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**CONSULTATIVE COUNCIL OF EUROPEAN JUDGES
(CCJE)**

Report of the 4th meeting
Strasbourg, 24-28 November 2003

REPORT TO THE COMMITTEE OF MINISTERS

FOREWORD

The CCJE invites the Committee of Ministers:

- a) to note that, in accordance with its specific terms of reference, it has prepared, for the Ministers' attention, Opinion No. 4 (2003) on appropriate initial and in-service training for judges at the national and European levels (see section II of this report and Appendix III);
- b) to note that, supplementing its Opinion No. 1 (2001) on standards concerning the independence of the judiciary and the irremovability of judges, it has prepared, for the Ministers' attention, Opinion No. 5 (2003) on the law and practice of judicial appointments to the European Court of Human Rights (see section III of this report and Appendix IV);
- c) to note that it has helped to organise and participated in the 1st European Conference of Judges on the theme "Early settlement of disputes and the role of judges" (see section V of this report and Appendix V);
- d) to note that it has forwarded Opinion No 4 (2003) and Opinion No. 5 (2003) to the European Committee on Legal Co-operation (CDCJ), the European Committee on Crime Problems (CDPC) and the Steering Committee for Human Rights (CDDH), that it has transmitted Opinion No. 4 (2003) to the members of the Lisbon Network and that it has prepared comments on the preliminary draft recommendation on judicial review of administrative acts, which it has communicated to the Project Group on Administrative Law (CJ-DA);
- e) to adopt, subject to any amendment it may wish to make, the CCJE's draft revised specific terms of reference for 2004-2005 (see sections VI and VII of this report and Appendix VI);
- f) to agree to hear its Chair on the work of the CCJE and to set a date for this hearing (if possible, 7 April 2004);
- g) to note that it has invited the Association of European Administrative Judges to participate in the activities of the CCJE as an observer;
- h) to take note of this report as a whole.

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REPORT TO THE COMMITTEE OF MINISTERS

I. INTRODUCTION

1. The Consultative Council of European Judges (CCJE) held its 4th meeting at Council of Europe headquarters in Strasbourg from 24 to 28 November 2003. The Right Honourable Lord Justice Mance (United Kingdom) was elected to chair the meeting. The list of participants is shown in Appendix I to this report, and the agenda in Appendix II.

2. The CCJE's main task is to prepare opinions for the Committee of Ministers on general questions concerning the independence, impartiality and competence of judges and to contribute to the implementation of the framework global action plan for judges in Europe, adopted by the Committee of Ministers at its 740th meeting.

3. In accordance with its terms of reference and pursuant to the decision taken at its third meeting (see CCJE (2001) 43, section IV), the CCJE adopted, for the attention of the Committee of Ministers, Opinion No. 4 (2003) on appropriate initial and in-service training for judges at the national and European levels. The text of Opinion No. 4 (2003) is set out in Appendix III to this report (see also section II below).

4. Supplementing its Opinion No. 1 (2001) on standards concerning the independence of the judiciary and the irremovability of judges, the CCJE adopted, for the attention of the Committee of Ministers, Opinion No. 5 (2003) on the law and practice of judicial appointments to the European Court of Human Rights. The text of Opinion No. 5 (2003) is set out in Appendix IV to this report (see also section III below).

5. In accordance with the decision taken at its third meeting (see CCJE (2002) 37, section V), the CCJE helped to organise and participated in the 1st European Conference of Judges. The list of participants in the conference, the programme, the summary report and the conclusions are to be found in Appendix V to this report (see also section V below).

6. The CCJE's comments on the draft recommendation on judicial review of administrative acts are set out in section IV of this report.

7. The CCJE invites the Committee of Ministers to adopt, subject to any amendment it may wish to make, the draft revised specific terms of reference of the CCJE for 2004-2005, as shown in Appendix VI to this report (see also sections VI and VII below).

8. Mr Alain Lacabarats (France) was elected Chair of the CCJE, and Mr Raffaele Sabato (Italy) Vice-Chair as from 1st January 2004 (see section X (d) below).

II. ADOPTION OF OPINION No. 4 (2003)

9. Having taken account of delegations' written and oral observations, the CCJE amended the draft text drawn up by the CCJE-GT and unanimously adopted Opinion No. 4 (2003) on appropriate initial and in-service training for judges at the national and European levels.

10. In accordance with its terms of reference, the CCJE submitted Opinion No. 4 (2003), as set out in Appendix III to this report, to the Committee of Ministers.

11. The CCJE invited the Committee of Ministers to note that it had forwarded Opinion No. 4 (2003) to the CDCJ, the CDPC and the CDDH, so that they could consider any appropriate further action, especially of a standard-setting nature, and to the members of the European Network for the exchange of information between the persons and entities responsible for the training of judges and public prosecutors (Lisbon Network), so that they could take it into account in their future work.

12. Having completed its work on Opinion No. 4 (2003), the CCJE thanked all those who had participated in preparing the text for their valuable input, in particular its specialist, Ms Rosa Jansen, for the very useful report and information she had provided.

III. ADOPTION OF OPINION No. 5 (2003)

13. The CCJE endorsed the report "Judicial independence: law and practice of appointments to the European Court of Human Rights" (INTERIGHTS, May 2003), which gave a good analysis of the situation, and the recommendations made in it.

14. The CCJE pointed out that the decisions taken by international courts had a growing impact on national courts and it was accordingly essential that the formers' membership should guarantee their independence and impartiality, so as to safeguard public confidence and trust in systems of justice.

15. Supplementing its Opinion No. 1 (2001) on standards concerning the independence of the judiciary and the irremovability of judges, which had already raised the issue of appointments to supranational courts, the CCJE prepared and adopted, for the attention of the Committee of Ministers, Opinion No. 5 (2003) on the law and practice of judicial appointments to the European Court of Human Rights.

16. In accordance with its terms of reference, the CCJE submitted Opinion No. 5 (2003), as set out in Appendix IV to this report, to the Committee of Ministers.

17. The CCJE invited the Committee of Ministers to note that it had forwarded Opinion No. 5 (2003) to the CDCJ, the CDPC and the CDDH, so that they could consider any appropriate further action, especially of a standard-setting nature.

IV. COMMENTS ON THE PRELIMINARY DRAFT RECOMMENDATION ON JUDICIAL REVIEW OF ADMINISTRATIVE ACTS

18. As requested by the Working Party of the Project Group on Administrative Law (CJ-DA-GT) (see CCJE-GT (2003) 8, section VII b), the CCJE examined the preliminary draft recommendation on judicial review of administrative acts, on which it made the following comments.

19. The CCJE expressed satisfaction with the substance of the preliminary draft recommendation and considered that the text fully reflected the standards to be applied to judges, as recommended in its Opinion No. 1 (2001).

20. The CCJE pointed out that judges in the administrative courts were subject to specific pressures on account of the characteristics of administrative proceedings, to which public authorities were party. It considered that the future recommendation would have a significant role in strengthening the status of administrative court judges and the guarantees of their independence and impartiality, essential to effective protection of citizens' rights, since it made it quite clear that the same rules and standards should apply to all judges and courts, irrespective of the nature of their jurisdiction.

21. The CCJE had the following suggestion concerning the substance of the preliminary draft recommendation: in part A ("Definitions"), paragraph 2, the following phrase should be added after the word "tribunal": "(which may include a court of appeal or another appeal body,")". The definition of judicial review would accordingly be worded as follows: "By "judicial review" is meant the examination and determination by a tribunal (which may include a court of appeal or another appeal body) of the lawfulness of an administrative act."

22. The CCJE invited the Committee of Ministers to note that it had transmitted comments on the preliminary draft recommendation on judicial review of administrative acts to the CJ-DA.

V. EUROPEAN CONFERENCE OF JUDGES

23. In the course of the CCJE's 4th meeting, a first European Conference of Judges on the theme "Early settlement of disputes and the role of judges" took place at the Palais de l'Europe from 24 to 25 November 2003. The conference was chaired by the Right Honourable Lord Justice Mance, Chair of the CCJE. The CCJE expressed satisfaction with the conference's proceedings, which had borne out the topicality of the chosen theme, and thanked the Council of Europe for having organised this major event, which had brought together 81 representatives of 45 states, including Council of Europe observer states.

24. The CCJE underlined that the degree of interest in the conference's proceedings showed the need for a wide-ranging debate in judicial circles on the problems shared by modern justice systems in Europe and elsewhere and on the various emerging solutions for avoiding litigation or expediting dispute settlement.

25. It thanked the Polish delegation for offering to hold a second European Conference of Judges in Poland in 2005 during the Polish chairmanship of the Committee of Ministers and fully concurred with the conference's acceptance of this invitation.

26. The CCJE proposed that the subject of the second European Conference of Judges should be relations between judges and the media. This theme was directly related to the CCJE's terms of reference for 2005, subject to their adoption by the Committee of Ministers. The CCJE accordingly asked the Council of Europe to provide the resources necessary for holding this conference.

27. The CCJE stressed that the second conference should be widely publicised in good time, so as to give a large number of judges the opportunity to participate.

28. The report by the Chair of the first European Conference of Judges, reflecting the principal issues raised by the conference, the Conclusions of the Conference, the programme and the list of participants are to be found in Appendix V to this report.

VI. ADOPTION OF DRAFT REVISED SPECIFIC TERMS OF REFERENCE FOR THE CCJE FOR 2004 AND 2005

29. After examining the preliminary draft revised specific terms of reference for 2004 and 2005, drawn up by its working party, the CCJE completed and adopted the draft text, as set out in Appendix VI to this report.

30. These revised specific terms of reference took account of the results of the first European Conference of Judges on the theme of early settlement of disputes and the role of judges (see section V above and Appendix V to this report) and of the priorities laid down in the framework global action plan for judges in Europe (see doc. CCJE (2001) 24).

31. After considering the request for observer status with the CCJE submitted by the Chair of the Association of European Administrative Judges, the CCJE gave a favourable response, which it invited the Committee of Ministers to note.

32. The CCJE invited the Committee of Ministers to adopt, subject to any amendments it might wish to make, the draft revised specific terms of reference for 2004 and 2005 set out in Appendix VI to this report.

VII. CONTRIBUTION AS FROM 2004 TO IMPLEMENTATION OF THE FRAMEWORK GLOBAL ACTION PLAN FOR JUDGES IN EUROPE

33. The CCJE confirmed that it wished to play an active role in the implementation of the framework global action plan for judges in Europe and was of the opinion that its work might also help states to fulfil their obligations under Article 6 of the European Convention on Human Rights.

34. In accordance with the decision taken at its third meeting (see doc. CCJE (2002) 37, section VI), the CCJE set itself objectives for 2004 and 2005.

A. Preparation of opinions

i) 2004

35. The CCJE agreed that in 2004, subject to adoption of its revised specific terms of reference by the Committee of Ministers, it should deal with the theme of a fair hearing within a reasonable time and the role of judges in proceedings, regard being had to alternative means of dispute settlement.

36. The CCJE noted that this theme was directly linked to the matters discussed at the 1st European Conference of Judges. In dealing with this theme, the CCJE would address, in particular, the following issues raised in the framework global action plan for judges in Europe (see doc. CCJE (2001) 24):

- case management (point II e of the action plan);
- judges' role in trials (point III C a of the action plan).

37. The CCJE reiterated that large-scale recourse to alternative means of dispute settlement could be effective in helping to reduce the excess case-load in the courts. It accordingly considered it important also to discuss this matter.

38. The CCJE considered that two specialists would be needed to deal with this theme: one concerned with civil-law procedure and the other with criminal-law procedure.

39. With a view to preparing an opinion on this subject, the Chair and Vice-Chair of the CCJE would draw up a questionnaire for delegations by January 2004. Replies to the questionnaire should reach the secretariat by the end of February 2004.

40. On the basis of the replies to the questionnaire, the specialists would be asked to prepare two reports, one concerning criminal proceedings and the other civil, which would be submitted to the CCJE's working party. The working party would be responsible for deciding how far it was feasible to consider both criminal and civil proceedings in one year and how far it should limit any part of its work to one of these topics. The working party would draw up an explanatory document at its first meeting, and a sub-committee working with the Secretariat would prepare a draft opinion which would be discussed and finalised at its second meeting and submitted to the CCJE for adoption at its meeting in 2004.

41. Delegations wishing to submit written comments would be required to e-mail these to the secretariat in good time.

42. In accordance with the terms of reference, subject to their adoption, the opinion on a fair hearing within a reasonable time and the role of judges in proceedings, regard being had to alternative means of dispute settlement, would then be submitted to the Committee of Ministers.

43. The CCJE would also forward the opinion to the CDCJ, the CDPC and the CDDH for consideration of any appropriate further action, especially of a standard-setting nature.

ii) 2005

44. In 2005, subject to adoption of its revised specific terms of reference by the Committee of Ministers, the CCJE would deal with the theme "Justice and society", one of the headings of the framework global action plan for judges in Europe (see doc. CCJE (2001) 24, point V).

45. In this context the CCJE would focus in particular on the following issues:

- the educational role of the courts in a democracy, relations with the public and the media (point V b of the action plan);
- relations with all those involved in court proceedings (point V c of the action plan);
- accessibility, simplification and clarity of the language used by the courts in proceedings and decisions (point V d of the action plan).

46. The work on this theme would seek to encourage the courts to participate in democratic debate within society, with the aim of raising awareness of the implications of the administration of justice and of the rule of law, while taking care to preserve the courts'

apolitical nature, to strengthen the judicature's authority in society and to encourage the use of simpler, clearer language by the courts in both proceedings and decisions.

47. The opinion on this subject should also highlight the absolutely essential need for co-operation between the courts and lawyers.

48. The approach followed would be similar to that set out in paragraphs 39 to 41 above: delegations would be requested to reply in good time to a questionnaire on the chosen theme, drawn up by the Chair and the Vice-Chair. Based on their replies, a specialist would prepare a report, which would serve as a basis for the working party's discussions. The working party would first prepare an explanatory document and then a draft opinion, which would be submitted to the CCJE for adoption.

49. In accordance with the terms of reference, subject to their adoption, the opinion on "Justice and society" would then be submitted to the Committee of Ministers.

50. The CCJE would also forward this opinion to the CDCJ, the CDPC and the CDDH for consideration of any appropriate further action, especially of a standard-setting nature.

B. Other work

51. The CCJE was prepared to provide states with practical assistance in complying with standards relating to the judiciary, in particular those set out in its opinions. It specifically intended to study good practices which might be brought to the attention of all member states.

52. It confirmed its readiness to advise the steering committees as to the appropriateness of updating the Council of Europe's legal instruments relating to the judiciary, and the manner of doing so, and to co-operate with the Venice Commission regarding constitutional issues of relevance to the judiciary.

53. The CCJE would prepare, for the attention of the Committee of Ministers, a report setting out detailed proposals for the revision of its earlier opinions. This report would if necessary contain appropriate draft texts for updating the opinions.

54. The CCJE was willing to prepare texts or opinions at the request of the Committee of Ministers or other Council of Europe bodies.

55. The CCJE confirmed that development of partnerships in the judicial sphere between the courts, judges and associations of judges should be encouraged. The delegations would inform the secretariat of possibilities in this field, including which national organisations were willing to participate in such a project and on what terms.

VIII. HEARING BY THE COMMITTEE OF MINISTERS

56. The CCJE thanked the Ministers' Deputies for having heard a statement by its Chair on the past and future work of the CCJE at their 848th meeting (Strasbourg, 10 July 2003) and drew attention to the importance of the subsequent exchange of views, which would be extremely useful for the pursuit of its activities. It was pleased to note the interest shown by the Ministers' Deputies in the CCJE's work and the support given to it and fully concurred

with the idea expressed by the Ministers' Deputies that hearings of the Chair of the CCJE by the Ministers' Deputies should be held on a regular basis.

57. The CCJE consequently wished the Committee of Ministers to grant its Chair a hearing in 2004. Subject to an invitation from the Ministers' Deputies, this hearing might take place in the week of 5 April 2004.

IX. CO-OPERATION WITH OTHER COUNCIL OF EUROPE BODIES

a) Exchange of views with the Venice Commission

58. The CCJE took note of the exchange of views between its Chair and the Venice Commission during the latter's plenary meeting in 2003 and confirmed its interest in participating in the commission's work on constitutional issues of relevance to the judiciary. It noted in particular the proposal for a study on Judicial Service Commissions or equivalent bodies in Europe, which might be conducted jointly by the CCJE and the Venice Commission. The CCJE invited the Venice Commission to contact its secretariat whenever it might usefully contribute to the commission's work.

b) European Commission for the Efficiency of Justice (CEPEJ)

59. The CCJE noted that the European Commission for the Efficiency of Justice (CEPEJ) was considering launching activities also based on the framework global action plan for judges in Europe and welcomed this. It nonetheless thought that, to rationalise the respective efforts, these activities must be coordinated. It consequently proposed granting the commission observer status with the CCJE, and vice versa.

c) Group of Specialists on Judicial Standards (CJ-S-JU)

60. The CCJE noted that at its 851st meeting (Strasbourg, 9 September 2003) the Committee of Ministers had approved the specific terms of reference of a Group of Specialists on Judicial Standards (CJ-S-JU) with the aim of taking follow-up action to the CCJE's opinions at intergovernmental level. It expressed its satisfaction and welcomed the proposal to consider the ideas contained in the CCJE's opinions as potential subject-matter for international legal instruments.

61. The CCJE also noted that the CJ-S-JU would begin its work after the CCJE had adopted its opinion on a fair hearing within a reasonable time and judges' role in proceedings, regard being had to alternative means of dispute settlement, which would be adopted in November 2004, subject to adoption of the CCJE's draft revised specific terms of reference by the Committee of Ministers.

62. The delegations to the CCJE considered that there was a need for close co-ordination of its work with that of the CJ-S-JU, in order to avoid any discrepancies or contradictions when drafting texts.

X. OTHER BUSINESS

a) Exchange of views on the proposed constitutional reform concerning appointment of judges in the United Kingdom

63. The CCJE examined and took note of the consultation paper prepared by the Department of Constitutional Affairs (DCA) concerning reform of the system for appointing judges in the United Kingdom.

64. It noted that a number of proposals contained in the document could be clarified, particularly those concerning disciplinary matters, a career path for women judges, the authority responsible for the judiciary, allocation of responsibilities among judges and the membership of the appointing commission.

65. The CCJE would continue to monitor developments concerning this reform and was willing to give an opinion on the proposed solution.

b) Exchange of views on the situation of the judiciary in Moldova

66. After hearing a statement by the Moldovan delegation on the country's judicial system and system for appointing judges, the CCJE noted that the arrangements for the appointment of judges and composition of Moldova's Judicial Service Commission were not consistent with the requirements of the European Charter on the Statute for Judges or its own Opinion No. 1 (2001). It noted that the executive (in particular the President of the Republic) and the legislature could freely intervene in the process of appointing judges and that reform necessitated amendment of the Constitution.

67. Having noted that the Council of Europe was working closely with Moldova in order to reinforce guarantees of judicial independence, the CCJE expressed satisfaction that the relevant Moldovan authorities had confirmed their desire to bring national law, including the Constitution, into line with Council of Europe requirements. The CCJE would closely monitor developments in this field and was prepared to give an opinion on any proposed reforms.

c) Agenda for the next meeting of the CCJE

68. The CCJE agreed the following agenda for its next meeting:

- 1) Preparation of an opinion on a fair hearing within a reasonable time and the role of judges in proceedings, regard being had to alternative means of dispute settlement;
- 2) Exchange of views on preparations for the 2nd European Conference of Judges;
- 3) Exchange of views on arrangements for preparing an opinion on "Justice and society";
- 4) Discussion on issues to be dealt with by the CCJE as from 2006;
- 5) Exchange of views on practical assistance for states in judicial matters;
- 6) Exchange of views on partnership in the judicial sphere;

7) Election of the Chair and the Vice-Chair of the CCJE.

d) Election of the Chair and the Vice-Chair of the CCJE

69. Having taken note of a presentation by the secretariat of the rules applicable to elections of Chairs and Vice-Chairs of committees, as laid down in Resolution (76) 3, the CCJE The CCJE decided to make it the general rule that it elect its Chair and Vice-Chair at the end of plenary meetings for terms of office commencing with the next calendar year, so that the incumbent Chair could finalise the work on the main theme dealt with by the CCJE during his or her term of office.

70. The CCJE accordingly decided that the Right Honourable Lord Justice Mance (elected by acclamation) should chair its 4th meeting and elected its new Chair and Vice-Chair at the end of the meeting as from 1st January 2004.

71. In a secret ballot Mr Alain Lacabarats (France) was elected Chair of the CCJE and Mr Raffaele Sabato (Italy) Vice-Chair, both in the first round of voting.

e) CCJE Working Party

72. In accordance with its revised specific terms of reference, subject to their adoption by the Committee of Ministers, the CCJE held a secret ballot to appoint the members of its working party (CCJE-GT), comprising a Chair, Mr Raffaele Sabato (Italy), and 11 members: Mr Gerhard Reissner (Austria), Mr Duro Sessa (Croatia), Mr Robert Fremr (Czech Republic), Mr Gustav Bygglin (Finland), Mr Alain Lacabarats (France), Mr Otto Mallmann (Germany), Mr Joseph D. Camilleri (Malta), Ms Will Tonkens-Gerkema (Netherlands), Mr Orlando Afonso (Portugal), Mr Aleš Zalar (Slovenia) and the Right Honourable Lord Justice Mance (United Kingdom).

73. Mr Jean-Claude Wiwinius (Luxembourg), Mr Manuel Almenar Belenguer (Spain), Mr Vlado Adamovic (Bosnia and Herzegovina) and Ms Nelly Koutzkova (Bulgaria) would be substitute members of the CCJE-GT (cited by order of the number of votes in their favour).

f) Dates of next meetings

74. The CCJE noted that its next plenary meeting would take place in Strasbourg from 22 to 24 November 2004 and that the next meetings of the CCJE-GT would take place from 5 to 7 April 2004 and in the first half of July 2004.

APPENDIX I**LIST OF PARTICIPANTS****MEMBER STATES / ETATS MEMBRES**

ALBANIA / ALBANIE : Mr Perikli ZAHARIA, Supreme Court of the Republic of Albania, TIRANA

ANDORRA/ANDORRE : M. Antoni FIÑANA, Batllia d'Andorre, ANDORRA LA VELLA

ARMENIA / ARMENIE: Mr Karen CHILINGARYAN, Commercial Court of Armenia, YEREVAN

AUSTRIA / AUTRICHE : Mr Gerhard REISSNER, District Court of Floridsdorf, VIENNA;
Mr Heinz WIETRZYK, Superior Court of Appeal, GRAZ

AZERBAIJAN / AZERBAÏDJAN: M. Etibar NABIYEV, Court City of Sumgayit , SUMGAYIT

BELGIUM / BELGIQUE : Mme Greta SUETENS-BOURGEOIS, Cour de Cassation, Palais de Justice, BRUXELLES

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE : Mr Vlado ADAMOVIC, Court of Bosnia and Herzegovina, SARAJEVO

BULGARIA / BULGARIE: Ms Nelly KOUTZKOVA, Sofia District Court, SOFIA

CROATIA / CROATIE: Mr Duro SESSA, Municipal Court in Zagreb, ZAGREB

CYPRUS / CHYPRE : Mr Stelios NATHANAEL, Nicosia District Court, NICOSIA

CZECH REPUBLIC / REPUBLIQUE TCHEQUE: Mr Robert FREMR, High Court, PRAGUE

DENMARK / DANEMARK: Mr Børge DAHL, Supreme Court of Denmark, KØBENHAVN

ESTONIA / ESTONIE: Mr Uno LÖHMUS, Supreme Court of the Republic of Estonia, TARTU

FINLAND / FINLANDE: Mr Gustav BYGGLIN, Supreme Court of Finland, HELSINKI

FRANCE: M. Alain LACABARATS, Cour d'Appel de Paris, PARIS

GEORGIA / GEORGIE: Ms Mariam TSIKADZE, Supreme Court of Georgia, TBILISI

GERMANY / ALLEMAGNE: Mr Otto MALLMANN, Federal Administrative Court, LEIPZIG

GREECE/GRECE: Mr Theodore APOSTOLOPOULOS, Supreme Court of Greece, ATHENS

HUNGARY / HONGRIE: Mr Károly HORECZKY, Supreme Court, BUDAPEST

ICELAND / ISLANDE: Ms Hjördís HÁKONARDÓTTIR, District Court of Reykjavik, REYKJAVIK

IRELAND / IRLANDE: Mr Kevin O'HIGGINS, High Court, DUBLIN

ITALY / ITALIE : M. Raffaele SABATO, Tribunal de Naples, NAPLES

LATVIA / LETTONIE : (excusé/apologised)

LIECHTENSTEIN : Mr Lothar HAGEN, Criminal Court, VADUZ

LITHUANIA / LITUANIE: Mr Virgilijus VALANČIUS, Supreme Administrative Court of Lithuania, VILNIUS

LUXEMBOURG: M. Jean-Marie HENGEN, Justice de Paix Esch-sur Alzette, ESCH-SUR-ALZETTE ; M. Jean-Claude WIWINIUS, Cour Supérieure de Justice, LUXEMBOURG

MALTA / MALTE: Mr Joseph D. CAMILLERI, Court of Appeal and Constitutional Court, The Courts of Justice, VALLETTA

MOLDOVA : Mr Mihai POALELUNGI, Supreme Court of Justice, CHISINAU

NETHERLANDS / PAYS-BAS: Mrs Will TONKENS-GERKEMA, District Court of Amsterdam, THE HAGUE; M. Peter P. LAMPE, Tribunal de Maastricht, MAASTRICHT

NORWAY / NORVEGE: Mr Lars OFTEDAL BROCH, Supreme Court of Justice, OSLO

POLAND / POLOGNE: Mrs Irena PIOTROWSKA, Circuit Court in Katowice, KATOWICE

PORTUGAL : M. Orlando AFONSO, Cour d'Appel d'Evora, ALMADA

ROMANIA / ROUMANIE: Mme Sanda HUIDUC, Supreme Court of Romania, BUCAREST

RUSSIAN FEDERATION / FEDERATION DE RUSSIE : Mr Leonid EFREMOV, Supreme Commercial Court of the Russian Federation, MOSCOW

SAN MARINO / SAINT-MARIN: (excusé/apologised)

SERBIA AND MONTENEGRO / SERBIE-MONTENEGRO: Mr Omer HADŽIOMEROVIĆ, District Court of Belgrade, BEOGRAD

SLOVAKIA / SLOVAQUIE: Mr Milan KARABIN, Supreme Court of the Slovak Republic, BRATISLAVA

SLOVENIA / SLOVENIE: Ms Maja TRATNIK, High Judicial Council, LJUBLJANA; Mr Aleš ZALAR, Ljubljana District Court, LJUBLJANA

SPAIN / ESPAGNE: M. José Francisco COBO SÁENZ, Audiencia Provincial de Navarra, PAMPLONA ; M. Manuel ALMENAR BELENGUER, Cour d'Appel de Pontevedra, PONTEVEDRA

SWEDEN / SUEDE: Mr Johan HIRSCHFELDT, Svea Court of Appeal, STOCKHOLM; Mr Lars WENNERSTRÖM, Supreme Administrative Court, STOCKHOLM

SWITZERLAND / SUISSE : M. Giuseppe NAY, Tribunal Fédéral suisse, LAUSANNE

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / “L’EX-REPUBLIQUE YUGOSLAVE DE MACEDOINE”: (excusé/apologised)

TURKEY / TURQUIE: Mr Ateş Hasen SÖZEN, Ministry of Justice, ANKARA

UKRAINE: Mr Victor GORODOVENKO, Melitopol district court of Zaporizhska, MELITOPOL

UNITED KINGDOM / ROYAUME-UNI: The Right Honourable Lord Justice MANCE, Royal Courts of Justice, LONDON

COMMUNAUTE EUROPEENNE/EUROPEAN COMMUNITY

Commission européenne/European Commission : (excusé/apologised)

Union européenne / European Union : (excusé/apologised)

OBSERVERS WITH THE COUNCIL OF EUROPE / OBSERVATEURS AUPRES DU CONSEIL DE L’EUROPE

CANADA: (apologised/excusé)

HOLY SEE / SAINT-SIEGE: (apologised/excusé)

UNITED STATES OF AMERICA / ETATS-UNIS D’AMERIQUE: (apologised/excusé)

JAPAN / JAPON: Mr Shigeo TAKII, Supreme Court of Japan, TOKYO ; Mr Fumio HIROTANI, Legal training and Research Institute, TOKYO ; Mr Tatsuya AIZAWA, Mr Naoyuki IWAI, Consulate General of Japan, STRASBOURG

MEXICO / MEXIQUE: M. Joaquin GONZALEZ-CASANOVA, National and International Relations Unit, MEXICO

OBSERVERS WITH THE COMMITTEE / OBSERVATEURS AUPRES DU COMITE

**International Intergovernmental Organisations/
Organisations Internationales Intergouvernementales**

EUROPEAN ASSOCIATION OF JUDGES / ASSOCIATION EUROPEENNE DES
MAGISTRATS : Ms Maja TRATNIK, LJUBLJANA, SLOVENIA

THE ASSOCIATION “MAGISTRATS EUROPEENS POUR LA DEMOCRATIE ET LES
LIBERTES” (MEDEL) / ASSOCIATION MAGISTRATS EUROPEENS POUR LA
DEMOCRATIE ET LES LIBERTES (MEDEL) : M. Ignazio PATRONE, ROMA, ITALY,
Mr Miguel CARMONA RUANO, SEVILLA, SPAIN

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

(CCJE E-mail : ccje@coe.int)

Mr Alexey KOJEMIAKOV, Head of the Department of Private Law, Directorate General I -
Legal Affairs / Chef du Service du droit privé, Direction Générale I - Affaires Juridiques

Mme Danuta WIŚNIEWSKA-CAZALS, Administrative Officer, Secretary of the CCJE,
Directorate General I - Legal Affairs / Administratrice, Secrétaire du CCJE, Direction
Générale I - Affaires Juridiques

Mme Marie-Luce DAVIES, Secretary, Department of Private Law, Directorate General I -
Legal Affairs / Secrétaire, Service du droit privé, Direction Générale I - Affaires Juridiques

Interpreters/Interprètes:

Mr Christopher TYCZKA

Mme Bettina LUDEWIG-QUAINE

Mr Jean SLAVIK

APPENDIX II**AGENDA****Monday 24 and Tuesday 25 November 2003 /
Lundi 24 et mardi 25 novembre 2003****Room / Salle 5**

1. Participation in the European Conference of Judges on the theme of « Early settlement of disputes and the role of judges » / *Participation à la Conférence européenne des juges sur le thème: « Le règlement précoce des litiges et le rôle des juges »*

Background document / Document de référence: Programme of the Conference/
Programme de la Conférence

**Wednesday 26 – Friday 28 November 2003 /
Mercredi 26 – vendredi 28 novembre 2003****Room / Salle 8**

2. Opening of the meeting of the CCJE by a representative of the Secretariat / *Ouverture de la réunion du CCJE par un représentant du Secrétariat*
3. Adoption of the agenda / *Adoption de l'ordre du jour*
4. Election of the Chair and the Vice Chair / *Election du Président et du Vice-président*

Information document / Document d'information

Election of the Chair and the Vice-Chair / *Election du Président ou de la Présidente et du Vice-Président ou de la Vice-Présidente*

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5. Information by the Secretariat / *Informations par le Secrétariat*
6. Examination and adoption of the draft opinion on initial and in-service training at European and national level / *Examen et adoption d'un projet d'avis sur la formation initiale et continue des juges, aux niveaux national et européen*

Working document / Document de travail

Draft opinion based on the texts prepared by the specialist, the Chair of the CCJE-GT, the Secretariat and the replies sent by States to a questionnaire on this subject / *Projet*

d'avis basé sur les textes élaborés par le spécialiste, le Président du CCJE-GT, le Secrétariat et les réponses envoyées par les Etats au questionnaire sur ce sujet

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Appendix IV**

7. Consideration of the follow-up to the European Conference of Judges / *Examen du suivi de la Conférence européenne des juges*

Working document / Document de travail

Conclusions of the Conference / *Conclusions de la Conférence*

8. Exchange of views on the updating of the Opinions of the CCJE / *Echange de vues sur la mise à jour des Avis du CCJE*
9. Examination and adoption of the draft revised specific terms of reference for the CCJE for 2004 and 2005 / *Examen et adoption du projet de mandat spécifique révisé pour le CCJE pour 2004 et 2005*

Working document / Document de travail

Draft revised specific terms of reference for the CCJE for 2004 and 2005 / *Projet de mandat spécifique révisé pour le CCJE pour 2004 et 2005*

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Appendix V**

10. Preparation and adoption of the opinion on the draft Recommendation on the judicial control of administrative acts / *Elaboration et adoption de l'avis sur le projet de Recommandation sur le contrôle juridictionnel des actes de l'administration*

Working document / Document de travail

Request for opinion on the draft Recommendation on the judicial control of administrative acts / *Demande d'avis sur le projet de Recommandation sur le contrôle juridictionnel des actes de l'administration*

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11. Exchange of views on draft questionnaires to be drawn up by the Chair of the Working Party on themes to be dealt with in 2004 and 2005 / *Echange de vues sur les projets de questionnaires à préparer par le Président du Groupe de travail sur les thèmes à traiter en 2004 et 2005*
12. Exchange of views on the report: "Judicial independence: Law and Practice of appointments to the European Court of Human Rights" / *Echange de vues sur le rapport: « L'indépendance des juges: règles et pratiques relatives aux nominations à la Cour européenne des Droits de l'Homme »*

Working document / Document de travail

“Judicial independence: Law and Practice of appointments to the European Court of Human Rights”, INTERIGHTS, May 2003 / « *L’indépendance des juges: règles et pratiques relatives aux nominations à la Cour européenne des Droits de l’Homme* », INTERIGHTS, mai 2003

www.interights.org (click on / cliquer sur NEWS)

13. Exchange of views on the proposed constitutional reforms affecting the judiciary in the United Kingdom, with special reference to the Consultation Paper “Constitutional Reform: a new way of appointing judges” / *Echange de vues sur le projet de réformes constitutionnelles concernant le pouvoir judiciaire au Royaume-Uni avec une référence particulière au document de consultation “Réforme constitutionnelle: une nouvelle voie pour la nomination des juges”*

Working document / Document de travail

« Constitutional Reform : a new way of appointing judges » (CP10/03 July 2003) issued by the Department of Constitutional Affairs (DCA) – formerly the Lord Chancellor’s Department / *Extraits du document: “Réforme constitutionnelle: une nouvelle voie pour la nomination des juges” préparé par le Department of Constitutional Affairs (DCA) – ancien Lord Chancellor’s Department*

in English : www.dca.gov.uk

www.lcd.gov.uk/consult/jacommission/index.htm

Excerpts in English and French / *Extraits en anglais et français: CCJE (2003) 39*

14. Calendar of the future meetings of the CCJE and the CCJE-GT / *Calendrier des futures réunions du CCJE et CCJE-GT*
15. Examination of the request of the Association of European Administrative Judges for status of observer to the CCJE / *Examen de la demande du statut d’observateur auprès du CCJE présentée par la Fédération européenne des juges administratifs*

Working document / Document de travail

Request of the Association of European Administrative Judges for status of observer to the CCJE / *Demande du statut d’observateur auprès du CCJE présentée par la Fédération européenne des juges administratifs*

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16. Any other business / *Divers*

16.1. Exchange of views on the situation of the judiciary in Moldova / *Echange de vues sur la situation du pouvoir judiciaire en Moldova*

Background document / Document de référence

Memorandum submitted by the delegation of Moldova / *Memorandum soumis par la délégation de Moldova*

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16.2. Report by Sir Jonathan Mance on hearings with the Venice Commission and the Committee of Ministers / *Rapport de Sir Jonathan Mance sur les auditions à la Commission de Venise et au Comité des Ministres*

Background document / Document de référence

Presentation by Sir Jonathan Mance given during the 848th meeting of the Committee of Ministers / *Exposé de Sir Jonathan Mance présenté lors de la 848e réunion du Comité des Ministres*

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Appendix VI

16.3. Review of the membership of the Working Party in the light of the themes identified under the future specific terms of reference / *Réexamen de la composition du Groupe de travail à la lumière des thèmes à traiter qui seront fixés par le futur mandat spécifique*

Background documents / Documents de référence

Report of the 1st meeting of the Consultative Council of European Judges (CCJE) (Strasbourg, 8-10 November 2000) / *Rapport de la première réunion du Conseil Consultatif de Juges Européens (CCJE) (Strasbourg, les 8-10 novembre 2000)*

CCJE(2000) 3

Report of the 3rd meeting of the Consultative Council of European Judges (CCJE) (Strasbourg, 13-15 November 2003) / *Rapport de la troisième réunion du Conseil Consultatif de Juges Européens (CCJE) (Strasbourg, les 13-15 novembre 2002)*

CCJE (2002)37

Report of the 4th and 5th meetings of the Working Party of the Consultative Council of European Judges (CCJE-GT) (Evora, 7-8 April 2003 et Strasbourg, 8-10 July 2003) / *Rapport des quatrième et cinquième réunions du Groupe de travail du Conseil Consultatif de Juges Européens (CCJE-GT) (Evora, les 7-8 avril 2003 et Strasbourg, les 8-10 juillet 2003)*

CCJE-GT (2003) 8

Framework global action plan for judges in Europe / *Programme cadre d'action global pour les juges en Europe*

CCJE (2001) 24

Report prepared by Mrs Rosa JANSEN, Specialist, Vice-President of the Court of Utrecht (The Netherlands) / *Rapport établi par Mme Rosa JANSEN, spécialiste, Vice-Présidente du Tribunal d'Utrecht (Pays-Bas)*

CCJE-GT (2003) 3

List of questions to be considered prepared by the Secretariat / *Liste des questions à examiner établie par le Secrétariat*

CCJE-GT (2003) 2
CCJE-GT (2003) 4, Appendix III

Report of the Colloquy on « The Recruitment and training of judges in Europe » (Evora, 9-10 April 2003) / *Rapport du Colloque sur “Le recrutement et la formation des juges en Europe”* (Evora, 9-10 avril 2003)

CCJE-GT (2003) 5

Questionnaire on the training of judges / *Questionnaire relatif à la formation des juges*

CCJE (2001) 34

Answers to the questionnaire submitted by national delegations / *Réponses au questionnaire soumises par les délégations nationales* :

Andorra/*Andorre*

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French only/*français seulement*

Austria/*Autriche*

CCJE (2003)22

English only/*anglais seulement*

Azerbaijan/*Azerbaïdjan*

CCJE (2003)4

English only/*anglais seulement*

Belgium/*Belgique*

CCJE (2003)5

French only/*français seulement*

Bulgaria/*Bulgarie*

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French only/*français seulement*

Croatia/*Croatie*

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English only/*anglais seulement*

Cyprus/*Chypre*

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English only/*anglais seulement*

Denmark/*Danemark*

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Estonia/*Estonie*

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English only/*anglais seulement*

Finland/*Finlande*

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France

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French only/*français seulement*

Germany/*Allemagne*

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Iceland/*Islande*

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English only/*anglais seulement*

Ireland/ <i>Irlande</i>	CCJE (2003) 7 English only/ <i>anglais seulement</i>
Italy/ <i>Italie</i>	CCJE (2003) 8 English only/ <i>anglais seulement</i>
Japan/ <i>Japon</i>	CCJE (2003) 33 English only/ <i>anglais seulement</i>
Liechtenstein	CCJE (2003) 9 English only/ <i>anglais seulement</i>
Lithuania/ <i>Lituanie</i>	CCJE (2003) 10 English only/ <i>anglais seulement</i>
Luxembourg	CCJE (2003) 11 and Appendix/et Annexe French only/ <i>français seulement</i>
Malta/ <i>Malte</i>	CCJE (2003) 27 English only/ <i>anglais seulement</i>
Moldova	CCJE (2003) 3 French only/ <i>français seulement</i>
Netherlands/ <i>Pays-Bas</i>	CCJE (2003) 25 English only/ <i>anglais seulement</i>
Norway/ <i>Norvège</i>	CCJE (2003) 12 English only/ <i>anglais seulement</i>
Portugal	CCJE (2003) 16 French only/ <i>français seulement</i>
Romania/ <i>Roumanie</i>	CCJE (2003) 29 English only/ <i>anglais seulement</i>
Slovak Republic/ <i>République Slovaque</i>	CCJE (2003) 32 English only/ <i>anglais seulement</i>
Slovenia/ <i>Slovénie</i>	CCJE (2003) 30 English only/ <i>anglais seulement</i>
Spain/ <i>Espagne</i>	CCJE (2002) 28 French only/ <i>français seulement</i>
Sweden/ <i>Suède</i>	CCJE (2003) 13 English only/ <i>anglais seulement</i>

Switzerland/*Switzerland*

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French only/*français seulement*

Turkey/*Turquie*

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English only/*anglais seulement*

Ukraine

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English only/*anglais seulement*

United Kingdom/*Royaume-Uni*

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English only/*anglais seulement*

APPENDIX III**OPINION No. 4 (2003)****OF THE CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)****TO THE ATTENTION OF THE COMMITTEE OF MINISTERS
OF THE COUNCIL OF EUROPE****ON APPROPRIATE INITIAL AND IN-SERVICE TRAINING
FOR JUDGES AT NATIONAL AND EUROPEAN LEVELS****Introduction**

1. At a time when we are witnessing increasing attention being paid to the role and significance of the judiciary, which is seen as the ultimate guarantor of the democratic functioning of institutions at national, European and international levels, the question of the training of prospective judges before they take up their posts and in-service training is of particular importance (see Opinion of the CCJE N° 1 (2001), paragraphs 10-13 and Opinion N° 3 (2002), paragraphs 25 and 50.ix).

2. The independence of the judiciary confers rights on judges of all levels and jurisdictions, but also imposes ethical duties. The latter include the duty to perform judicial work professionally and diligently, which implies that they should have great professional ability, acquired, maintained and enhanced by the training which they have a duty, as well as a right, to undergo.

3. It is essential that judges, selected after having done full legal studies, receive detailed, in-depth, diversified training so that they are able to perform their duties satisfactorily.

4. Such training is also a guarantee of their independence and impartiality, in accordance with the requirements of the Convention for the Protection of Human Rights and Fundamental Freedoms.

5. Lastly, training is a prerequisite if the judiciary is to be respected and worthy of respect. The trust citizens place in the judicial system will be strengthened if judges have a depth and diversity of knowledge which extend beyond the technical field of law to areas of important social concern, as well as courtroom and personal skills and understanding enabling them to manage cases and deal with all persons involved appropriately and sensitively. Training is in short essential for the objective, impartial and competent performance of judicial functions, and to protect judges from inappropriate influences.

6. There are great differences among European countries with respect to the initial and in-service training of judges. These differences can in part be related to particular features of the different judicial systems, but in some respects do not seem to be inevitable or necessary. Some countries offer lengthy formal training in specialised establishments, followed by intensive further training. Others provide a sort of apprenticeship under the supervision of an

experienced judge, who imparts knowledge and professional advice on the basis of concrete examples, showing what approach to take and avoiding any kind of didacticism. Common law countries rely heavily on a lengthy professional experience, commonly as advocates. Between these possibilities, there is a whole range of countries where training is to varying degrees organised and compulsory.

7. Regardless of the diversity of national institutional systems and the problems arising in certain countries, training should be seen as essential in view of the need to improve not only the skills of those in the judicial public service but also the very functioning of that service.

8. The importance of the training of judges is recognised in international instruments such as the UN Basic Principles on the Independence of the Judiciary, adopted in 1985, and Council of Europe texts adopted in 1994 (Recommendation N° R (94) 12 on the independence, efficiency and role of judges) and 1998 (European Charter on the Statute for Judges) and was referred to in paragraph 11 of the CCJE's Opinion N° 1.

I. The right to training and the legal level at which this right should be guaranteed

9. Constitutional principles should guarantee the independence and impartiality on which the legitimacy of judges depends, and judges for their part should ensure that they maintain a high degree of professional competence (see paragraph 50 (ix) of the CCJE Opinion N° 3).

10. In many countries the training of judges is governed by special regulations. The essential point is to include the need for training in the rules governing the status of judges; legal regulations should not detail the precise content of training, but entrust this task to a special body responsible for drawing up the curriculum, providing the training and supervising its provision.

11. The State has a duty to provide the judiciary or other independent body responsible for organising and supervising training with the necessary means, and to meet the costs incurred by judges and others involved.

12. The CCJE therefore recommends that, in each country, the legislation on the status of judges should provide for the training of judges.

II. The authority responsible for training

13. The European Charter on the Statute for Judges (paragraph 2.3) states that any authority responsible for supervising the quality of the training programme should be independent of the Executive and the Legislature and that at least half its members should be judges. The Explanatory Memorandum indicates that the training of judges should not be limited to technical legal training, but should also take into account that the nature of the judicial office often requires the judge to intervene in complex and difficult situations.

14. This highlights the key importance attaching to the independence and composition of the authority responsible for training and its content. This is a corollary of the general principle of judicial independence.

15. Training is a matter of public interest, and the independence of the authority responsible for drawing up syllabuses and deciding what training should be provided must be preserved.

16. The judiciary should play a major role in or itself be responsible for organising and supervising training. Accordingly, and in keeping with the recommendations of the European Charter on the Statute for Judges, the CCJE advocates that these responsibilities should, in each country, be entrusted, not to the Ministry of Justice or any other authority answerable to the Legislature or the Executive, but to the judiciary itself or another independent body (including a Judicial Service Commission). Judges' associations can also play a valuable role in encouraging and facilitating training, working in conjunction with the judicial or other body which has direct responsibility.

17. In order to ensure a proper separation of roles, the same authority should not be directly responsible for both training and disciplining judges. The CCJE therefore recommends that, under the authority of the judiciary or other independent body, training should be entrusted to a special autonomous establishment with its own budget, which is thus able, in consultation with judges, to devise training programmes and ensure their implementation.

18. Those responsible for training should not also be directly responsible for appointing or promoting judges. If the body (i.e. a judicial service commission) referred to in the CCJE's Opinion N° 1 (2001), paragraphs 73 (3), 37, and 45, is competent for training and appointment or promotion, a clear separation should be provided between its branches responsible for these tasks.

19. In order to shield the establishment from inappropriate outside influence, the CCJE recommends that the managerial staff and trainers of the establishment should be appointed by the judiciary or other independent body responsible for organising and supervising training.

20. It is important that the training is carried out by judges and by experts in each discipline. Trainers should be chosen from among the best in their profession and carefully selected by the body responsible for training, taking into account their knowledge of the subjects being taught and their teaching skills.

21. When judges are in charge of training activities, it is important that these judges preserve contact with court practice.

22. Training methods should be determined and reviewed by the training authority, and there should be regular meetings for trainers to enable them to share their experiences and enhance their approach.

III. Initial training

a. Should training be mandatory?

23. While it is obvious that judges who are recruited at the start of their professional career need to be trained, the question arises whether this is necessary where judges are

selected from among the best lawyers, who are experienced, as (for instance) in Common Law countries.

24. In the CCJE's opinion, both groups should receive initial training: the performance of judicial duties is a new profession for both, and involves a particular approach in many areas, notably with respect to the professional ethics of judges, procedure, and relations with all persons involved in court proceedings.

25. On the other hand, it is important to take the specific features of recruitment methods into account so as to target and adapt the training programmes appropriately: experienced lawyers need to be trained only in what is required for their new profession. In some small countries with a very small judiciary, local training opportunities may be more limited and informal, but such countries in particular may benefit from shared training opportunities with other countries.

26. The CCJE therefore recommends mandatory initial training by programmes appropriate to appointees' professional experience.

b. The initial training programme

27. The initial training syllabus and the intensiveness of the training will differ greatly according to the chosen method of recruiting judges. Training should not consist only of instruction in the techniques involved in the handling of cases by judges, but should also take into consideration the need for social awareness and an extensive understanding of different subjects reflecting the complexity of life in society. In addition, the opening up of borders means that future judges need to be aware that they are European judges and be more aware of European issues.

28. In view of the diversity of the systems for training judges in Europe, the CCJE recommends:

- i. that all appointees to judicial posts should have or acquire, before they take up their duties, extensive knowledge of substantive national and international law and procedure;**
- ii. that training programmes more specific to the exercise of the profession of judge should be decided on by the establishment responsible for training, and by the trainers and judges themselves;**
- iii. that these theoretical and practical programmes should not be limited to techniques in the purely legal fields but should also include training in ethics and an introduction to other fields relevant to judicial activity, such as management of cases and administration of courts, information technology, foreign languages, social sciences and alternative dispute resolution (ADR);**
- iv. that the training should be pluralist in order to guarantee and strengthen the open-mindedness of the judge;**
- v. that, depending upon the existence and length of previous professional experience, training should be of significant length in order to avoid its being purely a matter of form.**

29. The CCJE recommends the practice of providing for a period of training common to the various legal and judicial professions (for instance, lawyers and

prosecutors in countries where they perform duties separate from those of judges). This practice is likely to foster better knowledge and reciprocal understanding between judges and other professions.

30. The CCJE has also noted that many countries make access to judicial posts conditional upon prior professional experience. While it does not seem possible to impose such a model everywhere, and while the adoption of a system combining various types of recruitment may also have the advantage of diversifying judges' backgrounds, it is important that the period of initial training should include, in the case of candidates who have come straight from university, substantial training periods in a professional environment (lawyers' practices, companies, etc).

IV. In-service training

31. Quite apart from the basic knowledge they need to acquire before they take up their posts, judges are "condemned to perpetual study and learning" (see report of R. Jansen "How to prepare judges to become well-qualified judges in 2003", doc. CCJE-GT (2003) 3).

32. Such training is made indispensable not only by changes in the law, technology and the knowledge required to perform judicial duties but also by the possibility in many countries that judges will acquire new responsibilities when they take up new posts. In-service programmes should therefore offer the possibility of training in the event of career changes, such as a move between criminal and civil courts; the assumption of specialist jurisdiction (e.g. in a family, juvenile or social court) and the assumption of a post such as the presidency of a chamber or court. Such a move or the assumption of such a responsibility may be made conditional upon attendance on a relevant training programme.

33. While it is essential to organise in-service training, since society has the right to benefit from a well trained judge, it is also necessary to disseminate a culture of training in the judiciary.

34. It is unrealistic to make in-service training mandatory in every case. The fear is that it would then become bureaucratic and simply a matter of form. The suggested training must be attractive enough to induce judges to take part in it, as participation on a voluntary basis is the best guarantee for the effectiveness of the training. This should also be facilitated by ensuring that every judge is conscious that there is an ethical duty to maintain and update his or her knowledge.

35. The CCJE also encourages in the context of continuous training collaboration with other legal professional bodies responsible for continuous training in relation to matters of common interest (e.g. new legislation).

36. It further stresses the desirability of arranging continuous judicial training in a way which embraces all levels of the judiciary. Whenever feasible, the different levels should all be represented at the same sessions, giving the opportunity for exchange of views between them. This assists to break-down hierarchical tendencies, keeps all levels of the judiciary informed of each other's problems and concerns, and promotes a more cohesive and consistent approach throughout the judiciary.

37. **The CCJE therefore recommends:**

- i. that the in-service training should normally be based on the voluntary participation of judges;**
- ii. that there may be mandatory in-service training only in exceptional cases; examples might (if the judicial or other body responsible so decided) include when a judge takes up a new post or a different type of work or functions or in the event of fundamental changes in legislation;**
- iii. that training programmes should be drawn up under the authority of the judicial or other body responsible for initial and in-service training and by trainers and judges themselves;**
- iv. that those programmes, implemented under the same authority, should focus on legal and other issues relating to the functions performed by judges and correspond to their needs (see paragraph 27 above);**
- v. that the courts themselves should encourage their members to attend in-service training courses;**
- vi. that the programmes should take place in and encourage an environment, in which members of different branches and levels of the judiciary may meet and exchange their experiences and achieve common insights;**
- vii. that, while training is an ethical duty for judges, member states also have a duty to make available to judges the financial resources, time and other means necessary for in-service training.**

V. Assessment of training

38. In order continuously to improve the quality of judicial training, the organs responsible for training should conduct frequent assessments of programmes and methods. An important role in this process should be played by opinions expressed by all participants to training initiatives, which may be encouraged through appropriate means (answers to questionnaires, interviews).

39. While there is no doubt that performance of trainers should be monitored, the evaluation of the performance of participants in judicial training initiatives is more questionable. The in-service training of judges may be truly fruitful if their free interaction is not influenced by career considerations.

40. In countries that train judges at the start of their professional career, the CCJE considers evaluation of the results of initial training to be necessary in order to ensure the best appointments to the judiciary. In contrast, in countries that choose judges from the ranks of experienced lawyers, objective evaluation methods are applied before appointment, with training occurring only after candidates have been selected, so that in those countries evaluation during initial training is not appropriate.

41. It is nevertheless important, in the case of candidates subject to an appraisal, that they should enjoy legal safeguards that protect them against arbitrariness in the appraisal of their work. In addition, in the case of States arranging for the provisional appointment of judges, the removal of these from office at the end of the training period should take place with due regard for the safeguards applicable to judges when their removal from office is envisaged.

42. **In view of the above, the CCJE recommends:**

- i. that training programmes and methods should be subject to frequent assessments by the organs responsible for judicial training;**
- ii. that, in principle, participation in judges' training initiatives should not be subject to qualitative assessment; their participation in itself, objectively considered, may however be taken into account for professional evaluation of judges;**
- iii. that quality of performance of trainees should nonetheless be evaluated, if such evaluation is made necessary by the fact that, in some systems, initial training is a phase of the recruitment process.**

VI. The European training of judges

43. Whatever the nature of their duties, no judge can ignore European law, be it the European Convention on Human Rights or other Council of Europe Conventions, or if appropriate, the Treaty of the European Union and the legislation deriving from it, because all judges are required to apply it directly to the cases that come before them.

44. **In order to promote this essential facet of judges' duties, the CCJE considers that member states, after strengthening the study of European law in universities, should also promote its inclusion in the initial and in-service training programmes proposed for judges, with particular reference to its practical applications in day-to-day work.**

45. **It also recommends reinforcing the European network for the exchange of information between persons and entities in charge of the training of judges (Lisbon Network), which promotes training on matters of common interest and comparative law, and that this training should cater for trainers as well as the judges themselves. The functioning of this Network can be effective only if every member state supports it, notably by establishing a body responsible for the training of judges, as set out in section II above, and by pan-European co-operation in this field.**

46. Furthermore, the CCJE considers that the co-operation within other initiatives aiming at bringing together the judicial training institutions in Europe, in particular within the European Judicial Training Network, can effectively contribute to the greater coordination and harmonisation of the programmes and the methods of training of judges on the whole continent.

APPENDIX IV**OPINION No. 5 (2003)****OF THE CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)****TO THE ATTENTION OF THE COMMITTEE OF MINISTERS
OF THE COUNCIL OF EUROPE****ON THE LAW AND PRACTICE OF JUDICIAL APPOINTMENTS
TO THE EUROPEAN COURT OF HUMAN RIGHTS**

1. The CCJE in its 4th meeting in Strasbourg, 24-28 November 2003, took note of the report dated May 2003 of the International Center for the Legal Protection of Human Rights (Interights) on “Law and Practice of Appointments to the European Court of Human Rights”.

2. The CCJE welcomes the conclusions and recommendations proposed by the report. It regards them as an important step towards implementing the recommendations contained in its Opinion No. 1 (2001) on standards concerning the independence of the judiciary and the irremovability of judges, which the CCJE wishes to affirm, concerning:

- (a) **the appointment process for judges on international courts** - in particular paragraph 56 of that Opinion which reads:

“The CCJE agreed that the importance for national legal systems and judges of the obligations resulting from international treaties such as the European Convention on Human Rights and also the European Union treaties makes it vital that the appointment and re-appointment of judges to the courts interpreting such treaties should command the same confidence and respect the same principles as national legal systems. The CCJE further considered that involvement by the independent authority referred in the paragraphs 37 and 45 should be encouraged in relation to appointment and re-appointment to international courts. The Council of Europe and its institutions are in short founded on belief in common values superior to those of any single member State, and that belief has already achieved significant practical effect. It would undermine those values and the progress that has been made to develop and apply them, if their application was not insisted upon at the international level.”

Paragraphs 37 and 45 of that Opinion advocate the intervention of an independent authority with substantial judicial representation in relation to all judicial appointments.

- (b) **the tenure of office** - in particular paragraphs 57 and 52 of that Opinion which read :

“57. It is a fundamental tenet of judicial independence that tenure is guaranteed until a mandatory retirement age or the expiry of a fixed term of office.”

“52. The CCJE considered that where, exceptionally, a full-time judicial appointment is for a limited period, it should not be renewable unless procedures exist ensuring that:

- i. the judge, if he or she wishes, is considered for re-appointment by the appointing body and
- ii. the decision regarding re-appointment is made entirely objectively and on merit and without taking into account political considerations.”

3. The objective criteria for appointment as a judge to the European Court of Human Rights are fixed in Article 21 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which states:

“The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence.”

4. The CCJE which consists of national judges from the 45 members States of the Council of Europe, emphasises the fundamental importance which it attaches to the appointment to the European Court of Human Rights of judges who not only meet such criteria but are the best candidates available for such appointment. The integrity and reputation of the Court, and so also of the Convention, depends upon this

APPENDIX V

1ST EUROPEAN CONFERENCE OF JUDGES « EARLY SETTLEMENT OF DISPUTES AND THE ROLE OF JUDGES » (Strasbourg, 24-25 November 2003)

CONCLUSIONS

1. The first European Conference of Judges, held on 24 and 25 November 2003 in Strasbourg on the theme of “Early settlement of disputes and the role of judges”, was organised by the Council of Europe, following a proposal by the Consultative Council of European Judges and in the context of the implementation of the framework global action plan for judges in Europe.
2. The participants welcomed the initiative to hold this Conference which offered them a first pan-European forum for an exchange of ideas on the role of judges in the early settlement of disputes (ESD).
3. In bringing together representatives of judicial power in member and observer States, each one with its own national practice in the field of the early settlement of disputes, the Conference launched an initial exchange of wide-ranging views on the legal and procedural framework aiming at strengthening the role of judges as far as the possibilities for more rapid and efficient resolution of disputes between the parties are concerned.
4. After the experts’ reports, detailed discussions took place on the following themes: procedures to avoid litigation and procedures to make it effective, including provisional measures protecting parties during litigation; production of the parties’ cases and evidence, time limits, accelerated and summary procedures and interlocutory judgments; legislative and judicial incentives to early resolution; legislative and judicial incentives to early resolution; case management – a proactive and innovative but impartial judiciary.
5. The Conference took account of the work of the Council of Europe in the field of mediation, culminating in the adoption by the Committee of Ministers of four Recommendations which the Conference took into consideration: Recommendation No. R (99) 19 concerning mediation in penal matters, Recommendation No. R (98) 1 on family mediation, Recommendation Rec. (2001) 9 on alternatives to litigation between administrative authorities and private persons and Recommendation Rec. (2002) 10 on mediation in civil matters.
6. The participants recognised that an efficient system of justice is a cornerstone of the modern democratic state but that alternative dispute resolution procedures need also to be developed and encouraged.
7. Accordingly, judges and member states need not only to take steps to make the resolution of disputes in court speedier and easier for parties who cannot agree other means

of settling them, but also to promote such other means of settling disputes both before as well as during the course of litigation.

8. To that end, judges need to study each others' procedures, with a view to introducing improved case management techniques and also need information and (where judges themselves undertake mediation) training regarding the benefits and techniques of mediation.

9. The participants recommended the Council of Europe to undertake work to promote ESD in litigation and by mediation, in particular through the Consultative Council of European Judges (CCJE), the European Commission for the efficiency of justice (CEPEJ), the European Committee on Legal Cooperation (CDCJ) and the European Network for the exchange of information between the persons and entities responsible for the training of judges and public prosecutors (Lisbon network).

10. The participants expressed their thanks to everyone who had contributed to the success of the Conference and invited the Council of Europe to hold European Conferences of Judges at regular intervals in order to assist judges in their essential role of upholding and implementing the Rule of Law in the member States of the Council of Europe.

11. The participants warmly welcomed the proposal made by the Polish delegation to host the next European Conference of Judges in May 2005 in Poland, on the occasion of its presidency of the Committee of Ministers of the Council of Europe.

REPORT

presented by
The Right Honourable Lord Justice MANCE,
Court of Appeal of England and Wales

It is clear that we have to tailor our systems of justice to cater proportionately for the various different disputes which come before our courts. But we have also to bear in the mind that the world would be a better place if many disputes never came before the court at all or could be resolved amicably.

We are, however, judges first and foremost, part of the system of justice which is one of the three pillars of society. Justice Otis, in her powerful explanation and endorsement of the virtues of mediation, did not suggest for a moment that we have reached the end of history as far as concerns litigation. We clearly have not. There will always be a need for some form of imposed dispute resolution and she said that this would remain the judge's primary function. Some disputes simply need adversarial resolution. The value of court judgments as future precedents or standards setting guidelines is in an English context regarded as particularly important. It has set the tone of English contract and commercial law. But I can think also of a custody dispute between parents, one or other of whom has clearly been involved in child abuse. It seems to me there is little room for mediation there, in relation to who should have proper custody of the child.

Article 6 of the Convention on Human Rights requires us to implement fair, efficient and speedy systems of public justice in our respective states. So we as judges must address the need for reform and change within our systems, learning as we do so from each other through conferences like this. The conference topics studied summarise the themes on which we have concentrated. They all fall under the general head of case management, a concept which originated in the United States and has been given, in common law countries and I think more widely, a very great impetus by the Woolf reforms. The introduction of case management has been accompanied to a considerable extent by a diminution of the orality principle. That is a recognition of the fact that time spent in court is expensive time, it occupies a lot of people and it occupies courts which imposes its own pressures on states.

Judges can do much by themselves but states need also to respond. We have heard about steps taken in Russia, where some proposals for procedural reforms were accepted, and others not accepted. We heard also about other countries, such as Norway, where a reform is in contemplation which would enable judges to restrict the evidence adduced. That is something which in the common law system has also only been possible through state intervention. With a limited exception of certain prosecution evidence in criminal cases, there was previously a right to adduce all relevant evidence - and relevant evidence was a wide concept. More recently we have introduced (as Norway now is proposing) greater judicial control of evidence, though obviously only within certain limits.

We have also discussed the control of manifestly unfounded claims or defenses. Different countries are pursuing different steps in that regard. We have just heard that the Russian legislature refused to introduce a requirement of permission to appeal, based on a

similar test. So, as far as I know, England remains isolated in that regard with our almost general requirement to show a real prospect of success as a condition of permission to appeal.

But it is not just judges and states who need to take action. Lawyers need to change their habits. The new procedures of case management aim at persuading or obliging lawyers to co-operate, by putting their cards on the table. They contain numerous provisions intended to prevent ambush. Alain Lacabarats spoke of the “principe de loyauté”, the principle that lawyers must be frank, which is an important element of the new culture change which is sought. Experts also must be freed from partisan attitudes. Again this may well require the introduction of new rules, for example to introduce a duty to assist the court. Otherwise experts may be vulnerable to complaints from their clients that, by being frank about difficulties in their clients’ case, they are not performing their duty to their clients.

The culture change needed for proper case management therefore affects all persons involved in litigation. It will go some way towards changing the figure of the judge from one of authority half way up the wall (which is the English practice) to a position perhaps more like that in which I now sit in relation to you.

When we look at each other, we must of course remember the risks, to which one speaker adverted, of wholesale importation of foreign institutions. That cannot be done lightly. The European constitution with its aspiration towards harmonisation of laws looks to a future, and I suspect rather distant, prospect on some fronts. But this emphasizes the need for pilot projects, for the pragmatically tested and carefully undertaken introduction of reform measures which has been mentioned. The experience we have gained in England through pilot projects, including projects relating to mediation, has been very valuable.

That brings me to the vital second side of a modern judge’s activity. We must not just improve our litigation procedures. We should offer and encourage the alternative of conciliation and mediation. I learned for the first time, I think (though as a history student I may have known and forgotten), that Switzerland came into existence at the Treaty of Westphalia through the energy of a Venetian doge. I shall look at John Julius Norwich’s history of Venice when I get home to remind myself more precisely. I do recall however - and this is not directed at Switzerland - that Grotius reportedly said that the Treaty of Westphalia was, by inventing the nation state, guilty of the greatest mistake since the fall from grace in the Garden of Eden!

The Bosnian representative said that all states should in their laws accept the legal possibility of mediation. I think that is an important thought. Mediation should certainly not be seen as a desperate measure to avoid court congestion, delay and costs. Those have all been motives for the growth in mediation. But, if justice were to become “privatised” solely for such reasons, it would be a sad comment on our systems of justice; and it would involve a failure to recognize the full virtues of mediation. I could not possibly improve on the presentation which we have had of those by Justice Otis. She made very clear the positive advantages of mediation, its democratic aspects, its ability to fulfil the rights of the individual to shape his or her destiny, rather than have one imposed by a figure of state authority. Of course, there may always be situations where mediation could be appropriate, but one or other parties is simply unwilling to co-operate. I should say in that respect that Russia is certainly not the only country where, in my experience as a barrister, there has been a tendency to prefer a resolution of a dispute by state authority over any amicable settlement.

Judges and states should take steps to provide for and encourage mediation before litigation and during it. The earlier the better. At later stages in litigation – and despite the success story which we have heard about in the Quebec Court of Appeal - costs and embedded attitudes may prejudice attempts at mediation. We have had a very interesting discussion about the virtues of a judge as distinct from a third party, acting as mediator. It seems evident that this can be most productive. Whether every country will adopt such an approach is of course a different matter. We have not in England. But, whatever approach is adopted, it is clearly essential that judges should be familiar with mediation. They need to have information about it, they need to attend seminars and, if they are going to act as mediators, they also need training. I think our conclusions should reflect those points.

Mediation should of course be a voluntary process. It may be a process which can be incentivised by costs and in other ways. But it should certainly not be incentivised by the disclosure to the court dealing with the merits of detailed conduct within the mediation. The course of discussions during any mediation must remain confidential. Justice Otis emphasized the need for a strict separation of functions and files between a judge mediator and any judge dealing subsequently with the merits. A judge mediator cannot decide on the merits if the mediation fails.

You have before you some draft conclusions which are quite short and general. It is hoped that they can be agreed as a broad framework for further progress.

PROGRAMME OF THE CONFERENCE

Monday 24 November 2003

08.30 onwards Registration

09.30 Opening of the Conference

Welcoming words:

- Mr Guy DE VEL (Director General of Legal Affairs, Council of Europe)

Overview:

- Lord Justice MANCE (Chair of the Conference, Chair of the Consultative Council of European Judges (CCJE), Judge, Court of Appeal of England and Wales)

I. INTRODUCTORY SESSION

10.00 Introduction: Mr Alain LACABARATS (Chair of the Introductory Session, Vice Chair of the CCJE, Judge, Court of Appeal, Paris)

10.05 The need for judges to assist parties to reach an early settlement of disputes (with particular reference to the experience of the Economic Courts of the Russian Federation)

Report: Mr Veniamin YAKOVLEV (President of the Supreme Economic Court of the Russian Federation)

10.25 Interveners on the experience of their courts: (maximum 5 minutes each interverner)

10.40 Discussions

11.00 Break

II. PROCEDURES AND TECHNIQUES TO ENCOURAGE EARLY SETTLEMENT OF DISPUTES

a. Procedures to avoid litigation and procedures to make it effective, including provisional measures protecting parties during litigation

11.30 Introduction: Justice Louise OTIS (Chair of the topic, Judge, Court of Appeal, Quebec)

11.35 Report: Mr Alain LACABARATS (Judge, Court of Appeal, Paris)

11.55 Interveners on the topic (maximum 5 minutes each intervener)

12.10 Discussions

12.30 Lunch

b. Protection of the parties' cases and evidence, time limits, accelerated and summary procedures and interlocutory judgments

- 14.15 Introduction: Mr Peter LAMPE (Chair of the topic, member of the CCJE, President of the District Court of Maastricht)
- 14.20 First report: Mr Raffaele SABATO (member of the CCJE, Judge, Naples)
- 14.40 Interveners on the first report (maximum 5 minutes each intervener)
- 14.55 Discussions
- 15.15 Second report: Mr Lars OFTEDAL BROCH (member of the CCJE, Judge, Supreme Court of Justice, Oslo)
- 15.35 Interveners on the second report (maximum 5 minutes each intervener)
- 15.50 Discussions
- 16.10 Break

c. Legislative and judicial incentives to early resolution

- 16.30 Introduction: Mr Lars OFTEDAL BROCH (Chair of the topic, member of the CCJE, Judge, Supreme Court of Justice, Oslo)
- 16.35 Report: Mr Aleš ZALAR (member of the the CCJE, Judge of the Ljubljana District Court)
- 16.55 Interveners on the topic (maximum 5 minutes each intervener)
- 17.15 Discussions
- 17.45 Reception in the Restaurant of the Palais de l'Europe

Tuesday 25 November 2003

d. Alternative dispute resolution (ADR / mediation)

- 9.30 Introduction: Mr Raffaele SABATO (Chair of the topic, member of the CCJE, Judge, Naples)
- 9.35 Report: Justice Louise OTIS (Judge, Court of Appeal, Quebec)
- 9.55 Interveners on the topic (maximum 5 minutes each intervener: Mr Francesco BENIGNI, Roma, Mr Giuseppe DE PALO, Roma and Mr Jean A. MIRIMANOFF, Geneva)
- 10.10 Discussions

10.30 Break

e. Case management – a proactive and innovative but impartial judiciary

11.00 Introduction: Mr Aleš ZALAR (Chair of the topic, member of the CCJE, Judge of the Ljubljana District Court)

11.05 Report: Mr Peter LAMPE (member of the CCJE, President of the District Court of Maastricht)

11.25 Interveners on the topic (maximum 5 minutes each intervener)

11.40 Discussions

12.00 Lunch

III. CLOSING SESSION

14.30 Chair: Mr Veniamin YAKOVLEV (Chair of the closing session, President of the Supreme Economic Court of the Russian Federation)

14.40 Conclusions of the Chair of the Conference: Lord Justice MANCE (Chair of the CCJE, Judge, Court of Appeal of England and Wales)

15.00 Closing of the Conference

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* *

LIST OF PARTICIPANTS OF THE CONFERENCE

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Mr Christopher TYCZKA

Mme Pascale MICHLIN

Mme Bettina LUDEWIG-QUAINE

Mr Youri BOBROV

Mr Vladislav GLASUNOV

APPENDIX VI**DRAFT REVISED SPECIFIC TERMS
OF REFERENCE OF THE CCJE FOR 2004 ET 2005¹****LEGAL CO-OPERATION**Specific Terms of Reference

1. Name of committee: CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)
2. Type of committee: Consultative body
3. Source of terms of reference: Committee of Ministers
4. Terms of reference:

Pursuant to:

- main recommendation No. 23 in the Wise Persons' report concerning the reinforcement of direct co-operation with national judicial institutions,
- the conclusions and the follow-up action agreed by the Committee of Ministers in 2000 on the respect of commitments of member States concerning the functioning of the judicial system,
- Resolution No. 1 on measures to reinforce the independence and impartiality of judges in Europe adopted by the European Ministers of Justice at the end of their 22nd Conference in 2000, in particular concerning a global action plan to strengthen the role of judges and the setting up within the Council of Europe of a consultative group composed of judges to assist in the implementation of the priorities identified in this plan and to advise the Steering Committees on whether and how to update the Council of Europe's legal instruments,
- the framework global action plan for judges in Europe adopted by the Committee of Ministers in 2000,

the CCJE has the task of contributing **in 2004 and 2005** to the implementation of the framework global action plan for judges in Europe, in particular by:

- a. **adopting an opinion in 2004 for the attention of the Committee of Ministers on fair trial within a reasonable time and judges' role in trials, taking account of alternative dispute resolution methods;**

In this connection, the CCJE will consider the following points which appear in the framework global action plan for judges in Europe:

¹ Any changes made to the previous terms of reference appear in bold.

- case management (see Part II e of the action plan),
- judges' role in trials (see Part III C a of the action plan),
- the use of alternative dispute resolution methods;

This work will be carried out on the basis of replies by delegations to a questionnaire, the results of the European Conference of Judges (Strasbourg, 24-25 November 2003), reports prepared by two specialists, one for civil proceedings and one for criminal proceedings, and a draft opinion prepared by the Secretariat and revised by the Working Party of the CCJE in 2004;

- b. adopting an opinion in 2005 for the attention of the Committee of Ministers on justice and society;

In this connection, the CCJE will consider the following points which appear in the framework global action plan for judges in Europe:

- the educational role of the courts in a democracy, relations with the public, including with the media (see Part V b of the action plan),
- relations with all those involved in court proceedings (see Part V c of the action plan),
- accessibility, simplification and clarity of the language used by the courts in proceedings and decisions (see Part V d of the action plan);

This work will be carried out on the basis of replies by delegations to a questionnaire, a report prepared by a specialist and a draft opinion prepared by the Secretariat and revised by the Working Party of the CCJE in 2005,

- c. preparing, for the attention of the Committee of Ministers, a report containing detailed proposals on the revision of the CCJE's previous opinions. If necessary, this report will include relevant draft texts for updating the opinions. This work will be carried out by a working party in 2004 and in 2005 and will be finalised by the CCJE;
 - d. providing practical assistance to enable States to comply with Council of Europe standards concerning judges (eg Best Practice Survey);
 - e. preparing texts or opinions at the request of the Committee of Ministers or other bodies of the Council of Europe;
 - f. encouraging partnerships in the judicial field involving courts, judges and judges' associations.
5. Membership of the committee:
- a. All member states may be represented on the CCJE. Members should be chosen in contact, where such authorities exist, with the national authorities responsible for ensuring the independence and impartiality of judges and with the national administration responsible for managing the judiciary, from among serving judges having a thorough knowledge of questions relating to the functioning of the judicial system combined with utmost personal integrity.

The Council of Europe will cover travel and subsistence expenses for one representative per state.

- b. The European Commission and the General Secretariat of the Council of the European Union may take part in the work of the CCJE, but without the right to vote or to reimbursement of expenses.
- c. The following Council of Europe observers may send a representative to meetings of the CCJE but without the right to vote or to reimbursement of expenses:
 - Holy See,
 - United States of America,
 - Canada,
 - Japan,
 - Mexico.
- d. The following observers with the CCJE may attend the meetings of the CCJE, without the right to vote or defrayal of expenses:
 - the European Association of Judges,
 - the association “Magistrats européens pour la démocratie et les libertés” (MEDEL),
 - **the Association of European Administrative Judges.**

6. Structures and working methods:

The CCJE is an advisory body of the Committee of Ministers which prepares opinions for that Committee on general questions concerning the independence, impartiality and competence of judges. To this end, the Consultative Council works in co-operation, in particular, with the European Committee on Legal Co-operation (CDCJ) **and its Group of Specialists on Judicial Standards (CJ-S-JU)**, the European Committee on Crime Problems (CDPC) and also, depending on the subjects dealt with, other committees or bodies.

To discharge its terms of reference, the Consultative Council may set up working parties and organise hearings. It may also make use of scientific specialists.

7. Duration:

These terms of reference expire on 31 December 2005.