

INTERNAL AND INTERNATIONAL ACTIVITY OF THE CONSTITUTIONAL COURT – SEMESTER I/2022

APRIL

On 8 April 2022, Marieta Safta, assistant magistrate of the Constitutional Court of Romania, participated online in the Symposium 'EU Autonomy and International Law', organised in hybrid format by the Court of Justice of the European Union and ESIL (European Society of International Law).

The symposium, opened by Professor Koen Lenaerts, President of the Court of Justice of the European Union and Professor Pierre d'Argent, President of ESIL, was structured in two sessions, *Between multilateralism and constitutionalism* and *Between International and European law*, covering issues such as the *EU autonomy and constitutionalism, the Autonomy of the European Union as a Constitutive Element of its Identity, the Autonomy of the European Union from a Judicial Perspective, EU Autonomy and International Law, EU Autonomy and EU Law*.

MAY

Jubilee event dedicated to the 30th Anniversary of the Constitutional Court

On 22 May 1992, the organic law on the organization and functioning of the Constitutional Court - Law no. 47/1992 was published in the Official Gazette of Romania, Part I, no. 101. To celebrate 30 years of existence, the Constitutional Court of Romania organized, on **10 May 2022**, the jubilee event with the theme "The Constitutional Court – guarantor for the supremacy of the Constitution, factor of balance and stability and foundation of democracy and the rule of law", at the Nicolae Iorga Hall, within the premises of the Palace of Parliament.

At this anniversary event (organised *on-site, on-line* and *in streaming* format), the Constitutional Court was honoured by the direct participation of the leaders of the three State powers, namely the President and Vice-President of the Senate, the President of the Chamber of Deputies, the Prime Minister, represented by the Secretary-General of the Government, the President, Vice-Presidents and Presidents of the sections of the High Court of Cassation and Justice.

We were happy to have with us former presidents, former judges and former magistrates of the Constitutional Court. We also warmly and gladly welcomed the delegation of the Constitutional Court of the Republic of Moldova, headed by President Domnica Manole, the delegation of the Czech Constitutional Court, represented by Judge David Uhliř, and of the Portuguese Constitutional Tribunal, represented by Judge José Figueiredo Dias.

Also attending our anniversary event were the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, the Deputy Chief Prosecutor of DIICOT, the Director of the National Institute of Magistracy, the Advocate of the People and deputies of the Advocate of the People the President, the Presidents, Heads of Sections and the Secretary General of the Legislative Council, the Chairs of Parliamentary standing committees, the Secretaries-General of the two Chambers of the Parliament, the President of the Court of Auditors, the President of the Competition Council, the Prefect of the Capital City, the Director of the "Andrei Rădulescu" Legal Research Institute, rectors, deans and professors of the Faculty of Law of the University of Bucharest, the Academy of Economic Studies, the National School of Political and Administrative Studies, Titu Maiorescu University and Nicolae Titulescu University in Bucharest, as well as representatives of publishers and legal journals in Romania.

At the opening of the festive hearing, Mr Florin-Vasile Cîtu, President of the Senate, Mr Ion-Marcel Ciolacu, President of the Chamber of Deputies, Mr Marian Neacșu, Secretary General of the Government, on behalf of the Prime Minister, Mrs Corina-Alina Corbu, President of the High Court of Cassation and Justice, Mr Florin Iordache, President of the Legislative Council and Mr Mihai Busuioc, President of the Court of Auditors, took the floor.

We were equally happy and honoured to hear the *direct speeches*, in *on-line* format, of the President of the French Constitutional Council, Mr Laurent Fabius, of the President of the Constitutional Court of Lithuania, Dr. Danutė Jočienė, of the Romanian Judge to the Court of Justice of the European Union, Mrs Octavia Spineanu-Matei, of the Judge of the Constitutional Court of Bulgaria, Prof. Atanas Semov, as well as the *video messages*, recorded and conveyed specifically for this event by the President of the Venice Commission, Mrs Claire Bazy Malaurie, the President of the European Court of Human Rights, Mr Robert Spano, President of the Constitutional Court of Hungary, Dr. Tamás Sulyok, prof.dr.h.c. Rainer ARNOLD, professor at the Regensburg University, the President of the Supreme Court of Israel, Mrs Esther Hayut and President of the Constitutional Court of Spain, Mr Pedro José González-Trevijano Sánchez.

Valuable contributions, highlighting the role of the Constitutional Court as *guarantor for the supremacy of the Constitution, a factor of balance and stability and the foundation of democracy and the rule of law*, were presented at the event by Mrs *Domnica Manole*, President of the Constitutional Court of Moldova, Mrs *Renate Weber*, Advocate of the People, Mr *David Uhlir*, Judge of the Czech Constitutional Court, Mr *José Figueiredo Dias*, Judge of the Portuguese Constitutional Tribunal, prof. *Nicolae Popa* and prof. *Lucian Mihai*, former Presidents of the Romanian Constitutional Court, and prof. *Mircea Duțu*, Director of the "Acad. Andrei Rădulescu" Legal Research Institute.

As part of the closing remarks, Mr Valer Dorneanu, President-in-office of the Constitutional Court, gave an overview of the judicial activity during the 30 years of the Constitutional Court and thanked all guests who, through their diverse presence and participation, have helped us mark this important anniversary.

*

On 16 May 2022, the President of the Constitutional Court, Prof.Dr. Valer Dorneanu, received the delegation of experts of the International Labour Organisation, composed of Mr Bernd Waas, Head of Delegation, Mr Xavier Beaudonnet, Head of the Collective Bargaining Unit, Freedom of Association Subsidiary and M. Cristina Miheş, Senior Specialist in Social Dialogue and Labour Law.

The meeting was attended by Ms Ioana Chiorean and Ms Patricia Ionea, assistant magistrates of the Constitutional Court, and Mr Cristian Tache, Adviser, Directorate-General for European Affairs and International Relations, Ministry of Labour and Social Solidarity.

Representatives of the International Labour Organisation, in the framework of the technical advisory mission carried out in Romania, expressed their interest in the case-law of the Constitutional Court on collective agreements applicable to staff paid from public versus private funds, the conditions for the legal establishment and representativeness of trade unions, and the protection of trade union representatives.

*

On 25 May 2022, the President of the Constitutional Court of Romania, Prof. Dr. Valer Dorneanu and Ms Claudia-Margareta Krupenschi, Director of the President's Office, assistant magistrate-in-chief, participated at the Meeting of Presidents of the Conference of Presidents of the Conference of the European Constitutional Courts (CCCE), organised in an online format under the Presidency of the Constitutional Court of the Republic of Moldova.

Issues concerning the preparation and organisation of the XIX CCCE Congress, taking place on 21-24 May 2024 in Chisinau, Republic of Moldova, have been discussed and established on that occasion.

JUNE

On 16 June 2022, the President of the Romanian Constitutional Court, Mr Marian Enache, received the visit of Prof. dr.h.c. Armin von Bogdandy, Co-Director of the Max Planck Institute of Comparative Public Law and International Law in Heidelberg, Federal Republic of Germany.

The meeting was also attended by Ms Livia-Doina Stanciu, Mr Varga Attila, Ms Elena-Simina Tănăsescu, Mr Gheorghe Stan, Mr Dimitrie-Bogdan Licu, judges of the Constitutional Court, Mr Benke Károly, first assistant magistrate, Ms Senia-Mihaela Costinescu, assistant magistrate-in-chief, other assistant magistrates of the Romanian Constitutional Court, Mr Bogdan Iancu, and Associate Professor at the Faculty of Political Science of the University of Bucharest.

Opening the meeting, the President of the Constitutional Court expressed his congratulations on the award of the title of *doctor honoris causa* of the University of Bucharest to the distinguished guest, and pointed out that this meeting, with the topic *Human Dignity – concept and reality*, takes place in the context of the 30th anniversary of the Romanian Constitutional Court.

After a brief presentation of the powers of the Constitutional Court, Mr Marian Enache emphasized that the foundation and source of all fundamental rights and freedoms is human dignity. Its value content is developed through case-law by the Constitutional Court, and in this context he also mentioned the judicial dialogue between the Romanian Constitutional Court and other constitutional courts, in particular the German and French courts. In this context, it referred to the recitals of the Romanian Constitutional Court Decisions Nos 464/2019, 465/2019 and 233/2021.

Mr Armin von Bogdandy presented the significance of human dignity in the light of Article 2 of the Treaty on European Union and the way in which it is valued in the Charter of Fundamental Rights of the European Union and in the German constitutional system. The honourable guest also highlighted the common value of human dignity for all legal systems within the European Union and made clear the particular role of the constitutional courts and the Court of Justice of the European Union in developing this concept within the *European society*.

At the end of the meeting, both sides expressed their intention to continue and maintain an active dialogue.

*

On 28 June 2022, the President of the Constitutional Court of Romania, Mr Marian Enache, received the visit of Ms Věra Jourová, Vice-President of the European Commission for Values and Transparency, in the context of the rule of law dialogue between the Commission and the EU Member States.

The interview was attended by Mr Benke Károly, first assistant magistrate, Ms Claudia-Margareta Krupenschi, assistant magistrate-in-chief, Ms Marieta Safta and Ms Cristina Titirișcă, assistant-magistrates of the Romanian Constitutional Court, and Ms Ramona Chiriac, Head of Representation of the European Commission in Romania, Ms Renate Nikolay, Head of Cabinet of the Vice-President of the European Commission. Ms Simona Constantin, Member of Cabinet, Ms Anca Păduraru, Political Rapporteur of the Representation of the European Commission in Romania, Mr Christian Wigand, Spokesperson and Ms Maria Arsene on behalf of the Representation of the European Commission in Romania.

During the discussions, Mr Marian Enache pointed out that the decisions of the Constitutional Court embed values and principles common to both the national and the European legal order. He pointed out that, by their generality, these concepts may give rise to controversy in the national and European legal areas, but the way to resolve them is the permanent dialogue between the constitutional courts and the CJEU, reason why he referred to the dialogue initiated by the CCR with the CJEU by way of a preliminary question formulated in 2016 and resolved in 2018 (Coman Case and Decision No 534/2018). The dialogue must be two-fold in the sense that the CJEU is also interested in the views of constitutional courts, even by formulating *amicus curiae* opinions. A better understanding of the Constitutional Court's decisions requires a structured dialogue with all EU institutional layers.

Ms Věra Jourová pointed out that the priority of the application of European law is a component of the principle of legal certainty at European level and that the European

Commission must ensure that the principles of the rule of law do function. She stressed that justice reforms were supported by the European Commission and welcomed the idea of an open dialogue with the Constitutional Court in order to better understand and receive its decisions.

Both sides expressed their readiness for institutional dialogue and for further integration of European values and law into the constitutional justice process

*

On 30 June 2022, the President of the Constitutional Court of Romania, Mr Marian Enache, received the visit of Prof. Dr. András Zs. Varga, President of the Hungarian Supreme Court and of Ms Corina-Alina Corbu, President of the High Court of Cassation and Justice.

The meeting was also attended, on behalf of the Constitutional Court of Romania, by Mr Cristian Deliorga, Mr Gheorghe Stan, Mr Dimitrie-Bogdan Licu, judges of the Constitutional Court of Romania, and Ms Mihaela Senia Costinescu, assistant magistrate-in-chief. The delegation of the Hungarian Supreme Court was composed of: Dr Katalin Böszörményi-Kovács, Vice-President and Dr Zsolt Csák, President of the Criminal Section

The beginning of the meeting included cordial welcome messages from both sides respectively.

At the initiative of the Hungarian side, the discussion focused on the interaction between national law and European Union law.

The President of the Hungarian Supreme Court considers that a more active dialogue between the Supreme Court and the Constitutional Court is needed in order to achieve an interinstitutional balance.

The President of the Romanian Constitutional Court highlighted the excellent level of bilateral relations with the Hungarian Constitutional Court, promoted since the establishment of the Romanian Constitutional Court in 1992. As to the topic discussed, the timeliness and similarity of the problems briefly presented require a transparent dialogue, which, however, must ensure the autonomy and independence of the constitutional judiciary, which is an essential feature of the rule of law. This is a unique and genuine solution in the implementation of European law. The case-law of our Court expresses the constitutional identity and is the expression of the will of the holder of sovereignty.

According to the participants, the European legal heritage consisting of values, principles, concepts and procedures, is undoubtedly reflected in the Constitution of each European State as an expression of the choice of the model of civilisation of Western constitutional democracy. Summing up, a functional balance between the European institutions and the Member States can ensure that the national identity is preserved through better integration/implementation, respect and understanding thereof.

In this context, the President of the Romanian Constitutional Court reiterated his willingness to engage in an interinstitutional but also informal dialogue so as to achieve an exchange of professional experience specific to each institution (the constitutional court and the supreme court, respectively).

In the same note, the President of the High Court of Cassation and Justice stressed the need that the positions with the Constitutional Court in some legal matters be harmonized

and that qualitative relations of interinstitutional dialogue between the two public authorities be developed.

The Constitutional Court of Romania, in exercising its *a priori* and *a posteriori* constitutional review, which has experienced a substantial increase, delivers decisions in accordance with its constitutional powers, in order to guarantee human rights, but also the legal system and the activity of State institutions. In the same vein, President Marian Enache pointed out that, by resolving legal disputes of a constitutional nature, the Romanian Constitutional Court had, by means of pronounced solutions, restored the balance of powers in the State, our statistics being conclusive in this respect. The Constitutional Court, as arbiter and guarantor of the Constitution, is thus obliged, upon referral, to regulate the legal and political process, within the framework of constitutional democracy, to see that public institutions act in a more responsible manner and to promote balance and continuous dialogue.

On this point, the weight of the *a priori* and *a posteriori* referrals brought by the Supreme Court of Hungary before the Constitutional Court is much smaller, whereas such referrals would entail the substantive suspension of the case, as the distinguished guest explained.

The revision of the Constitution, in 2003, the process of drafting the laws of justice, the complexity of European issues, ensuring the pre-emption of the constitutional principle of respect for national rights, can constitute a topic of unanimous dialogue for the European constitutional courts, said judge Cristian Deliorga, with brief references to the constitutional justice process.

The end of the meeting contained the congratulatory message conveyed by President Marian Enache to the distinguished guest, on the occasion of the 800th anniversary of the adoption of the first medieval document with constitutional value — *the Golden Bull* — issued by King Andrew II of Hungary.