

INTERNAL AND INTERNATIONAL ACTIVITY OF THE CONSTITUTIONAL COURT – 2ND SEMESTER OF 2016

SEPTEMBER

In the framework of the evaluation mission of the European Commission, in the context of the Cooperation and Verification Mechanism, Mr Valer DORNEANU, President of the Constitutional Court of Romania has received a visit from the European delegation headed by Mr Julien MOUSNIER and composed of Ms Jeanne DE JAEGHER, Ms Simona STAIKOVA-VAN BOMMEL, Mr Denis JARDEL, Mr Ross CRANSTON, Mr Nico TUIN, Mr Rafal KIERZYNKA, Ms Maria Arsène, Ms Irina STEFURIUC and Ms Mari-Liis SÖÖT.

The meeting was attended by the Constitutional Court Judges Livia-Doina STANCIU, VARGA Attila, Marian ENACHE, Mircea Ștefan MINEA, Daniel-Marius MORAR and Simona-Maya TEODOROIU, as well as by Ms Marieta SAFTA, First Assistant-Magistrate.

During this visit, the discussions were focussed on the recent case law of the Constitutional Court concerning the legislation relating to unfair terms in contracts concluded between professionals and consumers, criminal matters and the judicial system.

In addition, the participants tackled a series of other subjects such as the procedure before the Constitutional Court, the effects of its decisions, the compliance therewith and the implementation thereof. Moreover, they discussed about the collaboration between the Constitutional Court and other public authorities and institutions, and the President of the Court presented the recent developments and underlined the intention that such collaboration be strengthened.

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On 27 September 2016, a delegation from the Organisation for Security and Cooperation in Europe (OSCE) — Office for Democratic Institutions and Human Rights (ODIHR), composed of Mr Steven MARTIN, Senior Advisor on New Technologies, and Mr Ulvi AKHUNDLU, Electoral Advisor, paid a working visit to the Constitutional Court of Romania. The visit took place in the framework of the Needs Assessment Mission (NAM) with regard to a possible OSCE/ODIHR election observation mission to the parliamentary elections held in our country on 11 December 2016.

The delegation was received by Mrs Marieta SAFTA, First Assistant-Magistrate of the Constitutional Court of Romania.

At the meeting, the discussions were mainly focussed on the role of the Constitutional Court as guarantor for the supremacy of the Constitution, the powers of the Court and the specific procedure before the Court, with particular reference to electoral matters, the relevant case-law in this area, as well as to the effects of the decisions of the Constitutional Court.

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On 28-30 September 2016, a delegation of the Constitutional Court of Romania, composed of President Valer DORNEANU, Judge Mircea Ștefan MINEA and Mr Fabian Niculae,

Assistant-Magistrate, participated in the 8th Conference of Heads of Institutions of the Association of Constitutional Courts which partially use the French language (A.C.C.P.U.F.) with the topic “The organisation of adversarial proceedings before constitutional courts ” The delegation also took part in the extraordinary meeting of the Bureau of the Association of Constitutional Courts which partially use the French language (A.C.C.P.U.F.) where organisational issues were discussed.

OCTOBER

In the framework of the evaluation mission of the European Commission, in the context of the Cooperation and Verification Mechanism, Mr Valer DORNEANU, President of the Constitutional Court of Romania has received, on 5 October 2016, a visit from the European delegation headed by Ms Paraskevi MICHOU, Deputy Secretary General of the European Commission, and composed of Ms Jeanne DE JAEGHER, Mr William SLEATH and Ms Maria ARSENE.

The topic of the meeting was “10 years of the CVM perspectives” and it was also attended by the Constitutional Court Judges Livia-Doina STANCIU, Simona-Maya TEODOROIU, VARGA Attila, Marian ENACHE and Petre LĂZĂROIU, as well as by Ms Marieta SAFTA, First Assistant-Magistrate.

The discussions were focussed on the role played by the Constitutional Court throughout this period in ensuring the implementation of the principles of the rule of law, and of the checks and balances mechanism, which characterise the democratic functioning of the State. The overall conclusion in this respect was that, in its almost 25 years of existence, the Constitutional Court has strengthened its role as guarantor of the supremacy of the Constitution, which is now well understood by both the public authorities and institutions and citizens. In this context, the participants discussed about the powers of the Court and the effects of the decisions which it delivers, namely their role in the process of constitutionalisation of the law and in guiding the law-making process according to the letter and the spirit of the Constitution.

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On 7-8 October 2016, Judge Daniel Marius MORAR participated in the International Conference “Constitutional Control and the Processes of Democratic Transformation in Modern Society”, dedicated to the 20th anniversary of the Constitutional Court of Ukraine, held in Kiev.

On 14-15 October 2016, Judge Mircea Ștefan MINEA participated in the XVIIIth International Congress on European and Comparative Law with the topic: “Constitutional justice and politics” organised by the University of Regensburg, the IRZ German Foundation and the Graduate School for East and Southeast European Studies within the Universities of Munich and Regensburg, in Regensburg, Federal Republic of Germany;

During the event, Judge Mircea Ștefan MINEA presented the paper entitled “Landmark cases of the Constitutional Court of Romania in the matter of tax proceedings”.

NOVEMBER

On 2-5 November 2016, at the invitation of the President of the Constitutional Court of Romania, Professor Valer DORNEANU, PhD, a delegation from the Constitutional Court of Belgium composed of Mr Étienne DE GROOT, Mr Jean SPREUTELS, Presidents, and Mr Pierre NIHOUL, Judge, paid an official visit to Romania.

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During the working meeting with the Plenary of the Constitutional Court, the President of the Constitutional Court of Romania, Professor Valer DORNEANU, PhD opened the colloquium by presenting the paper “The powers of the Constitutional Court of Romania”. Next, Dr. Livia Doina STANCIU, Judge, presented the paper “The a priori review of constitutionality”, and Mr Petre LĂZĂROIU, Judge, the paper “The a posteriori review of constitutionality”.

In turn, the Constitutional Court of Belgium’s distinguished members presented the following papers: President Jean SPREUTELS and Judge Pierre NIHOUL presented the paper “Genesis and evolution”, whilst President Étienne DE GROOT presented some of the essential aspects of the “Case-law of the Constitutional Court of Belgium on asylum and migration”.

Having presented the papers, the participants also discussed about the recent/relevant case-law of the Constitutional Court of Romania and of Constitutional Court of Belgium.

The meeting was also attended by Ms Ruxandra SĂBĂREANU, Secretary General, Ms Marieta SAFTA, First Assistant-Magistrate, and Ms Claudia KRUPENSCHI, Assistant-Magistrate-in-chief, Director of the President’s Office.

On the same day, the foreign delegation had a meeting with Mr Florin Iordache, the President of the Chamber of Deputies.

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On 10-11 November 2016, Judge Petre LĂZĂROIU attended the First Edition of the Forum Romania - Republic of Moldova in the Justice Field, with the topic “Reform of justice and the fight against corruption in European perspective”, held in Chisinau.

The Forum was organised by the Ministry of Justice of the Republic of Moldova in partnership with the Ministry of Justice of Romania, with the participation of key institutions in the justice sector in those two States.

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On 13-15 November 2016, a delegation of the Constitutional Court composed of Mrs Simona-Maya TEODOROIU, Mr Mircea Ștefan MINEA, Judges, Ms Marieta SAFTA, First Assistant-Magistrate and Ms Cristina Teodora POP, Assistant-Magistrate attended the Meeting of Judges organised by the Court of Justice of the European Union in Luxembourg.

The working sessions had the following themes: “Preliminary ruling proceedings: recent case-law on procedural aspects”, “Recent case-law developments in asylum and immigration

matters” and the “Current events and recent case-law of the General Court of the European Union”.

The workshops had the following themes: “Mutual confidence and criminal law (European Arrest Warrant, *ne bis in idem*, etc.)”, “Mutual confidence and asylum and immigration policies”, “Mutual confidence and civil law (insolvency; decisions in matrimonial matters and in matters of parental responsibility)”.

The delegation of the Constitutional Court of Romania attended also the hearing before the Grand Chamber of the Court of Justice of the European Union in case C-612/15 Kolev and Others (Right to information and right of access to a lawyer in criminal proceedings — Obligation of the Member States to provide for effective criminal investigation for crimes committed by public officials — Clearance of the criminal procedure, without examining the merits of the allegations — Criteria for non-application of the national legislation — Infringement of the right of access to a lawyer in the pre-litigation procedure — Possibility of the Court to eliminate the injurious effect), as well as the presentation of the judgment in Case C-268/15, Ullens de Schooten.

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On 25 November 2016 the Constitutional Court, in collaboration with the Senate, the Chamber of Deputies and the Romanian Academy has organised a Solemn Assembly to celebrate 150 years since the adoption of the 1866 Constitution and 25 years since the adoption of the 1991 Constitution.

The event, which was held in the Aula Magna “Teoctist Patriarch” of the Patriarchate, was attended by members of the Constituent Assembly and of the Experts Committee involved in the drafting of the 1991 Constitution, MPs, judges and members of the Constitutional Court of Romania and of the Republic of Moldova, high representatives of the executive and of the judiciary, academics and scholars from Romania.

At the beginning of the Solemn Assembly, His Beatitude DANIEL, the Patriarch of the Romanian Orthodox Church, delivered a welcome speech.

The following speeches were delivered by Mr Florin IORDACHE, President of the Chamber of Deputies, Mr Dacian Julien CIOLOȘ, Prime Minister of the Government, Mr Ionel VLAD, President of the Romanian Academy, Mr Ioan CHELARU, Vice-President of the Senate, Mr Valer DORNEANU, President of the Constitutional Court, Mr Alexandru TĂNASE, President of the Constitutional Court of the Republic of Moldova and Mr Marian ENACHE, Vice-President of the Constitutional Assembly for the Drafting of the 1991 Constitution. In their speeches, they underlined the significance of the event, evoking the fundamental role of the Constitution for the development and consolidation of the rule of law in Romania.

DECEMBER

On the occasion of the Constitution Day, the Constitutional Court, in collaboration with the Romanian Academy — the Institute for Judicial Research “Academician Andrei Rădulescu” and the Centre of Constitutional Law and Public Institutions, organised, in the Human Rights Hall located within the Palace of the Parliament, the National Symposium “Traditions, present

and future prospects for the Romanian constitutionalism”, marking, this year, 25 years since the adoption of the Constitution of 8 December 1991.

The event was attended by Mr Klaus Werner IOHANNIS, President of Romania, by high representatives of public authorities, by prominent figures in the Romanian scientific and cultural life, as well as by judges, former judges and members of the Constitutional Court.

Mr Valer DORNEANU, President of the Constitutional Court of Romania, gave the introductory speech. His speech was followed by a speech by Mr Klaus Werner IOHANNIS, President of Romania, who stressed the importance of the Basic Act in a State governed by the rule of law and, in particular, in the context of the contemporary Romanian society.

The event continued with paper presentations by Mr Valer DORNEANU, President of the Constitutional Court of Romania, Mr Ioan MURARU, former President of the Constitutional Court of Romania, and Mr Mircea DUȚU, Director of the Institute of Legal Research “Academician Andrei Rădulescu” of the Romanian Academy, Ms Elena-Simina TĂNĂSESCU, Professor and Adviser to the Department of Constitutional and Institutional Reform, Mr Ioan CHELARU, Vice-President of the Senate and Mr Dragoș ILIESCU, President of the Legislative Council.