

INTERNAL AND INTERNATIONAL ACTIVITY OF THE CONSTITUTIONAL COURT – SEMESTER I/2021

FEBRUARY

On 12 February 2021, Mrs Claudia Margareta KRUPENSCHI, Assistant-Magistrate-in-chief, Director of the Office of the President of the Constitutional Court of Romania, participated, as a contact person on behalf of the Constitutional Court of Romania, in the Forum of the Superior Court Network (SCN) of the European Court of Human Rights, held as a webinar on the topic of *“Hate speech and vulnerable groups”*.

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On 24 and 25 February 2021, the delegation of the Constitutional Court of Romania composed of Professor Valer Dorneanu, President, Mrs Livia-Doina Stanciu, Mr Gheorghe Stan, Judges, Mrs Marieta Safta, First Assistant-Magistrate and Mrs Claudia-Margareta Krupenschi, Assistant-Magistrate-in-chief, Director of the President’s Office participated in the XVIII Congress of the Conference of European Constitutional Courts with the topic: *“Human rights and fundamental freedoms: the relationship of international, supranational and national catalogues in the 21st century”*, hosted in online format by the Constitutional Court of the Czech Republic, event hosted by the presidency of this international forum.

The Constitutional Court of Romania has been a full member of the Conference of the European Constitutional Courts since 1994.

Alongside the distinguished representatives of the European Constitutional Courts, members of the Conference, the event was attended by Mr Gianni Buquicchio, President of the Venice Commission, Mr Robert Spano, President of the European Court of Human Rights, and Mr Koen Lenaerts, President of the Court of Justice of the European Union. The messages of the special guests touched upon key points for the smooth conduct of constitutional justice:

- the role of constitutional courts as defender of fundamental rights and freedoms and the rule of law;
- interference and complementarity between the international legal instruments applicable to the protection of human rights, namely, in particular, the Convention for the Protection of Human Rights and the Charter of Fundamental Rights of the European Union, on the one hand, and national constitutions, on the other;
- the relationship/judicial dialogue between the constitutional courts — the European Court of Human Rights and the Court of Justice of the European Union;
- the need to respect the principle of the independence of the judge and the rule of law in judicial activity, as well as the imperative of rejecting any act of pressure or intimidation of constitutional judges.

MARCH

On Friday 26 March 2021, the Constitutional Court of Romania and the Constitutional Court of the Republic of Moldova organised an online seminar under the joint programme dedicated to constitutional review exercised by the two high jurisdictions. The programme is addressed to the assistant-magistrates of the Constitutional Court of Romania and the judicial assistants of the Constitutional Court of the Republic of Moldova and is coordinated by Mr Benke Károly, Assistant-Magistrate-in-chief at the Constitutional Court of Romania, and by Mr Teodor Papuc, Deputy Chief Secretary at the Constitutional Court of the Republic of Moldova.

At the seminar, the following papers were presented on behalf of the Constitutional Court of the Republic of Moldova:

- *Powers of the Interim Government*, paper presented by Mr Dumitru Avornic, Acting Head of Legal Aid Directorate;
- *Constitutional review of legislative omissions*, paper presented by Mr Gheorghe Reniță, Judicial Assistant.

On behalf of the Constitutional Court of Romania, the following papers were presented:

- *Government investiture and government reshuffling*, paper presented by Mrs Mihaela Senia Costinescu, Assistant-Magistrate-in-chief;
- *Formal requirements in the law-making process. A journey between legal formalism and realism*, paper presented by Mr Benke Károly, Assistant-Magistrate-in-chief.

The seminar was widely attended by assistant-magistrates/judicial assistants, and the issues of law that formed the subject of the presentations were subject to discussion and debate.

Both sides appreciated the usefulness of the seminar and the need to continue the collaborative programme started in September 2020.

MAY

On Friday 21 May 2021, the Constitutional Court of Romania and the Constitutional Court of the Republic of Moldova organised an online seminar under the joint programme dedicated to constitutional review exercised by the two high jurisdictions.

In his speech at the seminar, the President of the Constitutional Court of Romania, Professor Valer Dorneanu, PhD, stressed the fundamental role that the constitutional courts play in defending the rule of law and the need to establish and maintain a permanent dialogue between the two constitutional courts. He also welcomed the efforts made by the assistant-magistrates and judicial assistants for the smooth running of the seminars, highlighted the high quality of the presentations and encouraged the exchange of ideas between them, ensuring the participants of his full support.

At the seminar, the following papers were presented on behalf of the Constitutional Court of the Republic of Moldova:

- *Abstract review, concrete review and powers of the European Court*, paper presented by Mr Teodor Papuc, Deputy Chief Secretary;

- *Finding of the circumstances justifying the dissolution of Parliament. Recent case-law of the Constitutional Court of the Republic of Moldova*, paper presented by Mr Dumitru Avornic, Acting Head of Legal Aid Directorate;
- *Penalties for non-compliance with measures for prevention of and/or fight against epidemic diseases (COVID-19 case)*, paper presented by Mr Gheorghe Reniță, Judicial Assistant.

On behalf of the Constitutional Court of Romania, the following papers were presented:

- *Fundamental rights and emergency ordinances in the context of the COVID-19 pandemic. The emergence of legislative parallels as a result of the concurrent exercise of the legislative powers of the Parliament and the Government*, paper presented by Mrs Valentina Bărbățeanu, Assistant-Magistrate;
- *Constitutional requirements for the establishment of a state of alert. Case-law of the Constitutional Court*, paper presented by Mrs Patricia Marilena Ionea, Assistant-Magistrate.

The seminar was widely attended by assistant-magistrates/judicial assistants, and the issues of law that formed the subject of the presentations were subject to discussion and debate.

Both sides appreciated the usefulness of the seminar and the need to continue the collaborative programme started in September 2020.

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On 25 May 2021, the President of the Romanian Constitutional Court, Professor Valer Dorneanu, PhD, participated in the 9th Conference of Heads of Supreme Courts with the topic “*Collegiality*”, organised in online format by the Association of Francophone Constitutional Courts (A.C.C.F.) and the International Organisation of Francophonie.

A.C.C.F. was created in 1997 on the initiative of the French Constitutional Council with the aim of facilitating links between the members of the French-speaking area in ensuring the values of the rule of law and democracy. Currently, A.C.C.F. brings together 48 constitutional courts and equivalent institutions from Africa, Europe, America and Asia.

The Romanian Constitutional Court has joined the Association in 1998, pursuant to Law No 59/1998, and has been a member of the A.C.C.F. Bureau since 2000.

The 9th Conference of Heads of Supreme Courts was attended by Presidents or representatives of constitutional courts and equivalent courts from 32 States. Representatives of the Venice Commission, the International Organisation of Francophonie, the Paris I – Panthéon-Sorbonne University and the Conference of African Constitutional Courts were also present.

The opening ceremony of the event was marked by speeches by Mr Richard Wagner, President of the Supreme Court of Canada and President of A.C.C.F. since 2019, Mr Antoine Michon, Director for Political Affairs and Democratic Governance – International Organisation of Francophonie and Mr Laurent Fabius, President of the French Constitutional Council. The event was structured into two working sessions: first round table with the topic

“Practices and methods of deliberation” and second round table with the topic *“Collegiality versus dissenting opinions”*. The general summary report of the Conference was presented at the end of the Conference by Mr Mathieu Disant, Professor of Law of the University of Paris I — Panthéon-Sorbonne, invited as an expert.

During the two sessions, 10 thematic papers were presented, on which questions and comments made, which made the event both dynamic and practical. The President of the Constitutional Court of Romania, Mr Valer Dorneanu, presented at the first session the paper on *Practice and methods of deliberation at the Constitutional Court of Romania*, providing the audience with details of both the legal framework and the deliberation practices.

The purpose of the topic of the Conference was to exchange experience on the diversity of methods and practices of deliberation and the expression of individual opinions in the trial activity of high jurisdictions, members of the A.C.C.F. The conclusion was that the principle of collegiality — which is sometimes expressly regulated, sometimes enshrined at customary level — is a multi-faceted principle that is found in all these jurisdictions in different forms, practices and methods.

The same principle is also invoked as justification both for prohibiting the public expression of individual opinions (in 23 States) and for allowing those opinions to be expressed and published together with the decision (in only 10 States, including Romania), without any of those rules, albeit so different, affecting the quality of justice and collegiality relations within each court.

JUNE

On 11 June 2021, Mrs Marieta Safta, First Assistant-Magistrate and Mrs Claudia Margareta Krupenschi, Chief Assistant, Director of the Office of the President of the Constitutional Court of Romania, as contact person on behalf of the Constitutional Court of Romania, participated in the Forum of the *Superior Court Network* (SCN) of the European Court of Human Rights, Strasbourg, with the topic: *Case Management and Case-Law Consistency: National and ECHR perspectives*.

The event, organised in online format (videoconference), marked the 5th annual meeting of contact persons of the SCN network and was opened by the President of the ECtHR, Mr Robert Spano, who particularly appreciated the efficiency of the SCN’s work. The Network, which was established in 2015, now comprises representatives of 93 national superior courts from 40 States, and through the exchange of experience and information on legislation and case-law, it contributes significantly to the dialogue between the European court and the national superior courts.

The discussions during the meeting concerned mainly the handling of cases before the ECHR, the development of digital tools and communication with the members of the Network for ensuring the sustainability of the Convention system, the unity and consistency of case-law, with each of the national judges being, for the purposes of the principle of subsidiarity, a judge of the Strasbourg court. In the context of highlighting the need to find

new digital solutions at the level of the Network's members, examples of good practice were presented at the level of national superior courts. Aspects of the interpretation and application at national level of the Convention for the Protection of Fundamental Rights and Freedoms were also discussed and the developments further sought by the ECHR with a view to strengthening the principle of subsidiarity were envisaged.

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On 21 June 2021, Mr Benke Károly, Assistant-Magistrate-in-chief, participated, as correspondent of the Constitutional Court of Romania, in the third meeting of the corresponding agents of the Judicial Network of the European Union, organised online. In addition, as a follow-up to that meeting, two online working sessions of the groups of *Legal Terminology and Documentation* were organised, and were attended, in their capacity of members, by Mrs Ana-Maria Saon, counsellor, and, respectively, Mrs Andreea Costin, Assistant-Magistrate, and Mr Benke Károly.

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On 22 June 2021, in response to the invitation of the National Home Affairs College of the "*Alexandru Ioan Cuza*" Police Academy, the President of the Constitutional Court of Romania, Professor Valer Dorneanu, together with Professor Elena-Simina Tănăsescu, Judge, Mrs Marieta Safta, Associate Professor and First Assistant Magistrate, and Mr Cezar Rareş Anghel, Secretary-General, took part in a meeting with the representatives and students of the College attending the Post-Graduate Programme "*Strategic Management of Home Affairs*" aimed at the development of 3rd level managerial skills — strategic management skills.

The main topic of the presentations and discussions was "*The Romanian Constitutional Court — the sole authority of constitutional jurisdiction*".