



## **High-level Conference on the harmonisation of case law and judicial practice**

*organised by the Council of Europe in cooperation with the Council of State of Greece*

**Athens, 29 September 2017**

*Venue: Ministry of Foreign Affairs, Akadimias 1*

Harmonisation of case law aims at ensuring effective and qualitative justice in an equitable and coherent manner based on a common understanding of national law and international standards. The enhanced application of the Council of Europe legal instruments at the national level is primarily contingent on coherent judicial practice. Inconsistent interpretation of relevant legal instruments adversely affects their implementation, thus resulting in numerous complaints being brought to the European Court of Human Rights (ECtHR). Most problems do not arise from the quality of legal texts, but rather are attributable to inconsistent judicial interpretation.

Moreover, discrepancies in domestic case law may in themselves provoke legal uncertainty to such an extent as to violate the right to a fair trial enshrined in the European Convention on Human Rights (ECHR). Further, different interpretations given by different courts in similar cases create confusion for the parties and diminish the confidence the society places in the judicial system. Ultimately, inconsistent interpretation also creates space for abuse.

Harmonising case law in a given national legal order is necessarily a complex and delicate process on account of the inevitable tension between judicial independence and the need for a coherent and predictable legal order. A fine balance should be struck between the judicial discretion in interpretation of domestic and international law and the need to ensure that this interpretation is consistent.

Member states' judicial authorities have developed a wealth of different practices, methods and procedures in response to this challenge. The Council of Europe is increasingly supporting such good practices and stimulates its member states to resolve problems whether they have been identified through the ECtHR's case law or not. Some innovative mechanisms and tools have been tested to that effect by different member states: advisory opinions issued by high courts, special functions conferred to case law/human rights departments, enhancing access to case law through modern databases, creation of harmonisation panels, modern judicial training techniques on the ECHR and ECtHR case law, etc.

It has been acknowledged that such harmonisation practices have enhanced judicial dialogue, which is vital to the good functioning of any judicial system. They have resulted in better communication among all actors of national judicial systems and greater interaction with the Council of Europe legal mechanisms, thus enhancing their domestic implementation. Protocol No 16 to the ECHR, often called “a Protocol of Dialogue”, was also meant to contribute to those processes. Judicial actors in different member states have expressed interest in further discussion of these matters and for the exchange of good practices. The recently established Superior Courts’ Network is yet another tool for communication between national courts and the ECtHR.

The Conference is organised by the Human Rights National Implementation Division of the Human Rights Policy and Cooperation Department (Directorate General of Human Rights and Rule of Law, DGI) and is the first multilateral event to respond to the interest expressed in different member states of the Council of Europe for its activities supporting the harmonisation of case law. The event is attended by high representatives of European judiciaries and their staff responsible for case law review and should allow participants to take stock of positive experiences and to explore the ways in which other states could become involved in relevant activities.

A roadmap for future activities will be discussed, including the possible establishment of communication platforms to facilitate continuous multilateral communication among interested judiciaries and exchange of good practices in the area.

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### ***Programme***

8.45 – 9.15 Registration of participants and welcome coffee

9.15 – 9.45 **Welcoming remarks**

Mr Stavros Kontonis, Minister of Justice, Transparency and Human Rights of the Hellenic Republic

Mr Christos Giakoumopoulos, Director General, Directorate General Human Rights and Rule of Law (DGI), Council of Europe

Mr Nikolaos Sakellariou, President of the Council of State of Greece

9.45 – 11.15 **Session 1 Consistency of the case law as a prerequisite to legal certainty: European and national perspectives**

Chair: Mr Mikhail Lobov, Head of Human Rights Policy and Co-operation Department (DGI), Council of Europe

*Panel*

Mr Lawrence Early, Jurisconsult, Registry of the European Court of Human Rights  
Mr Bruno Pireyre, President of Chamber, Director of the Documentation, Studies and Report Department; Head of the International Relations Department; Head of the Communication Department, Court of Cassation, France  
Mr Nils Engstad, President of the Consultative Council of European Judges (CCJE)

Discussion by representatives of national judiciaries

11.15 – 11.45 Coffee break

11.45 – 13.15 **Session 2 Harmonisation through identification of human rights issues: problems, challenges and possible solutions**

Chair: Mr Nikolaos Sakellariou, President of the Council of State of Greece

*Panel*

Mr Ilias Mazos, Councillor of State, Council of State of Greece  
Mr Hasan Bakirci, Deputy Section Registrar, Registry of the European Court of Human Rights  
Ms Milica Vesovic, Council of Europe Consultant

Discussion by representatives of national judiciaries

13.15 – 14.45 Lunch break, University of Athens

14.45 – 16.00 **Session 3 Good practices in the Council of Europe's member states and related cooperation activities by the Council of Europe: presentation of successful tools, mechanisms, approaches**

Chair: Mr Jean-Luc Sauron, Member of the Council of State of France, Professor at Paris Dauphine University, HELP certified tutor

*Panel*

Ms Ljiljana Filipović, Judge, Supreme Court of the Federation of Bosnia and Herzegovina  
Ms Vesna Popović, Judge, Supreme Court of Cassation, Serbia  
Mr Viktor Momotov, Judge, Secretary of the Plenum, Supreme Court of the Russian Federation

Discussion by representatives of national judiciaries

16.00 – 16.30 Coffee Break

16.30– 17.00 **Discussion on next steps for 2017-2020: Co-operation between national courts' case law departments and the Council of Europe and possible synergies with the Superior Courts' Network set by the European Court of Human Rights**

Chair: Ms Tatiana Termacic, Head of Human Rights National Implementation Division (DGI), Council of Europe

17.00 – 17.15 Final observations by Mr Christos Giakoumopoulos, Director General, Directorate General Human Rights and Rule of Law (DGI), Council of Europe

17.15 – 17.30 Closing speech by Mr Nikolaos Sakellariou, President of the Council of State of Greece

18.00 Visit of the Greek Parliament – Meeting with the President of the Parliament

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