

## **Internal and international activity of the Constitutional Court – 2<sup>nd</sup> semester of 2017**

### **JULY**

**14 July 2017** - Prof. Dr. Valer DORNEANU, the President of the Constitutional Court, had a meeting with Mr Cristian Terhes, President of Romanian Community Coalition in the U.S.A.

During discussions, the issues addressed pertained particularly to the recent case-law of the Constitutional Court on matters of criminal law and criminal procedural law, the protection of personal data and the right to property, whereas Mr C. Terhes was interested in knowing the challenges which the Court has faced in its work as regards its role as guarantor of the Constitution, generally, and as to the respect for the fundamental rights, in particular, for the purpose to identify, together, appropriate modalities by which Romanian Community Coalition in the U.S.A. may present with objectivity, through its reports, the Constitutional Court's activity.

\* \* \*

**28 July 2017** - Prof. Dr. Valer DORNEANU, the President of the Constitutional Court of Romania, attended the official ceremony celebrating the *Moldovan Constitution Day* and related events held in Chişinău.

In the anniversary message addressed to the participants, Prof. Dr. Valer DORNEANU, the President of the Constitutional Court of Romania congratulated the Constitutional Court and the Parliament of the Republic of Moldova for the respect for the Constitution and the Declaration of Independence, as essential benchmarks for the Republic of Moldova's national being, democracy and rule of law.

On that occasion, the President of the Romanian Constitutional Court had meetings with Mr Andrian CANDU, President of the Parliament of the Republic of Moldova, and Mr Vladimir CEBOTARI, Minister for Justice, that context being used for evoking the good relations between the two countries and the support granted by Romania to the Republic of Moldova for the strengthening the rule of law and for attaining its European aspirations.

### **AUGUST**

**3 August 2017** - The Constitutional Court of Romania, represented by Mr Marian Enache, Judge, and Mr Benke Károly, Assistant-Magistrate-in-chief, received the official visit of a parliamentary delegation from the Republic of Indonesia, headed by Mr Johnson Rajagukguk, Head of the Expert Body of the Indonesian House of Representatives. H.E. Mr Diar Nurbintoro, Ambassador of the Republic of Indonesia to Bucharest, participated at the meeting.

Judge Marian Enache's presentation included information as to the organisation, operation, powers and tasks of the Romanian Constitutional Court, focussing mainly on the *a priori* and *a posteriori* constitutional review.

Mr Benke Károly, Assistant-Magistrate-in-chief, spoke to the guests about the constitutional review of Parliament's Standing Orders and about the settlement of legal disputes of a constitutional nature between public authorities.

The representatives of the Constitutional Court have illustrated the above with some solutions of principle resulting from the Court's case-law.

The end of the meeting took the form of an active dialogue, dedicated to the guests' questions, as well as to the discussions relating to the forms of constitutional review in the two countries, and the institutional relations between the Constitutional Court and the Parliament.

\* \* \*

**9-11 August 2017** - Judge Daniel-Marius Morar represented the Constitutional Court of Romania in the International Symposium themed "*the Constitutional Courts as the Guardian of Ideology and Democracy in the Pluralistic Society*", dedicated to the 14<sup>th</sup> anniversary of the Constitutional Court of the Republic of Indonesia, organised in Solo.

The symposium was structured in three working sessions, with the following themes: "*The Constitutional Court and the State Ideology*", "*The Constitutional Court and the Principles of Democracy*" and "*The role of the Constitutional Court in a pluralistic society*".

During the 2<sup>nd</sup> Session – "*The Constitutional Court and the Principles of Democracy*", Judge Daniel-Marius Morar presented the paper "***The Independence of Justice***".

## **SEPTEMBER**

**8 September 2017** - Professor Valer Dorneanu, President of the Constitutional Court of Romania, accompanied by Mrs Ruxandra Săbăreanu, Secretary General and Mrs Claudia-Margareta Krupenschi, Director of President's Office, received the visit of the delegation of the Court of Accounts of the People's Democratic Republic of Algeria, consisting of Mr Abdelkader Benmarouf, President, and Mr Benamar Mohamed Selim, Secretary General.

The meeting was attended by: Mr Nicolae Văcăroiu, President of the Court of Accounts of Romania, H.E. Mrs Djellouli Taous, Ambassador of the People's Democratic Republic of Algeria to Romania, H.E. Mr Marcel Alexandru, Ambassador of Romania to the People's Democratic Republic of Algeria, as well as Mr Dragoş Budulac, Director of the Court of Accounts of Romania.

In the opening part of the meeting, the President of the Constitutional Court of Romania evoked the history of bilateral and multilateral relations with the Algerian Constitutional Court having regard also to their common membership in international bodies such as the Association of Constitutional Courts partly using the French language and the Commission for Democracy through Law (the Venice Commission), speaking also about the similarities and peculiarities as regards the competences and attributions of both courts.

In the same line of thoughts, Mr Abdelkader Benmarouf, the President of the Court of Accounts of the People's Democratic Republic of Algeria, expressed his wish as to the continuation of the bilateral cooperation between similar institutions of the two countries as 2017 marks the 50th anniversary of Romanian-Algerian diplomatic relations.

The excellent institutional communication between the Romanian Constitutional Court and the Court of Accounts, as well as between the Court of Accounts of Romania and the Court of Accounts of the People's Democratic Republic of Algeria, constituted the subject of Mr Nicolae Văcăroiu's presentation, who pointed, under the latter aspect , on the conclusion of a memorandum of collaboration between the two supreme audit institutions.

The excellent institutional communication between the Constitutional Court of Romania and the Court of Accounts, as well as between the Court of Accounts of Romania and the Court of Accounts of the Democratic and Popular Algerian Republic, was the topic of Mr Nicolae Văcăroiu's presentation, who, under the latter aspect, mentioned the signing of a memorandum of collaboration between the two supreme audit institutions.

The presentation of the President of the Constitutional Court of Romania finally included aspects concerning the competences and attributions of the Constitutional Court, especially with regard to the *a priori* and *a posteriori* review of constitutionality, in particular, on the settling of exceptions of unconstitutionality raised before the courts of law and commercial arbitration, as well as those directly notified to the Constitutional Court by the Advocate of the People. In terms of case-law, the President of the Constitutional Court of Romania also referred to recent issues in the matter of settling legal disputes of a constitutional nature between public authorities.

At the request of the guests, the President of the Constitutional Court of Romania then referred to the jurisdiction of the Court regarding the observance of the procedure for the election of the President of Romania.

At the end of the meeting, a greeting message from the President of the Romanian Constitutional Court was sent to his Algerian counterpart, reiterating the importance of strengthening bilateral relations.

\* \* \*

**11 September 2017** - Mr Károly BENKE, Assistant Magistrate-in- Chief, participated as a correspondent from the Constitutional Court of Romania at the presentation of the website project developed by the Court of Justice of the European Union dedicated to launching the "European Judicial Network", held in Luxembourg.

\* \* \*

**11-14 September 2017** - the delegation of the Constitutional Court consisting of Judge Petre Lăzăroiu, Judge Livia Doina Stanciu, Judge Varga Attila and Assistant-Magistrate Ionița Cochințu, participated in the 4<sup>th</sup> Congress of the World Conference on Constitutional Justice, with the topic “*The Rule of Law and the Constitutional Justice in the Modern World*”, held in Vilnius, Republic of Lithuania.

The Congress covered the following themes: *The different concepts of the rule of law, New challenges to the rule of law, the law and the state, the law and the individual* and brought together 422 participants, representatives from 91 constitutional courts or equivalent bodies.

Besides these key themes and respecting the practice of the previous congress, the 4th Congress also included a stocktaking of the independence of the constitutional courts, members of the World Conference.

These events aim at promoting the dialogue at international level between the judges of the institutions of constitutional jurisdiction and the consolidation of constitutional justice as a basic element of democracy, the protection of human rights and the rule of law.

The World Conference on Constitutional Justice is an international organisation that brings together constitutional jurisdiction institutions around the world. Currently it has 110 members from Europe, Africa, North America and South America, Asia and Australia. The WCCJ Congresses take place every three years since 2009, the year when the organisation was founded, events so far held in Cape Town, the Republic of South Africa (2009), Rio de Janeiro, Brazil (2011), Seoul, Republic of Korea (2014).

The Conference Bureau accepted the proposal of the Constitutional Council of the People’s Democratic Republic of Algeria to host the 5th Congress in 2020.

\* \* \*

**19 September 2017** - the Constitutional Court received the working visit of a group of 6 magistrates from EU Member States (Germany, Poland and Finland), an activity organized under the *Exchange Programme for Judicial Authorities* initiated by the European Commission and coordinated by the *European Judicial Training Network (EJTN)*, in collaboration with the Prosecutor's Office attached to the High Court of Cassation and Justice and the National Institute of Magistracy. The young magistrates attended the public hearing, and assistant-magistrate Valentina BĂRBĂȚEANU later presented to them, within an interactive dialogue, issues regarding the organisation, functioning and attributions of the Constitutional Court, the specific jurisdictional procedure, as well as its recent case-law.

\* \* \*

**19 September 2017** - the Constitutional Court of Romania received, within the Cooperation and Verification Mechanism, the visit of the European Commission delegation headed by Mrs Michou PARASKEVI and composed of Mr Wiliam

STEALTH, Ms Jeanne DE JAEGHER, Mr Julien MOUSNIER, Mr Ingo WEUSTENFELD, Ms Irina STEFURIUC and Ms Maria ARSENE.

On behalf of the Constitutional Court, Mr Valer DORNEANU, the President of the Court, Mrs Mona-Maria PIVNICERU, Mrs Livia-Doina STANCIU, Mr Mircea Ștefan MINEA, Mr Attila VARGA and Mr Daniel Marius MORAR, Judges, and Mrs Claudia-Margareta KRUPENSCHI, Director of the President's Office, Assistant Magistrate-in-Chief attended the meeting.

In the introductory part of the meeting, the President of the Constitutional Court briefly presented some data regarding the process of implementation of the admission decisions regarding provisions of the Criminal Code and of the Code of Criminal Procedure, as to bring them into line with the provisions of the Constitution.

At the request of the President of the European Commission delegation, the President of the Constitutional Court referred to the principle of loyal cooperation between the State authorities imposed by the fundamental principle of separation and balance of powers and recognised in many decisions of the Constitutional Court as a fundamental value principle, underlying, at the same time, the fact that, by exercising, upon referral, the power to resolve legal disputes of a constitutional nature, the Constitutional Court may ascertain and eventually draw the attention of the public authorities involved in the disputes, within a framework of interinstitutional loyal cooperation, when they have not respected or have exceeded the constitutional and/or legal prerogatives. Also, responding to the questions of the European Commission delegation, the President of the Constitutional Court has shown that the Romanian judiciary has registered irrefutable and irreversible developments over the last 10 years, the independence of justice being not only a theoretical guarantee, but a reality, each of the central public institutions involved in the achievement of justice consolidating, over time, their autonomy, independence and authority in their own field of activity. Regarding the reform of the laws of justice, in process of completion and finalization, it was shown that the Constitutional Court cannot express an opinion, as these normative acts could in the future constitute the object of an *a priori* constitutional review.

The guests expressed their interest in the Court's finding of possible conflicts between European and national rules. The President of the Constitutional Court explained that the Court has never dealt with such issues since, according to Article 148 (2) of the Basic Law, the binding rules of the European Union shall prevail. In this context, the President of the Constitutional Court stressed that the case-law of the European Courts is invoked, without exception, in the judgments of the Court.

At the request of the high European officials, Mrs Livia Doina STANCIU referred to the fact that the amendments to the laws of justice would be, on the one hand, a genuine exam for all the authorities involved in this procedure and on the other hand they should relate to the realities and needs of the judiciary, the priority being to ensure the real independence of the magistrates in the execution of the act of justice, in order to enable them to fulfil their role as advocates of the rule of law.

In her intervention, Judge Mona-Maria PIVNICERU underlined the irreversible nature of Romania's progress over the past 10 years in terms of ensuring the independence of justice, noting in this respect that the exercise of constitutional review, the judicial

dialogue between the Constitutional Court and the other European Courts, the affiliation of Romania to European political and legal mechanisms (Council of Europe, European Court of Human Rights, General Court, European Court of Justice), are factors that make the reversibility of justice reform impossible.

At the end of the meeting, the President of the Constitutional Court addressed a thank-you message, appreciating the meetings with European delegations as particularly important and effective.

\* \* \*

**26-29 September 2017** - At the invitation of the President of the Constitutional Court of Romania, Professor Valer DORNEANU, a delegation of the Constitutional Court of the Czech Republic, headed by President Pavel RYCHETSKÝ and composed of Judge Jan FILIP, Judge Jiří ZEMÁNEK and Mr Vlastimil GÖTTINGER, Head of the Foreign Relations Department, paid an official visit to Romania.

**27 September 2017** - The guests were received by the President of the Constitutional Court, Mr Valer DORNEANU, together with Mrs Mona Maria PIVNICERU, Mrs Livia Doina STANCIU, Mrs Simona Maya TEODOROIU, Mr Marian ENACHE, Mr Mircea ȘTEFAN MINEA and Mr Varga ATTILA, Judges. The meeting started with the welcome message of the President of the Constitutional Court of Romania, who highlighted the close and long-standing bilateral relations between the two constitutional jurisdictions.

Both presidents briefly evoked the history and the evolution of the constitutional review, the attributions of each of the two constitutional courts, and the role of constitutional jurisprudence.

The working meeting continued with the presentation of the President of the Constitutional Court of the Czech Republic entitled *“The Constitutional Court in the European Judicial Area: the preliminary ruling procedure and the future role of the European Constitutional Courts.”*

In turn, the President of Constitutional Court of Romania, Mr Valer Dorneanu made a presentation entitled *“The case law of the Constitutional Court of Romania: the Legal Dispute of a Constitutional Nature”*.

The discussions then continued as a constructive dialogue that included aspects of the procedure and the nature of the preliminary questions addressed to the Court of Justice of the European Union, the relationship between national law and Union law in relation to the principles of subsidiarity and loyal cooperation.

In this respect, it was highlighted the role of the Romanian and the Czech Constitutional Courts in the process of constitutionalisation of the principle of loyal cooperation enshrined in the Treaty and promoted by the Court of Justice of the European Union, which requires institutions to show mutual respect in terms of competences, as well as to elaborate procedures meant to ensure the smooth running of the decision-making process, a matter on which the Constitutional Court of Romania has ruled upon in the context of requests for establishing the existence of legal conflicts of a constitutional nature.

At the end of the meeting some aspects of the recent jurisprudence of the Constitutional Court of Romania and of the Constitutional Court of the Czech Republic were highlighted.

The delegation of the Constitutional Court also included Mrs Ruxandra SĂBĂREANU, Secretary General and Mrs Claudia Margareta KRUPENSCHI, Assistant Magistrate-in-Chief, Director of the President's Office.

On the same day, the delegation of the Constitutional Court of the Czech Republic had working meetings with Mr Călin-Popescu TĂRICEANU, the President of the Senate and Mr Nicolae-Liviu DRAGNEA, President of the Chamber of Deputies.

## OCTOBER

**4 October 2017** - the Constitutional Court organised, in collaboration with the Netherlands Embassy, a working seminar held by Mrs Jannemieke OUWERKERK, Professor of European Criminal Law at the Law University of Leiden, The Netherlands, on the subject of the evolution of the European criminal law at legislative and jurisprudential level.

At the invitation of the Constitutional Court and following the proposal of the National Institute of Magistracy, judges specialised in the settlement of criminal cases from courts within the jurisdictional area of the Bucharest Court of Appeal, participated in the seminar together with the assistant magistrates of the Constitutional Court.

The presentation of Professor Jannemieke Ouwerkerk was a comparative overview of the fundamental rights of a criminal nature enshrined in the Treaty on the Functioning of the European Union, the Charter of Fundamental Rights of the European Union, and the Convention for the Protection of Human Rights and Fundamental Freedoms, some theoretical aspects being illustrated with recent examples from the case-law of the Court of Justice of the European Union and the European Court of Human Rights, and was followed by discussions and exchanges of views on the same.

\* \* \*

**6 October 2017** - Judge Simona-Maya Teodoroiu and Judge Mircea Ștefan Minea participated in the International Conference on the "*European Convention on Human Rights and Migration*", organised by the European Court of Human Rights in cooperation with the European Society of International Law (ESIL) in Strasbourg (France).

The conference included four sessions: *the European Convention on Human Rights and Migration: General Perspectives, Reception and Treatment of Migrants, Return and Rights of Migrants: Settled, Irregular, and Long-term*.

Responding to the invitation of the organisers, Judge Simona-Maya Teodoroiu chaired the 3rd Work Session, entitled *Return*.

\* \* \*

**11-14 October 2017** - a delegation of the Constitutional Court of Romania headed by Professor Valer DORNEANU, President of the Court, and composed of Judge Petru LĂZĂROIU, Judge Simona-Maya TEODOROIU and Judge Mircea Ștefan MINEA, accompanied by counsellor Mona Manuela Răus, paid a working visit to the Constitutional Court of the Kingdom of Belgium at the invitation of Mr Jean SPREUTELS and Mr Etienne DE GROOT, Presidents of the Belgian Constitutional Court.

During the working meetings, the President of the Constitutional Court of Romania presented the main recent developments in the case law of the Constitutional Court of Romania.

Judge Simona-Maya Teodoroiu referred to our practice in the area of preliminary questions to the Court of Justice of the European Union.

Judge Petre Lăzăroiū referred some aspects of the *abusive clauses* and Judge Mircea Ștefan Minea presented the decisions of the Romanian Constitutional Court on *datio in solutum*.

The topics of the presentations by the Belgian Presidents were *State Budget in the case law of the Belgian Constitutional Court* - President Jean SPREUTELS and *the Principle of Legality in the case law of the Belgian Constitutional Court* - President Etienne DE GROOT.

An interesting aspect of the discussions was the presentation of the computerized database with regard to which the Belgian Presidents expressed their readiness to provide assistance, through an exchange of experience.

\* \* \*

**20 October 2017** - Mrs Judge Simona-Maya TEODOROIU represented the Constitutional Court at the International Conference on “*Europeanisation of the Internal Constitutional Law and the Constitutionalisation of European Law – Challenges of the Future*”, organised by the Constitutional Court of the Republic of Albania on the occasion of its 25th anniversary.

The conference was structured in three sessions, Judge Simona-Maya TEODOROIU making a presentation on *European and International Valences of Constitutional Law* during the first working session.

\* \* \*

**24 October 2017** - The Constitutional Court received the working visit of a group of 5 experts from the Ministry of Justice of the Republic of Moldova, accompanied by 3 experts from the Ministry of Justice of Romania, who attended the public hearing.

The working visit was carried out at the request of the Ministry of Justice of Romania, being organised within the framework of the cooperation program between Romania



and the Republic of Moldova and in accordance with the Action Plan in the field of Justice between the Ministry of Justice of Romania and the Ministry of Justice of the Republic Moldova for the period 2016-2018, signed in Chisinau on 26 August 2016, one of the objectives of this strategic partnership referring to the activity and role of the Constitutional Court in the national law system.

\* \* \*

**25 October 2017** - the Constitutional Court organised, in collaboration with the Embassy of the Kingdom of the Netherlands, a working seminar held by Mr Pim GEELHOED, Professor of Criminal Law and Criminal Procedure at Leiden University, with the topic "*The Prosecution Office from a comparative and European perspective. The principle of opportunity and the principle of legality*".

At the invitation of the Constitutional Court and following the proposal of the National Institute of Magistracy, judges specialised in the settlement of criminal cases from courts within the jurisdictional area of the Bucharest Court of Appeal, participated in the seminar together with the assistant magistrates of the Constitutional Court.

The presentation of Professor Pim Geelhoed contained references to the role of the prosecutor, the characteristics of his public function, the principle of opportunity and the principle of legality, the institution of the European Prosecutor, all of these theoretical aspects being illustrated with examples of European cases and jurisprudence. The presentation was followed by discussions and exchanges of views between participants

\* \* \*

**31 October 2017** - the Constitutional Court received the working visit of a group of 8 magistrates from EU Member States (Germany, France, Switzerland and Italy), an activity organised under the *Exchange Programme for Judicial Authorities* initiated by the European Commission and coordinated by the *European Judicial Training Network (EJTN)*, in collaboration with the Prosecutor's Office attached to the High Court of Cassation and Justice and the National Institute of Magistracy. The young magistrates attended the public hearing, and assistant-magistrate Cristina Teodora POP later presented to them, within an interactive dialogue, issues regarding the organisation, functioning and attributions of the Constitutional Court, the specific jurisdictional procedure, as well as its recent case-law.

## **NOVEMBER**

**3 November 2017** - Judge Petre Lăzăroiu and Assistant-Magistrate Ionița Cochișu attended the events organised on the occasion of the 25th anniversary of the Faculty of Law within the West University of Timișoara, as well as the round table discussion with the topic *The Legal Education in Romania. Presumptions, fiction, reality*.

\* \* \*

**6 November 2017** - At the invitation of the President of the Constitutional Court of Romania, Professor Valer DORNEANU, the Constitutional Court received the working visit of the delegation of the Court of Justice of the European Union, composed of Professor Koen LENAERTS, President of the Court and Judge Camelia TOADER.

The main topics discussed were the recent developments in the case law of the Constitutional Court of Romania, the relationship between the Court of Justice of the European Union and the national courts, as well as the effect of judgments of the Court of Justice of the European Union at national level. Professor Valer DORNEANU, President of the Constitutional Court of Romania, Mrs Simona-Maya TEODOROIU, Mrs Livia Doina STANCIU, Mrs Mona-Maria PIVNICERU, Mr Petre LĂZĂROIU, Mr Mircea Ștefan MINEA, Mr Daniel Marius MORAR, Mr VARGA Attila, Judges, and Mrs Claudia Margareta KRUPENSCHI, Assistant Chief-in-Chief, Head of the President's Office and Mrs Senia-Mihaela COSTINESCU, Assistant Chief-in-Chief participated in the meeting.

In the welcome message, the President of the Constitutional Court of Romania underlined the crucial importance of respecting European Union law, and the decisions of the Court of Justice of the European Union for the good functioning of the rule of law, illustrating in this context the decisions of the Constitutional Court where European legislation and jurisprudence have been invoked.

President Koen Lenaerts, in turn, highlighted the importance and necessity of the independence of the judiciary and of the judge for the smooth operation of any legal order, underlining that European Union law is a law of all European citizens. He also reiterated the essential value of the judicial dialogue between the judges of the Court of Justice of Luxembourg and those of the courts of the Member States, insisting that the national judge's contribution not only to the correct application of European law, but also, *a priori*, to the interpretation, by the way in which the preliminary questions are drafted. In this context, the precedent created by the Constitutional Court of Romania by sending preliminary questions to the Court of Justice of the European Union has been highly appreciated.

Further on to the question of President LENAERTS, Judge Daniel Marius MORAR presented the Constitutional Court's decision no. 405 of 15 June 2016, on which there was an exchange of views aimed at revealing the meaning of the words "defective", "abuse of office", "value threshold" or "prejudice", President LENAERTS also referring to some of some relevant decisions of the Court of Justice. It was also highlighted the need to ensure that legislation is as clear and coherent as possible, particularly in criminal matters, for uniform application and respect for fundamental rights and values of the rule of law.

The meeting was followed by a press briefing by both Presidents during which the President of the Constitutional Court of Romania mentioned the topics discussed during the working meeting and the President of the Court of Justice of the European Union spoke about the uniform application of European law, which is "the only guarantee that the Member States will be really equal in relation to European Union law" and about the average number of cases sent by Romania to the European Court, with particular reference to the case brought to the Court of Justice of the European Union by the Constitutional Court of Romania.

The schedule of the European Court of Justice delegation included a working meeting at the High Court of Cassation and Justice..

On the same day, the important guest was awarded the *Doctor Honoris Causa* award of “Nicolae Titulescu” University, a ceremony attended by many outstanding figures of the academic society.

\* \* \*

**7 November 2017** - The Constitutional Court received the working visit of a group of 20 magistrates from EU Member States (Germany, Poland, France, Germany, Bulgaria, Belgium, Spain), and from the Republic of Moldova, an activity organised under the *Exchange Programme for Judicial Authorities* initiated by the European Commission and coordinated by the *European Judicial Training Network (EJTN)*, in collaboration with the Prosecutor's Office attached to the High Court of Cassation and Justice and the National Institute of Magistracy. The young magistrates attended the public hearing, and assistant-magistrate Fabian NICULAE later presented to them, within an interactive dialogue, issues regarding the organisation, functioning and attributions of the Constitutional Court, the specific jurisdictional procedure, as well as its recent case-law.

\* \* \*

**15 November 2017** - The Constitutional Court organised, in collaboration with the Embassy of the Kingdom of the Netherlands, a working seminar held by Mr Pinar ÖLÇER, Associate Professor of Criminal Law and Criminal Procedure Law at the Institute of Criminal Law and Criminology, Leiden University, The Netherlands, on “*Confiscation and Human Rights*”.

At the invitation of the Constitutional Court and following the proposal of the National Institute of Magistracy, prosecutors within the jurisdictional area of the Bucharest Court of Appeal, participated in the seminar together with the assistant magistrates of the Constitutional Court.

The presentation of Professor Pinar ÖLÇER essentially covered a theoretical and practical analysis of how the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and those contained in the First Additional Protocol to the Convention, as well as those of the United Nations Convention against Corruption can be interpreted and applied, provisions relevant as concerns the protection of fundamental human rights in relation to the procedure and the effects of confiscation. There have also been highlighted many relevant issues arising from the jurisprudence of the European Court of Human Rights, as well as from the legislation and judicial practice in the Netherlands and Romania in this field. The presentation was followed by was followed an interesting exchanges of views between participants.

\* \* \*

**16-17 November 2017** - Judge Mircea Ștefan Minea and Assistant Magistrate Valentina Bărbățeanu participated in the events organised on the occasion of the 20th anniversary of the Association of Constitutional Courts partly using the French language (ACCPUF) and in the seminar-conference organised in Paris by the French Constitutional Council.

During the seminar, Judge Mircea-Ștefan Minea made a presentation entitled "*Decisions of the Constitutional Court of Romania - elaboration and drafting methods*", presented in the panel entitled "*Elaboration and methods of drafting decisions - case studies*".

\* \* \*

**27 November 2017** - The Constitutional Court organised a seminar entitled "*Dialogue of the Constitutional Court with Magistrates*", at the Nicolae Iorga Hall within the Parliament, attended by judges and assistant magistrates of the Constitutional Court, judges and prosecutors within the jurisdictional area of each court of appeal/prosecutor's office attached to each court of appeal, as well as representatives of the Superior Council of Magistracy, the High Court of Cassation and Justice and the Prosecutor's Office attached to the High Court of Cassation and Justice.

The event was debated on the issues raised in the specialized doctrine but also in practice on the interpretation and application of recent decisions made by the Constitutional Court in areas of great interest.

The debates in the specialised literature, as well as in practice, with regard to some decisions issued by the Constitutional Court on matters of general interest were brought in discussion during this event.

In the opening speech, the President of the Constitutional Court, Professor Valer Dorneanu, underlined the joint mission of the Court and of all the magistrates in the protection of the fundamental values of the rule of law, as well as the importance of loyal and collegiate collaboration among them, inviting the participants, in this context, to an open, sincere and professional debate, as an essential component of the judicial dialogue between the Constitutional Court and the ordinary courts and prosecutor's offices.

From a structural point of view, the seminar was divided into two working sessions, namely the "*Recent Decisions of the Constitutional Court on Substantive Criminal Law and Procedural Criminal Law*" (Session I) and "*The Relevance of some Constitutional Court Decisions in the Field of Civil Procedural Law*" (Session II).

**Working Session I**, moderated by the Judge Petre Lăzăroiu, included the presentation by Judge Daniel Morar of decisions of the Constitutional Court on material criminal law (Panel I) and procedural criminal law (Panel II) in various areas of wide interest, such as time of biological sampling, levy and non-payment of withholding taxes, conflict of interest, abuse of office, attempted abuse of office, negligence, and taking precautionary measures, revision of the final court decisions following the admission of the exception of unconstitutionality, contesting the legality of the technical supervision measure, absolute nullity for the lack of material competence and

according to the quality of the person of the criminal investigation bodies. Given that the legislator did not intervene on the legal texts declared unconstitutional by these decisions - some under reserve of interpretation - some specific aspects were raised during the discussions about, for example, the partial or total effect of decriminalisation of some of these decisions, the manner of application according to the stage of the criminal proceeding and in relation to the principles of non-discrimination, the application of more favourable criminal law and legal certainty or the application of the “*last ratio*” principle.

**Working Session II**, moderated by Judge Mircea Ștefan Minea, included the presentation by judges Petre Lăzăroiu, Mircea Ștefan Minea and Mona-Maria Pivniceru with regard to the Court’s decisions on abusive clauses, *datio in solutum* and appeal according to the application value. Responding to the questions of the participants and analysing the effect of these decisions, the judges of the Constitutional Court highlighted the principles of law that were the basis of the solutions given and which must be considered in the interpretation and application of those decisions.

Finally, the event was considered to be extremely effective and useful to the judicial dialogue, and the President of the Constitutional Court launched the idea of organising such collegial working meetings on a regular basis, considering that magistrates, by their activity, defend together the principle of supremacy of the Constitution and of the law, and the justice and the truth are those that must characterise any State governed by the rule of law in a constitutional democracy.

## **DECEMBER**

**8 December 2017** - On the occasion of the “Day of the Constitution of Romania” proclaimed by Law no. 120/1995, the Constitutional Court organised a Solemn Assembly at the Human Rights Hall within the Palace of Parliament, attended by high officials representing authorities and public institutions representative for the development and consolidation of constitutional democracy and the rule of law in Romania.

The event was opened by Professor Valer DORNEANU, the President of the Constitutional Court of Romania, and included the messages presented for marking this anniversary moment by Mr Florin IORDACHE, Deputy Chairman of the Chamber of Deputies, Mr. Viorel ILIE, Minister for Relations with the Parliament, Judge Mariana GHENA, President of the Superior Council of Magistracy, Mr Dragoș ILIESCU, President of the Legislative Council and Mr Victor CIORBEA, Advocate of the People.