

INTERNAL AND INTERNATIONAL ACTIVITY OF THE CONSTITUTIONAL COURT – SEMESTER I/2020

JANUARY

On 23 January 2020 the President of the Constitutional Court of Romania, Professor Valer Dorneanu, PhD, received a visit from His Excellency Adrian Zuckerman, Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

The meeting was also attended by Mrs Abigail Rupp, Deputy Chief of Mission, and Mrs Maria Tapalagă, political specialist, from the US Embassy in Bucharest, as well as Mrs Claudia Margareta Krupenschi, Assistant-Magistrate-in-chief, Director of the President's Office at the Constitutional Court of Romania.

At the beginning of the meeting, the President of the Constitutional Court congratulated Ambassador Adrian Zuckerman for taking office, particularly appreciating his professional qualities, but also his family ties with Romania.

The President of the Constitutional Court also presented in summary the multilateral relations that the Constitutional Court of Romania has with American bodies/entities specialised in constitutional law. Moreover, the President succinctly presented, in comparison with the common law system, the features of constitutional justice in Romania, integrated with the Kelsenian model in Europe, and explained the organisation and functioning of the Constitutional Court.

The discussions continued to focus on the evolution of democracy and the rule of law in our country since the change of the political regime in 1989, as well as on the need to continue on this path in the spirit of defending the fundamental values of law. In this context, Ambassador Adrian Zuckerman expressed his appreciation for the effort and contribution of the Constitutional Court to the strengthening, over time, of constitutional democracy and to the impartial defence of the rule of law, in which sense he expressed his full support.

The two officials highlighted the importance and benefits of the dialogue between the fundamental institutions of the State and agreed to continue the cooperation between the US Embassy in Romania and the Constitutional Court of Romania.

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On 24 January 2020 Mr Benke Károly, Assistant-Magistrate-in-chief, attended at the Conference "Access to the European Court of Human Rights: theoretical and practical issues", organized by the West University of Timișoara – Faculty of Law and Timiș Bar Association.

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On 31 January 2020 the President of the Constitutional Court of Romania, Professor Valer Dorneanu, PhD, and Mrs Claudia-Margareta Krupenschi, Assistant-Magistrate-in-chief, Director of the President's Office, represented the Constitutional Court of Romania at the

Seminar “The European Convention on Human Rights: living instrument at 70” and at the solemn hearing of the European Court of Human Rights, held in Strasbourg on the occasion of the opening of the judicial year. The seminar discussed the following topics: gender equality, the environment, and science and technology, in which the basic principles/criteria emerging from the ECHR case-law have been highlighted to address these highly topical issues of a socio-legal status.

On the previous day, the delegation of the Constitutional Court of Romania had a working meeting with the President of the European Court of Human Rights, Mr Linos-Alexandre SICILIANOS, attended also by Mrs Iulia Antoanella MOTOC, ECHR judge on behalf of Romania, Mr Roderick LIDDELL, Registrar, and Mr Patrick TITIUN, Head of the ECHR President’s Office, being discussed mainly relevant issues resulting from the recent jurisdictional activity of the European Court Human Rights and of the Constitutional Court of Romania.

FEBRUARY

From 19 to 21 February 2020, the President of the Constitutional Court of Romania, Professor Valer Dorneanu, PhD, and Mr Károly Benke, Assistant- Magistrate-in-chief participated in the International Conference on the topic “ Constitutional Justice and the Society’s Reaction: When the solutions of the Constitutional Courts are in disagreement with the majority opinion of the society”, event dedicated to the celebration of the 25th Anniversary of the Constitutional Court of the Republic of Moldova.

On that occasion, during the first session, the President of the Constitutional Court of Romania, Professor Valer Dorneanu, PhD, presented the paper on the topic “The General Binding Character of the Decisions of the Constitutional Court of Romania delivered within its task of resolving legal conflicts of a constitutional nature”.

The event was followed by a meeting with the President of the Constitutional Court of the Republic of Moldova, Mr Vladimir Țurcan. During the discussions the two officials praised the very good level of the bilateral relationship.

On that occasion, aspects of cooperation between both authorities of constitutional jurisdiction were addressed, highly topical issues being discussed regarding the ongoing jurisprudential dialogue between the two courts of constitutional jurisdiction, the effects of decisions, the status of the constitutional judge, transparency in activity, openness to civil society.

The importance of close coordination was also supported in terms of the holding of the Presidency of the Conference of European Constitutional Courts by the Constitutional Court of the Republic of Moldova.

Both parties stressed the desire to enhance and strengthen bilateral relations, to exploit the existing cooperation potential for enhanced bilateral dialogue. In this context, the President of the Constitutional Court of Romania, Professor Valer Dorneanu, PhD, invited his counterpart to visit Romania, invitation which was accepted.

This participation also marked the meeting with the interim President of the Supreme Court of the Republic of Moldova, Mr Vladimir Timofti, attended also by Mrs Tamara Chișca

– Doneva, interim President of the Civil, Commercial and Administrative College, Mr Iurie Diaconu, interim President of the Criminal College, Mrs Eugenia Kistruga, Deputy Secretary General, and Mrs Diana Danilişin, Head of the Human Rights and External Cooperation Directorate. The discussions reached topics of common interest, such as: the organization of both courts, the appointment of judges, the admissibility of the exception of unconstitutionality, the review of constitutionality of laws before promulgation.

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On 26 February 2020, Mrs Claudia-Margareta Krupenschi, Assistant-Magistrate-in-chief, Director of the President’s Office, represented the Constitutional Court at the meeting with the delegation of the Working Group on Discrimination against Women and Girls of the Office of the United Nations High Commissioner for Human Rights, a delegation composed of the Rapporteur President, Mrs Meskerem Techane, and Mrs Ivana Radačić, expert member. The visit to Romania of the foreign delegation aims to identify, promote and exchange views, through dialogue and consultation with national authorities and institutions, on good practices related to laws that have a discriminatory impact on women.

In the framework of this thematic dialogue, the representative of the Constitutional Court has summarized the specificity of the activity of the Constitutional Court and of the effects of its decisions, as well as the recent relevant case-law, namely the decisions delivered on the retirement age of women [Decision No 387 of 5 June 2018, by which the Court found that the provisions of Article 56 (1) c) first sentence of Law No 53/2003 – The Labour Code are constitutional to extent that the wording “standard age conditions” did not exclude the possibility for a woman to require to continue to benefit from the individual employment contract, under the same conditions as a man, i.e. until the age of 65], on the conditions for granting the protection order [Decision No 264 of 27 April 2017, by which the Court found that the wording “if they live together” from Article 5 c) of Law No 217/2003 for the prevention and fight against domestic violence was unconstitutional] and on gender equality regarding the legal possibility to obtain postponement of imprisonment or life imprisonment penalty for the parent of a child younger than one year [Decision No 535 of 24 September 2019, by which the Court found that the legislative solution in the provisions of Article 589 (1) b) first sentence second thesis of the Criminal Procedure Code, which excludes a convicted man who has a child younger than one year from the possibility to postpone the execution of imprisonment or life imprisonment penalty, was unconstitutional].

Thus, Mrs Claudia-Margareta Krupenschi pointed out that the Constitutional Court has made an important contribution to respecting the principles of equality and non-discrimination based on gender by the delivered solutions and their implementation in the national legislation.

MARCH

From 5 to 7 March 2020, Mrs Ionița Cochintu, Assistant-Magistrate, participated in the European Conference of Financial Services on the topic “The New Architecture of Financial Services – Innovation and Excellence”, IVth Edition, organized by the Institute of Financial

Studies, as well as in the Law Conference “Transilvania” on the topic “Business Risks and Entrepreneurial Responsibility”, IInd Edition, organized by the Faculty of Law within Transilvania University of Braşov.

At the events occasioned by these events the Assistant-Magistrate presented the papers: “The role of the guarantee fund in the bankruptcy of insurance/reinsurance companies in the current legislative context” and “The application of the principle of the presumption of innocence to legal persons and economic operators involved in public procurement procedures”.

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On Friday, 6 March 2020, the President of the Constitutional Court of Romania, Professor Valer Dorneanu, PhD, received a visit from His Excellency Jorge Alejandro Tagle Canelo, Ambassador Extraordinary and Plenipotentiary of the Republic of Chile in Romania.

The meeting was attended by Mrs Claudia-Margareta Krupenschi, Director of the President’s Office, Assistant-Magistrate-in-chief.

Opening the dialogue, the Ambassador highlighted the historically proven importance of constitutional courts for respecting fundamental values and the prevalence of the rule of law in any democratic state. He then reported the experience of the Republic of Chile with regard to constitutional reform, given that such a process of revision of the Constitution is currently ongoing. In this context, he asked for concrete data about the constitutional reform process carried out over time in our country.

The President of the Constitutional Court recalled the common Latin origins of the Romanian and Chilean people, and noted that, despite joint and sometimes heated debates taking place, in general, at the level of constitutional justice in any country, its essential role as guardian of the Constitution is undebatable. Next, the President presented, synthetically, the history of the Romanian Constitutions and, in particular, the drafting of the Constitution of 1991, as well as of the constitutional review process of 2003, giving the foreign guest all the requested clarifications, including on the organisation and powers of the Constitutional Court.

The Ambassador expressed his sincere appreciation for the extremely useful dialogue, the two parties reaffirming, at the end of the meeting, the mutual interest in maintaining the professional cooperation relations.