

Strasbourg, 10 September 2014

CCJE-GT(2014)6

**WORKING GROUP
OF THE CONSULTATIVE COUNCIL
OF EUROPEAN JUDGES
(CCJE-GT)**

**Report of the 27th meeting
Berlin, 24-26 June 2014**

Document prepared by the Secretariat
Directorate General I - Human Rights and Rule of Law

I. INTRODUCTION

1. The Working Group of the Consultative Council of European Judges (CCJE-GT) held its 27th meeting in Berlin from 24 to 26 June 2014, at the invitation of the German Federal Ministry of Justice. The meeting was chaired by Mr Richard AIKENS (United Kingdom), Vice-President of the CCJE.
2. The agenda and the list of participants are appended to this report (Appendices I and II respectively).

II. COMMUNICATION BY THE PRESIDENT, MEMBERS OF THE BUREAU AND WORKING GROUP OF THE CCJE

3. Mr Bart van LIEROP (The Netherlands), President of the CCJE, briefed the members of the Working Group on the discussions held during the Bureau meeting and developments since March 2014, including the participation in various fora, conferences, seminars as well as projects and responses to requests for legislative assistance¹. He underlined the increasing scale of the CCJE activities and the growing practical application of its standards. At the same time, it was evident that the CCJE visibility should be expanded further, as was clear during his participation in the conference on the independence of the judiciary from a European perspective at the German Judicial Academy on 21-23 May 2014 in Wustrau, Germany.
4. Mr van LIEROP emphasised that the CCJE must be responsive to all kinds of requests of judges associations and similar organisations. He mentioned the Report by the Secretary General of the Council of Europe entitled “State of democracy, human rights and the rule of law in Europe” (May 2014) which was based on the findings of the Council of Europe’s monitoring bodies and which provided an excellent analysis.
5. Referring to the standards developed by the European Network of Councils for the Judiciary (ENCJ), Mr van LIEROP underlined in particular the topic of the self-governance of the judiciary, standards on independence and accountability, as well as on the allocation of cases which were quite useful.
6. Ms Nina BETTETO (Slovenia) mentioned her work as expert within the framework of the project on strengthening the capacity of the judiciary as regards the implementation of the European Convention on Human Rights in Bosnia and Herzegovina implemented by the Council of Europe².
7. The members of the Working Group highly praised the Joint Meeting of the CCJE Bureau and Working Group with the Commission of the German Federation and Länder for the Analysis of Judicial Autonomy in Europe (Judicial System Commission) on 23 June 2014 in Berlin, which resulted in an interesting exchange of experience and discussion on the issues of common interest related to the status of judges, their appointment or election, career and evaluation in the context of judicial independence. The Joint Meeting was particularly useful in the context of preparation of the Opinion No. 17(2014).

¹ For more details related to these activities, see the report on the 17th meeting of the CCJE Bureau in Berlin on 24 June 2014, document CCJE-BU(2014)6), paras 10-13.

² See the same report, para 14.

8. Ms Aida-Rodica POPA (Romania) spoke of the preparation of a conference in Bucharest on the independence and evaluation of judges organised by the Superior Council of Magistracy of Romania on 11-13 September 2014. The objective of the conference would be to make a link between the CCJE and the judges in Romania, and to discuss how the CCJE Opinions have been implemented. About 80 Romanian judges from appellate and other courts would attend. Two Associations of Judges of Romania would also be represented. A group of the CCJE members would attend the conference and exchange experience with their Romanian colleagues.
9. Ms POPA also mentioned that she organised a conference on 5 June 2014 with the National Union of Bars of Romania, local Bar Associations and the Court of Appeal of Bucharest on the topic of the rights of the defence and implementation of the CCJE Opinion No. 16(2013) on the relations between judges and lawyers. A project has started with the National Union of Bars focusing on the practices of interaction between judges and lawyers.
10. Mr Gerhard REISSNER (Austria) underlined the importance of the issue of independence and status of judges in Ukraine and reported on his work on assessing the draft law on the restoration of trust in the judiciary of Ukraine (so called lustration law) within the framework of the project implemented in Ukraine by the Council of Europe. The Council of Europe expert team made a lot of recommendations for this draft which were mostly accepted. A conference of stakeholders coordinated by the Special Representative of the Secretary General of the Council of Europe was organised.
11. Mr Duro SESSA (Croatia) spoke of his participation as an expert in the training-of-trainers (ToT) seminar, and two more trainings would be held in October 2014 in Bucharest in the Judicial Academy on the topic of application of code of ethics, and the CCJE Opinion No. 3(2002) on ethics and liability of judges would be presented. Mr SESSA also mentioned the project in Turkey focusing on drafting of the code of ethics. The OSCE invited him to Belgrade as regards the issue of promotion of judges.
12. Mr José Francisco COBO SÁENZ (Spain) reported on his participation as an expert in the continuous training for judges on their status and rights and obligations regarding treaties organised by the Judicial School of the General Council for the Judiciary of Spain and delivered presentation on the activities and Opinions of the CCJE. He also presented his work on the reform of the structure, organisation and functions of the General Council for the Judiciary and the relevant standards of the Council of Europe, including the CCJE Opinion No. 10(2007) on the Council for the Judiciary in the service of society, after which the new system of appointments of members of the General Council for the Judiciary of Spain was discussed.
13. Mr van LIEROP emphasised the importance of translating the CCJE Opinions for better visibility and implementation of the standards. He referred to the urgent request of assistance from the CCJE member from Slovakia, regarding the recently approved amendment of the Constitution of the Slovak Republic, and the need of expert assessment by the CCJE, and invited the interested members of the Working Group to participate in this activity.
14. Mr SESSA, joined by the other members of the Working Group, mentioned that some negative scenarios for the independence of judges developed and spread quite quickly. That is why the CCJE should stay on alert and be ready for a quick reaction.

15. Mr REISSNER and Mr SESSA volunteered to work, together with the Bureau members, on the assessment of the new provision in Slovakia. The work would be finished as soon as possible and the CCJE assessment would be sent to Slovakia as well as published in the CCJE website.

III. PREPARATION OF THE DRAFT OPINION NO. 17 ON JUSTICE, EVALUATION AND INDEPENDENCE

16. The members of the Working Group thanked Ms Anne SANDERS, scientific expert, and Mr Richard AIKENS for having prepared the preliminary draft of the Opinion No. 17 (document CCJE-GT(2014)4) on the basis of conclusions of the 26th meeting of the Working Group on 17-19 March 2014.
17. The present draft included the latest comments made by the members of the Working Group which they proceeded to discuss, along with examining in-depth the contents of the draft and various formulations.
18. The members of the Working Group emphasised the descriptive element of the Opinion and accordingly the need to refer to the concrete practices in the member States, as highlighted in their responses to the questionnaire and the summary prepared by Ms SANDERS (document CCJE-BU(2014)1). The descriptive part of the Opinion should be followed by analysis and recommendations.
19. Mr AIKENS took the lead in discussions and, with the help of the expert and the Secretariat, made substantial changes in the draft Opinion, taking into account the sensitive formulations reflecting different practices in the member States, and articulating recommendations based on the overarching considerations of the independence of judges and quality of their work. The draft also included numerous references to documents of various international organisations.
20. By the end of the meeting, the following timetable was agreed for the process of further preparation of the Opinion No. 17:
 - by 7 July 2014, Ms SANDERS would finalise the draft as regards various citations and issues of ranking and peer review of judges and send the text to Mr AIKENS for review;
 - by 14 July 2014, Mr AIKENS would send the amended text to the Secretariat which would forward it to the members of the Bureau and the Working Group, as well as take care of the French version of the draft;
 - by 28 July 2014, the members of the Bureau and the Working Group would send their comments to the Secretariat which, in co-operation with Mr AIKENS and Ms SANDERS, would integrate them in the draft and send the final version to all CCJE members on 1 September 2014;
 - the latters' comments would be awaited by the end of September 2014, after which the Secretariat would integrate them into the draft to be considered in the course of the CCJE plenary meeting on 22-24 October 2014.

IV. OTHER BUSINESS

21. Mr Richard AIKENS informed the members of the Working Group of the invitation from Lady Justice Arden, Head of International Judicial Relations for England and Wales of the Royal Courts of Justice in London, to host the 16th plenary meeting of the CCJE in London in the autumn of 2015, the year that marks the 800th anniversary of the Magna Carta. The members of the Working Group reacted very positively to this invitation, which would further be considered by the Council of Europe.
22. Mr Nils ENGSTAD (Norway) also informed the members of the Working Group about the expected invitation from the Norwegian Courts Administration to host the meeting of the CCJE Working Group in June 2015 in Norway. The members of the Working Group also reacted very positively to this initiative. The Secretariat stated that upon the receipt of the official invitation, it would further be considered by the Council of Europe.

APPENDIX I

AGENDA / ORDRE DU JOUR

1. Opening of the meeting / *Ouverture de la réunion*
2. Adoption of the agenda / *Adoption de l'ordre du jour*
3. Communication by the President, members of the Bureau and the Secretariat / *Communication du Président, des membres du Bureau et du Secrétariat*
4. Preparation of the draft Opinion No. 17 on the justice, evaluation and independence / *Préparation du projet d'Avis n° 17 sur la justice, évaluation et indépendance*
5. Other work of the CCJE / *Autres travaux du CCJE*
6. Any other business / *Divers*

APPENDIX II

LIST OF PARTICIPANTS

Members of CCJE-GT / *Membres du CCJE-GT*

AUSTRIA/AUTRICHE

Mr Gerhard REISSNER, President of the International Association of Judges, President of the District Court of Floridsdorf, VIENNA

CROATIA/CROATIE

Mr Duro SESSA, Judge, Supreme Court of Croatia, ZAGREB

ITALY/ITALIE

Mr Raffaele SABATO, Counsellor, Supreme Court of Cassation, Member, Board of Directors, School for the Judiciary, ROME (**apologized/excusé**)

LUXEMBOURG

Mr Jean-Claude WIWINIUS, Président de Chambre, Cour Supérieure de Justice, LUXEMBOURG (**apologized/excusé**)

NORWAY/NORVEGE

Mr Nils ENGSTAD, Judge, Hålogaland Court of Appeal, TROMSØ

PORTUGAL

Mr Orlando AFONSO, Judge, Supreme Court of Portugal, LISBONNE

ROMANIA/ROUMANIE

Ms Aida-Rodica POPA, Judge of the High Court of Cassation and Justice, BUCHAREST

SPAIN/ESPAGNE

Mr José Francisco COBO SÁENZ, Judge, Chair of the Section. 2a, Provincial de Navarra, PAMPLONA

TURKEY/TURQUIE

Mr Osman Nesuh YILDIZ, Reporter Judge, High Council for Judges and Prosecutors, ANKARA (**apologized/excusé**)

Members of the CCJE-BU / *Membres du CCJE-BU*

THE NETHERLANDS/PAYS BAS

Mr Bart van LIEROP, Senior Justice, Administrative High Court for Trade and Industry, THE HAGUE (**President of the CCJE/ *Président du CCJE***)

UNITED KINGDOM/ROYAUME-UNI

Lord Justice Richard AIKENS, Royal Courts of Justice, Strand, LONDON (**Vice-President of the CCJE/ *Vice-Président du CCJE***)

GERMANY/ALLEMAGNE

Mr Johannes RIEDEL, President of the Court of Appeal, Oberlandesgericht, Reichenpergerplatz, Vice-President of the Constitutional Court of North Rhine-Westphalia, KÖLN

SLOVENIA/SLOVENIE

Ms Nina BETETTO, Judge, Vice-President of the Supreme Court, LJUBLJANA

CCJE expert / expert du CCJE

Ms Anne SANDERS (GERMANY), Juniorprofessorin, Rechts-und Staatswissenschaftliche Fakultät, Rheinische Friedrich-Wilhelms Universität, BONN

**COUNCIL OF EUROPE'S SECRETARIAT /
SECRETARIAT DU CONSEIL DE L'EUROPE**

**Directorate General of Human Rights and Rule of Law/
Direction Générale des droits de l'homme et de l'état de droit**

**Division for the independence and efficiency of justice /
Division pour l'indépendance et l'efficacité de la justice**

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