



Strasbourg, 29 July 2015

CCJE-GT(2015)2

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

**Report of the 29<sup>th</sup> meeting  
Bergen, 3-5 June 2015**

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 29<sup>th</sup> meeting in Bergen, Norway, from 3 to 5 June 2015, at the invitation of the Norwegian Courts Administration. 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, reported that on 26 March 2015, he made a presentation to judges and prosecutors from Morocco, Tunisia, Jordan and Egypt within the framework of the training course at the Asser Institute in the Hague, on the CCJE activities and standards and the importance of international cooperation between judges. On 27-28 April 2015, he attended a conference for judges in Bucharest on the topic of the evaluation of judges and presented the CCJE Opinion No. 17(2014). On 21-22 May 2015, he participated in the second meeting organised by the European Committee on Crime Problems (CDPC) on prison overcrowding in charge of preparing a white paper on prison overcrowding.
4. Mr van LIEROP also reported that he would attend a conference on "Securing the independence and effectiveness of the judiciary: European initiatives and perspectives" to be organised in Geneva on 17 June 2015. He would also meet in Geneva with the UN Special Rapporteur on the Independence of Judges and Lawyers Ms Gabriela Knaul, whom he intended to invite to the CCJE plenary meeting in October 2015.
5. Ms Nina BETTETO (Slovenia) reported on her trip to Romania within the framework of the GRECO report, which was in the phase of drafting and which would be discussed and adopted by the GRECO plenary in December 2015 in Strasbourg. In Romania, a special prosecution task force for anti-corruption was set up at a quite high level which resulted in about 10 prosecutors and judges convicted for corruption in 2014. She also participated in a workshop on "Development of the Implementation Plans for Pilot Courts" in Ankara on 27-29 April 2015 within the framework of the Council of Europe project "Developing Mediation Practices in Civil Disputes in Turkey", and made a presentation on the CCJE standards.
6. Ms BETTETO also participated in the project of the European Commission for the Efficiency of Justice (CEPEJ) on the improvement of the delivery of justice in Karlovac Municipal Court in Croatia focusing on the elaboration of timeframes and reduction in the number of litigious cases owing to the increased use of mediation. In particular, she made a contribution to drafting the Action Plan of the project and on 26 March 2015 participated, together with the CEPEJ experts, in the meeting in this court.
7. Mr Gerhard REISSNER (Austria) reported on his participation in the conference on finding a model for National Judicial Council organised on 13-14 May 2015 in Brno by the Supreme Court of the Czech Republic. He made a presentation on the councils

for the judiciary and the CCJE experience on this subject referring in particular to the CCJE Opinion No. 10(2007). He also visited Georgia within the framework of the Council of Europe project on developing the capacity of the judiciary and judicial self-governance in Georgia and presented the aspects of the evaluation of judges.

8. Mr REISSNER also reported on his mission to Albania within the framework of the joint project between the European Union and the Council of Europe on support to efficiency of justice in Albania. He presented in particular the CCJE Opinion No. 7(2005) on justice and society. He continued to be involved in the activities of the Venice Commission.
9. Ms Aida POPA (Romania) referred to the conference organised in Bucharest for judges on 27-28 April 2015 where the evaluation of judges was discussed and the CCJE Opinion No. 17(2014) was examined in-depth, along with the national legal framework for the evaluation of judges in Romania. She underlined the wide coverage of this event by national mass media.
10. Mr van LIEROP briefed the members of the Working Group on the request of the Secretary General of the Council of Europe addressed to the CCJE, as well as to the Consultative Council of European Prosecutors (CCPE), to “urgently draft a comprehensive review of the main challenges for judicial impartiality and independence in member states”<sup>1</sup>.
11. Mr van LIEROP went on to describe the process of preparation of the 2015 edition of the Situation Report on the judiciary and judges in the Council of Europe member states<sup>2</sup> and he reminded of the importance of responding to the request of information needed for compiling this report. He mentioned the follow-up by the CCJE Bureau to the complaints from Ukraine<sup>3</sup> and Turkey<sup>4</sup>.
12. Mr van LIEROP stated that the CCJE Secretariat continued updating a brief annual report on the external activities of the CCJE, on a chronological basis, including responses to requests for legislative assistance which were submitted to the CCJE. Therefore, he asked the members of the Working Group to regularly send to the Secretariat brief information with details of their relevant activities.

### **III. PREPARATION OF THE DRAFT OPINION NO. 18 ON “THE INDEPENDENCE OF THE JUDICIARY AND ITS RELATIONS WITH THE OTHER POWERS IN A MODERN DEMOCRATIC STATE”**

13. The Working Group members highly praised the draft Opinion (document CCJE-GT(2015)2) prepared by Mr AIKENS and Ms Anne SANDERS, scientific expert of the CCJE, where were integrated the comments made earlier by the members of the Bureau and Working Group. The draft included the important concepts of legitimacy and accountability of the judiciary as discussed previously on various occasions, including the seminar held on 19 March 2015<sup>5</sup>.

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<sup>1</sup> For more details, see the report on the 19th meeting of the CCJE Bureau in Bergen on 3 June 2015, document CCJE-BU(2015)6, paras 13-15.

<sup>2</sup> Ibid., paras 6-8.

<sup>3</sup> Ibid., para 10.

<sup>4</sup> Ibid., para 11.

<sup>5</sup> For more details, see the report on the 28th meeting of the CCJE Working Group in Strasbourg on 18-20 March 2015, document CCJE-GT(2015)1, paras 19-26.

14. The members of the Working Group shared their vision on different aspects of the draft Opinion focusing on judicial independence as a basis for relations of judicial power with other state powers. Structural as well as substantive issues were discussed. A number of practical and current problems of the judiciary were already included in the draft; however, interferences concept should be enlarged, inspections and parliamentary investigations should be described separately. Taking into account the subject matter of the Opinion, it was considered quite difficult for the latter to end with recommendations or proposals; this issue should be discussed further and decided whether to have the recommendations and how to draft them.
15. It was suggested that the accountability issue might have been reflected a little bit too strongly and the duties of judges too weakly in the draft. It might be understood that judges should gain the trust of other state powers, however judges were responsible to the society and not to the other powers of state. And in general, the powers of the state were not accountable to each other, they were all accountable to the society.
16. Since the Opinion would be published and circulated among legal professionals at large, it should be clearly understandable not only for the experts, therefore the theoretical and practical approaches should be reconciled, and the text should be accessible for as many professionals as possible. As regards the concrete examples and problems in the member states, it was suggested, due to the format and objectives of the Opinion, not to name the countries but specific problems and situations and propose solutions. When divisions between the three state powers were presented, respect of the principle of separation of powers should be emphasised all the time.
17. The members of the Working Group proceeded to discuss the issues of transparency of judges' work, their legitimacy, criminal and civil justice, where the state itself is a party to the civil dispute, some specific functions like those of constitutional courts having impact on the legislation, or those of administrative courts having impact similar to the executive control functions, and other issues as well.
18. **It was agreed that, based on the conclusions of these discussions, Mr AIKENS and Ms SANDERS would prepare the revised version of the Opinion and send it, through the Secretariat, to all members of the Working Group, whose comments would be awaited by 21 August 2015, after which Mr AIKENS and Ms SANDERS would make the final adjustments and the Secretariat would send, on 23 September 2015, the final draft to all members of the CCJE for their comments before the plenary meeting.**

#### IV. OTHER BUSINESS

19. Mr van LIEROP mentioned the issue of possibly introducing deputy members of the CCJE which may be included in the CCJE Terms of Reference for adoption by the Committee of Ministers of the Council of Europe.
20. The CCJE's plenary meeting would take place in London on 14-16 October 2015, within the framework of the 800<sup>th</sup> anniversary of the Magna Carta, hosted by the Royal Courts of Justice.
21. Ms Aida-Rodica POPA (Romania) mentioned that the official request for the CCJE plenary meeting in 2016 to be organised in Bucharest would be made.

## 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 CCJE and the Secretariat / *Communication du Président, des membres du CCJE et du Secrétariat*
4. Preparation of the draft Opinion No. 18 on « the independence of the judiciary and its relations with the other powers in a modern democratic state » / *Préparation du projet d'Avis n° 18 sur « l'indépendance du système judiciaire et ses relations avec les autres pouvoirs dans un État démocratique moderne »*

This point of the agenda includes a seminar on the topic of « independence of the judiciary and its relations with the other powers in a modern democratic state » (3 June (16:00 – 18:00), Gulating Court of Appeal (Gulating lagmannsrett) at Gulatingsplass 1, Bergen, Norway) / *Ce point de l'ordre du jour comprend un séminaire sur le thème du « indépendance du système judiciaire et ses relations avec les autres pouvoirs dans un État démocratique moderne » (3 juin (16:00 – 18:00), Cour d'appel de Gulating (Gulating lagmannsrett) au Gulatingsplass 1, Bergen, Norvège)*

5. Other work of the CCJE / *Autres travaux du CCJE*

Participation of the CCJE in other meetings in and outside the Council of Europe  
*Participation du CCJE à d'autres réunions au sein et à l'extérieur du Conseil de l'Europe*

6. Any other business / *Divers*

## APPENDIX II

### LIST OF PARTICIPANTS

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

##### **GERMANY/ALLEMAGNE:**

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

##### **NETHERLANDS/PAYS BAS**

Mr Bart Van LIEROP, Justice, Court of Appeal for Trade and Industry, THE HAGUE

##### **SLOVENIA/SLOVENIE:**

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

##### **UNITED KINGDOM/ ROYAUME-UNI:**

Lord Justice Richard AIKENS, Royal Courts of Justice, Strand, LONDON

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

##### **AUSTRIA/AUTRICHE:**

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

##### **BULGARIA/BULGARIE:**

Ms Maiia ROUSSEVA, Judge of the Sofia City Court, SOFIA

##### **CROATIA/CROATIE:**

Mr Duro SESSA, Judge, Supreme Court, ZAGREB

##### **ITALY/ITALIE:**

Mr Raffaele SABATO, Councillor, Supreme Court of Cassation, ROME

##### **NORWAY/NORVEGE:**

Mr Nils A. ENGSTAD, Judge, Halogaland Court of Appeal, TROMSØ

##### **PORTUGAL:**

Mr Orlando AFONSO, Juge à la Cour Suprême, ALMADA

##### **ROMANIA/ROUMANIE:**

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

##### **SPAIN/ESPAGNE:**

Mr José Francisco COBO SÀENZ, Magistrato, Presidente de la Secc. 2a, Provincial de Navarra, PAMPLONA

##### **« THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA »/**

##### **”L’EX RÉPUBLIQUE YUGOSLAVE DE LA MACÉDOINE” :**

Ms Aneta ARNAUDOVSKA, Judge, Director of the Academy for Training of Judges and Prosecutors, SKOPJE

**SCIENTIFIC EXPERT / *EXPERT CONSULTANT***

Dr Anne SANDERS, M.Jur. (Oxford), Juniorprofessorin, Rechts- und Staatswissenschaftliche Fakultät, Rheinische Friedrich-Wilhelms Universität, BONN, GERMANY

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

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Division for the Independence and Efficiency of Justice  
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