justice.
10/11/2008	11/11/2008	Sana'a, Yemen - a delegation of the Venice Commission participated in the Fifth Plenary of the Scientific Symposium of the Union of Arab Constitutional Courts and Councils on "Constitutional Principles Securing a Fair Trial".
13-14/03/2009		Opinion on the Law on the High Constitutional Court of the Palestinian National Authority adopted by the Venice Commission at its 78 <sup>th</sup> Plenary Session (CDL-AD(2009)014).
22/04/2009	23/04/2009	Ramallah, Palestinian National Authority - Conference on the Constitutional Court of the Palestinian National Authority, organised with the EU Project "Seyada" (CDL-JU(2008)050syn).
30/10/2009	02/11/2009	Algiers, Algeria – Conference in co-operation with the Constitutional Council of Algeria on the occasion of the 20 <sup>th</sup> anniversary of the Council.
12/2009		Tripoli, Libya - Participation in the Conference of the Union of Arab Constitutional Courts and Councils on "the Economic and Political Rights from a Constitutional Point of View".

## 7. World Conference on Constitutional Justice

The Secretariat informed the participants about the results of the World Conference on Constitutional Justice held in Cape Town on 23-24 January 2009 and on the progress made in establishing the World Conference as a permanent body. The topic of the conference was "Influential Constitutional Justice - its influence on society and on developing a global human rights jurisprudence".

Mr Dürr explained that the Joint Council and the Venice Commission had started a number of regional co-operations that covered a large part of the world (see item 6, above). The idea behind organising a World Conference on Constitutional Justice was to bring the courts covered by these regional co-operations together in a conference, thereby giving them the opportunity to exchange information and experience. The World Conference on Constitutional Justice was a success and gathered 93 courts, holding useful discussions on the topic.

The declaration adopted by the World Conference calls for the establishment of a permanent association of courts (see: [http://www.venice.coe.int/WCCJ/WCCJ\\_E.asp](http://www.venice.coe.int/WCCJ/WCCJ_E.asp)).

A meeting of the Bureau, established by this declaration adopted in Cape Town, took place in Mérida, Mexico on 16 April 2008. With the assistance of the Secretariat, the Bureau prepared a draft Statute of the World Conference (CDL-JU(2009)007), to be submitted to the regional and linguistic groups for comments and approval. In Mérida, reservations were made regarding the financing of the conference. The last version of the Statute was therefore amended to say that no financial contributions were necessary to join the World Conference on Constitutional Justice.

The Statute should be adopted by the Bureau meeting of the World Conference on Constitutional Justice, which will take place in Venice on 12 December 2009.

According to the draft Statute, the Joint Council on Constitutional Justice was invited to become a founding group of the World Conference. This would give the Courts represented in the Joint Council the opportunity to become members of the World Conference under a simplified procedure (Article 2.b). It was true that most of the courts participating in the Joint Council were also members of another regional or linguistic group. Membership of the Joint Council on Constitutional Justice would therefore mostly benefit courts that belonged to no other group (e.g. Finland, Iceland, Israel, Netherlands, Sweden, USA), which could benefit from a simplified accession to the World Conference, if the Joint Council decided to adhere.

In addition, the Venice Commission's co-operation agreements with the various groups provided for a representation of the groups in the Joint Council. Membership of the Joint Council on Constitutional Justice in the World Conference would therefore provide an element of co-ordination for the work with the groups within the World Conference.

**The Joint Council welcomed the creation of the World Conference on Constitutional Justice.**

**It mandated its Co-presidency to ensure that the courts participating in the Joint Council benefit from a simplified access to membership of the World Conference at the meeting of the Conference's Bureau (Venice, December 2009), either by providing so explicitly in the Statute of the Conference or, if this was not accepted by the Bureau, by the membership of the Joint Council as a founding member of the World Conference.**

**The Joint Council also invited the liaison officers to consult the appropriate instances within their Courts or Councils on the draft Statute and to transmit any proposals for amendments to the draft Statute to the Co-presidency of the Joint Council via the Secretariat of the Venice Commission by 31 July 2009 in view of their presentation at the Bureau meeting in December.**

**8. Seminars with Constitutional Courts (CoCoSem)**

The Secretariat informed the participants about the seminars held since the last meeting as well as the programme of future CoCoSem seminars and presented the updated guidelines for the organisation of seminars (CDL-JU(2009)002).

2008 (since last meeting of the Joint Council)

14/07/2008	15/07/2008	Baku, Azerbaijan - Conference in co-operation with the Constitutional Court of Azerbaijan on "Execution of the decisions of Constitutional Court" on the occasion of the 10 <sup>th</sup> anniversary of the Court (CDL-JU(2009)001syn).
01/09/2008	04/09/2008	Seoul, Korea - Preparatory meeting for the World Conference on Constitutional Justice on the occasion of the celebration of the 20 <sup>th</sup> anniversary of the Constitutional Court of the Republic of Korea ( <a href="#">CDL-JU(2008)049syn</a> ).

03/10/2008	04/10/2008	Yerevan, Armenia - XIII <sup>th</sup> International Yerevan Conference in co-operation with the Constitutional Court of Armenia on "Fundamental Constitutional Principles and Public Practice" ( <a href="#">CDL-JU(2008)037syn</a> ) dedicated to the 10 <sup>th</sup> anniversary of the international bulletin on Constitutional Justice of the CCCOCYD.
05/12/2008		Astana, Kazakhstan - Conference with the Constitutional Council of Kazakhstan on "The UN Human Rights Declaration and its implementation in the Constitution of Kazakhstan" on the occasion of the 60 <sup>th</sup> anniversary of the Declaration ( <a href="#">CDL-JU(2008)041syn</a> ).

## 2009

The other activities that have taken place so far and not mentioned by Mr Dürr are:

23/01/2009	24/01/2009	Cape Town, South Africa - World Conference on Constitutional Justice on "Influential Constitutional Justice – its influence on society and on developing a global human rights jurisprudence" in co-operation with the Constitutional Court of South Africa.
02/06/2009		Belgrade, Serbia – Conference in co-operation with the Constitutional Court of Serbia on the "Constitutional restriction on freedom of association".
12/06/2009	13/06/2009	Podgorica, Montenegro – Seminar on individual complaint in co-operation with the Constitutional Court of Montenegro and OSCE.

## Future events

03/07/2009	05/07/2009	Batumi, Georgia – Conference in co-operation with the Constitutional Court of Georgia and the Directorate of Co-operation of the Directorate General of Human Rights and Legal Affairs on the Justiciability of Social Rights in Constitutional and ECtHR Jurisprudence.
22/07/2009	23/07/2009	Chisinau, Moldova – Conference in co-operation with the Constitutional Court of Moldova on the occasion of the 15 <sup>th</sup> anniversary of the Constitution of Moldova on "Fundamental Constitutional Values as a Stability Factor of the Constitutional Regime".
06/08/2009	09/08/2009	Kasane, Botswana – Conference in co-operation with the Southern Chief Justices Forum on the rule of law, separation of powers, judicial independence and judicial review and their relationship to socio-economic development.
01/10/2009	02/10/2009	Ankara, Turkey – 4 <sup>th</sup> Conference of Secretaries General of Constitutional Courts in co-operation with the Constitutional Court of Turkey.
01/10/2009	03/10/2009	Yerevan, Armenia - XIV <sup>th</sup> International Yerevan Conference in co-operation with the Constitutional Court of Armenia on "The interaction between constitutional courts and parliaments in guaranteeing the supremacy of the Constitution".
15/10/2009	16/10/2009	Bucharest, Romania - Participation in the Preparatory Meeting for the XV <sup>th</sup> Conference of European Constitutional Courts.
06/11/2009		Riga, Latvia - Conference in co-operation with the Constitutional Court of Latvia on "Access to the Court – the Applicant in Constitutional Jurisdiction (Persons Authorised to apply to the Constitutional Court)".
20/11/2009	21/11/2009	St. Petersburg, Russian Federation - Conference on "Property, free enterprise and Constitution - new and old questions" in co-operation with the Moscow Institute for Public Law and Policy and under the aegis of the Constitutional Court of the Russian Federation.
23/11/2009	24/11/2009	Budapest, Hungary - Conference on "Politics and law in constitutional justice - from the political questions' doctrine to judicial politics" in co-operation with the Constitutional Court of Hungary on the occasion of its 20 <sup>th</sup> anniversary.

**The Secretariat asked the liaison officers to provide the name and address of the Secretary General to be invited to their Conference in Ankara on 1-2 October 2009.**

## **9. Publication of the Bulletin on Constitutional Case-Law**

### **9.a Regular issues of the Bulletin**

Mr Dürr briefly presented Bulletin 2008/2 to the participants.

Mr Borrajo Iniesta informed the participants that in Spain, the official gazette was no longer published in paper form, but only on the Internet. He wanted to know whether the link to the official gazette's site could be inserted in the précis (zone g). The Secretariat welcomed this information and believed that the link could be inserted provided it was a stable one, which seemed to be the case.

### **9.b. Participation of the Constitutional Court of Belarus in the Bulletin**

Mr Dürr explained that following the adoption of a new Constitution of Belarus by referendum and the renewal of the Constitutional Court, the Venice Commission had suspended the publication of the Court's case-law in the Bulletin. In 2002, the Conference of European Constitutional Courts asked the Commission to resume contact with the Court and since then the Commission organised three conferences with the Court (in 2003, 2004 and 2008). The Joint Council had decided to present the Belarus case-law as a special working document in an annex to the Bulletin and to include it in CODICES with a special note (CDL-JU-PV(2003)001, CDL-JU-PV(2004)001).

During an informal discussion of the possible re-inclusion of the case-law of the Constitutional Court of Belarus in the Bulletin at the last meeting of the Joint Council in Tirana, the participants agreed that this question would be decided at the next meeting.

**At its 8<sup>th</sup> meeting, the Joint Council on Constitutional Justice decided to re-integrate the case-law of the Constitutional Court of Belarus into the Bulletin and to retain the present historic note in only one place in the database and not include it with each précis from Belarus, as used to be the case.**

Mr Chigrinov said that the Constitutional Court of Belarus had celebrated its 15<sup>th</sup> anniversary and underlined the importance of its co-operation with the Venice Commission. He also informed the participants that the Constitutional Court of Belarus would organise a seminar on constitutional justice in 2010 and would like to co-organise this event together with the Venice Commission.

### **9.c Special Bulletins**

The Secretariat presented the work on the special Bulletin "Basic Texts 8" (BTX 8). The BTX publications contained extracts of constitutions and laws on constitutional courts. In 2008, the Venice Commission published Basic Texts 7 that included seven countries: Argentina, Israel, Kazakhstan, Korea, Kyrgyzstan, South Africa and the USA. BTX 8 could include, at most, eleven countries: Algeria, Brazil, Chile, Mexico, Montenegro, Morocco, Peru, Serbia, Sweden, Tunisia, and the UK. For those countries whose texts are in another language than English or French and for which there is no budget for translation this year may have their texts included in Basic Texts 9.

With respect to the Preparatory Meeting for the XV<sup>th</sup> Congress of the Conference of European Constitutional Courts, which will be held in Bucharest on 15-16 October 2009, participants were asked whether they would like to prepare a working document followed by a special Bulletin on the topic to be chosen by the Circle of Presidents of the Conference.

**The participants agreed to prepare a working document followed by a special Bulletin on a topic to be decided at the Preparatory Meeting for the XV<sup>th</sup> Congress of the Circle of Presidents of the Conference of European Constitutional Courts (Bucharest, 15-16 October 2009).**

**The Secretariat will ask the participants, at the end of October 2009, to prepare their contributions for March 2010.**

## **10. CODICES database**

### **10.a Presentation of a new version of CODICES**

The Secretariat presented version 5.4 2008/2 of CODICES. This version included the following new features:

1. A new presentation of the Systematic Thesaurus, which was closer to the paper version (feature included in version 5.3, 2008/1).
2. The possibility to include the précis that were still being processed. This version of CODICES would replace the present Interim Bulletin site (<http://www.venice.coe.int/JU/Bulletin>) and allow searches to be made in CODICES, including in the most recent case-law.
3. Direct links in the Internet version to précis, full texts, constitutions, laws and descriptions (see also point 10.b below for one of the uses of this feature). There used to be a problem of stable links into the database i.e. for access to constitutions. This problem has been solved with the introduction of clear, recognisable and stable links.
4. Inclusion of the Systematic Thesaurus in both Portuguese and Spanish by virtue of the co-operation agreement with the Ibero-American Conference of Constitutional Justice (see also point 6.f above).
5. Presentation of full texts in the database have improved with the inclusion of full texts in non ANSI characters (Cyrillic, Arabic, etc.) in Unicode HTML format rather than in Word format, which facilitates searches. For a few countries, fonts still have to be adjusted.

**The participants approved the new presentation of the Systematic Thesaurus.**

**The participants agreed to have their précis, which are still being processed by the Secretariat, included in the public CODICES database.**

### **10.b Updating and indexing constitutions and laws in CODICES**

The liaison officers were invited to inform the Secretariat of any changes made to their country's constitutions, laws on the courts and descriptions as compared to the texts contained in CODICES. Following the establishment of direct and stable links to these documents on the CODICES site (see point 10.a.3 above), the Secretariat presented its idea to send these links to the liaison officers asking them to check whether they were up-to-date together with the invitation to contribute to the Bulletin. This should give the liaison officers the opportunity to verify more quickly whether all data was updated.

The Secretariat informed the participants of the progress made in the indexing of constitutions and laws on the courts on an article by article basis (see also state of updating in document CDL-JU(2008)006), notably that the indexing of constitutions was nearly completed, except with respect to the new countries that had just joined the Venice Commission.

Mr Dürr informed the participants that the précis were indexed by staff and that the laws and constitutions were indexed by trainee lawyers. He encouraged liaison officers to inform the Secretariat should they run into any wrong indexing, so that the database may be corrected promptly.

#### 10.c Data input mask

The liaison officers were reminded to use input masks for their contributions.

For the off-line version Microsoft Access was required. This mask was available on CD-ROM in the folder "package" and downloadable at [www.venice.coe.int/ju/mask20.mdb](http://www.venice.coe.int/ju/mask20.mdb). The Internet mask was available at [www.venice.coe.int/ju/codices](http://www.venice.coe.int/ju/codices).

Mr Dürr explained that the website was being revised and that in the future, liaison officers' e-mail address would become their login. He also encouraged liaison officers to use the input mask as it facilitates the Secretariat's task. However, Word files would continue to be accepted by the Secretariat.

#### 11. Documentation Centre on Constitutional Justice / Library

As the Venice Commission has no budget for books, it heavily relies on contributions from the courts. The Secretariat was therefore very grateful to receive so many publications from liaison officers, which was important for the Venice Commission's library/Documentation Centre.

A list of publications was available in the library on the Venice Commission's website sorted by country, to facilitate searches ([www.venice.coe.int/site/dynamics/N\\_cocentre\\_ef.asp](http://www.venice.coe.int/site/dynamics/N_cocentre_ef.asp)).

#### 12. Version 20 of the Systematic Thesaurus

As there were very few proposals for changes of version 20 of the Systematic Thesaurus, the working group did not meet. The only proposal made was a technical one concerning one keyword 4.9.11 in French.

**The participants agreed that 4.9.11 in French should read "*Décompte des suffrages*" and 4.9.11.1 should read "*Recensement*". The participants approved the Secretariat's proposal to accept this change in the existing version 20 without formally adopting a new version.**

#### 13. Other business

Mr Singer wanted to know how speakers were chosen for the mini-conferences that follow the Joint Council meetings. Mr Dürr explained that topics for the mini-conference were often proposed by participants right after the end of the previous mini-conference and that the choice of speakers was based on the same procedure as used for the organisation of CoCoSems. This meant that the Secretariat carried out a search on CODICES to identify which countries have dealt with the topic in question, as well as information that the Secretariat has on countries, to see which countries could provide suitable speakers.

#### 14. Date and place of the next meeting

The next meeting of the Joint Council on Constitutional Justice should take place in March or June 2010 in Venice.

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