

**INTERNAL AND INTERNATIONAL ACTIVITY
OF THE CONSTITUTIONAL COURT
- 2ND SEMESTER OF 2019 -**

IULY

From 7 to 10 July 2019, Mr Cosmin-Marian Văduva, Assistant-Magistrate, participated, in the framework of the Career Training Scheme for Assistant-Magistrates, in the 29th World Congress of the International Association for the Philosophy of Law and Social Philosophy on the theme of *Dignity, Democracy, Diversity*, organised by the Institute for Interdisciplinary Legal Studies of the University of Lucerne, Switzerland.

On that occasion, the Assistant-Magistrate presented the paper “*Proportionality and Balancing in Constitutional adjudication-a difference of degree*”.

SEPTEMBER

On 9 September 2019, Mr Károly BENKE, Assistant-Magistrate-in-chief participated, as the correspondent of the Constitutional Court of Romania, at the second meeting of the correspondents of the Judicial Network of the European Union, organised in Luxembourg.

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From 12 to 13 September 2019, the President of the Constitutional Court, Professor Valer DORNEANU, PhD, accompanied by Ms Oana Răican, counsellor of the Foreign Relations, Press and Protocol Unit, took part in the Conference of the Supreme Courts of the Member States of the Council of Europe and in the other events organised in connection with the takeover by France of the Presidency of the Council of Ministers of the Council of Europe, organised by the Constitutional Council, the State Council and the Court of Cassation in Paris.

The international conference consisted of a plenary session during which the floor was taken by: Mr Linos-Alexandre Sicilianos, President of the European Court of Human Rights, Mr Thorbjørn Jagland, the Secretary General of the Council of Europe - ending his term of office, Mr Laurent Fabius, President of the French Constitutional Council, Mr Bertrand Louvel, the President of the French Court of Cassation, Mr François Molins, the Prosecutor General of the Prosecution Office attached to the Court of Cassation, Mr Bruno Lasserre, Vice-President of the Council of State, Ms Nicole Belloubet, Minister of Justice, as well as of three parallel workshops.

The President of the Constitutional Court, Mr Valer Dorneanu, participated in the workshop on the right to effective access to the courts, together with presidents and representatives of the Constitutional Courts of the Member States of the Council of Europe. During the discussions on the subjective particularities of the different states, the participants discussed, in particular, the obstacles that individuals face when seeking redress before the courts in order to defend their rights and interests, the limitation period, but also the difficulties encountered by courts in answering requests in a speedy manner. The active participation in the discussions of the President of the European Court of Human Rights helped the participants to identify solutions to some of the issues raised.

During that conference, President Valer Dorneanu had brief discussion on the conference topics, as well as on the bilateral relations, with the President of the European Court of Human Rights, with the President of the French Constitutional Council, with Mr Pavel Rychetský, the President of the Czech Constitutional Court, with Mr François Daoût, the President of the Belgian Constitutional Court, and with Prof. Dr. Andreas Paulus, Judge of the Federal Constitutional Court of Germany.

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On 25 September 2019, Ms Marieta Safta, First Assistant-Magistrate, represented the Constitutional Court of Romania at the Colloquium entitled “*The General Court of the European Union in the Digital Era*”, dedicated to the 30th anniversary of the General Court of the European Union, held in Luxembourg.

OCTOMBER

On 3 October 2019, Judge Daniel Marius Morar participated in the Conference on “Special methods of supervision and research — technical supervision” organised by the National Institute of Magistracy.

Referring to the topic of the event, Judge Morar presented the case-law of the Constitutional Court of Romania on technical supervision.

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On 4 and 5 October 2019, Judge Gheorghe Stan, accompanied by Ms Cosmina Marin, assimilated Assistant-Magistrate - Foreign Relations, Press and Protocol Unit, participated in the XXII International Congress on European and Comparative Constitutional Law entitled “The Concept of Democracy as Developed by Constitutional Justice”, organised by the Constitutional Court of the Republic of Lithuania and the University of Regensburg in Vilnius.

On that occasion, Judge Gheorghe Stan present the paper entitled „Principle of separation and balance of State powers within the framework of constitutional democracy as reflected in the recent case-law of the Constitutional Court”.

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On 10 and 11 October 2019, in the framework of the Career Training Scheme for Assistant-Magistrates, Ms Cristina Teodora Pop, Assistant-Magistrate, took part in the International Conference on Law, Public Administration and Medicine with the theme “Ethics and Responsibility in the Work of Public Services in a Digital Society”, held in Athens.

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On 18-22 October 2019, Judge Daniel Marius Morar and Judge Varga Attila participated in the events dedicated to the celebration of the 50th anniversary of the Supreme Constitutional Court of the Arab Republic of Egypt, held in Cairo.

The International Conference entitled “Evolution and Progress of Constitutional Adjudication. Achievements and Challenges” were structured in 3 working sessions, as follows: The Ongoing Journey towards Protecting Constitutional Rights and Freedoms

in the Modern Era, The Relationship/Interaction between Constitutional and Supreme Courts, and Enhancing Judicial Integrity and Combating Corruption and Improvement Judicial Proficiency: The utilisation of the Information and Communication Technology (ICT) in enhancing the adjudication process.

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On 25 October 2019, Mr Károly Benke, Assistant-Magistrate-in-chief, participated in the scientific communication session “European and national dimensions of law science and practice” organised by the Alexandru Ioan Cuza University of Iasi-Faculty of Law, in Iasi.

On that occasion, the assistant-magistrate presented the paper entitled “The legal dispute of a constitutional nature and the judicial authority, a national or European law issue?”.

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From 27 to 30 October 2019, Mr Fabian Niculae, Assistant-Magistrate, participated in the proceedings of the Bureau of the A.C.C.F. (Association of the French-speaking Constitutional Courts) which took place in Siem Riep, the Kingdom of Cambodia.

NOVEMBER

From 13 to 15 November 2019, the delegation of the Constitutional Court of Romania, headed Professor Valer DORNEANU, PhD, President of the Court, and composed of Judge Varga Attila, Ms Claudia-Margareta Krupenschi, Assistant-Magistrate-in-chief, Director of the President’s Office and Mr Károly Benke, Assistant-Magistrate-in-chief, at the invitation of the President of the Hungarian Constitutional Court, Dr Sulyok Tamás, paid a working visit to Gyula, Republic of Hungary.

The visit was part of the bilateral agenda of the two authorities of constitutional jurisdiction, and the working meeting included discussions on: “Constitutional justice in the European Union — dialogue and mutual trust”.

The bilateral meeting was attended by the following representatives of the Hungarian Constitutional Court: Dr Sulyok Tamás, President, Dr. Hörcherné Marosi Ildikó, Judge, Dr Bitskey Botond, Secretary General, Dr. Szabó Attila, Director of the President’s Office and Ms Ágoston Andrea, Director of the Protocol Office.

The President of the Hungarian Constitutional Court, Mr Sulyok Tamás, welcomed the members of the two delegations and declared that he is very pleased about the fact that at the regular bilateral Hungarian-Romanian meetings the delegations systematically discuss topics of particular value and usefulness for both Constitutional Courts, underlying in this context the particular significance of the institutionalised cooperation between the Constitutional Courts.

The President of the Constitutional Court of Romania, Valer Dorneanu, thanked for the invitation and highlighted the importance of the bilateral meetings. At the meeting, the two delegations presented some current aspects of the case-law of the two Constitutional Courts and noted that there is a certain tendency that the effect of their decisions be challenged *erga omnes*.

The two delegations agreed that the decisions of the Constitutional Courts have *erga omnes* effects. They stressed that the foundations of European constitutional justice

would be at risk if the *erga omnes* effects of constitutional courts' decisions were affected even to a lesser extent. In the civil law system, as in the Romanian or Hungarian law, decisions of ordinary courts have only *inter partes* effects and, in that context, according to the Kelsenian court model, separate constitutional court have been set up, and the *erga omnes* effects of their decisions is a fundamental component of European constitutional justice. Challenging the *erga omnes* effects of constitutional courts' decisions amounts to challenging their very existence. The views expressed by the two parties were convergent also in that respect. In order to affirm and strengthen the fundamental role of constitutional courts, cooperation between them, based on consultation and solidarity, is necessary, so as to support certain common positions. The Romanian Constitutional Court and Hungarian Constitutional Court undertook to act in this spirit and to share this view with other constitutional courts.

Both parties pointed out that the constitutional courts cannot accept any comments on or deviation from their decisions and their *erga omnes* effects. This must be one of the common concerns of all the constitutional courts in Central and Eastern Europe. The two Constitutional Courts took the view that closer multilateral cooperation is needed, the basis of which can be direct communication. An effective form of cooperation could be the creation of a network of constitutional courts of central and eastern Europe.

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From 15 to 16 November 2019, Ms Cristina Teodora Pop, Assistant-Magistrate, attended the Conference “Royal Law Academy of Oradea (1919) — Part of Romanian legal education”, organised by the Faculty of Law of the University of Oradea.

On that occasion, the Assistant-Magistrate presented the paper entitled “Possible causes of cessation of criminal proceedings during the pre-trial chamber procedure”.

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From 17 to 19 November 2019, the delegation of the Constitutional Court composed of Judge Elena-Simina Tănăsescu and Ms Patricia Marilena Ionea, Assistant-Magistrate, took part in the Judges' Forum, organised by the Court of Justice of the European Union, in Luxembourg.

The Forum had 3 working sessions: “Preliminary ruling proceedings: recent case-law concerning procedural aspects” and “Recent case-law developments concerning judicial independence” and “Current events and recent case-law of the General Court of the European Union”, and a series of workshops: “The horizontal application of the provisions of the Charter”, “The notion of implementation of Union law by the Member States” and “Limitations on the exercise of fundamental rights”. On that occasion, Judge Elena-Simina Tănăsescu, together with Mr Constantinos Lycourgos, Judge of the Court of Justice of the European Union, conducted the third workshop.

On 19 November 2019, the delegation of the Constitutional Court of Romania attended the presentation of the Joined Cases C-724/18 and C-727/18 - Cali Apartments (Freedom to provide services-Scope of Directive 2006/123/EC-Repeated letting of furnished accommodation for residential use for short periods to a transient clientele which does not take up residence there -National legislation and municipal rules making

that letting subject to prior authorisation and offsetting), and also the hearing before the Grand Chamber of the Court of Justice of the European Union in that case.

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On 18 November 2019, Ms Marieta Safta, First Assistant-Magistrate of the Constitutional Court of Romania, received a visit from a delegation of the Organisation for Security and Cooperation in Europe (OSCE) - Office for Democratic Institutions and Human Rights (ODIHR), headed by H.E. Mr Ambassador Christian Strohal, Head of Mission, and composed of Raluca-Andreea Monea, Assistant of the Head of Mission, Ms Renata Tardioli, Legal Analyst and Ms Mihaela Cristina Tabarcea, Assistant of the Legal Analyst.

The purpose of the meeting was to exchange information on the presidential elections in Romania in 2019. In the course of the meeting, Ms Marieta Safta, First Assistant-Magistrate, presented the duties, competence and recent case-law of the Constitutional Court of Romania regarding compliance with the procedure leading to the election of the President of Romania, which gave rise to a constructive dialogue between the representative of the Constitutional Court and the representatives of the OSCE-ODIHR.

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On 28 and 29 November 2019, Ms Ramona Daniela Marițiu, Assistant-Magistrate, participated, in the framework of the Career Training Scheme for Assistant-Magistrates, in the Seminar on the recent case-law of the European Court of Human Rights in criminal matters, organised by the Academy of European Law in Strasbourg.